

**DIRECT TAX NEWS**

**PM Narendra Modi launched a platform for honouring the honest taxpayers. One of the key features of the platform is the Taxpayers' Charter which was announced in Budget 2020 by the Finance Minister in her speech.** The Taxpayers' Charter launched by Prime Minister Narendra Modi on August 13, 2020 promises to maintain the privacy and confidentiality of income taxpayers and to reduce the cost of compliance with tax laws. The charter lists out the income tax department's commitments to the income taxpayer as well as what the department expects from the taxpayers. According to PMO twitter handle, the Taxpayers' Charter has come into effect from August 13, 2020. Tax payers can approach the Taxpayers' Charter Cell under the Principal Chief Commissioner of **Income tax** in each zone for compliance to this charter.

**TAX PAYERS CHARTER**



**TAXPAYERS' CHARTER**

**THE INCOME TAX DEPARTMENT**

is committed to

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| <ol style="list-style-type: none"> <li>1. <b>provide fair, courteous, and reasonable treatment</b><br/>The Department shall provide prompt, courteous, and professional assistance in all dealings with the taxpayer.</li> <li>2. <b>treat taxpayer as honest</b><br/>The Department shall treat every taxpayer as honest unless there is a reason to believe otherwise.</li> <li>3. <b>provide mechanism for appeal and review</b><br/>The Department shall provide fair and impartial appeal and review mechanism.</li> <li>4. <b>provide complete and accurate information</b><br/>The Department shall provide accurate information for fulfilling compliance obligations under the law.</li> <li>5. <b>provide timely decisions</b><br/>The Department shall take decision in every income-tax proceeding within the time prescribed under law.</li> <li>6. <b>collect the correct amount of tax</b><br/>The Department shall collect only the amount due as per the law.</li> <li>7. <b>respect privacy of taxpayer</b><br/>The Department will follow due process of law and be no more intrusive than necessary in any inquiry, examination, or enforcement action.</li> </ol> | <ol style="list-style-type: none"> <li>8. <b>maintain confidentiality</b><br/>The Department shall not disclose any information provided by taxpayer to the department unless authorized by law.</li> <li>9. <b>hold its authorities accountable</b><br/>The Department shall hold its authorities accountable for their actions.</li> <li>10. <b>enable representative of choice</b><br/>The Department shall allow every taxpayer to choose an authorized representative of his choice.</li> <li>11. <b>provide mechanism to lodge complaint</b><br/>The Department shall provide mechanism for lodging a complaint and prompt disposal thereof.</li> <li>12. <b>provide a fair &amp; just system</b><br/>The Department shall provide a fair and impartial system and resolve the tax issues in a time-bound manner.</li> <li>13. <b>publish service standards and report periodically</b><br/>The Department shall publish standards for service delivery in a periodic manner.</li> <li>14. <b>reduce cost of compliance</b><br/>The Department shall duly take into account the cost of compliance when administering tax legislation.</li> </ol> |
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and expects taxpayers to

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| <ol style="list-style-type: none"> <li>1. <b>be honest and compliant</b><br/>Taxpayer is expected to honestly disclose full information and fulfill his compliance obligations.</li> <li>2. <b>be informed</b><br/>Taxpayer is expected to be aware of his compliance obligations under tax law and seek help of department if needed.</li> <li>3. <b>keep accurate records</b><br/>Taxpayer is expected to keep accurate records required as per law.</li> </ol> | <ol style="list-style-type: none"> <li>4. <b>know what the representative does on his behalf</b><br/>Taxpayer is expected to know what information and submissions are made by his authorised representative.</li> <li>5. <b>respond in time</b><br/>Taxpayer is expected to make submissions as per tax law in timely manner.</li> <li>6. <b>pay in time</b><br/>Taxpayer is expected to pay amount due as per law in a timely manner.</li> </ol> |
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Taxpayers can approach the Taxpayers' Charter Cell under Principal Chief Commissioner of Income tax in each Zone for compliance to this charter. For more information, visit <http://incomeindia.gov.in>

**Faceless e-Assessment Scheme for Taxpayers: Challenges and impact on the Indian tax administration**

Under the new system, taxpayers won't have to visit territorial jurisdiction tax officers or the income tax department on receiving income tax scrutiny or assessment notices.

This scheme takes away the power from regular assessing officers to conduct surveys and search which will also reduce huge unnecessary harassment of taxpayers.

For the past few years, the government has been taking several measures to bring in transformation in both direct and indirect taxes. The objective has been to create a taxpayer-friendly ecosystem by introducing greater transparency, simplification, and ease of meeting tax compliance. The introduction of the Faceless e-Assessment process by the Central Board of Direct Tax (CBDT) for income tax returns is a remarkable step towards achieving the objective.

The faceless tax administration means taxpayer by himself or through any professional or through the representative, Assessee personally or physically need not to visit the tax office or face the tax authorities for any assessment, appeal or any other ancillary tax administrative work.

[SOURCE: FINANCIAL EXPRESS]

**NOTIFICATIONS FOR FACELESS ASSESSMENT**

**Notification No 60/2020 dated 13<sup>th</sup> Aug**

In exercise of the powers conferred by sub-section (3A) of section 143 of the Income-tax Act, 1961 (43 of 1961), the Central Government makes amendments in the E-assessment Scheme, 2019 published vide notification of the Government of India, Ministry of Finance (Department of Revenue), Central Board of Direct Taxes, in the Gazette of India, Extraordinary, vide number S.O 3264 (E) dated the 12th September, 2019.

**Notification No 64/2020 dated 13<sup>th</sup> Aug 2020**

In pursuance of the powers conferred by sub-sections (1), (2) and (5) of section 120 of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said Act), the Central Board of Direct Taxes hereby directs that the Income-tax Authorities of the National e-Assessment Centre (hereinafter referred to as the NeAC) specified in Column (2) of the prescribed Schedule, having its headquarters at the place mentioned in column (3) of the said Schedule, shall exercise the powers and functions of Assessing Officer concurrently, to facilitate the conduct of Faceless Assessment proceedings.

**Notification No 65/2020 dated 13<sup>th</sup> Aug 2020**

In pursuance of the powers conferred by sub-sections (1), (2) and (5) of section 120 of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said Act), the Central Board of Direct Taxes hereby directs that the Income-tax Authorities of Regional e-Assessment Centres (hereinafter referred to as the ReACs) specified in Column (2) of the prescribed Schedule, having their headquarters at the places mentioned in column (3) of the said Schedule, shall exercise the powers and functions of Assessing Officers concurrently, to facilitate the conduct of Faceless Assessment proceedings. The notification shall come into force from the 13th day of August, 2020.

**Notification No 66/2020 dated 13<sup>th</sup> Aug 2020**

S.O. 2758(E) In pursuance of the powers conferred by sub-sections (1) and (2) and (5) of section 120 and section 133C of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said Act), read with rule 12 D of the Income-tax Rules, 1962, the Central Board of Direct Taxes has authorized certain powers to prescribed officers (Please Refer Relevant Notification)

**Order-Instruction - Income Tax F No. 187/3/2020-ITA-I dated 13<sup>th</sup> August 2020**

Order under section 119 of the Income-tax Act, 1961

With the launch of the Faceless Assessment Scheme, 2019, the Income-tax Department is moving towards minimal interface with the taxpayers, aiming at significant improvement in delivery of services and greater transparency in the working of the department. The survey action u/s 133A of the Act being an intrusive action, it is expected that the same should be carried out with utmost responsibility and accountability.

In furtherance of the above, the Central Board of Direct Taxes, in exercise of powers under section 119 of the Income-tax Act, 1961 (hereinafter referred to as the Act) hereby directs that the officers posted in Directorates of Investigation (Investigation Wing) and Commissionerates of TDS, only and exclusively shall act as "Income-tax Authority" for the purposes of power of survey under section 133A of the Income-tax Act.

The competent authority for approval of such survey action u/s 133A of the Act shall henceforth be DGIT (Inv) for investigation wing and Pr.CCIT/CCIT (TDS) for TDS charges, as the case may be.

This order shall come into force with effect from the 13th day of August, 2020.

**Order-Instruction - Income Tax F No. 187/3/2020-ITA-I dated 13<sup>th</sup> August 2020****Setting up/ reconstitution of NeAC under "Faceless Assessment Scheme, 2019"- reg.**

In supersession of the earlier Office Order - 1 vide F.No. 187/7/2019 ITA-I, dated 20th September, 2019 and in pursuance of para 4 of the E-assessment Scheme, 2019, made by the central

government vide notification No. 61 of 2019 dated 12.09.2019 and subsequently amended by Faceless Assessment Scheme, 2019, vide notification S.O. 2745 (E) / 2746 (E) dated 13.08.2020, the Central Board of Direct Taxes hereby reconstitutes the National e-Assessment Centre (hereinafter referred to as the NeAC), which shall have its headquarters at Delhi and shall comprise of the following Income-tax Authorities. The NeAC will have such other ministerial staff, executive or consultant, as considered necessary, which will be provided by the Principal Chief Commissioner of Income-tax, Delhi in consultation with the Board.

The Principal Commissioners of Income-tax (ReAC) (Technical Unit) shall be subordinate to Pr.CCIT(NeAC) Delhi for administrative purpose. However, they will be stationed at Delhi, Mumbai, Chennai and Kolkata respectively.

This order shall come into force with effect from the 13th day of August, 2020.

**OTHER NOTIFICATIONS****Notification No 58/2020 dated 10<sup>th</sup> Aug 2020**

In exercise of the powers conferred by clause (d) of sub-section (8) of section 139A and clause (ii) of sub-section (7) of section 206AA read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes makes the rules ("Class or classes of person to whom provisions of section 139A shall not apply) further to amend the Income-tax Rules, 1962.

**Notification No 59/2020 dated 10<sup>th</sup> Aug 2020**

In exercise of the powers conferred by sub-section (1) of section 280A of the Income-tax Act, 1961 (43 of 1961) and section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015), the Central Government, in consultation with the Chief Justice of the High Court of Bombay, hereby designates the following (please refer relevant notification) courts of Magistrates of First Class as Special Courts under sub-section (1) of section 280A of the Income-tax Act, 1961 and section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 in the State of Maharashtra, for trial of offences punishable under the Income tax Act, 1961 and other related matters.

**Notification No 61/2020 dated 13<sup>th</sup> Aug 2020**

In exercise of the powers conferred by sub-section (3B) of section 143 of the Income-tax Act, 1961 (43 of 1961), the Central Government has made the amendments by substituting the words 'E-assessment' with 'Faceless assessment' and some other amendments (please refer relevant notification) in the notification of the Government of India, Ministry of Finance (Department of Revenue), Central Board of Direct Taxes, published in the Gazette of India, Extraordinary, vide number S.O 3265 (E) dated the 12th September, 2019.

**Notification No 62/2020 dated 13<sup>th</sup> Aug 2020**

In exercise of the powers conferred by section 118 and sub-sections (1) and (2) of section 120 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes has made the amendments in the notification of the Government of India, Ministry of Finance published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (ii) vide no. S.O. 2753 (E) dated the 22nd October, 2014.

**Notification No 63/2020 dated 13<sup>th</sup> Aug 2020**

In exercise of the powers conferred by sub-sections (1) and (2) of section 120 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes has made the amendments in the notification of the Government of India, Ministry of Finance published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (ii) vide number 50 of 2014, S.O. 2752(E) dated the 22nd October, 2014.

**Notification No 67/2020 dated 17<sup>th</sup> Aug 2020**

G.S.R. 508(E).—In exercise of the powers conferred by sub-clause (iii) of clause (c) of Explanation to the clause (23FE) of section 10 read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:-

- (1) - 2DB. Other conditions to be satisfied by the pension fund.
- (2) - 2DC. Guidelines for notification under clause (23FE) of section 10
- (3)- "Form No. 10BBA (Please Refer Relevant Notification for further details)

**Notification No 68/2020 dated 27<sup>th</sup> Aug 2020**

S.O. 2902(E).—In the notification of the Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, number S.O. 2754(E), dated 13th August, 2020 published in Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), in the Schedule-few entries have been deleted, inserted and replaced (Please refer Relevant Corrigendum).

**Notification No 69/2020 dated 27<sup>th</sup> Aug 2020**

S.O. 2903(E).—In the notification of the Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, number S.O.2755(E), dated 13th August, 2020 published in Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), in the Schedule – IV- few entries have been deleted, inserted and replaced (Please refer Relevant Corrigendum)

**Notification No 70/2020 dated 27<sup>th</sup> Aug 2020**

S.O. 2904(E).—In the notification of the Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, number S.O. 2757(E), dated 13th August, 2020 published in Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), in the Schedule,

namely,- (i) the entries at column number (2) and (3) of Sl. No. 2076 to 2105 (2076-2105), shall be replaced with the entries (Please Refer Relevant Corrigendum)

**Notification No.71/2020 dated 31<sup>st</sup>Aug 2020**

In pursuance of sub-clause (ii) of clause (a) of sub-section (I) of Section 138 of the Income-tax Act, 1961, the Central Government hereby specifies "Scheduled Commercial Banks" listed in the Second Schedule of the Reserve Bank of India Act, 1934 for the purposes of the said clause.

**CIRCULARS****Circular No. 16/2020 (Dated-30<sup>th</sup> Aug 2020)**

CBDT Directs Reversal of UPI Payment Charges, a Prescribed Electronic Mode under section 269SU. CBDT has advised banks to immediately refund the charges collected, if any, on or after 1<sup>st</sup> January, 2020 on transaction carried out using the prescribed electronic modes prescribed under section 269SU of the Income Tax Act-1961. Banks Are also advised not to impose any charges on any future transactions carried through these prescribed modes.

**CASE LAWS**

**Merely on Suspicion based on information received from another authority Assessing Officer ought not to have made additions without carrying out independent enquiry and affording opportunity to assessee to controvert statements made by sellers.**

**PRINCIPAL COMMISSIONER OF INCOME TAX V. SHAPOORJI PALLONJI AND CO. LTD. [2020] 117 TAXMANN.COM 625 (BOMBAY HC)-**

State Sales Tax Department informed Assessing Officer that two sellers, from whom assessee made purchases, had stated that they had not actually sold any material to assessee. Though assessee furnished copies of relevant bills and entries made in its books of account, Assessing Officer made addition under section 69-C on account of bogus purchases. Tribunal found that Assessing Officer had not carried out any independent enquiry and failed to show that purchases were bogus.

Held merely on suspicion based on information received from another authority, Assessing officer ought not to have made additions without carrying out independent enquiry and affording opportunity to assessee to controvert statements made by sellers.

**Where assessee had declared certain purchases to be made during year and Assessing Officer added entire quantum of purchases to income of assessee on plea that purchases were bogus purchases and Tribunal held that only reasonable profit at rate of 5 per cent on purchases should be added back to income of assessee, Tribunal was justified in its view.**

**PRINCIPAL COMMISSIONER OF INCOME TAX, 13 MUMBAI V. RISHABHDEV TECHNOCABLE**



**LTD [2020] 115 TAXMANN.COM 333 (BOMBAY)  
HIGH COURT OF BOMBAY**

Assessee had declared certain purchases to be made during year. Assessing Officer added entire quantum of purchases to income of assessee on plea that purchases were bogus purchases made from hawala parties. Commissioner (Appeals) held that there could be no sales without purchases and when sales made by assessee were accepted by Assessing Officer, then entire purchases could not be disallowed. He took view that only reasonable profit at rate of 2 per cent on purchases should be added back to income of assessee. Tribunal, on appeal filed by revenue, held that 2 per cent of profit which was directed to be added by Commissioner (Appeals) was on lower side and directed Assessing Officer to make further addition of 3 per cent. Revenue aggrieved by order of Tribunal filed appeal before High Court  
Held - in view of decision of Gujarat High Court rendered in case of CIT v. Bholanath Polyfab (P.) Ltd. [2013] 40 taxmann.com 494/ [2014] 220 Taxman 82/ (Mag.), Tribunal was justified in its view and appeal filed by revenue deserved to be dismissed.

**Assessing Officer did not doubt the sales made by the assessee from out of such purchases- there is no concealment of income or furnishing of inaccurate particulars as the profit element was determined way of adhoc estimation.**

**M/S HINDUSTHAN ENGINEERING AND INDUSTRIES LTD. V. DCIT , CIRCLE -5, KOLKATA AND (VICE VERSA) 2020 (8) TMI 88 - ITAT KOLKATA-**

AO has treated the purchases as bogus without rejecting the books of account u/s 145(3) and hence assessing officer's action is bad in law. We note that the Revenue has failed to furnish any evidence that the money has been recycled back to the assessee and in absence of such finding, the addition cannot be made by the assessing officer. No documentary evidences were furnished before the assessing officer i.e. the bill for purchases, the receipt of material, the payments by cheque, the entry made in the stock register & production register and vis-a-vis all such documents, no adverse finding has been made by the assessing officer. When the sales figures shown by the assessee has been accepted in totality, the entire purchases made by the assessee cannot be held it to be bogus since it is common knowledge that sales of goods cannot taken place without purchase of goods in the first place. So, therefore, in the light of the evidences adduced to prove the genuineness of the transactions and when the fact remains that the sales has been accepted by the AO in totality, the action of the AO to disallow the entire purchases is not justifiable. We note that the assessee did purchases, manufactures the goods and sell the finished goods. In that view of the matter, as natural corollary, not the entire amount covered under such purchase, but the

profit element embedded therein would be subject to tax. Considering the facts narrated above and to cover the small misgivings we restrict the addition @4% of purchases.

**When books of accounts have not been rejected, no disallowance of purchases can be made.**

**M/S JHAJHARIA NIRMAN LTD.VERSUS DCIT, CENTRAL CIRCLE -14, NEW DELHI 2020 (3) TMI 875-ITAT DELHI-**

The assessee company is engaged in the business of civil construction. The assessment was concluded after making certain disallowances and additions at an income of ₹ 4,38,43,750/- vide order dated 31.03.2015 passed u/s. 143(3) of the I.T. Act, 1961. Against the assessment order, assessee appealed before the Ld. CIT(A), who vide his impugned order dated 12.7.2016 has partly allowed the appeal of the assessee. Aggrieved with the impugned order dated 12.7.2016 of the Ld. CIT(A), assessee is in appeal before the Tribunal.  
HELD THAT: - AO has incorrectly picked up the figure of ₹ 2,45,290/- against ₹ 7,02,030/- appearing in the books of account. Even otherwise, during the assessment proceedings, nothing adverse was pointed out by the AO, therefore, regarding the difference of ₹ 4,45,460/-, fact that the cash does not belong to the assessee was also completely ignored by AO and Ld. CIT(A). Keeping in view of the facts and circumstances of case and in view of the supporting documentary evidences at APB page no. 129-134, the addition in dispute is not sustainable in the eyes of law, therefore, we delete the addition and allow the ground no. 2 raised in the appeal.

**If the word, "proceedings", includes "penal proceedings", then the same should have been taken before the death of the deceased. The assessee expired on 14-2-2006. Appeal came to be dismissed as withdrawn.**

**COMMISSIONER OF INCOME TAX V. S.GOWRI [2020] 116 TAXMANN.COM 764 (MADRAS) (HC) HIGH COURT OFMADRAS-**

A search was conducted at the residence of Sri S. Shanmugam on 13-2-2009 and the learned Tribunal, by the order impugned, dated 12-12-2013, upheld the imposition of penalty against the said assessee. However, dealing with the penalty proceedings against the present assessee Smt. S. Gowri, wife of late Sri Shanmugam, the learned Tribunal set aside the said penalty under section 271 (1) (c) of the Act.

Held - the learned Tribunal was perfectly justified in setting aside the said penalty against the assessee/wife of the deceased late Sri S. Shanmugam, by the impugned order, as the penalty proceedings in question were initiated originally against the assessee-husband only and were not concluded against the said assessee, prior to his death on 23-1-2011.

Since the provisions of Section 271(1)(c) of the Act depend upon the guilty animus or mensrea on the

part of the assessee concerned, naturally, as legal representative, the wife cannot be held liable to defend those penalty proceedings or be held guilty of any mensrea on the part of the husband. Therefore, unless the penalty proceedings are concluded against a living assessee, the legal heirs cannot be held liable to face those proceedings or pay any sum determined as penalty payable under section 271 (1) (c) of the Act.

**When the computation provisions u/s 271(1)(c) fail, there being no tax sought to be evaded, penalty there under cannot be levied either, as the said provision is rendered unworkable.**

**DEPUTY COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE-1, CHANDIGARH V. KULWANT SINGH [2019] 104 TAXMANN.COM 340 (CHANDIGARH-TRIB.)**

It is a case where the assessee could not prove by evidence the source of income earned, however, at the same time the Assessing officer has also not disapproved the explanation given by the assessee. For invoking the penal provisions of section 271(1)(c) of the Act, there must be an overt act on the part of the assessee of concealment of income or furnishing of inaccurate particulars of income. Since the explanation given by the assessee has not been proved to be false or otherwise disapproved by the Assessing officer, hence, under the circumstances, it cannot be said that the assessee has concealed the particulars of income or furnished inaccurate particulars of income so as to attract the provisions of section 271(1)(c) of the Act. The assessee, themselves, declared income in question and paid the due taxes. There was no difference between the offered income and the taxed income. The Hon'ble Calcutta High Court in the case of CIT v. Pilani Investment & Industries Corpn. Ltd., [2016] 67 taxmann.com 60/238 Taxman 384/383 ITR 635 has held that the disclosure and concealment cannot co-exist. That when a finding is recorded that the assessee has indeed disclosed, then the conclusion as regards concealment is bad. Even it cannot be said that the assessee furnished inaccurate particulars of income. There was no material on record to indicate that the particulars furnished by the assessee were factually incorrect. Under the circumstances, even otherwise, on merits, the penalty u/s 271(1)(c) of the Act is not attracted in this case.

**Where assessee raised claim for exemption under section 10B bonafidely as there was confusion over admissibility of same on account of statement of Union Finance Minister, extending Sunset clause for exemption in question for 100 percent EOUs up to year 2015, in view of fact that said claim was subsequently withdrawn by assessee itself in assessment proceedings, it not being a case of furnishing inaccurate particulars of income, impugned penalty order passed under section 271(1)(c) was to be set aside**

**PRINCIPAL COMMISSIONER OF INCOME TAX V. CORE CARBONS (P.) LTD [2020] 118 TAXMANN.COM 106 (MADRAS) HIGH COURT OF MADRAS**

It is true that the assessee made a claim under section 10B of the Act for two of his assessment years, namely AY 2010-11 and AY 2011-12 wrongly, to which it was not entitled. But, the fact is undisputed that the Assessee has not really gone away with this exemption claim finally, upon the assessment. He has withdrawn his claim for the previous assessment year 2010-11 even by invoking the rectification jurisdiction under section 154 of the Act, and for the present assessment year 2011-12 also, he has withdrawn his claim before the assessing authority itself. Therefore, the only mistake, which is rather inadvertent on the part of the Assessee, is to make a claim under section 10B of the Act, but he has finally withdrawn the same. The fact remains that there has been no revenue loss or loss of tax to the department in the present case.

Held - the imposition of penalty and realisation thereof is not a regular source of income for the Income-tax Department. It is only the justifiably imposition of tax which is intended to be recovered and unless there is a mensrea or a guilty animus on the part of the Assessee, the penalty under section 271(1)(c) of the Act is an exception rather than a rule.

**Burden of proof in penalty proceedings vary from that in assessment proceedings and findings in assessment proceedings would not automatically be adopted in penalty proceedings; in penalty proceedings revenue authorities have to arrive at independent finding related to 'concealment of income' or 'inaccurate particular'.**

**PRINCIPAL COMMISSIONER OF INCOME TAX CENTRAL KANPUR V. DINESH CHANDRA JAIN [2020] 116 TAXMANN.COM 13 (ALLAHBAD)**

In the present case, the Assessing Officer did not record any finding as to incorrect, erroneous or false return of income filed by the assessee which could lead to the fact that assessee has furnished inaccurate particulars of income and make him liable for penalty under section 271(1)(c) of the Act. The Assessing Officer had only doubted the genuineness of the gifts on ground of human probabilities and had also doubted the creditworthiness of donors and genuineness of transaction. The Tribunal on the other hand had recorded finding regarding the identity of creditors, their creditworthiness and genuineness of the transactions which were before the Assessing Officer but he had not properly appreciated the same and discarded and doubted the genuineness of gifts on ground of human probabilities, though they were tax payers and the amounts gifted had been disclosed in their tax return for relevant year. Instant case is not a case of either concealment of income or of furnishing inaccurate particulars as neither the assessing authority nor first appellate

authority recorded any finding to such effect that details furnished by the assessee to be incorrect, erroneous or false.

## **GST NEWS**

**GST collection in August at ₹86,449 crore: Govt**  
Gross GST collection in August 2020 was at ₹86,449 crore, down from ₹87,422 crore collected in July 2020. In August 2019, ₹98,202 crore was mopped up from Goods and Services Tax (GST).

The gross GST revenue collected in the month of August, 2020 is ₹ 86,449 crore of which CGST is ₹ 15,906 crore, SGST is ₹ 21,064 crore, IGST is ₹ 42,264 crore (including ₹ 19,179 crore collected on import of goods) and cess is ₹7,215 crore (including ₹ 673 crore collected on import of goods)

[Source: live mint dated 31<sup>st</sup> August 2020]

## **GST Network starts providing auto-drafted input tax credit statement to taxpayers**

The new form - GSTR 2B - has been activated for July 2020, and will be available for each month on the 12th day of the succeeding month.

"It is expected that GSTR-2B will help in reduction in time taken for preparing return, minimizing errors, assist reconciliation & simplify compliance relating to filing of returns.

The GSTR-2B will contain information on import of goods from the ICEGATE system, will have summary statement on all the ITC available and non-available under each section and have document level details of all invoices, credit notes, debit notes etc.

GSTR-2B will be generated for every registered person on the basis of information furnished by his suppliers in their respective GSTR-1, GSTR-5 (non resident taxable person) and GSTR-6 (input service distributor)

[Source: Economic times dated 29<sup>th</sup> August 2020]

## **GST compensation row: FM's 'act of God' can be a nightmare for RBI**

The Centre's move to find an alternative arrangement for paying states their due on Goods and Services Tax (GST) will complicate matters for the bond market and the Reserve Bank of India (RBI) that has struggled recently to keep yields under check. The government has invoked "act of God" for not paying its due to the states directly. Instead, it asked states to borrow more from the market, through an RBI arranged mechanism [Source: Business standard dated 31<sup>st</sup> August 2020]

## **There's a way out of India's GST compensation impasse**

The blazing controversy right now is over the promised compensation to states to make up for any shortfalls in their tax collections due to GST implementation. As part of the grand federal bargain reached for its introduction, Parliament

passed a law that states shall be compensated for any loss of revenue due to its adoption for five years. The Union government was guaranteeing 14% annual tax revenue growth, irrespective of the rate at which the underlying economy grew in nominal terms. This insurance undermined the incentive of states to seek a GST structure that maximized growth, though it was also necessary to assuage fears based on previous experience that verbal commitments would not be met. India's major manufacturing states were especially concerned, since the GST regime shifts the tax base from production to consumption.

[Source: Economic times dated 31<sup>st</sup> August 2020]

## **GST alert! New functionality to know input tax credit eligibility in Annual Return enabled**

GST Network on Tuesday said it has enabled a functionality to help GST payers know their input tax credit (ITC) eligibility in their Annual Return, making it more convenient to file GSTR-So far, the GST system used to compute eligible ITC based on suppliers' sales return GSTR-1, but the break-up at the invoice level was not provided. Taxpayers used to raise a query on the computation of ITC.

For this functionality, a new tab 'Download Table-8A details' has been introduced on the GSTR-9 dashboard of the GST portal from Financial Year 2018-19 onwards.

[Source: Financial express dated 18th August 2020]

## **NOTIFICATIONS**

### **Notification No. 62/2020 – Central Tax dated 20<sup>th</sup> August 2020.**

From 1st April 2020 upto 20th August 2020, all the applicants submitting registration application under GST had to mandatorily undergo Aadhaar authentication for obtaining registration.

The applicants who opt for it must submit an Aadhaar Card along with the application for registration under GST. After this, they need to e-verify the same on the GST portal. An OTP will be sent on the mobile number and email ID linked to the Aadhaar card. Only upon entering this OTP, the Aadhaar will get e-validated.

After this, whenever a taxpayer files his returns or uses any services on the GST portal, an OTP will be sent on the mobile number and email ID, which is linked to its Aadhaar number. Only after entering this OTP, a taxpayer can proceed to file the return.

If a person fails to do an Aadhaar authentication when opted or has not opted for it, the registration will be granted after a physical verification is done of the principal place of business. The officers can instead verify the documents on obtaining permission from the officer not below the rank of Joint Commissioner and in writing.

### **Notification no. 63/2020 (CT) dated 25<sup>th</sup> August 2020.**

Interest on tax payable in respect of supplies made during a tax period and declared in the return for



the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.

*Here it will be interesting to know that 39th GST Council recommendations on Law & Procedures has provided that Interest for delay in payment of GST to be charged on the net cash tax liability w.e.f. 01.07.2017 (Law to be amended retrospectively) but still government notified the provisions prospectively w.e.f 01.09.2020 instead of notifying the same w.e.f 01.07.2017.*

#### **Notification no. 64/2020 (CT) dated 31<sup>st</sup> August 2020.**

The Union government has further extended the deadline for filing the new GSTR-4 annual return for businesses registered under the composition scheme for FY 2019-20 to October 31, 2020.

The due date was July 15, which was extended to August 31. Now, businessmen will get two more months to file the return. Composition dealers under GST can pay a nominal tax along with a statement-cum-Challan known as CMP-08 once in every quarter. Once the financial year is over, they have to file return in form GSTR-4 by summing up details declared in the four quarterly statements in form CMP-08.

#### **Notification no. 65/2020 (CT) dated 1<sup>st</sup> September 2020.**

Any time limit for completion or compliance of any action, by any authority, has been specified in, or prescribed or notified under section 171 of the said Act, which falls during the period from the 20th day of March, 2020 to the 29th day of November, 2020, and where completion or compliance of such action has not been made within such time, then, the time-limit for completion or compliance of such action, shall be extended up to the 30th day of November, 2020.

### **CIRCULARS**

#### **Circular No. 8/2020 dated 04/08/2020**

The Commissioner in exercise of its power under section 168 of the Kerala State Goods and Services Tax Act, 2017 directs that no search authorization, summons, arrest memo, inspection notices and letters issued in the course of any enquiry shall be issued by any officer or by any persons employed in the implementation of the Act without a computer-generated Document Identification Number (DIN) being duly quoted prominently in the body of such communication.

### **REAL ESTATE RAJASTHAN NEWS**

#### **Rajasthan may ask centre to consider 1% NREGA cess for building workers**

The state government may recommend the Centre to consider making changes in the MGNREGA rules so that 1% cess could be contributed to building and other construction workers (BOCW) board from the employment guarantee scheme for the welfare of the construction workers, labourers and daily wage earners.

There is a proposal of 1% cess contribution to the building and other construction workers board from MGNREGA since the workers under the scheme are engaged in construction work and are enrolled in the board. However, for Rajasthan or any state to implement this proposal, an amendment to the MGNREGA rules has to be made by the Centre.

The chief secretary has asked the labour and rural development departments to explore options for the same by seeking information and taking feedback from other states.

Ultimately, the decision in this case has to be taken by the center government and will be implemented in all states, not just Rajasthan. The suggestion is good and if it gets implemented, it will help the cause of labour welfare and ensure financial security for their families.

[SOURCE:-ECONOMIC TIMES]

<https://realty.economicstimes.indiatimes.com/news/industry/rajasthan-may-ask-centre-to-consider-1-nrega-cess-for-building-workers/77816658>

#### **Rajasthan CM lays foundation stone for 25 projects to be developed by RHB**

Rajasthan Housing Board (RHB) in the state will developed 25 projects in the state. The foundation stone was laid down by the Chief Minister for via video conferencing. These projects include 14 housing schemes, four affordable housing schemes, city park (Jaipur), coaching hub and others.



The RHB will develop two major projects such as city park and coaching hub in the Jaipur. The city park on around 52 acre in Mansarovar area which

is expected to benefit more than 50 colonies. The board plans to plant 21,000 trees of 32 different species in the area. The estimated cost of the project will be Rs 231 crore. Construction will be done only on 40% of the earmarked land and 60% land will remain open.

As per the plan, there are eight education towers proposed in the project. Construction of five towers will be undertaken in phase-1 and the remaining three towers will be developed in phase-II.

[SOURCE: ECONOMIC TIMES]

<https://realty.economicstimes.indiatimes.com/news/residential/rajasthan-cm-lays-foundation-stone-for-25-projects-to-be-developed-by-rhb/77713230>

### **Draft building bylaws draws on '15-minute city' plan: Rajasthan housing department**

As per draft building bylaws the UDH's is planning on vertical development of the city. The draft guidelines proposing to allow additional floors in smaller size plots which would result in overpopulating existing residential areas, aggravating the inadequacy of infrastructure and services provided by the civic authorities.

But UDH Department said that allowing more residential units in residential localities confirms to the concept of a '15-minute city plan' which is driving urban development in cities like Paris and Melbourne.

Some of the guidelines are inspired by the '15-minute city plan' adopted by many global cities where people don't have to drive long to reach their workplaces, parks, hospitals, schools or shopping centres. The saves cost and time, reduce pollution and stress and improve quality of life.

Besides extra floors, the draft norms have also made a case of allowing residences to have larger size offices for professionals like lawyers, chartered accountants, architects and others, while prohibiting mercantile activities. The permission to set up mini-theatres is another part of the plan.

'15-minute city' plan is not a new concept. The Walled City of Jaipur is already an excellent example of this concept developed around 294 years ago where walk to work, school, recreation centres, and religious places is possible within 15 minutes.

On the criticism, the real estate developers who build big projects only on the basis of availability of land are afraid that demand for housing will shift to localities and there will be less number of customers for their projects. Their criticism is understandable but Govt. need to look at development from a holistic point of view. Finally after 15 years, Jaipur city will restart

[SOURCE:-ECONOMIC TIMES

<https://realty.economictimes.indiatimes.com/news/infrastructure/draft-building-bylaws-draws-on-15-minute-city-plan-rajasthan-housing-department/77538129>]

### **Rajasthan housing department proposes maximum seven flats in 750 sq meter plots**

The small developers in the state has been disappointed by the recent proposal of the Urban Development and Housing (UDH) department's to regulate the construction of residential apartments on small plots.

According to the new rules of the draft proposal, a developer is only allowed to construct seven units (apartments) on a plot size measuring up to 750 sqm.

This decision will increase the costing and flats will become out of reach of buyers. Real Estate delegation will meet the UDH minister and request to rollback the decision.

As per the 2011 rules, a developer is allowed to construct 6 units on a plot size measuring between 162 sqm to 225 sqm. In all, 8 units are allowed on

plot measuring 225 sqm to 350 sqm and 12 units can be constructed on plot measuring 350 sqm to 500 sqm. The small developers demand that government should allow 16 units on a plot size measuring 500 sqm to 750 sqm.

[SOURCE:-ECONOMIC TIMES

<https://realty.economictimes.indiatimes.com/news/industry/rajasthan-housing-department-proposes-seven-flats-in-750-sq-meter-plots/77498818>]

### **Rajasthan allows freehold land ownership on payment of lease amount in one go**

In a bid to provide relief to plot holders in view of Covid crisis and to give a boost the economy, the



state government decided that on depositing the advance and outstanding lease amount at a time, they will be entitled to land ownerships (free-holding the plot). State

Chief Minister approved the proposal of finance and urban development departments for this. According to the proposal, 5% lease interest will have to paid for the remaining period of the 8-year lease duration and the plot will be made lease free if the entire amount is paid at one go. Similarly, for various residential, institutional and commercial plots, the plots will be declared free hold if 10 years of advance lease amount is paid.

[SOURCE:-ECONOMIC TIMES

<https://realty.economictimes.indiatimes.com/news/industry/rajasthan-allows-freehold-land-ownership-on-payment-of-lease-amount-in-one-go/77430221>]

### **Rajasthan housing department's draft building bylaws may spur realty**

In a bid to revive the economy hit by pandemic, the urban development and housing (UDH) department has prepared new draft of Urban Areas Building Bylaws-2020. The bylaws were notified in 2017 and the new draft is now open for public suggestions.

These new bylaws are drafted keeping in mind about the present economic condition to intending to boost small businesses and new business models that are coming up. Similarly, a new definition of 'high-rise bildings' will boost and encourage vertical development and will stop horizontal expansion. This will create more job opportunities and entrepreneurship. The economic slowdown will have long term impact, so there is a need to amend the regulations as per new societal and economical changes.

Warehousing is an upcoming business avenue. Thus treating this as industrial activity as done in the bylaws will encourage people to invest in this sector which will create better facilities for farmers and E-commerce business.

Multiple dwelling units and extra built up areas in smaller plots will create business opportunities for



small and medium entrepreneurs in real estate and will boost construction activity.

[SOURCE:-ECONOMIC TIMES

<https://realty.economicstimes.indiatimes.com/news/industry/rajasthan-housing-departments-draft-building-by-laws-may-spur-realty/77413196>]

### **Draft building regulations in Rajasthan allows extra floors on small plots**

The draft Rajasthan (Urban Areas) Building Regulations has made changes in small plots to curb illegal construction by allowing them extra floors, while reducing size of land for farm houses and buildings in ecological zones. This is expected to increase revenues for the government, but builders and architects thinking if the changes in smaller plots housing are adopted in the current form, it will pave the way for chaotic development, choking the ease of living and straining the already stretched infrastructure. At present 90% of illegal construction happens in the buildings where the plot sizes are below 500 sq-mtr as builders are not required to get building plan approved.

Currently, two floors, including ground level is allowed along with stilt on a 30-ft road. The draft policy has made a case for increasing the floor to G+2 along with stilt. Similarly, on a 60-ft road, the height of the building has been increased from 15 metres to 18 metres which will allow two more floors

Of course, the additional floor will bring in more revenues for the government but it will create further strain on the resources. But since the additional floor will be legal, people, who earlier depended on NBFCs and paid higher interest cost, will now be eligible to get loans from scheduled commercial banks.

[SOURCE:-ECONOMIC TIMES

<https://realty.economicstimes.indiatimes.com/news/industry/draft-building-regulations-in-rajasthan-allows-extra-floors-on-small-plots/77406569>]

### **Land rates in new RIICO industrial areas now cheaper by 35%**

To attract investments, RIICO in its bid has further reduced land rates in new industrial areas by another 15%. Earlier, the corporation had made the rates cheaper by 20%. The new rates would be applicable to all the new industrial areas. There are 22 new industrial areas at different stages of development.

Cumulatively, land rates are cheaper by up to 35-40%. The rates are very competitive compared to rates in neighboring states.

Industry bodies in Rajasthan had been putting pressure on the government to reduce land rates for industry in the state. They cited states like Madhya

Pradesh, Haryana, Chhattisgarh and Andhra Pradesh where the rates are lower than Rajasthan. The state is also developing dedicated industrial clusters for manufacturing of medical devices, sports goods, ceramics, etc. The corporation is in

the process of developing plug-and-play facilities where units can start operations immediately.

The RIICO board in its last meeting also allowed revision of land rates in existing slow-moving industrial areas. It defined the slow-moving industrial areas as ones where total allotted plots within one year from the date of opening are less than 5% of the saleable plots on offer.

[SOURCE:-ECONOMIC TIMES

<https://realty.economicstimes.indiatimes.com/news/industry/rajasthan-land-rates-in-new-riico-industrial-areas-now-cheaper-by-35/77345770>]

### **No space for green cover in Jaipur residential colonies**

At a time when the green cover in the state capital is declining, private colonisers and housing cooperative societies are developing plots on areas earmarked to grow trees. Since, no land is left in PRN, the JDA is developing only roads in the name of facility area.

Around 95% space for green cover has been utilised for purposes. For example, now a police station will be developed on a land identified for park, The private colonisers are violating the High Court norms as they are developing a colony without earmarking space for parks or greenbelts. This is a grim situation and civic agencies should not regularise colony if there is no park facility for residents. No trees in a colony would lead to a grim future

Many believe that plantation in colonies is an effective way to increase trees as residents can protect and guard them. Moreover, the JDA's plan to develop woodland parks failed to take off. Shortage of green cover occurred as JDA shelved many projects over a period of time. To restore the ecological balance, the JDA had proposed to plant trees on empty lands and project was name as Woodland.

### **RERA**

#### **Order No. F.4(1) RJ/RERA/2017/Part/1391 dated 17.08.2020**

Raj RERA in past on 16.08.2019 levied Standard Fee @ 20/- per sq.mtr. on Registration of all new projects except plotted development. Thereafter the authority on 10.08.2020 levied a Standard Fee @ 5/- per sq.mtr. on Registration of all new plotted development projects. Now RERA has issued a clarification vide order dated 17.08.2020 wherein the maximum limit of standard fee leviable on registration of any project has been fixed to Rs. 1,00,00,000/-.

#### **Order No. F.4(1) RJ/RERA/2017/Part/1429 dated 17.08.2020**

Raj RERA in past on 16.08.2019 prescribed the fees payable on application for extension of registration of the project after the expiry of registration granted. Now the Authority vide its order dated 17.08.2020 has reduced the said fees and the following shall be payable if application for

extension of registration is filed anytime between 01.09.2020 to 31.12.2020 -

- (a) 50 percent of registration fees as fees for extension
- (b) 50 percent of registration fees as Penalty
- (c) Standard Fee equal to registration fees if delay is not more than 90 days;  
Standard Fee equal to 2 times registration fees if delay is beyond 90 days.

## UTTAR PRADESH NEWS

### UP-RERA recommends dues to be paid by buyers and developers at MCLR

Uttar Pradesh Real Estate Regulatory Authority (UP-RERA) has proposed to the state government to order all development authorities and housing boards to charge a lower rate of interest, linked to the State Bank of India's marginal cost of funds based lending rate (SBI's MCLR), from home buyers, promoters, as well as group housing societies.



If approved, the move could benefit many promoters throughout the state who are struggling to meet the costs of land and complete projects due to

weak financial position and the down turn in the real estate sector. It could also benefit buyers who have demanded that the benefit given to the promoters by the Supreme Court be extended to them as well. Earlier, while deciding on specific cases, the Supreme Court (SC) had asked the Noida and Greater Noida authorities to reduce its interest rates on land costs from developers and linked it to the MCLR, which is also the rate at which the UP-Rera imposes penalties. MCLR is a method by which a bank determines the rate of its loans and is revised monthly.

[SOURCE:

<https://www.hindustantimes.com/cities/up-rera-recommends-dues-to-be-paid-by-buyers-and-developers-at-mclr/story-RqfYHwTs8Ywk0J93Yu04SM.html>]

### UP-RERA yet to recover over Rs 500 crore from defaulting builders

The Uttar Pradesh Real Estate Regulatory Authority (UP-RERA) has so far issued about 2,000 recovery certificates of value worth over Rs 600 crore. About 15% of this has been realized and transferred to the home buyers till date.

Concerned District Magistrates have been requesting RERA to help them in the recovery of the dues by providing the details of the auctionable properties of these promoters. UP-RERA has hence requested the development authorities across Uttar Pradesh under whose jurisdiction the projects or the properties of the promoters are located to make available the list of unsold inventories, the vacant land, and the

unsold FAR in the projects, both ongoing and completed of these defaulting promoters.

The **top 10 defaulting builders** from the point-of-view of non-compliance of RERA are:

S. No.	Promoter	Refund Order	Possession Order	Total	RC Issued
1	Ansal Group	875	465	1,340	372
2	Supertech Group	150	750	900	111
3	Logix Group	27	524	551	35
4	Uppal Chadha	40	267	307	18
5	Jai Prakash Associates	135	60	195	15
6	Paramount Group	2	207	209	1
7	Concept Horizon Infra	56	77	133	18
8	Sahara Prime City	36	36	72	31
9	Gardenia Aims Developers	70	16	86	33
10	Krishna Infrahomes	57	0	57	33

[SOURCE:

<https://realty.economicstimes.indiatimes.com/news/regulatory/up-rera-yet-to-recover-over-rs-500-crore-from-defaulting-builders/77571862>]

### UP RERA orders erring developers to refund buyers in instalments

Uttar Pradesh Real Estate Regulatory Authority (UP RERA) on August 18 asked five of the 25 defaulting real estate developers, against whom recovery certificates had been issued, to refund the amount in instalments to homebuyers. The erring developers have also been asked to provide details of the properties that can be auctioned to recover the amount due to buyers.

Supertech Group has assured the authority that it would give possession to 100 homebuyers every month, and hand over all remaining units within six months. Logix Group has said it would give possession of remaining units within three months. UP RERA has also prepared a list of vacant, unencumbered properties lying with the developers. The developers have been asked to send the list of vacant properties which would then

be auctioned with the help of the district magistrate and the amount recovered for homebuyers.

UP RERA has so far issued about 2,000 recovery certificates, and the value of the amount in these recovery certificates is over Rs 600 crore. About 15 percent of the amount against the recovery certificates has been realized and transferred to the homebuyers.

Supertech Group claimed that out of the total 864 complaints against it in UP RERA, the company had settled with 334 complainants since the lifting of the lockdown by providing alternative flats or compensation.

[SOURCE:

<https://www.moneycontrol.com/news/business/real-estate/up-rera-orders-erring-developers-to-refund-buyers-in-instalments-5724791.html>]

## **HARYANA NEWS**

### **Haryana: Land registry resumes today, e-appointments a must now**

The Haryana revenue department has resumed land registries after 40 days, when it had to be stopped following multiple complaints of illegal registries. The government has created a digital database of available land in the state, where a buyer can access all information related to a particular property, such as an ongoing dispute or pending dues, if any.

Under the new Haryana Land Records Information System (HALRIS), a buyer first needs to acquire an online no-objection certificate from the department of town and country planning (DTCP) before going ahead with the registry. This is a crucial feature as most of the illegal registries in the past three months were done without the DTCP's approval.

The new system has all the records of government land or plots acquired by it. A database of land owned by the forest department or falling in a controlled area like in Bandhwari where an Aravali hill was flattened to build a road to an illegal colony of farmhouses has also been fed into the system.

[Source: Economic Times]

### **Gurugram: DTCP zooms in on illegal colony 'hub' of Sector 69**

With major residential and commercial projects and office spaces, Sector 69 was once projected as one of the upcoming sectors along the Southern Peripheral Road. Now, it has turned into a hub for illegal colonies.

At least three major unauthorised colonies have been identified in the sector by the department of town and country planning (DTCP) near the Genpact building and the Tulip



White residential project. These illegal colonies have placed more burden on the existing infrastructure water,

electricity and sewer lines causing inconvenience to residents.

On Sunday, the enforcement team of DTCP, led by district town planner RS Batth, launched a demolition drive against one of these colonies and freed around 7 acres of land from the developers. Apart from illegal structures, the team also razed the road and sewer networks laid in the colony.

[Source: Economic Times]

### **NGT directs Haryana government to remove illegal constructions in Aravalli**

The National Green Tribunal (NGT) has directed the Haryana government to take prompt action to remove illegal constructions in Aravalli forests.

The green panel also dismissed the plea filed by 10 farm house owners seeking review of its order holding that the land in question is forest land and construction raised thereon are illegal.

A bench headed by NGT Chairperson Justice Adarsh Kumar Goel noted the submission of the Haryana government that forest areas since been identified and steps are being taken for restoration by removing the encroachments which will require some further time.

The Haryana government told the tribunal that District Level Committees were constituted to identify the forest areas and District Committees have furnished their respective reports.

[Source: Economic Times]

## **RERA**

### **Haryana Real Estate Regulatory Authority, Panchkula vide Order No. Circular No. HRERA-PKL/ED/2020/3905-10 dated 27/08/2020.**

In view of the prevailing Covid-19 situation and in accordance with the social distancing guidelines laid down by the Government of India, the Authority has decided to start its court proceedings through the video conferencing with effect from 1st September, 2020. The parties shall now be given option to present their case by arguing it personally on the given date or by way of video conferencing.

[SOURCE:

<https://haryanarera.gov.in/login/viewOrderPdf/MTQ1>]

Link:

## **NEW DELHI NEWS**

### **Monitoring committee can't seal residential premises on private land in Delhi: SC**

Encroachment is a matter of concern but the monitoring committee, set up in 2006 to identify unauthorised structures and check misuse of residential properties in Delhi, "cannot exceed its power" and take any action beyond its authorisation, the Supreme Court said on Friday.

A bench headed by Justice Arun Mishra said at no point of time, the apex court has empowered the monitoring committee to take action with regard to "residential premises not used for commercial purpose" and it is not authorised to take action



concerning residential premises situated on private land.

The top court said this in its verdict in which it dealt with the authority of monitoring committee to seal residential premises on private land, particularly when they are not being used for commercial purpose.

The bench, also comprising Justices B R Gavai and Krishna Murari, quashed the monitoring committee's April 2019 report, action of sealing and also the notices issued directing demolition "where the matter was being heard by this court and the monitoring committee had no power to look into the matter and to take any action".

It directed that the properties, sealed as per the committee's April last year report, be de-sealed and possession be restored to the owners forthwith.

### **South Delhi civic body eases rules for conversion of properties**

The South Delhi Municipal Corporation standing committee on Tuesday approved the proposal to simplify the process of conversion of leased commercial properties to freehold in 38 markets.

So far, a person getting a shop allotted was required to get permission from authorities before transferring the ownership right of the leasehold property to another person. In case of non-compliance, a penalty of Rs 3,000 per year was imposed. The civic agency on Tuesday proposed to waive off this condition.

"Now, the person won't need to seek permission from the authority concerned before transferring the leasehold property," said leader of House Narendra Chawla.

Also, there is a proposal to change the condition, which requires the person who gets the shop allotted to pay 50% of the unearned increase to the civic agency during transfer of the leasehold property. The unearned income is the difference between the market value of the property at the time of granting of lease and the existing market value.

### **PUNJAB RERA**

#### **Punjab Real Estate Regulatory Authority Circular No. RERA/ENF/21, dated 04/08/2020.**

This Authority had earlier decided (Circular No. RERA/ENF/03, dated 24.1.2018) that Villas constructed on individual plots would be treated as 'Group Housing for the purposes of the Real Estate (Regulation and Development) Act, 2016 and Rules and Regulations made thereunder. The matter has since been reconsidered and it has now been decided that since a Villa is a single residential unit constructed on an individual plot it should be treated as part of residential plotted development and not as part of 'Group Housing'.

It is also clarified that 'independent floors', which are now being included in some layout plans, are actually multiple residential units constructed on an individual plot. Therefore, such units would fall

under the category of Group Housing and liable to pay registration fee, as applicable for the category of 'Group Housing'.

This issues in supersession of Circular No. RERA/ENF/03 dated 24.01.2018

[SOURCE:[https://rera.punjab.gov.in/pdf/circulars/20200804\\_CircularNoticePBRERA\\_ENF21.pdf](https://rera.punjab.gov.in/pdf/circulars/20200804_CircularNoticePBRERA_ENF21.pdf)]

#### **Punjab Government vide the Notification No. Rera/Regulations(handling Complaints)/2020/4609 dated 7th August, 2020**

The Punjab Real Estate Regulatory Authority (Procedure for handing complaints and related matters) Regulations, 2017, issued vide notification no. Rera/Regulations (handling Complaints)/2018/5644, dated 12.07.2018, in para 2(1) Definitions, the word "rules" may be read as "Regulations".

### **MAHARASHTRA RERA CASE LAWS**

**If consent of 2/3<sup>rd</sup> allottees has been received, the minority of 1/3<sup>rd</sup> of the allottees cannot seek for relief**

#### **Nitin Soni & Ors. Vs NNP Buildcon LLP MahaRERA Complaint no. CC00500000043692)**

Maharashtra Real Estate Regulatory Authority vide its order dated **07<sup>th</sup> August 2020** held that 2/3<sup>rd</sup> majority of allottees, keeping the larger interest of project completion and the interest of all the allottees of the said project, have accorded their consent for transfer of project under Section 15 and extension of project under Section 7(3), the complaint of minority of less than 1/3<sup>rd</sup> of the allottees for refund under Section 18 is disallowed.

The brief facts of the case are as follows:

The complainants purchased apartments in the project "KUL ECOLOCH", later named as "VTP Leonara G Building". The possession was to be granted by the year 2019 but it was not provided hence the complainants sought for refund along with interest and compensation.

The Respondent's project has undergone a change of promoter, in March 2019, in accordance with the provisions of Section 15, wherein the erstwhile promoter Riverview Properties Pvt Ltd, has obtained consent of two-third of the allottees in the said project and as per the said consent terms, the project has been taken over by the present promoter i.e. NNP BUILDCON LLP.

The delay in project was due to change in planning authority, the new planning authority provided commencement certificate in August 2019, no progress was done from 2013 till 2019.

The respondent submitted that a mutually agreed proposal was shared with the allottees of the project including the complainants during discussions before the Conciliation forum. Accordingly, consent of 2/3<sup>rd</sup> allottees was received. It was also submitted that since the law provides for 2/3<sup>rd</sup> consent, providing different relief to remaining 1/3<sup>rd</sup> allottees would go against the

provisions of the Act and also would set a wrong precedent for 2/3<sup>rd</sup> allottees. Hence, the Complainants prayer of refund under Section 18 of the Act was disallowed by the Authority.

## **GUJARAT NEWS**

### **RERA Tribunal still has no full-time judge to hear home-buyers' grievances**

While Gujarat government drags its feet on appointing presiding officer for RERA Tribunal set up 3 years ago, it has given one-year extension to Food Safety tribunal president who is currently handling RERA cases too.

For home-buyers duped by real estate developers, the wait for justice just does not seem to come to an end. Even as the Gujarat High Court asked Gujarat government to appoint a full-time judge at the Gujarat Real Estate Appellate Tribunal, the cases continue to be heard by the judge of Food Safety and Standard Appellate Tribunal in Gandhinagar.

While the tenure of incumbent presiding officer and president (Food Safety Tribunal) R N Dave got over on August 5, he was given an extension of one year by the State government. Meanwhile, litigants still wait for an independent judicial member to head RERA Appellate tribunal, three years after it was set up. R N Dave heads Food Safety Appellate Tribunal, but has been asked to hear RERA Tribunal cases as well till a regular judge is appointed. Without a full-time judge, cases in the RERA tribunal keep piling up taking time to solve disputes and dispense justice. Earlier this month, Gujarat High Court had disposed of a PIL seeking appointment of full-time chairperson and members to the RERA tribunal after the government furnished a written assurance that it will do the needful.

The government had assured the court that the process of establishing the Gujarat Real Estate Appellate Tribunal was at the verge of the completion. As per Section 45 of the RERA Act, the Appellate Tribunal would comprise a chairperson and not less than two full-time members, of which one would be a judicial member and other would be a technical or administrative member, to be appointed by the appropriate government.

It was also stated that the Selection Committee had completed the selection procedure and had recommended two names for the post of Judicial Member and two names for the post of Technical or Administrative Member, whereas, for the post of Chairperson of Gujarat Real Estate Appellate Tribunal, the Government is in the process of consultation with the Chief Justice of High Court.

The government was responding to a Public Interest Litigation filed by NipunSinghvi, seeking appointment of regular judicial officials, members, and other staff. The government also said it will allocate a separate building for the tribunal. The HC asked the state government to complete the process at the earliest while disposing off the PIL.

[SOURCE:

<https://ahmedabadmirror.indiatimes.com/ahmedabad/cover-story/rera-tribunal-still-has-no-full-time-judge-to-hear-home-buyers-grievances/articleshow/77881350.cms>]

### **Gujarat RERA puts builder's private property under the hammer to repay homebuyer**

Gujarat Real Estate Regulatory Authority (RERA) has put the private property of a Vadodara-based builder on the block to recover the amount due to a homebuyer.

The order has been passed by the district collector. The builder had to refund Rs 28 lakh with Rs 1.4 lakh interest to the buyer. The price of the builder's property is pegged at around Rs 37 lakh. Builder Kalpesh Raiyani had failed to give possession of a flat to the homebuyer, Amey Joglekar, who had filed a complaint against the builder for not handing over possession in December 2017. Joglekar had paid Rs 20.84 lakh to the builder, the order said.



The flat was attached by the Vadodara revenue authority last year after Raiyani failed to repay the amount paid by Joglekar on RERA's order. The property

would be auctioned in the first week of September. In October 2018, RERA had ordered Raiyani to return the money to the buyer. When the developer did not refund the amount, RERA issued a recovery warrant against Raiyani. The district collector accordingly passed an order. The flat was attached in October 2019.

Section 40 of RERA states that if a promoter or an allottee or a real estate agent, as the case may be, fails to pay any interest or penalty or compensation imposed on him, by the adjudicating officer or the Regulatory Authority or the Appellate Authority, as the case may be, under this Act or the rules and regulations made thereunder, it shall be recoverable from such promoter or allottee or real estate agent, in such manner as may be prescribed as an arrears of land revenue.

[SOURCE:

<https://www.moneycontrol.com/news/business/real-estate/gujarat-rera-puts-builders-private-property-under-the-hammer-to-repay-homebuyer-5749371.html>]

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

### **NEWS**

#### **Companies need approvals to defer AGMs till 31 Dec**

The ministry of corporate affairs (MCA) clarified that companies would need to seek specific approvals to defer their annual general meeting till 31 December. As per rules companies need to hold AGMs within six months of the fiscal ending. But

because of the COVID pandemic, companies had sought an extension till the end of the year.

[SOURCE:

<https://www.livemint.com/companies/news/companies-will-need-to-get-approvals-to-defer-agms-till-31-december-11597762005934.html>]

**MCA has notified the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2020, which shall come into force on the date of their publication in the Official Gazette i.e 24-08-2020.** A new proviso has been added in Rule 2 (1)(e), to provide that any Company engaged in research and development activity of new vaccine, drugs and medical devices in their normal course of business may undertake research and development activity of new vaccine, drugs and medical devices related to COVID-19 for financial years 2020-21, 2021-22 and 2022-23 subject to the conditions that such research and development activities shall be carried out in collaboration with any of the institutes or organisations mentioned in item (ix) of Schedule VII to the Act and details of such activity shall be disclosed separately in the Annual Report on CSR included in the Board's Report. Further, to pave way for the said proviso, in Rule 4(1) the words, excluding activities undertaken in pursuance of its normal course of business have been deleted.

[SOURCE:

<http://www.egazette.nic.in/WriteReadData/2020/221325.pdf>]

**RBI comes up with clarifications on a new definition of Micro, Small and Medium Enterprises, based on the representations from IBA and banks regarding the applicability of certain aspects on new criteria for classifying the enterprises as micro, small and medium enterprises.**

It is clarified that all the enterprises are required to register online and obtain 'Udyam Registration Certificate' and All lenders may, therefore, obtain 'Udyam Registration Certificate' from the entrepreneurs. Further, the existing Entrepreneurs Memorandum and Udyog Aadhaar Memorandum (UAMs) of the MSMEs obtained till 30th June 2020 shall remain valid till 31st March 2021 and all enterprises registered till 30th June 2020, shall file new registration in the Udyam Registration Portal well before March 31, 2021, and Udyam Registration Certificate' issued on self-declaration basis for enterprises exempted from filing GSTR and/or ITR returns will be valid for the time being, upto March 31, 2021.

[SOURCE:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11951&Mode=0>]

**MCA has notified the Companies (Management and Administration) Amendment Rules, 2020 which shall come into force on the date of their**

**publication in the Official Gazette i.e 28-08-2020.**

Through this amendment, a new proviso has been added to Rule 12(1) as provided that a company shall not be required to attach the extract of the annual return with the Board's report in Form No. MGT.9, in case the web link of such annual return has been disclosed in the Board's report in accordance with sub-section (3) of section 92 of the Companies Act, 2013. Accordingly, every company is required to place a copy of the annual return on their website, if any, and shall also put the weblink of the same in their Board's Report. Companies would not be required to attach the Extract of Annual Return in Form MGT-9 with its Board's Report, if the Annual Return is hosted on the website of the Company.

[SOURCE:

[http://www.mca.gov.in/Ministry/pdf/Rule\\_29082020.pdf](http://www.mca.gov.in/Ministry/pdf/Rule_29082020.pdf)]

**Now, you can borrow more against gold jewellery**

The Reserve Bank of India on 06.08.2020 eased the gold loan guidelines which will enable lenders to give more loan against jewellery. According to current RBI regulations, up to 75% of the value of the gold can be lent.

[SOURCE:

<https://www.livemint.com/money/personal-finance/gold-loan-now-you-can-borrow-more-against-gold-jewellery-11596697093058.html>]

**JUDGEMENTS / ORDERS**

**Section 138 NI Act: Cheque Not Valid If Amount Written Is Uncertain, Holds Delhi Court**

A Delhi Court has recently held that an instrument cannot be termed as a cheque, if it does not specify a "certain amount" of money to be paid to a certain person. Thus, if the amount written on the instrument is "absurd", the same cannot be called a 'cheque' and it will not draw any legal consequences under the Negotiable Instruments Act. The observation was made by Addl. Sessions Judge, Praveen Singh, of the Patiala House Court, while hearing the revision petition of an accused in proceedings under Section 138 of NI Act.

[SOURCE:

[https://www.livelaw.in/pdf\\_upload/pdf\\_upload-379383.pdf](https://www.livelaw.in/pdf_upload/pdf_upload-379383.pdf)]

**Right To Property Is A Constitutional As Well As Human Right, Reiterates SC**

The right to property is still a constitutional right and a human right, reiterated the Supreme Court while allowing an appeal filed by Hari Krishna Mandir Trust in the matter of a land dispute with the Pune Municipal Corporation. The bench comprising Justices Indu Malhotra and Indira Banerjee





observed that the right to property includes any proprietary/ hereditary interest in the right of management of a religion endowment, as well as anything acquired by inheritance.

[SOURCE:

[https://www.livelaw.in/pdf\\_upload/pdf\\_upload-379627.pdf](https://www.livelaw.in/pdf_upload/pdf_upload-379627.pdf)]

### **High Courts Are Duty Bound to Issue Writ Of Mandamus For Enforcement Of A Public Duty: SC**

In a judgment delivered on August 7, 2020, the Supreme Court observed that the High Courts not only have the power to issue a Writ of Mandamus or in the nature of Mandamus, but are duty-bound to exercise such power for the enforcement of a public duty. In appropriate cases, in order to prevent injustice to the parties, the Court may itself pass an order or give directions which the government or the public authorities should have passed, had it properly and lawfully exercised its discretion, the bench of Justices Indu Malhotra and Indira Banerjee said.

[SOURCE:

[https://www.livelaw.in/pdf\\_upload/pdf\\_upload-379627.pdf](https://www.livelaw.in/pdf_upload/pdf_upload-379627.pdf)]

### **Sec 57 Of Transfer Of Property Act Permits Court To Declare A Property Free Of Encumbrance Even Against Will Of Encumbrancer: Kerala HC**

In a significant judgment, the Kerala High Court explained the procedural mechanism under Section 57 of the Transfer of Property Act, 1882, to lift encumbrance from an immovable property. The order, passed by Justice Devan Ramachandran, assumes relevance since there is no case law/ precedent on this subject. The verdict opens with emphasis on the "efficacious and substantive" mechanism provided under Section 57 of the Transfer of Property Act, 1882.

[SOURCE: <https://www.livelaw.in/know-the-law/sec-57-of-transfer-of-property-act-permits-court-to-declare-a-property-free-of-encumbrance-kerala-hc-161186>]

### **ACCOUNTING & AUDIT**

#### **Revenue: Exposure draft issued on guidance on revenue from operations in case of contractors**

An exposure draft has been recently issued to clarify whether, for contractors, the 'Revenue from operations' mentioned in Schedule III would be the amount recognized as per Revenue under Accounting Standard 7 and Indian Accounting Standard 115.

#### **NFRA issues Audit Quality Review Report of the Statutory Audit of IL&FS for F.Y. 2017-18**

In pursuant to section 132(2)(b) of the Companies Act, 2013 and NFRA Rules, 2018, The National Financial Reporting Authority (NFRA) has issued the Audit Quality Review Report (AQRR) of the Statutory Audit of IL&FS Financial Services Ltd. for the financial year 2017-18. This AQR was

conducted to ensure the compliance with relevant accounting and auditing standards and to assess the need of any disciplinary proceedings under the act.

#### **ICAI releases revised Guidance Note on 'Transfer Pricing'**

The Institute of Chartered Accountants of India (ICAI) has issued the revised version of the 'Guidance Note on Report under Section 92E of the Income-Tax Act, 1961 (Transfer Pricing)'. It explains the nuances of the law relating to transfer pricing considering the changes effected by the Finance Act, 2020.

#### **Banking: If RBI circulars and AS provisions are conflicting then a disclosure must be made**

In view of the guidelines provided in Master Circulars issued by the Reserve Bank of India (RBI) dated 2 December, 2004 and 2 July, 2012, interest accrued on NPA account can be shown separately under 'Interest receivable account' on asset side of balance sheet and corresponding amount should be reflected under 'Overdue interest reserve account' on liability side of balance sheet.

#### **SEBI amends the IFSC Guidelines, 2015 on debt securities for financial reporting purpose**

The Securities and Exchange Board of India (SEBI) has amended the International Financial Services Centers (IFSC) Guidelines, 2015 vide circular dated 21 August, 2020. The entities listing their debt securities with IFSC shall prepare their accounts in accordance with IFRS/ US GAAP/ Ind AS or Accounting Standards applicable in their place of incorporation.

#### **CAG issues Regulations on Audit and Accounts (Amendment), 2020; substitutes previous regulations**

The Comptroller and Auditor General (CAG) of India has issued Regulation on Audit and Accounts (Amendments), 2020 vide Notification dated 20 August, 2020. The amended Regulations consist of fifteen chapters which shall come into force from the date of issue.

#### **Ind AS Conceptual Framework for Financial Reporting revamped**

Conceptual Framework for Financial Reporting sets the basic objectives and the concepts for General Purpose Financial Reporting. With a view to remain converged with the global accounting framework, the 'Conceptual Framework for Financial Reporting under Indian Accounting Standards (Ind AS)' has been released

### **MISCELLANEOUS**

#### **Shri G C Murmu Takes over as C&AG of India**

Shri Girish Chandra Murmu assumed office as the Comptroller and Auditor General of India. He belongs to Indian Administrative Service of Gujrat cadre (1985 batch). Shri Murmu succeeds Shri

Rajiv Mehrishi. Prior to this, Shri Murmu was the first Lieutenant Governor of Union Territory of Jammu & Kashmir.

[SOURCE: Press Information Bureau]

### **Finance Minister launches an Online Dashboard for the National Infrastructure Pipeline**

Union Minister for Finance & Corporate Affairs Smt. Nirmala Sitharaman inaugurated the National Infrastructure Pipeline (NIP) Online Dashboard through video conferencing. The online dashboard is envisaged as a one stop solution for all stakeholders looking for information on infrastructure projects in New India. The dashboard is being hosted on the India Investment Grid (IIG) ([www.indiainvestmentgrid.gov.in](http://www.indiainvestmentgrid.gov.in)). IIG is an interactive and dynamic online platform that showcases updated & real-time investment opportunities in the country.

[SOURCE: Press Information Bureau]

### **Loans worth more than Rs 1 Lakh crore disbursed under ECLGS**

Under the 100% Emergency Credit Line Guarantee Scheme (ECLGS) backed by a Government of India guarantee, Banks from Public & Private Sectors have sanctioned loans worth over Rs. 1.5 lakh crore as of 18 August, 2020, of which more than Rs 1 lakh crore has already been disbursed. The ECLGS was announced by the Government as a part of Aatma Nirbhar Bharat Package, to mitigate the distress caused by lockdown due to COVID-19 by providing credit to different sectors, especially MSMEs.

[SOURCE: Press Information Bureau]

### **Government of India and AIIB sign agreement for \$500 million to improve the network capacity, service quality and safety of the suburban railway system in Mumbai**

The Government of India, the Government of Maharashtra, Mumbai Railway Vikas Corporation and the Asian Infrastructure Investment Bank (AIIB) today signed a loan agreement for a \$500 million Mumbai Urban Transport Project-III to improve the network capacity, service quality and safety of the suburban railway system in Mumbai. The Project is expected to increase network capacity in the region with the reduction in journey time and fatal accidents of commuters. It is estimated that among primary beneficiaries of the project, 22% are female passengers who will benefit from improved safety and quality of service.

[SOURCE: Press Information Bureau]

### **Japan's commits Rs 3,500 crore (approx.) as Official Development Assistance for health sector to fight the COVID-19 crisis in India**

The Govt. of Japan has committed Official Development Assistance loan of an amount of JPY50 billion (approx. Rs. 3,500 crore) for the COVID-19 Crisis Emergency Response Support. This programme loan aims to support India's efforts in fighting COVID-19 and to prepare the

health system to manage future epidemics and also to improve the resilience of India's health systems against infectious diseases. This Grant-in-aid from Government of Japan is for providing medical equipment to strengthen the public health and medical system in India.

[SOURCE: Press Information Bureau]

### **Proposals for the construction of nearly 10.28 Lakh houses approved under PMAY (Urban)**

In the Central Sanctioning and Monitoring Committee (CSMC), under Pradhan Mantri Awas Yojana (Urban) held on 7 August, 1589 proposals from participating States were approved for the construction of nearly 10.28 Lakh houses. These houses are proposed to be constructed across Beneficiary Led Construction and Affordable Housing in Partnership verticals.

Presiding the meeting, Shri Durga Shanker Mishra, Secretary, MoHUA said, "The progress made in PMAY(U) is significant. I urge States to work towards achieving the target of constructing 60 Lakh houses and grounding of 80 Lakh by the end of 2020." Further, he also called for effective implementation of ARHCs by States/UTs. "ARHC is a transformative scheme. It will improve the quality of life of beneficiaries," he said.

The Meeting evinced tremendous response from the States/UTs on Affordable Rental Housing Complexes (ARHCs), a sub-scheme under PMAY (U) for Urban Migrants/Poor. The States/UTs were further familiarized with the Scheme and requested to take appropriate measures for its effective implementation. ARHCs are a major step towards fulfilling the goal of 'Aatma Nirbhar Bharat'.

[SOURCE: Press Information Bureau]

#### **ABOUT SRNG ADVISORS LLP**

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