

## **DIRECT TAX**

### **News**

#### **MNC Esops to Indian staff face tax scrutiny**

Employee stock options (Esops) that multinationals such as Microsoft, HP and Oracle grant their employees in India have come under the tax department's lens, said people with knowledge of the matter. It has sent notices questioning the valuation of such Esops and how parent companies cross charge the cost of Esops with their Indian arms, they said.

The department's stand could lead to companies having to pay more tax, experts said. Microsoft refused to comment, while Employee stock options (Esops) that multinationals such as Microsoft, HP and Oracle grant their employees in India have come under the tax department's lens, said people with knowledge of the matter. It has sent notices questioning the valuation of such Esops and how parent companies cross charge the cost of Esops with their Indian arms, they said.

The department's stand could lead to companies having to pay more tax, experts said. Microsoft refused to comment, while HP and Oracle did not respond to ET's queries. Many multinationals give Esops to their Indian employees and then cross charge the cost to their Indian arm. The department is questioning the valuation of Esops for the purposes of domestic and international taxation, said the persons cited above. Cross charges involve sharing of expenses between the offices of a company. Given that one of the parties is located overseas, such transactions have to be at arm's length.

[Source: Economic Times]

#### **Black money probe: Tax haven trusts come under scanner for Swiss bank accounts**

A number of trusts set up in overseas tax havens using a complex maze of entities have come under the scanner of Indian and Swiss authorities for suspected tax evasion by parking of illicit funds in Switzerland-based banks, as per notices issued to those entities. In addition, several individuals who are suspected to have moved abroad after evading taxes back in India are also being probed and their banking details are in the process of being shared by the Swiss authorities with their Indian counterparts. As per the notices published in Switzerland's federal gazette over the past one month, these individuals,

including some businessmen, as also trusts based in Cayman Islands and companies have been asked to appoint their nominees in case they want to appeal against sharing of their banking details with India. Trusts, especially those set up in jurisdictions like Cayman Islands, Panama and British Virgin Islands, have often been seen as routes for evading taxes. [Source: Economic Times]

### **Notifications**

#### **Notification No. 1/2020, dated 3rd Jan., 2020**

CBDT vide Notification No. 01/2020-Income Tax has released Format of Revised Form Sahaj (ITR-1) and Sugam (ITR-4) as applicable for Assessment Year 2020-2021 and also added a new proviso to Income Tax Rule 12 and provided who cannot file Form Sahaj (ITR-1) and Sugam (ITR-4) for A.Y. 2020-21.

#### **Notification No. 2/2020, dated 3rd Jan., 2020**

It is notified that the organization **M/s Indian Institute of Technology (Indian School of Mines), Dhanbad (PAN:- AAAAI0686D)** has been approved by the Central Government for the purpose of clause **(ii)/(iii)** of sub-section (1) of section 35 of the Income-tax Act, 1961 (said Act), read with Rules 5C and 5E of the Income-tax Rules, 1962 (said Rules), **from Assessment year 2019-2020 and onwards** under the category of "**University, College or other Institution**", subject to certain conditions.

#### **Notification No. 3/2020, dated 6th Jan., 2020**

Amendment of rule 10DA and rule 10DB regarding furnishing of information and maintenance of documents by Constituent Entity of an international group.

#### **Notification No. 5/2020, dated 28th Jan., 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), Central Board of Direct Taxes hereby makes the amendments in the notification of Income-tax, published in the Gazette of India, Extraordinary Part II, section 3, sub-section (ii) vide **number S.O. 2752(E), dated the 22<sup>nd</sup> October, 2014** in schedule against serial no. 72.

#### **Notification No. 6/2020, dated 27th Jan., 2020**

CBDT revises jurisdiction of Principal Commissioner/ Commissioner of Income-tax, Guwahati.

#### **Notification No. 7/2020, dated 28th Jan., 2020**

CBDT notifies Institute of Pesticide Formulation Technology Gurugram under section 35(1)(ii)

**Notification No. 8/2020, dated 29th Jan., 2020**

This notification has notified Other electronic modes by inserting New Income Tax Rule 6ABBA. It also amended marginal heading of rule 6DD and in rule 6DD for the words 'account payee bank draft, exceeds twenty thousand rupees', the words, figures and letters 'account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as prescribed under rule 6ABBA, exceeds ten thousand rupees' shall be substituted. New electronic payment methods includes (a) Credit Card, (b) Debit Card, (c) Net Banking; (d) IMPS (Immediate Payment Service); (e) UPI (Unified Payment Interface); (f) RTGS (Real Time Gross Settlement); (g) NEFT (National Electronic Funds Transfer), and (h) BHIM (Bharat Interface for Money) Aadhar Pay.

**Notification No. 09/2020, dated 12th Feb, 2020**

CBDT designates Courts of Chief Judicial Magistrates (CJM) of the Union Territory of Jammu and Kashmir (UT of J&K) as Special Courts for the purposes 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 within their respective territorial jurisdictions

**Notification No. 10/2020, dated 12th Feb, 2020**

Section 115BAA deals New tax rate for domestic companies and Section 115BAB deals with Corporate tax rate for new manufacturing companies for Financial Year 2019-20 onwards. Now CBDT has released FORM No. 10-IC for Application for exercise of option under sub-section (5) of section 115BAA of the Income – tax Act, 1961 read with rule newly inserted Rule 21AE and FORM No. 10-ID for Application for exercise of option under sub-section (7) of section 115BAB of the Income-tax Act, 1961 read with newly inserted *rule* 21AF of Income-tax Rules, 1962.

**Notification No. 11/2020, dated 7th Feb, 2020**

Procedure of PAN allotment through Common Application Form (CAF) along with registration of Foreign Portfolio Investors (FPIs) with SEBI under Department of Economic Affairs and KYC for opening Bank and Demat Account.

**Notification No. 11/2020, dated 13th Feb, 2020**

CBDT notifies Income Tax Rule 114AAA prescribing that permanent account number (PAN) will become inoperative if a person, who has been allotted PAN as on the 1st day of July, 2017 and is required to intimate his Aadhaar number under section 139AA(2), has failed to intimate the same on or before the 31st day of March, the PAN of such person shall become inoperative immediately after the said date for the purposes of furnishing, intimating or quoting under the Income Tax Act.

**Notification No. 12/2020, dated 17th Feb, 2020**

CBDT has vide Notification No. 12/2020-Income Tax revises definition of unauthorised colonies of NCT of Delhi for rule 11UAC read with Section

Section 56(2)(x). Earlier CBDT has provided vide Notification No. 96/2019-Income Tax dated 11th November, 2019 that Section 56(2)(x) not applies to specific immovable property transactions of specific unauthorised colonies of NCT of Delhi.

**Notification No. 13/2020, dated 26th Feb, 2020**

Chief Justice of the Punjab and Haryana High Court, hereby designates the Court of Chief Judicial Magistrate in each Sessions Division in the States of Punjab and Haryana and the Court of Chief Judicial Magistrate in the Union Territory of Chandigarh as Special Court for the purposes of 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 within their respective Jurisdiction in the States of Punjab and Haryana and in the Union Territory of Chandigarh.

**Circulars****Circular No. 1/2020, dated 3rd Jan., 2020**

Relaxation of time-Compounding of Offences under Direct Tax Laws (Income Tax)-One-time measure-Extension of Timeline.

**Circular No. 2/2020, dated 3rd Jan., 2020**

Condonation of delay under section 119(2)(b) of the Income-tax Act, 1961 in filing of Form No. 10B for Assessment Year 2018-19 and subsequent years.

**Circular No. 3/2020, dated 3rd Jan., 2020**

Condonation of delay under section 119(2)(b) of the Income-tax Act, 1961 in filing of Form No.10 and Form No.9A for Assessment Year 2018-19 and subsequent years

**Circular No. 4/2020, dated 16th Jan., 2020**

CBDT has released Circular which explains provisions related to TDS on Salary under Section 192 of Income Tax Act, 1961 applicable for A.Y. 2020-21 or F.Y. 2019-20. Circular also explains taxation of different components of Salary, Tax Treatment of Allowances, Perquisites, Retirement benefits etc.

**Circular No. 06/2020, dated 19th Feb, 2020**

Condonation of delay u/s 119(2)(b) of the IT Act, 1961 in filing of Return of Income for AY 2016-17, 2017-18 and 2018-19 and Form No. 9A and Form No. 10 – reg.

**Case Law**

**Section 132(1) is a serious invasion on privacy of citizens, and has to be resorted to when there are pre-existing and pre-recorded good reasons to believe that action under section 132(1) is called for.**

**Khem Chand Mukim v. Principal Director of Income-tax (Inv.)**

[2020] 113 taxmann.com 529 ( HC Delhi)

Where sole ground for action of search and seizure was that Investigation Wing of Income Tax department was in possession of credible information that petitioner was in possession of jewellery which represented his undisclosed income or property, however, no cogent basis for

arriving at this conclusion was discernible from satisfaction note, it was a completely unauthorized and a high-handed action on part of department. Merely because assessee was in possession of jewellery, it could not be said that same represented income or property which had not been disclosed or will not be disclosed.

There was no material to conclude that no such disclosure had been made, or that no disclosure would be made so as to satisfy prerequisites of section 132. Thus, impugned search and seizure and ex post facto warrant of authorization issued by respondent under section 132 was to be quashed and all actions taken pursuant to such search and seizure were to be declared illegal.

**Adjudication on merits of case by Tribunal is essential for High Court to hear an appeal and Tribunal could not have dismissed same solely on account of non-appearance of a party. In absence of party, Tribunal should proceed to decide matter on merits and it cannot defeat rights of parties on its whims and fancies or by procedural wrangles and uncertainties**

**Golden Times Services (P.) Ltd. v. Deputy Commissioner of Income-tax**

[2020] 113 taxmann.com 524 (HC Delhi)

Section 254 mandates communication of order to parties, and, thus, date of communication or knowledge, actual or constructive, of orders sought to be rectified or amended under section 254(2) becomes critical and determinative for commencement of period of limitation and starting point of limitation provided under section 254(2) has to commence from date of actual receipt of judgment and order passed by Tribunal which is sought to be reviewed.

**The deeming fiction of law stipulated under sub section (1) of Section 50C cannot be applicable to lease rights in a land**

**Ritz Suppliers (P.) Ltd. v. Income-tax Officer, Kolkata**

[2020] 113 taxmann.com 349 (Kolkata - Trib.)

Section 50C is a deeming fiction for substituting, or adopting the valuation of land or building or both by the Stamp Valuation Authority as full value of consideration is applicable only in respect of 'land or building or both'. If the capital asset under transfer cannot be described as 'land or building or both', then section 50C cannot be attracted. Section 50C applies only to a capital asset, being land or building or both, it cannot be made applicable to lease rights in a land.

**Where assessee has discharged his onus, the burden shifted to the revenue; but revenue could not prove or bring any material to impeach the source of the credit. Thus the addition smade by AO u/s 68 has been deleted**

**Mr. Gaurav Triyugi Singh versus The Income Tax Officer-24 (3) (1), Mumbai-51**

**2020 (1) TMI 1153 - Bombay High Court**

In view of discharge of burden by the assessee, burden shifted to the revenue; but revenue could

not prove or bring any material to impeach the source of the credit. Though Mr. Walve, learned standing counsel, has pointed out that the creditor had no regular source of income to justify the advancement of the credit to the assessee, we are of the view that the assessee had discharged the onus which was on him to explain the three requirements, as noted above. It was not required for the assessee to explain the sources of the source. In other words, he was not required to explain the sources of the money provided by the creditor Smt. Savitri Thakur i.e. Shri Rajendra Bahadur Singh and Smt. Sarojini Thakur. We are of the view that the Tribunal was not justified in sustaining the addition to the total income of the assessee as undisclosed cash credit under section 68 of the Act. - Decided in favour of assessee.

**The reasons of reopening of assessment u/s 147 are completely silent as to how, and on what basis, material or evidence, the AO has come to the conclusion that the loan transaction was an amount received without consideration. There is nothing on record to justify the reopening. The notice under Section 148 of the Act and the proceedings emanating there from are hereby quashed.**

**Vanita Sanjeev Anand Versus Income Tax Officer Ward 45 (1) 2020 (1) TMI 1070 - Delhi High Court**

AO has not shown any rational for involving Section 56 to the transaction of loan. The reasons are completely and wholly silent as to how the provisions of Section 56 are attracted in respect of outstanding liability of loan. Moreover, the reasons also do not spell out as to how there has been escapement of income by the assessee. The approach of the AO is fundamentally flawed, as he has assumed that just because certain loan amount is outstanding, the same was liable to be added to the income of the petitioner-assessee. The reasoning does not indicate the basis for coming to the conclusion that the petitioner's taxable income has escaped assessment and the reasons formulated by the AO are based on a fundamentally flawed approach. We do not find any such material or basis to justify the reopening of the assessment. Resultantly, the writ petition is allowed. The notice under Section 148 of the Act and the proceedings emanating therefrom are hereby quashed.

**Admittedly and from the bare perusal of the assessment order, it is seen that addition on account of bogus purchases is not based on any evidence or incriminating material found during the course of search and seizure action albeit same has been made on the basis of information already on record in the form of audited balance sheet and books of account. additions made by the Assessing Officer are held to be beyond the scope of Section 153A and same are deleted**

**Asst. CIT, Central Circle-04, New Delhi. Versus M/S. Jakson Limited**

## **2020 (1) TMI 1054 - ITAT Delhi**

Proof of incriminating material has been found during the course of search and admittedly and from the bare perusal of the assessment order, it is seen that addition on account of bogus purchases is not based on any evidence or incriminating material found during the course of search and seizure action *albeit* same has been made on the basis of information already on record in the form of audited balance sheet and books of account. It is also an admitted position that at the time of search, i.e., on 30.10.2013, the assessment for the Assessment Year 2012-13 has attained finality and was not pending assessment.

Therefore, in terms of second *proviso* to Section 153A it cannot be reckoned as abated assessment. Now it is a well settled principle addition over and above the earlier assessment can only be made if any incriminating material or document is found during the course of search. Accordingly, additions made by the Assessing Officer are held to be beyond the scope of Section 153A and same are deleted - Decided in favour of assessee.

**Registration u/s 12A cannot be denied where control of the trust property vests in settlors and not in the public, where there is no dissolution clause in the trust deed or where the trust is not registered with the registrar of societies.**

**Shri Dhar Sabha Vaishno Devi vs. CIT(E) Amritsar, (Third Member) ITA No.53/ASR/2017**

S. 11/ 12AA: The only requirement for granting registration is that the objects of the society should be charitable in nature and activities are genuine (i) A trust may be of a public charitable nature even if the control of the trust property is not vested in the public but is retained by the settlors, (ii) Registration u/s 12A cannot be declined on the ground that the Trust Deed does not contain "dissolution clause". This is totally irrelevant & beyond the scope of enquiry contemplated u/s 12A. of the Act, (iii) Registration cannot be refused for non furnishing of registration with the Registrar of Societies. Registration with the Registrar of Societies is not a precondition for granting registration u/s 12A.

**A newly registered Trust is entitled for registration under section 12AA on basis of its objects, without any activity having been undertaken**

**Ananda Social & Educational Trust v. Commissioner of Income tax [2020] 114 taxmann.com 693 (SC) Supreme Court Of India**

Section 12AA provides for registration of a trust. Such registration can be applied for by a trust which has been in existence for some time and also by a newly registered trust. There is no stipulation that trust should have already been in existence and should have undertaken any activities before making application for registration. Since section 12AA pertains to registration of Trust and not to assess of what a trust has actually done, it is viewed that term

'activities' in provision includes 'proposed activities'. That is to say, a Commissioner is bound to consider whether objects of Trust are genuinely charitable in nature and whether activities which Trust proposed to carry on are genuine in sense that they are in line with objects of Trust.

**S. 68 Bogus share capital/ premium: Application seeking open court oral hearing was rejected stating that there is no substance in the Review Petition seeking review of PCIT vs. NRA Iron & Steel Pvt. Ltd (2019) 412 ITR 161 (SC) and the same was dismissed**

**NRA Iron & Steel Pvt. Ltd vs. PCIT (Supreme Court) [Diary No(s). 41307/2019] in C.A. No.2463/2019 Order Dated 04.02.2020**

The honorable Supreme Court vide order dated 05.30.2019 has held that the assessee was unable to establish the creditworthiness of subscribers to share capital and genuineness of transactions and accordingly the additions made by AO were upheld. The basic issue as framed in para 3.4 of the Judgment dated 05.03.2019 was considered in the light of the facts on record. After noting the relevant decisions, the emerging principles were set out in para 11, in the light of which the facts were considered from para 12 onwards. Finally, the conclusions drawn by the Assessing Officer were found to be correct and it was found that the lower Appellate Authorities had erred in interfering with such conclusions. The Appeal was, therefore, allowed and the order passed by the Assessing Officer was restored. After going through the contents in the Review Petition the SC did not find any substance in the submissions raised therein. Consequently, the Review Petition was dismissed.

**S. 68 Bogus share capital: The identity of the investors were not in doubt. The assessee had furnished PAN, copies of the income tax returns of the investors as well as copy of the bank accounts in which the share application money was deposited in order to prove genuineness of the transactions. In so far credit worthiness of the creditors were concerned, the bank accounts of the investors showed that they had funds to make payments for share application money. The assessee was not required to prove source of the source. Nonetheless, the inquiries through the investigation wing of the department at Kolkata proved source of the source (PCIT vs. NRA Iron & Steel 412 ITR 161 (SC) distinguished)**

**PR. COMMISSIONER OF INCOME TAX -1 VERSUS M/S. AMI INDUSTRIES (INDIA) P. LTD. 2020(2) TMI 269 Bombay High Court**

Honorable Bombay High Court distinguishing the decision passed by Honorable Supreme Court in the case of **PCIT vs. NRA Iron & Steel 412 ITR 161 (SC)** held that the Identity of the creditors were not in doubt. Assessee had furnished PAN, copies of the income tax returns of the creditors as well as copy of bank accounts of the three creditors in which the share application money

was deposited in order to prove genuineness of the transactions. In so far credit worthiness of the creditors were concerned, Tribunal recorded that bank accounts of the creditors showed that the creditors had funds to make payments for share application money and in this regard, resolutions were also passed by the Board of Directors of the three creditors. Though, assessee was not required to prove source of the source, nonetheless, Tribunal took the view that Assessing Officer had made inquiries through the investigation wing of the department at Kolkata and collected all the materials which proved source of the source.

**S. 153A: Once the assessment gets abated, the original return filed u/s 139(1) is replaced by the return filed u/s 153A. It is open to both parties, i.e. the assessee and revenue, to make claims for allowance or disallowance. The assessee is entitled to lodge a new claim for deduction etc. which remained to be claimed in his earlier/ regular return of income (Continental Warehousing Corporation 374 ITR 645 (Bom) referred)**

**PCIT vs. JSW Steel Ltd. 2020(2) TMI 307 Bombay High Court**

It was fortified that once the assessment gets abated, the original return which had been filed loses its originality and the subsequent return filed under Section 153A of the said Act (which is in consequence to the search action under Section 132) takes the place of the original return. In such a case, the return of income filed under Section 153A(1) of the said Act, would be construed to be one filed under Section 139(1) of the Act and the provisions of the said Act shall apply to the same accordingly. If that be the position, all legitimate claims would be open to the assessee to raise in the return of income filed under Section 153A(1). Emphasis was laid on the judgment passed in the case of Continental Warehousing [2015 (5) TMI 656 - BOMBAY HIGH COURT] which also explains the second proviso to Section 153A(1).

**Addition u/s 68 cannot be made merely on account of non production of directors of company without bringing any other contrary material on record**

**Income-tax Officer v Commitment Financial Services (P.) Ltd.**

**[2020] 113 taxmann.com 565 (Delhi - Trib.)**

Where in respect of share application money received, assessee-company brought on record sufficient evidence in form of bank account particulars, PAN, ITRs and financials of share applicants so as to prove genuineness of those transactions, in such circumstances, impugned addition under section 68 could not be sustained merely on account of non-production of directors of company without bringing any other contrary material on record

**Once loan transactions between the assessee and the creditor have been found to be genuine**

**transactions then interest paid thereon cannot be considered as unexplained expenditure.**

**ITO-25 (3) (1) , MUMBAI v M/S MECHAN RESORTS LLP, MUMBAI**

**2020 (2) TMI 923 - ITAT MUMBAI**

Assessee has filed complete set of documents with regard to each and every amount of loan given to assessee and also explained corresponding source of income for amount transferred to the assessee. We further noted that the loan creditor has explained the source of income out of encashment of mutual funds investments, sale of listed equity shares for which necessary contract notes from brokers and bank statement has been filed. The assessee has also filed income tax copy of loan creditors for the relevant financial year. It is very clear that the identity, genuineness of transactions and creditworthiness of the loan creditor has been explained with necessary evidences. CIT(A) after considering relevant facts has rightly come to the conclusion that the assessee has discharged onus cast upon u/s 68 in respect of unsecured loans taken. Further Once loan transactions between the assessee and the creditor has been found to be genuine transactions, which satisfies the conditions prescribed u/s 68, then interest paid thereon cannot be considered as unexplained expenditure.

**Where the additions in respect of which penalty under Section 271(1)(c) of the Act was levied, are challenged in appeal before High Court and admitted by the High Court for consideration the correctness of such addition then in such circumstances imposition of penalty was not proper**

**STATE BANK OF INDIA VERSUS THE ADDITIONAL COMMISSIONER OF INCOME TAX (TDS) RANGE-3, BANGALORE**

**2020 (2) TMI 880 - ITAT BANGALORE**

When the additions in respect of which penalty under Section 271(1)(c) of the Act was levied, are challenged in appeal before High Court and when High Court has admitted for consideration the correctness of such addition then it means that the additions made were debatable and would lead credence to the bonafides of the assessee and in such circumstances imposition of penalty was not proper and was rightly deleted by the Tribunal. Thus levy of penalty u/s.271C cannot be sustained and the same is directed to be deleted.

**Where the assessee has made suo moto disclosure of income, the penalty in that case cannot be attracted under the provisions of section 271(1)(c)**

**SHRI CHANDRESH ROSHANLAL JAIN VERSUS A.C.I.T., PANCHMAHAL CIRCLE, GODHRA.**

**2020 (2) TMI 784 - ITAT AHMEDABAD**

There was questionnaire issued by the AO having jurisdiction over the assessee under section 142(1) of the Act, but in none of the questionnaire the question regarding the undisclosed income admitted by the assessee in the statement furnished under section 131 of the Act was made.

Accordingly the argument of the learned DR that there was a question raised about the reasons which has affected the income of the assessee is not impressive. Question raised by the AO is a general question and has nothing to do with the income of the assessee admitted by him in the statement furnished under section 131 of the Act. It can safely assume that the assessee has disclosed the impugned income voluntarily prior to the detection by the Income Tax Office.

Assessee filed his original return of income dated 30-03-2012 which is belated income tax return under section 139(4) of the Act. It is the settled law that the belated return cannot be revised under the provisions of section 139(5) of the Act. In view of the above there was no possibility for the assessee to revise the return of income under the provisions of the Act. Accordingly, the assessee had no option except to revise the computation of income.

Accordingly, it is concluded that the assessee has made suo moto disclosure of income as discussed above. Hence, the penalty in the instant case cannot be attracted under the provisions of section 271(1)(c) - Decided in favour of assessee.

**Where the advances have subsequently been recorded as sales of the assessee firm and that these sales have been accepted as income by the AO during the year. In that case no separate addition of the same amount as income of the assessee under any other Section of the Act can be made**

**NEW POOJA JEWELLERS VERSUS ITO, WARD-44 (3) , KOLKATA 2020 (2) TMI 1274 - ITAT KOLKATA**

In the instant case advances have subsequently been recorded as sales of the assessee firm and that these sales have been accepted as income by the AO during the year. He has not disturbed the sales of the assessee. When a receipt is accounted for as income, no separate addition of the same amount as income of the assessee under any other Section of the Act can be made as it would be a double addition. In the result, the addition made is deleted and allow its claim of the assessee.

## **GST** **News**

**Major Highlights of 2nd National GST Conference held for streamlining GST system and plugging revenue leakages.**

- All major cases of fake Input Tax Credit, export/ import fraud and fraudulent refunds shall also be compulsorily investigated by investigation wing of the Income Tax Department.
- MoU would be signed among CBDT, CBIC and GSTN to exchange data through API, from CBDT to GSTN and CBIC and



vice-versa. It was decided that this data should be shared on quarterly basis, instead of being shared on yearly basis.

- It was also explored to make GST system aligned with FIU for the purpose of getting bank account details and transactions and also PAN based banking transaction.
- A self-assessment declaration to be prescribed by suitable amendments in GSTR Forms in case of closure of businesses.
- To undertake verification of unmatched Input Tax Credit availed by taxpayers.
- It was also explored to provide for that there should be single bank account for foreign remittance receipt and refund disbursement.

[Source- Press release F.No.: 827/CCT Conference/GSTC/2019]

## **GST authorities begin audit exercise: issue show cause notices**

India Inc is set to face first ever tax audit under the goods and services tax (GST) regime. The GST authorities have begun issuing notices for the tax audit exercise, which involves detailed scrutiny of the accounts and records for FY18. "The notices are being issued for the first time, and taxpayers are being asked to furnish detailed records of GST forms, income tax papers, input service invoices, electronic cash/credit ledger and business agreements, among others.

[Source- Economics Times]

## **Tax Authorities to Block GST Credit Of Over 1,000 Taxpayers**

The government has asked GST authorities to block input tax credit of about 1,000 taxpayers who have allegedly claimed more credit than they were eligible for. The Central Board of Indirect Taxes and Customs has asked every commissioner ate to identify top 20 taxpayers who have the highest discrepancy in input tax credit based on the purchase-related GSTR-2A and summary GSTR-3B returns, the official said on the condition of anonymity.

[Source - Quint]

## **CBIC extends GSTR-9 and GSTR-9C filing dates in a staggered manner.**

The Central Board of Indirect Taxes and Customs (CBIC) late on Friday night extended the due date for furnishing GST Annual Return and Reconciliation Statement (GSTR-9 / 9A and GSTR-9C) for FY 2017-18 in a staggered manner.

[Source- Economics Times]

## **Government blocks Rs 40,000 crore GST claims on returns mismatch.**

The Central Board of Indirect Taxes and Customs (CBIC) has frozen tax credits of around Rs 40,000 crore as the returns did not match, exposing alleged fraud by close to 2,000 entities, apart from cases where returns were not filed. Last week, the indirect tax wing of the revenue department blocked the credits within four hours.

[Source- Times of India]

### **Strengthening of E-Way Bill System: Integration of E-way Bill with Vaahan system of transport department**

- E-Way Bill system is now integrated with Vaahan system of Transport Department.
- Vehicle (RC) number entered in e-waybill will be verified with Vaahan data for its existence/correctness. If the vehicle number does not exist, then system will alert the user to check and correct, if required.
- If the vehicle (RC) number is correct as per the tax payer, then he can continue with generation of E-Way Bill. However, he needs to get the vehicle number updated in the vaahan database so that in future E-Way Bill generation will not be affected.  
[Source- GST]

### **Indirect tax dept issues notices to companies over late input credit claim under GST frame**

The indirect tax department has issued notices to thousands of companies that had claimed late input tax credit under GST framework and thereby asked them to reverse the transaction. These companies had claimed the input tax credit for fiscal 2018 and 2019 after missing the September deadline.

[Source- Economics times]

### **Firm gets GST notice to pay up 'Rs 5.9858630140000004'**

The government recently clarified that those filing returns after the due dates should also be paying interest on the taxes due and ordered recovery of Rs 46,000 crore as interest from those who filed their returns after the due dates. Now the taxpayers have been receiving notices asking for payment of interests, which in some cases could be as low as Rs 2 or Rs 6.

[Source- Business today]

### **Hacking GST database can now lead to 10 year imprisonment**

Hacking into the government's India's goods and services tax (GST) database and its associated infrastructure dependencies installed at GST Network (GSTN) can now lead to 10-year imprisonment, as the assets have been declared as 'protected systems' by the finance ministry, under the IT Act.

The Ministry of Finance hereby declares the Goods and Services Tax Database and its associated infrastructure dependencies installed at Goods and Services Tax Network (GSTN), as the protected system for the purpose of said Act.

[Source- Economics Times]

### **Interest on delayed GST payment will now be calculated on net tax liability.**

The CBIC said GST laws, as of now, permit interest calculation on delayed GST payment on the basis of gross tax liability. This position has been upheld in the Telangana High Court's decision dated April 18, 2019. "In spite of this position of law and Telangana High Court's order, the central government and several state governments, on the

recommendations of the GST Council, amended their respective CGST/SGST Acts to charge interest on delayed GST payment on the basis of net tax liability," the CBIC said.  
[Source- Deccan Herald]

### **Notifications**

#### **Notification No. 01/2020- Central Tax dated 1st Jan 2020**

#### **Seeks to bring into force certain provisions of the Finance (No. 2) Act, 2019 to amend the CGST Act, 2017.**

The provisions of sections 92 to 112(Amendments to CGST Act, 2017), **except** section 92(Pertaining to National Appellate authority for Advance Rulings), section 97(Pertaining to Section 39 of CGST Act), section 100(Pertaining to Section 50 of CGST Act- Interest payable on amount paid by debiting cash ledger) and sections 103 to 110(refund; Pertaining to National Appellate authority for Advance Rulings; National Appellate authority) of the Finance Act, 2019 **shall come into force w.e.f 1st January, 2020**

#### **Notification No. 02/2020- Central Tax dated 1st Jan 2020**

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

Issued for making amendments in CGST Rules, According to the said notification due date for submitting the declaration electronically in FORM GST **TRAN-1 has been extended up to 31st March, 2020** in respect of registered persons who could not submit the said declaration by the due date **on account of technical difficulties on the common portal** and in respect of whom council has made a recommendation for such extension. Statement in Form GST TRAN 2, above cases, may be submitted by 30th April, 2020.

#### **Notification No. 03/2020 - Central Tax dated 1st January, 2020.**

#### **Seeks to amend the notification No. 62/2019-CT dt. 26.11.2019 to amend the transition plan for the UTs of J&K and Ladakh.**

Taxpayer has an option to transfer the input tax credit (ITC) from the registered GSTIN, till the 31st December, 2019 in the State of Jammu and Kashmir, to the new GSTIN in the Union territory of Jammu and Kashmir or in the Union territory of Ladakh from the 1st January, 2020

The balance of State taxes in electronic credit ledger of the said class of persons, whose principal place of business lies in the Union territory of Ladakh from the 1st January, 2020, shall be transferred as balance of Union territory tax in the electronic credit ledger

#### **Notification No. 04/2020 - Central Tax dated 10th January, 2020**

#### **Seeks to extend the one-time amnesty scheme to file all FORM GSTR-1 from July 2017 to November, 2019 till 17th January, 2020.**

The government has once again extended the last date for availing a waiver on late fee for delay in filing GSTR-1 from July 2017 to November 2019.

The date has been extended from January 10 to 17. The response to this waiver has been very encouraging and since announcement on December 18, 2019, 54 lakh GSTR-1 have gotten filed till January 09, 2020," Ministry of Finance said in a statement."

**Notification No. 05/2020 – Central Tax dated 13.01.2020 Seeks to appoint Revisional Authority under CGST Act, 2017**

- CBIC hereby authorizes –
  - a) The Principal Commissioner or Commissioner of Central Tax for decisions or orders  
Passed by the Additional or Joint Commissioner of Central Tax; and
  - b) The Additional or Joint Commissioner of Central Tax for decisions or orders passed  
By the Deputy Commissioner or Assistant Commissioner or Superintendent of Central Tax, as the Revisional Authority under section 108 of the CGST Act, 2017.

**Notification No. 06/2020-Central tax dated 03-02-2020 - Seeks to extend the last date for furnishing of annual return / reconciliation statement in FORM GSTR-9/FORM GSTR-9C for the period from 01.07.2017 to 31.03.2018.**

The due dates for furnishing GST Annual Return and Reconciliation Statement (GSTR-9 / 9A and GSTR-9C) for FY 2017-18 extended in a staggered manner for different groups of States as under.

- Chandigarh, Delhi, Gujarat, Haryana, Jammu and Kashmir, Ladakh, Punjab, Rajasthan, Tamil Nadu, Uttarakhand. till 5th February 2020.
- Andaman and Nicobar Islands, Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Dadra and Nagar Haveli and Daman and Diu, Goa, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Lakshadweep, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Odisha, Puducherry, Sikkim, Telangana, Tripura, Uttar Pradesh, West Bengal, Other Territory. till 7th February 2020.

**Notification No. 07/2020 – Central Tax dated 3rd February, 2020 - Notification issued to prescribe due dates for filing of return in FORM GSTR- 3B in a staggered manner.**

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

Thus, around 8 lakh regular taxpayers would have the last date of GSTR-3B filing as 20th of every month without late fees.

The taxpayers having annual turnover below Rs 5 crore in previous financial year are divided further in two categories.

The tax filers from 15 States/ UTs, i.e., States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union

territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep will now be having the last date of filing GSTR-3B returns for the month of January, February and March, 2020 as 22nd of the following month without late fees.

For the remaining 46 lakh taxpayers whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi will now be having last date of filing the GSTR-3B for the month of January, February and March, 2020 as 24th of the following month without late fees.

**Circulars**

**Circular No.131/1/2020-GST dated 23.01.2020 Standard Operating Procedure (SOP) to be followed by exporters**

- The exporters on being informed in this regard or on their own volition should fill in information in the format attached as Annexure 'A' to this Circular and submit the same to their jurisdictional CGST authorities for verification by them.
- Verification shall be completed by jurisdiction CGST office within 14 working days of furnishing of information in proforma by the exporter.
- After a period of 14 working days from the date of submission of details in the prescribed format, the exporter may also escalate the matter to the Jurisdictional Pr. Chief Commissioner/Chief Commissioner of Central Tax by sending an email to the Chief Commissioner concerned.
- The Jurisdictional Pr. Chief Commissioner/Chief Commissioner of Central Tax should take appropriate action to get the verification completed within next 7 working days.

Any refund remains pending for more than one month, the exporter may register his grievance at [www.cbic.gov.in/issue](http://www.cbic.gov.in/issue) by giving all relevant details like GSTIN, IEC, and Shipping Bill No.

**Order-01/2020-GST dated 07th February, 2020 issued vide. No. CBEC-20/06/17/2018-GST**

Extension of time limit for submitting the declaration in FORM GST TRAN-1 under rule 117(1A) of the CGST Rules, 2017 for the class of persons who could not file their form GST TRAN 1 by due date on account of technical difficulties on the common portal and whose cases have been recommended by the council till 31st March, 2020.

**Case law**

**Decided by National Anti-Profitteering Authority in the case of Shubhra Vipin Gajbhiye v. Pyramid Arcades (P.) Ltd. - Case no. 03/2020 Dated 07 Jan 2020.**



**Respondent not pass benefit of ITC so contravened provisions of section 171.**

Applicant had alleged profiteering by respondent in respect of purchase of flats in (Respondent's project 'Pyramid, alleging that respondent was not passing on benefit of ITC to him in spite of fact that he was availing ITC on purchase of inputs at higher rates of GST which had resulted in benefit of additional ITC to him and was also charging GST from him at rate of 12 per cent, it is found that ITC as a percentage of total turnover which was available to respondent during pre-GST period was 2.76 per cent and during post-GST period this ratio was 7.28 per cent and therefore, respondent has benefitted from additional ITC to tune of 4.52 per cent (7.28 per cent - 2.76 per cent) of total turnover, since respondent has not reduced basic prices of his flats by 4.52 per cent due to additional benefit of ITC and charged GST at increased rate of 12 per cent on pre-GST basic price, he had contravened provisions of section 171

**Decided by HIGH COURT OF KERALA in the case of Abbott Healthcare (P.) Ltd. v. Commissioner of State Tax - Case no. W.P. (C) NO. 17012 OF 2019 Dated January 7, 2020.**

**Composite supplies cases will have to be decided based on facts in a given case and not in abstract, HC remit the matter back to the AAR for a fresh decision**

A finding as regards composite supply must take into account supplies as effected at a given point in time on 'as is where is' basis. In particular instances where same taxable person effects a continuous supply of services coupled with periodic supplies of goods/services to be used in conjunction therewith, one could possibly view periodic supply of goods/services as composite supplies along with service that is continuously supplied over a period of time. These, however, are matters that will have to be decided based on facts in a given case and not in abstract as was done by the AAR.

I therefore allow the writ petition, by quashing Exits. P1 and P2 orders, and remit the matter back to the AAR for a fresh decision on the query raised before it by the petitioner company. The AAR shall pass fresh orders in the matter, based on the observations in this judgment, and after hearing the petitioner, within a period of six weeks from the date of receipt of a copy of this judgment.

**Decided by APPELLATE AUTHORITY FOR ADVANCE RULING, KARNATAKA in case of Infinera India (P.) Ltd., In re - ORDER NO. KAR/AAAR/09/2019-20 dated 20th JAN 2020.**

**Pre-sale and marketing services qualify as an 'Intermediary' as defined under section 2(13) of the IGST Act, 2017.**

Applicant engaged in software development services for products developed by 'I' Ltd., a U.S. based company, also provides pre-sale and marketing services for optical networking equipment developed by said company, seeks

advance ruling on question as to whether activities carried out in India by them would qualify as an 'Intermediary' as defined under section 2(13) of the IGST Act, 2017, it has to be ruled that activities so carried out would fall in terms of the 'Pre-sale and Marketing Services Agreement' which qualifies applicant as an 'Intermediary' as defined under section 2(13) of the IGST Act, 2017 and consequently by subject to the levy of GST.

**Decided by NATIONAL ANTI-PROFITEERING AUTHORITY in case of Susheel Prasad Todi v. Acme Housing India (P.) Ltd. Case No. 02/2020 dated 1st Jan. 2020.**

**Violation of section 171, respondent did not pass on benefit of Input Tax Credit (ITC) to him by way of commensurate reduction in prices**

Applicant purchased flat in respondent's project 'Acme Ozone Herbelia' but respondent did not pass on benefit of Input Tax Credit (ITC) to him by way of commensurate reduction in prices in violation of section 171, applicant was entitled to an amount realised by respondent including GST as benefit of ITC along with interest at rate of 18 per cent from date from which said amount was realised by respondent

**Decided by NATIONAL ANTI-PROFITEERING AUTHORITY in case of Sumit Mansingka v. E-Homes Infrastructure (P.) Ltd. I.O. NO. 07 OF 2020 dated 3rd Jan. 2020.**

**ITC/turnover of two project having separate RERA Registration, could not be clubbed for purpose of computation of profiteering in terms of section 171.**

Applicant having purchased a flat in project developed by respondent, filed a complaint alleging profiteering by respondent as it had not passed on benefit of Input Tax Credit (ITC) to him by way of commensurate reduction in price of flat purchased by him on introduction of GST w.e.f. 1-7-2017, in view of fact that respondent was developing two residential projects having separate RERA registrations, those projects were to be treated as separate projects and, thus, ITC/turnover of two could not be clubbed for purpose of computation of profiteering in terms of section 171. Thus, DGAP was to be directed to investigate matter afresh and furnish its report in terms of rule 133(4) of CGST Rules, 2017

**Decided by AUTHORITY FOR ADVANCE RULINGS, KARNATAKA in case of Barbeque Nation Hospitality Ltd., ADVANCE RULING NO. KAR ADRG 03/2020 dated 9th Jan. 2020.**

**Questions are not in relation to supply of goods or services, but are in relation to service/s being received by them, instant application is beyond jurisdiction of AAR**

Where applicant, engaged in hospitality industry, took premises, on lease and raises objection for charging GST on electricity charges of said building and questions lessors about legal authority/source of law, since said questions are not in relation to supply of goods or services or

both being undertaken or proposed to be undertaken by said applicant, but are in relation to service/s being received by them, instant application is beyond jurisdiction of AAR and, hence, is liable for rejection

**Decided by HIGH COURT OF GUJARAT in case Mohit Minerals (P.) Ltd. v. Union of India, SPECIAL CIVIL APPLN NOS. 726 OF 2018, 1984,1988 OF 2019 & OTHS. dated 23rd Jan. 2020.**

No tax is leviable under Integrated Goods and Services Tax Act, 2017, on ocean freight for services provided by a person located in a non-taxable territory by way of transportation of goods by a vessel from a place outside India upto customs station of clearance in India and levy and collection of tax of such ocean freight is not permissible in law; Notification No.8/2017-Integrated Tax (Rate) dated 28-6-2017 and Entry 10 of Notification No.10/2017-Integrated Tax (Rate) dated 28-6-2017 are unconstitutional

In a case of CIF contract, contract for transportation is entered into by seller, i.e. foreign exporter, and not buyer, i.e. importer, and importer is not recipient of service of transportation of goods.

**Decided by National Anti-Profitteering Authority in the case of Paramjeet Rathee v. Supertech Ltd. (P.) Ltd. - Case no. 06/2020 Dated 25 Feb 2020.**

**ITC availed by respondent in post GST period was very low so provisions of section 171 have not been contravened**

Applicant had filed an application alleging that respondent had resorted to profiteering in respect of supply of construction services related to purchase of a flat in respondent's project 'Officer Enclave' on ground that respondent had not passed on benefit of Input Tax Credit (ITC) by way of commensurate reduction in price of apartment purchased by him on implementation of GST, since there has been no reduction in rate of tax in post GST period and percentage of ITC availed by respondent in post GST period was very low in comparison to pre GST period provisions of section 171 have not been contravened

**Decided by National Anti-Profitteering Authority in the case of Paramjeet Rathee v. Supertech Ltd. (P.) Ltd. - Case no. 09/2020 Dated 17 Feb 2020.**

**Respondent not pass benefit of ITC so anti-profitteering proceeding is legal.**

Respondent had increased per unit price of product after rate of tax was reduced w.e.f. 27-7-2018 and benefit of such reduction had apparently not been passed on by him to customer, anti-profitteering proceeding against respondent was perfectly legal

**Decided by National Anti-Profitteering Authority in the case of Manish Saini v. Ramaprastha Promoter & Developer (P.) Ltd. - Case no. 04/2020 Dated 14 Feb 2020.**

**Respondent not pass benefit of ITC so DGAP ensures profiteered amount pass to eligible buyers.**

Respondent-developer denied benefit of Input Tax Credit (ITC) to its homebuyers in its project 'Edge Towers' in contravention of provisions of section 171(1) and thus committed an offence under section 171(3A), it was liable to be penalized under provision of said section. Accordingly, Jurisdictional Commissioners of CGST/SGST was to be directed to monitor instant order under supervision of DGAP by ensuring that amount profiteered by respondent was passed on to all eligible buyers

**Decided by Appellate Authority - GST, HIMACHAL PRADESH in case of Neva Plantation (P.) Ltd. v. ACSTE of exn-005/2019 dated 12 Feb 2020.**

**Supplying of tax free goods without issuing proper e-way bill so refund amount of penalty**

Assessee engaged in supplying of tax free goods, sent machine used for production of said products for repair without issuing proper e-way bill and, thus, adjudicating authority directed assessee to deposit payment of tax and penalty, in view of facts that machine was not sent for sale but only for repair, instant appeal was to be accepted and adjudicating authority to be directed to refund amount of penalty

**Decided by Appellate Authority - GST, HIMACHAL PRADESH in case of Godrej Consumer Products Ltd. v. ACST & E-Cum Proper Officer Circle Baddi of Order Nos. 2986-91 dated 11 Feb 2020.**

**Typographic error while generating Eway bill no violation of Rule 138 could be alleged to levy penalty**

Due to a typographic error while generating Eway bill, petitioner mentioned approx distance between Puducherry to Himachal Pradesh as 20 Kilometers instead of 2000 Kilometers, as a result of which, a validity of one day had been calculated by Eway bill portal instead of twenty days and on expiry of Eway bill on very next day and interception of consignment before reaching destination, no violation of Rule 138 could be alleged to levy penalty

**Decided by SUPREME COURT OF INDIA in case of Union of India v. Tax Bar Association of Appeal (c) No(s). 3839/2020 dated 10 Feb 2020. Supreme Court refuses to interfere with order of High Court in respect of GSTR-9/9C.**

Supreme Court refuses to interfere with order of High Court in Tax Bar Association v. Union of India [2020] 114 taxmann.com 121 (Rajasthan), however, on basis of statement of petitioner/Solicitor General to Supreme Court that only Rs. 200 per day is being charged for filing of late returns beyond 12-2-2020 and his assurance that authorities, both under Central as well as State Acts, will not invoke any penal powers in this behalf, that part of order of High

Court which had extended deadline for submitting GSTR9 and GSTR9C returns is stayed.

## **RERA & REAL ESTATE**

### **UP**

#### **News**

#### **UP RERA to move to e-court system**

Under the e-court system, registration of complaints will happen through an online form that will collect the required information, which will be then pre-processed/scrutinized by RERA for missing information in the complaint.



Currently, after filing the online complaint, the complaint is given a date to appear where he is asked to submit relevant documents. With the new system, the documents will also be submitted online and the complainant will have to go only for the final argument.

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

The e-courts are expected to start functioning from March 2, 2020. [Source: Economic times]

#### **RERA orders developer to pay rent of homebuyers after delayed possession**

In a major relief to homebuyers who have been simultaneously paying rents and EMIs against loan borrowed for buying a home in Greater Noida West, Conciliation forum of Uttar Pradesh Real Estate Regulatory Authority (RERA) ordered a private developer to bear upon monthly house rent and penalty as well for delayed possession of flats to homebuyers.

The decision was taken during 15th meeting of the conciliation forum. The meeting was chaired by RD Paliwal, conciliator with RERA in which Abhishek Kumar, Alok Kumar, and Shweta Bharti, were present on behalf of consumers.

In the case of a homebuyer, Pushendra Tiwari, the conciliation forum told developer of Supertech Eco Village-II that it has to give possession of home to the complainant by August 2020.

In addition, it would have to bear upon the penalty as per the provision in builder buyer agreement and now onward up to the possession, it would also bear upon the monthly house rent that the homebuyers have been paying for rented accommodation.

The forum had received a total 15 complaints from homebuyers with different realty companies developing group housing projects in Noida, Greater Noida West and Yamuna Expressway.

Paliwal also ordered developers of respective housing projects to comply with the decision taken during the meeting.

[Source: cityspidey]

### **RAJASTHAN**

#### **New rules allowing high-rises but has no plan for upgrading infrastructure**

Till date construction of highrises in residential colonies is banned as per order passed by High Court on 12, January, 2017. But Rajasthan Govt. takes a step and framed new rules to allow construction of multi-storeys in residential areas so that precious agriculture land is saved for being converted to urban use due to horizontal expansion of city and now there is need to go for vertical development.

Although the state government had approved construction of highrises in colonies on 1,500 square-metre plot, but there is still no plan for upgrading the existing facilities and infrastructure like drinking water lane, sewerage, parking and other amenities of these residential areas which would again create additional pressure and will disturb the existing ecosystem. This would affect many existing colonies including Babu Nagar, Tilak Nagar, Bani Park, C-Scheme, Vaishali and others, which have bigger plots.

The court had directed development authorities to identify special areas or zones for multi-storey buildings in the city, which will be mentioned in the master plan and zonal development plan but no special areas have been earmarked in the guidelines and the scope of highrises can be constructed in any part of the city. But, restrictions on minimum road width and plot area have been imposed, which will make difficult to construct a multi-storey buildings in residential areas.

Town planners reasoned, with an expected population of 4.2 million by 2025. Housing for this large population will require



construction of about 10 lakh more homes within the city. Since large empty areas of land are not available within the city, the cost-effective method to overcome housing shortage is allowing controlled development in old colonies.

[Source : The Economic Times]

#### **Bylaws to be framed to obtain NOC for rooftop restaurants in Rajasthan**

The urban housing and development (UDH) and local self-government (LSG) have issued notifications for framing bylaws to obtain No Objection Certificate (NoC) for rooftop restaurants to give fresh lease of life.

Rajasthan will be the first state to frame such bylaws. This will give a breather to more than 1,500 rooftop owners here, many of which are illegal.

As per notification most of these rooftops restaurants were not duly approved by the authorities and thus functioning illegally compromising the security of tourists and residents. For the safety of citizens as well tourists and also enhance the financial strength of local bodies, the state government notifies the bylaws in exercise of the power conferred under the Section 338 of the Rajasthan Municipal Act, 2009.

As per rules notified, maximum 25% of roof area will be allowed to be covered by removable temporary structure materials including steel and aluminium framing. No wooden framing material or combustive material will be allowed for construction. The remaining 75% area will be kept open for sitting space. These restaurants should have minimum two exits gates, along with escape route in case of emergency. It will be mandatory for the owners to comply fire safety norms and procure NOC from the council of architecture (COA) registered Architect and fire department.

Further as per notification, the department has directed to construct an overhead water tank exclusively for firefighting of suitable capacity. No cooking will be allowed using an LPG stove, coal or an open flame at top floor but if required it may be carried out in the lower floor. Storage and use of any kind of inflammable products is also not allowed except liquor (with permission from excise department). Hookahs, fire shows will not be permitted in such establishments.

[Source: Economic Times]

### **Apartment Act yet to be implemented in Rajasthan**

Apartment Ownership Act, which ensures land rights of flat owners, is moving at a snail's pace in the state.

The said Act is yet to come in force despite getting a nod from President Ram Nath Kovind in July 2019. The rules of the Act are being framed. Once it receives administration and legal approval, suggestions and objections will be invited before implementation.

Once implemented, it will give land rights to flat owners over the land on which an apartment is constructed. The Act is need of the hour as it is mandatory for the developer to issue sub-lease to purchasers claiming their right on the land on which the apartment is constructed. Currently, apartment owners in multi-storey buildings do not have land rights. According to the Act, it may be possible that every person to whom any apartment is allotted, sold or transferred by the promoter, will be entitled to exclusive ownership and possession of the property.

[Source: Economic Times]

### **Registration of lease deeds within three years mandatory**

The state government has issued new rules regarding registration of lease deeds (patta) of plots issued from urban bodies, urban improvement trust (UIT), development authority and Rajasthan Housing Board (RHB).

Now, if the lease is not registered for three years after the issuance of lease deed, the deeds will have to be issued afresh. Also, if the property is sold without registration or in whose name the lease deed is issued and the person dies before the lease is registered, then a new lease will have to be issued.

The rules have been issued for the first time in the state. Till now there were no guidelines in this context and the all the civic bodies used different procedures. The bodies revoked unregistered leases for registration according to their own rules, for which they used to charge some fee. However, there was no time limit for which the lease deed could be revived and there was no three-year obligation.

[Source: Economic Times]

### **Rajasthan housing ministry tells civic bodies not to pay cash relief for land acquisition.**

The urban development and housing (UDH) department has directed civic bodies not to pay cash compensation against land acquisition made in public interest.



The department has proposed to give only 25 per cent of developed land in the project after the land acquisition and after the state government's approval. Providing cash compensation is a burden on the civic agencies. This hampers the development projects across the state.

This decision might lead to more protests in the state as owners whose lands are acquired might not settle for compensation without cash.

This will also concerned as this may hamper projects in the city as affected owners might approach the court after the civic body acquires their land.

[Source: Economic Times]

### **Rajasthan's deputy CM seeks Rs 1,622 crore from centre for PMAY**

State Deputy Chief Minister and Additional Chief Secretary (ACS) Rural Development and Panchayati Raj Department have



demand to Union Rural Development Minister urging him to release funds amounting to Rs 1,310 crore, which is due since December, for the second installment to build 3,64,000 houses in the state under Pradhan Mantri Awas Yojana-Grameen (PMAY-G) this financial year.

The state has also urged the Centre to release the first installment for the construction of additional target of 86,816 houses, amounting to Rs 312 crore, to be built in 2019-20 by the rural department. The total amount sought by the state government is Rs 1,622 crore.

The Centre had given a revised target of 86,816 houses to be constructed under Pradhan Mantri Awas Yojana (Grameen) in 2019-20 in the state, apart from already sanctioned 3.64 lakh houses for this financial year. Union Rural Development Minister had earlier directed all the district collectors to issue sanction for these houses in 7 days.

[Source: Economic Times]

### **Rajasthan proposes 1% hike in stamp duty on property registration**

State Government has proposed to increase stamp duty on registration of property by 1%.



Though the state government decided to slash the district-level committee (DLC) rates by 10%, realtors believe this would not provide a big relief as these rates were increased by 20 to 25 % six months ago. Currently, the state government levies 5% stamp duty from men and 4% from women on property including 1% registration fee. Increase in 1% on the registry would burn a hole in the pocket of buyers. Developers alleged that at a time when the real estate market was facing a slowdown in the state, successive governments increased the rates from 15% to 30% since 2014. Imposing 1% additional stamp duty will discourage buyers. The government has actually not done much for the realty. Further Stamp duty on land patta issued by state government and local bodies will be calculated on the amount taken for patta instead of district lease committee (DLC) rates or market price. This move will encourage plot owners who are escaping from taking lease deeds. Also it is expected to provide many small plot owners who will be exempted from paying stamp duty as per hefty DLC rates.

[Source: Economic Times]

### **Notification: Rajasthan RERA**

Rajasthan Real Estate Regulatory Authority issued an order dated 22nd Jan 2020 vide Order No. **F.1(134)RJ/RERA/PRR/2020/153** that whenever promoter apply for registration of a project it will be first examined and when it is found complete then it shall be processed further for registration . If authority found any deficiencies, a notice under section 5 of the act shall be issued straight away stating clearly deficiencies in the application and also date will be provided in the notice by which compliance needs to be done and also call for personal hearing. In any case registration file should not remain pending beyond 30 days. Notice will be sent by Speed Post as well as Email to the Promoter.

If application for withdrawal of registration is submitted after 30 days, the application will be rejected as withdrawn and administrative charges will be retained as applicable to withdrawal cases. Further while submitting files for registration and extension of the project, the concerned Deputy Registrar's and Assistant Registrar's should check

from the orders uploaded on the Web Portal which are against the promoters in some other case and reported the same on file.

### **Case Laws**

#### **Aniruddha Bhattacharya and Ashwani Kumar (Complainant) Vs. Sarv Awas Housing Bhiwadi Pvt. Ltd. (Non-Complainant)**

#### **Revocation of Registered Project "Aravali Gardens" situated at Bhiwadi, Alwar.**

The Rajasthan Real Estate Authority presided by Shri Nihal Chand Goel and Shri Rakesh Jain held that Authority had decided 2 complaints in favour of Complainants on 09.05.2019 and 03.04.2019, respectively, with direction to non-complainant to refund Rs 2,45,008/- and Rs 3,27,826/-, respectively, along with Interest at the rate 10.70 per cent and 10.75 per cent, respectively, from the date of each deposit date to the date of refund within 45 days from the date of order passed.

The complainant didn't follow the said order and the matter has again come up before authority by complainant on 03.10.2019 and 24.09.2019, respectively. The Authority issued notices to non-complainant on registered address of promoter and also mail the said notices on E-Mail ID registered with authority under section 7 and section 63 of the Real Estate (Regulation and Development) Act, 2016 and asked why penalty should not be imposed and Registration no. **RAJ/P/2017/198** granted to the project "**Aravali Gardens**" situated at Bhiwadi will not revoked for its default in complying authority orders.

On negligence of the said orders authority exercise the powers under section 7 of the RERA Act, 2016 and direct that the registration of the non-complainant project shall be revoked with all the consequences provided in section 7 (4) and section 8 of the Act. Bench also directed to Registrar of the Authority to issue intimation of this revocation of registration prescribed under Rule 8 of the Rajasthan Real Estate (Regulation and Development) Rules, 2017; and to initiate all necessary action pursuant thereto, in accordance with the said section 7(4) and section 8.

Bench also imposed penalty of Rs 200/- per day under Section 63 of the Act till the payment of refund amount and directed registrar of the authority to issue recovery certificate to the District Collector of Alwar to recover the amount as per order along with refund and interest and remit the same to the authority.

#### **Suo Moto Vs. Sanjog Buildcon Pvt. Ltd. (the Promoter Company)**

#### **Issued Advertisement of the Project before obtaining registration- Contravention of Section 3 and 11(2) of the Act.**

The Rajasthan Real Estate Authority presided by Shri Nihal Chand Goel and Shri Rakesh Jain held that the promoter company issued advertisement in press for his project "**Siddhi Vinayak Affordable Housing**" on 24.02.2019 without obtained Registration of the said project under

section 5 of the act. Authority issued a notice to the promoter company, asking to impose penalty for contravention of section 3 and section 11 (2) of the act.

In response the promoter company replied the promoter company filed an application for registration of the said project on 31.12.2019 but authority was not operative as per order passed by Hon'ble Rajasthan high court on 18.12.2018 until the regular authority became operational. As the authority was not functioning, approval of their registration unreasonably delayed and finally registered on 14.05.2019 after authority had become operational. The promoter company further replied that as per provision of section 5 (2) of the act, if authority fails to grant registration or reject application within a month, the project shall be deemed to be registered and authority shall within a period of seven days provide registration number. So they have issued advertisement after considering the project deemed to be registered. It has further stated that the project is a part of 'Pradhan Mantri Awas Yojana' and 'C.M Jan Awas Yojana', both of which carry the motto of 'housing for All'. There are only a few affordable projects in our city and any adverse decision may invite bad publicity and prove fatal for the project.

The authority contended that if there was no authority as on 24.12.2019, the Act was very much in place and the fact of the authority not being functional doesn't exempt Promoter Company from the provisions of the Act. It was further stated that there were certain requirements of the application which were not completed before 24.02.2019 and the deeming provision can find application only in cases where an application is complete in all respects on the date it is made. Thus, authority finds it to be a clear case of contravention of the provisions of section 3 of the Act.

So authority in exercise of the powers under section 37 and section 38 read with section 59 and section 61 of the Act, impose a penalty of Rs. 50,000/- on the promoter company for contravention of the provisions of section 3 of the Act; and direct the promoter company to deposit the penalty amount with the Authority within 45 days from the date of issue of the order and submit a compliance report within 15 days next.

**Deepak Aggarwal and others (Complainant) Vs. MVL Limited. (Non-Complainant)**

**Refund granted by authority for complaints pending before authority, on the date of Liquidation order issued by Hon'ble High Court on Builder Company.**

The Rajasthan Real Estate Authority presided by Shri Nihal Chand Goel and Shri Rakesh Jain held that the complainants filed a complaint against Non-Complainant to refund the amount paid by them to Non-Complainant against booking of the flats in the projects namely **Palms, Indihomes and Coral** or alternatively give possession of allotted flats.

In this response the Non-Complainant submit an application under Section 279 of the Companies Act, 2013 stating that it is under liquidation vide order dated 05.07.2018 issued by Hon'ble High Court of Delhi in C.P. No 668/2014 and, therefore, present proceedings may be stayed.

Authority already in view and decided earlier that Section 279 of the Companies Act, 2013 (or Section 446 of the Companies Act, 1956) poses no bar in proceedings with the complaints pending before Authority on 05.07.2018.

So Authority in exercise of the powers conferred under section 37 and section 38 of the Act and in the interest of justice directed to Non - Complainant to refund the amount of allottees of Project '**Palms**' with Interest @ 10.20% where construction has not yet started. Where there is no valid agreement executed Non-Complainant shall refund the amount of allottees without Interest.

Where, who have booked flats in the project '**Indihomes**' or '**Coral**', the non-complainant shall refund the amount deposited, along with interest at the prescribed rate of 10.20 per cent from the stipulated date of possession on the amount deposited till then and from the date of deposit on the balance amount, upto the date of refund.

Non-Complainant shall refund the same within 45 days from the date of issue of the order. Authority also directed that till the refund of amount allottees have charged on the allotted flats as per amount paid by him to Non- Complainant.

**Shobha Bhargava Vs. (Complainant) The Crown Infraheight LLP. (Non-complainant)**  
**Ongoing project registered in authority claiming as New Project Contravention of Section 3 of the Act.**

The Rajasthan Real Estate Authority presided by Shri Nihal Chand Goel and Shri Rakesh Jain held that a complaint has been filed by Complainant under section 31 RERA Act, 2016, alleging various violations of the Act on the part of the non-complainant and praying for refund of the deposited amount of Rs.1.25 lakh, along with interest.

Authority issued show cause to non-complainant on 03.08.2018 and further again on 14.09.2018 & 17.05.2019 and finally it was served to non-complainant by Speed Post on 22.05.2019. Non-Complainant didn't reply to the show cause notice. Thereafter, a notice of hearing issued to Non-complainant on 20.11.2019 through speed post but non-complainant refused to accept the same. After that all the notices sent to the non-complainant on E-Mail ID registered with the authority.

Complainant submitted that he had deposited Rs 1.25 Lacs with the Non-Complainant in May 2017 towards booking of flat in the project '**Vaishali Jewels**' which was registered with the authority vide Registration number RAJ/P/2018/684. Complainant has applied for refund and cancellation of booking in July, 2018 on the ground that the non-complainant has defrauded

her and made false representations in as much as the project was not yet approved on the date booking was made. It is evident from the record of the case and records of the Authority that the construction permission was issued on 20.03.2018 and registration of the project was obtained from the Authority thereafter on 11.04.2018, claiming it to be a new project and concealing the booking made already in favour of the complainant. Thus, the action of the non-complainant of making booking and receiving the booking amount in May, 2017 was wholly unlawful, it being violative of the express provisions of section 3 of the Act.

In view of above authority directed that Non-Complainant shall refund the whole amount without any deduction and without any interest within 45 days from the date of the order and complainant has liberty to approach the Adjudicating officer under section 71 of the Act, for any loss, damage incurred on ground of false and fraudulent representations.

Further directed to Registrar to issue separate notice to Non-Complainant under section 59 read with section 3, section 60 read with section 4 and section 7 of the Act, asking why not to be penalized and revoked the registration of the project.

**Refund in case of project taken over by new promoter due to fraud done by Old Promoter.**

**Ghanshyam Sharma (Complainant) Vs. Mr. Manoj Yadav Director of Aadarsh Affordable Housing Pvt. Ltd. (Non-Complainant)**

The Rajasthan Real Estate Authority presided by Shri Nihal Chand Goel and Shri Rakesh Jain held that complainant has filed a complaint to sought the relief of refund of the money Rs 1,05,000 deposited by him against booking and advance for a flat booked by him in the project “**Vaishali Vatika**” on 01.07.2016 as he does not want to continue with the booking of the said flat. Non-Complainant replied that he had taken over the said project and become director in January 2017. He cannot be held liable for the misleads and frauds done by the Old Director of the promoter company. The said booking amount has been siphoned off by the Old Director who is presently in Jail due to various frauds. He further stated that he will complete the project within a year and hand over the same. After heard both the parties bench decided that no one can be compelled to take possession though complainant can be penalized for withdrawing from the project for no fault of the promoter. Complainant stated that he is not in a position to arrange the balance funds for the said flat.

Authority after exercise the powers conferred under section 37 and Section 38 of the Act, decided that this is a case of voluntary withdrawal from the project and in the interest of justice the refund cannot be refused but complainant can be penalized as per the terms and conditions of the booking. So authority directed to Non-Complainant to refund Rs 95000 after deducting Rs 10000 as

20% of Booking Registration Fees within 45 days of this order and cancel the booking.

**Rent payment till the hand over the flat with all infrastructural facilities.**

**Beant Raj Narula (Complainant) Vs. Guru Kripa Buildhome Pvt. Ltd (Non-Complainant)**

The Rajasthan Real Estate Authority presided by Shri Nihal Chand Goel and Shri Rakesh Jain held that Complainant Wife and Legal Heir Smt. Kamlesh Narula had filed an application for execution of Order passed by the authority on 09.05.2018 to pay 11000 per month as rent till the date of possession flat with all infrastructural facilities. She stated that Complainant, her husband has passed away in march 2019 and Non-Complainant has stopped payment of the said Rent to her after august 2019. So she prayed for enforcement of the aforesaid order passed by the authority.

Authority issued a notice to Non-Complainant under section 37, 38, 40 and section 63 of the Act, to explain why per-day penalty not to be imposed and why action should not be taken for recovery of the amount due as per aforesaid order.

In respect of the aforesaid notice Non-Complainant stated that due to tight financial condition they are not able to pay monthly rent any further, but promise to pay once financial condition improves.

Applicant Smt. Kamlesh Narula stated that due to death of her husband (complainant), her financial condition is even worse and cannot afford any delay of aforesaid payment.

After heard both the parties, authority decided that they are duty-bound to enforce all its order as per clause (f) of section 34 of the act. So authority in exercise of powers conferred under section 37 and section 38 of the act, direct the Non-Complainant to pay to Smt. Kamlesh Narula the due amount of rent (from Sep 2019 to Feb 2020) till 5<sup>th</sup> March 2020 and also ensure all the subsequent payments by 5<sup>th</sup> of following month as per directed vide its order dated 09.05.2018 otherwise authority will consider imposition of penalty under section 63 and also recovery of due amount under section 40 of the act.

**Rajasthan RERA Order No. F.1(31) RJ/RERA/2019/490 Dated 12.02.2020**

**Order Regarding Registration of the project where promoter is not the owner of the land.**

Rajasthan RERA issued an Order that if a promoter seeking registration of a project under Rule 3 of the Rajasthan Real Estate (Regulation and Development) Rules, 2017 and where the promoter is not the owner of the project land, the promoter is required to furnish copy of collaboration agreement, development agreement, joint development agreement or any other agreement duly executed between the promoter and such landowner.

In this regard RERA Authority decided that such agreement will only be accepted if and only if such agreement is registered under the Indian Registration Act, 1908.

## **HARYANA RERA**

### **News**

#### **DHFL diverted Rs 12,773 crore to 79 companies via fictitious clients: ED**

The Enforcement Directorate (ED) has found diversion of Rs 12,773 crore from Dewan Housing Finance Ltd (DHFL) to the accounts of 79 companies routed through one lakh fictitious retail customers as loans, sources said.

The agency found that the loans were diverted between 2011 and 2016 and the 79 companies were allegedly associated with the promoters of DHFL. The corrupt practice came to ED's notice when the agency inspected the book of accounts of DHFL pertaining to Rs 2,186 crore loan given to five companies -- Faith Realtors Pvt Ltd, Marvel Township Pvt Ltd, Able Realty Pvt Ltd, Poseidon Realty Pvt Ltd and Random Realtors Pvt Ltd, which were later amalgamated with Sunblink Real Estate Pvt Ltd.

#### **Haryana Cabinet approves amendment in Rule 13 of Development & Regulation of Urban Areas Rules**

Haryana Cabinet on Friday 31<sup>st</sup> Jan 2020 approved an amendment in Rule 13 of the Haryana Development and Regulation of Urban Areas Rules, 1976, revising the rate of licence renewal fees.

For those Real Estate Developers, who have not taken occupation certificate, they will be charged fees for further renewal of licence after a period of five years at the rate of four per cent for one year, seven per cent for two years, nine per cent for three years and 12 per cent for five years.

Similarly, for those Real Estate Developers who have taken part completion, the rate of renewal fees has been fixed at one per cent for one year, two per cent for two years, 2.5 per cent for three years and 3.5 per cent for five years.

#### **Gurugram: Mapsko residents urge Haryana CM to cancel CC issued to project**

Residents of Mapsko Casabella in Sector 82 have written to the chief minister, urging him to cancel the completion certificate issued to the project and ask the authorities to initiate a joint inspection.

#### **ED takes custody of Amrapali directors for questioning:**

The Enforcement Directorate (ED) took custody of two directors of Amrapali Group for questioning, officials said on Saturday.

The Supreme Court in the July last year had ordered a probe into the financial fraud by the Amrapali Group, which included diversion of 42,000 homebuyers' money. The ED had begun a probe into the case where it was also likely to question JPMorgan officials. The forensic audit plays a crucial role in ascertaining the nature of JPMorgan's involvement and how did it allegedly help Amrapali Group in siphoning off homebuyers' funds.

### **Case Laws**

#### **Rajneesh Kapoor vs BPTP Ltd [Haryana RERA]:**

Facts of the case: Complainant's case is that on 05.01.2010, he booked a flat bearing no. AQ5-06-FF, in the project 'Park 81' being developed by the respondent after payment of Rs. 3,00,000/- by opting construction linked plan. Floor buyer Complaint No. 430 of 2019 agreement was executed between the parties on 16.10.2010. The basic sales price was Rs. 30,74,012 less discount of Rs. 1,22,960/- against which he had already paid Rs. 28,34,893/- till date. As per agreement, due date for delivery of possession was 15.04.2013 but there is a delay of 5 years and 8 months in delivery of possession. Therefore, he prays for refund of the paid amount and delay compensation.

#### **Significant Judgement:**

After hearing the parties and going through the record, the Authority observes that it has already decided principles of settlement on various components like charges for GST, VAT and service tax in earlier complaints filed against the respondent and decided on 16-7-2018 with lead case bearing complaint case no. 113 of 2018 titled Madhu sareen vs BPTP Ltd. So, the present parties will also be governed by the same principles of Madhu Sareen case, for the purpose of levying demands towards increase in prices of building material and charges payable for GST, VAT and service tax.

#### **Principles Decided in Madhu Sareen case:**

- (i) Cost escalation is allowed from buyer flat agreement upto the date of possession as per the agreement entered into. Cost escalation should be as per the terms and condition agreed upon during the signing of agreement.
- (ii) GST should be borne by the promoter as the incidence of GST falls because the possession is delayed, had the possession being made on time no GST would be applied.
- (iii) Interest is granted from the deemed date of possession till the date of offer of possession being offered after obtaining occupation certificate.

#### **Vinay Narwal and ANR. v/s JBB Infrastructure PVT Limited [Haryana RERA]:**

Facts of the case: The ground pleaded for claiming the relief is that the respondent had constructed his project violating fire safety norms laid under the National Building Code (NBC) and therefore, he was not entitled for grant of occupation certificate, which has since been granted to him on 20.06.2017. The precise violation was alleged to have been committed in respect of statutory requirements contained in clauses 2.25 and 4.6.2 of the NBC which mandates that building having floor area of more than 500 Sq. Meters. shall be provided with at least two stair cases. The occupation certificate was allegedly granted without providing required two stair cases in the building of his project The respondent has contested the complaint and his plea is that out  
Significant Judgement:



Whether Authority has a power to scrutinize the validity of an occupation certificate granted by the Director General Town and Country Planning Department (DGTCP)?

Whether the Sections 31 and Section 14(3) of the Act grant the power to the Authority on the point that it has jurisdiction to cancel the occupation certificate in question?

The aforesaid section indeed empowers the Authority to deal with a complaint filed by a person aggrieved of any violation or contraventions of the provisions of the Act or Rules and Regulations made thereunder. However, the complainants herein are not aggrieved of violation of any provisions of the Act or Rules or Regulations made thereunder. He is rather aggrieved of an alleged violation committed in respect of NBC. This Authority does not have any power to take cognizance in respect of violation of the provisions of the NBC.

**Munish Kumar vs Splendor land base Limited [Haryana RERA]:**

**Facts of the case:** Complainants case in brief is that he had booked a flat bearing no. 304 in Tower-4 with an area of approx. 1650 square feet in Splendor Grande, Sector- 19, Panipat, Haryana which have developed by Splendor Landbase Co. Ltd. Total sale consideration of the shop was Rs.57,33,150- excluding service tax and VAT against which complainant had already paid an amount of Rs. 1300000 /- till date under construction linked plan. Allotment of the said unit was made by the respondent on 23.01.2013. As per Clause 20 of the allotment letter, deadline for offering legal and valid possession was 42 months plus 6 months from date of receipt of first instalments i.e. 23.01.2013 which comes to be 23.01.2017 as no builder buyer agreement was executed between complainant and respondent promoter. His grievance is that respondent has failed to deliver him possession of booked property. So, the complainant ha sprayed for refund along with interest and compensation against delayed delivery of possession.

Significant Judgement:

Whether relief of refund along with compensation and interest, is only maintainable before the Adjudicating Officer?

The jurisdiction of RERA Authority ( Both Panchkula & Gurugram) vis-à-vis Adjudicating officer (AO) for grant of Refund in Sameer Mahawar’s Case decided on 02.05.2019 by which Haryana Real Estate Appellate Tribunal (HREAT) at Chandigarh held that it is the latter only who is Adjudicating officer (AO) who can grant the refund not RERA Panchkula or Gurugram Authority.

Now with the Latest Amendment of Haryana Government by Tower & Country Planning Department (Notification) dated 12th September, 2019 vide no. Misc -862/1/83/2019/1 TCP, the RERA Authority both Punchkula & Gurugram has been Conferred with the powers to grant refund.

The Specific provision in this regards is Rule 28 Clause (2) (k) which reads as below:

(K) The Authority may provide relief in such from as deemed appropriate including return of the amount to the allottee received by the promoter along with interest at the rate as prescribed in rule 15.

The power to amend rules has been conferred under sec 84(1) read with subsection (2) of the Real Estate (Regulation & Development) Act,2016 (Central Act 16 of 2016) and in light of which Haryana Real Estate (Regulation & Development) Rules, 2017 stands Amended on 12.09.2019 which is the date of their publication in the official gazette.

**KARNATAKA RERA**

**Karnataka RERA Issues Directions to Maintain And Operate the RERA Designated Bank Account**

Karnataka Real Estate Authority via its circular no. RERA/ADM/CR.-116 on 07.01.2020 issues **“THE KARNATAKA RERA BANK ACCOUNT DIRECTIONS, 2019”**.

In the said 32 pager circular Authority provides guidelines for opening the bank account, mechanism to deposit/withdraw funds from bank account, reporting mechanism, formats of CA, Engineer & Architect certificates, format of statutory audit report of RERA & suggest the mechanism to be followed to change the RERA Designated Bank Account. Authority also describes his powers to freeze/de-freeze bank account, to take penal action against professionals who negligently issued delinquent certificates.

[Source: Karnataka RERA]

**Karnataka Rera Revise Changes For Various Services As Carried Out By The Authority**

Karnataka Real Estate Authority via its circular no. RERA/ADM/CR.-119 on 15.02.2020 revise standard fees of various services to operationalise the web based online system.

The updated charges will be as follows :-

S. No.	Type of transaction	Fees per transaction excluding taxes and bank charges
1	Correction of project name	Rs. 10,000/-
2	Correction of project address	Rs. 10,000/-
3	Correction of promoter name	Rs. 10,000/-
4	Correction of promoter address	Rs. 10,000/-
5	Correction of email address	Rs. 10,000/-
6	Correction of mobile number	Rs. 10,000/-
7	Correction of RERA Bank Account Details	Rs. 10,000/-
8	Third party transfer	50% of the cost paid for the registration of project

[Source: Karnataka RERA]

## TAMIL NADU RERA

**Pacifica (Chennai Project) Infrastructure Pvt. Ltd., and Sylvanus Builders & Developers Ltd., Vs 1) C.R. Chenthirkumaran and 2) C. Dhanalakshmi**

**Completion certificate not enough, project must be usable:**

The Tamil Nadu Real Estate Appellate Tribunal has ruled that completion certificate alone is not sufficient to construe that a housing project is ready for use and pointed out that completion of a project should mean that the property was in a usable condition by the buyer.

Tamil Nadu Real Estate Regulatory Authority had allowed buyers to withdraw their complaint based on a settlement with Pacifica (Chennai project) Infrastructure Pvt. Ltd and Sylvanus Builders & Developers Ltd. However, it directed that the project in Kancheepuram district be registered under RERA as an ongoing project, against which the builder moved the appellate tribunal. In the appeal, the builder stated that the completion certificate for the project was issued by the Pudupakkam panchayat office.

The appellate tribunal noted that the panchayat president had relied upon the Directorate of Town & Country Planning (DTCP) planning permission, Mamallapuram Local Planning Authority (MLPA) and Pudupakkam panchayat building permit, but had not relied upon the certificate of the architect or structural engineer/licensed surveyor associated with the project and photographs which were mandatory requirements for issuing completion certificate as per RERA rules.

Hence, it noted that completion certificate issued by the panchayat president was certainly not reliable. The appellate tribunal also noted that it had every authority to go into details even in the case of grant of completion certificate, and it could not accept the same when the project was not complete.

It upheld the findings of Tamil Nadu Real Estate Regulatory Authority that it was an ongoing project and dismissed the appeal of the builder.

[Source: TNRERA]

**(T. Aananthi Vs 1) G.K.S. Technology Park Ltd., 2) Suresh Vaidyanathan and 3) Paranthaman Shanmugam)**

**Builders cannot sell open parking space separately**

In a significant order, the Tamil Nadu Real Estate Appellate Tribunal has ruled that builders cannot sell open parking space or stilt car park areas separately. The cost of construction, i.e. the sq ft rate, (which, apart from your apartment, includes the cost of common areas) should include one car parking space. If you look at your sale agreement, you may find that your builder has charged you anything from Rs 1 lakh to Rs 4 lakh separately for car parking, which the tribunal says is 'illegal'.

The tribunal has passed the order in a case filed by T Aananthi, a resident of Chennai. She had

purchased a flat in VIHA apartments promoted by GKS Technology Park Limited in Anna Nagar and was made to cough up Rs 3 lakh for stilt car park. Under RERA or Real Estate (regulation and development), Act, 2016, a developer is only entitled to sell covered/garage parking but not the open parking spaces. The Act explicitly defines common areas which include open parking area, basement, etc, and the garage is defined as a place within a project, having a roof and walls on three sides for parking any vehicle.

The three-member tribunal headed by Justice B Rajendran, after hearing all parties, found the builder guilty. "We find that it is a fit case where the builder has violated the approved plan, created extra car parks and sold the same at exorbitant rates. In this connection, we direct the CMDA to take necessary action and file a report of the action taken within 4 months."

Also, it has ordered the builder to allot car park to Aananthi, which was originally promised and an integral part of her apartment.

[Source: TNRERA]

## KERALA RERA

The Kerala Real Estate Regulatory Authority has issued a public notice to promoters of real estate Promoters on 22.02.2020 in order to provide clarifications. The clarification provided by the Authority is as follows:

**Clarification on ongoing project:** Chapter II of the Real Estate (Regulation and Development) Act 2016 mandates that all ongoing real estate projects for which completion certificate has not been issued have to be registered with the Real Estate Regulatory Authority. However, neither the Act nor the Kerala Real Estate (Regulation and Development) Rules 2018 define an 'ongoing project'. In this context, projects that have already received permit from the local authority prior to 01.01.2020 (date of official launching of K-RERA), but has not obtained occupancy certificate shall be considered as 'ongoing project'.

**Clarification on allottable parking spaces:** As per Section 2(n)(iii) of the Act, open parking areas shall be considered as 'common areas' and hence the promoter shall not allot such areas to individual allottees. Enquiries are also being received on the applicability of stilt parking, mechanized parking and basement parking which are covered. The Kerala Real Estate (Regulation and Development) Rules 2018 though uses terminologies like 'enclosed parking' and 'covered parking', does not define these terms. As per Rule 17(1)(e)(ii) of the Kerala Real Estate (Regulation and Development) Rules 2018, the promoter is also asked to upload details of garages/covered parking booked. Hence, in the interest of the allottees, in

addition to garage, other **covered parking spaces** such as basement parking, stilt parking and mechanized parking arrangements will also be considered as parking space allottable to allottees by the promoter.

**Clarification on registration of projects that have obtained occupancy certificate based on partial completion certificate:** The authority, vide public notice dated 27<sup>th</sup> December 2019, clarified that the real estate projects that have obtained Occupancy Certificates do not require registration under RERA. The Kerala Municipality Building Rules/Kerala Panchayat Building Rules have provisions for partial completion certificate and to occupy a building before its completion. In the context of real estate projects requiring registration with K-RERA, so as to protect the interest of the allottees, it is also clarified that partially completed building, which have obtained occupancy certificate based on partial completion certificate as per the provisions in the Kerala Municipality Building Rules/Kerala Panchayat Building Rules are registrable under the Real Estate (Regulation and Development) Act, 2016.

[Source: Kerala RERA]

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

### **Stricter reporting regime coming soon for auditors**

The Ministry of Corporate Affairs (MCA) is expected to take a major step to revamp the auditor's report that accompanies company balance-sheets, placing more onus on statutory auditors to fulfill their professional responsibilities. The move is expected in February.

[Source: The Hindu Business Line]

### **Sec. 164(2) of Companies Act Valid; But FY Before 2014-15 Not Relevant For Its Application: Allahabad HC**

In a significant Ruling, the Allahabad High Court has upheld the constitutional validity of section 164(2) of the companies Act 2013, which stipulates that a Director whose company has not filed Financial Statements or Annual Returns for any continuous period of three financial years, shall be disqualified from holding the position for five years.

[Source: Live Law]

### **MCA has given a message to all the stakeholders w.r.t the changes made in the process of Incorporation of Companies**

Stakeholders may please note that as part of Government of India's Ease of Doing Business (EODB) initiatives, the Ministry of Corporate Affairs would be shortly notifying & deploying a new Web Form christened 'SPICe+' (pronounced 'SPICe Plus') replacing the existing SPICe form. The new Form SPICe+ would be an integrated Web form offering multiple services viz. name reservation, incorporation, DIN allotment, mandatory issue of PAN, TAN, EPFO, ESIC, Profession Tax (Maharashtra) and Opening of Bank

Account. It will also facilitate the allotment of GSTIN wherever so applied for by the Stakeholders. After deployment of SPICe+ web form, RUN shall be applicable only for the change of name of existing companies. Further, upon notification & deployment, all new name reservations for new companies as well as new incorporations shall be applied through SPICe+ only, however, incorporation of companies for names reserved through the existing RUN service shall continue to be filed in the existing SPICe eform along with related linked forms as applicable and if marked under resubmission shall be resubmitted in SPICe eform. Resubmission of SPICe forms submitted prior to the date of deployment of SPICe+ web form shall also be filed in the existing SPICe eform and related linked forms as applicable. [Source: MCA]

### **MCA has given a message to all the stakeholders that due to the proposed changes to the RUN web service (for companies), Resubmission Option for name reservation shall not be available for forms processed by CRC from 1st February, 2020 onwards for approximately 15 days.**

Hence, stakeholders are advised to either await deployment of **SPICE+** and then apply for names through SPICe+ web form or perform due diligence while submitting any application in existing RUN web service for name reservations. RUN applications (for companies) processed w.e.f 1st February 2020 onwards shall either be approved or rejected based on checks performed by CRC officers. Stakeholders may kindly note and plan accordingly. [Source: MCA]

### **MCA has notified the Companies (Accounts) Amendment Rules, 2020 which shall come into force on the date of their publication in the Official Gazette i.e 30-01-2020.**

New Rule 12(1A) has been inserted to cover every Non-Banking Financial Company (NBFC) that is required to comply with Indian Accounting Standards (Ind AS) shall file the financial statements with Registrar together with Form AOC-4 NBFC (Ind AS) and the consolidated financial statement, if any, with Form AOC-4 CFS NBFC (Ind AS). [Source: MCA]

### **MCA directs that provisions of section 460 of the Companies Act, 2013 (Condonation of Delay by Central Government in certain cases) shall apply to a limited liability Partnership (LLP) from the date of publication of this notification in the Official Gazette.**

Section 460 of the Companies Act, 2013 deals with the Condonation of delay in certain cases, provided that Notwithstanding anything contained in this Act, (a) where any application required to be made to the Central Government under any provision of this Act in respect of any matter is not made within the time specified therein, that Government may, for reasons to be recorded in writing, condone the delay; and (b)

where any document required to be filed with the Registrar under any provision of this Act is not filed within the time specified therein, the Central Government may, for reasons to be recorded in writing, condone the delay. The same provision is now made applicable to LLP for Condonation of delay. [Source: MCA]

**MCA had notified the Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2020, shall come into force on the date of their publication in the Official Gazette i.e 03-02-2020.**

The amendment includes a provision for majority shareholders to buy out minority stockholders. Accordingly, A member of the company shall make an application for arrangement, for the purpose of takeover offer in terms of sub-section (11) of section 230, when such member along with any other member holds not less than three-fourths of the shares in the company, and such application has been filed for acquiring any part of the remaining shares of the company. [Source: MCA]

**MCA has published the National Company Law Tribunal (Amendment) Rules, 2020 to insert new Rule to deal with grievances with respect to the takeover offer of Unlisted Companies.**

New Rule 80A according to which an application in Form NCLT-1 shall be filed before the tribunal by an aggrieved party in the event of any grievances with respect to the takeover offer of companies other than listed companies in such manner as may be prescribed and the Tribunal may, on application, pass such order as it may deem fit.

[Source: MCA]

**MCA has notified the Companies (Incorporation) Amendment Rules, 2020 which shall come into force with effect from the 15th February, 2020.**

The amendment in Rule 9 prescribes new procedure for reservation or change of name of the company, which prescribes to make an application for reservation of the name through the MCA web service SPICe+ (Simplified Proforma for Incorporating Company Electronically Plus: INC-32) and for changing the name of the company application shall be made through web service RUN (Reserve Unique Name). The applications shall be accompanied with the prescribed fee. The amendment has substituted the SPICe forms in the rules with new SPICe+ forms. Further, the application for incorporation of a company under Rule 38 shall now be accompanied by e-form AGILE – PRO, which shall also contain an application for Professional Tax Registration and for Opening of a Bank Account. [Source: MCA]

**MCA has allowed the Filing of forms in the registry of MCA-21 by the Insolvency Professional (IP), Interim Resolution Professional (IRP) or Resolution Professional (RP) or Liquidator as appointed under Insolvency Bankruptcy Code, 2016.**

MCA has specified the requirement of filing Form INC-28 by Interim Resolution Professional/Resolution Professional/ Liquidator, as appointed by Hon'ble Bench of NCLT/ NCLAT, after the admission of the petition filed under Insolvency and Bankruptcy Code, 2016. On completion of the insolvency process or after getting stay order, the Insolvency Professional is required to file e-form INC-28 once again, to change the status of the Company on the MCA portal. [Source: MCA]

**MSME**

**CGTMSE extends guarantee cover on top-up loans, second time loans to MSEs**

To combat slowdown which has tightly gripped the economy including the micro, small and medium enterprises (MSMEs) of the country, the Ministry of MSME has made two crucial changes in the Credit Guarantee Fund Scheme for Micro and Small Enterprises (CGTMSE). Firstly, the micro and small enterprises (MSEs) seeking collateral free loan under CGTMSE can now take a top up and secondly the collateral free loans under CGTMSE can now be taken for the second time as well by the MSEs which was not the case earlier.

[Source: knnindia]

**Government rises turnover threshold for audit of MSME accounts to Rs. 5 Cr.**

The government on 01/02/2020 unveiled measures aimed at facilitating growth of the country's micro, small and medium enterprises including raising the turnover threshold for audit of their accounts to Rs 5 crore and a scheme to provide subordinate debt to MSME entrepreneurs.

[Source: thehindubusinessline]

**MISCELLANEOUS**

**Unreasoned Arbitral Awards are opposed to public policy u/s 34 of Arbitration & Conciliation Act: Calcutta High Court**

"Reasons are the links between the fact and the conclusion and they reveal the application of mind to the matters in issue and trace the journey from the narrative to the directive. Reasons are the lifeblood of any acceptable process of adjudication and, as to whether an award or an order is reasoned or not, it depends more on the quality than the quantity of the words expended."

[Source: Live Law]

**Rajasthan High Court notice to Centre over bankruptcy ordinance**

Rajasthan High Court has issued notice to the Union Government accepting a petition challenging the validity of the Insolvency and Bankruptcy Ordinance 2019. Petitioner Sanjay Mehta has challenged the amendment which states that no petition filed by any homebuyer or real estate allottee would be entertained by the NCLT unless it was filed jointly by not less than 100 of such creditors in the same class or not less than 10% of the total number of creditors in the same class, whichever is less.

[Source: Times of India]

### **EPF Act: Contractual Employees Engaged By A Company Entitled To Provident Fund Benefit: SC**

The Supreme Court has observed that Contractual employees engaged by the company, who draw their wages/salary directly or indirectly from the company, are entitled to the benefit of Provident Fund under the Employees Provident Funds and Miscellaneous Provision Act, 1952

[Source: Live Law]

### **Easier FDI norms coming for Most Favoured Nations**

The government is mulling a new investment law that will categorise nations into 'most favoured' and 'not pro-India' besides emphasising contract enforcement and fast-track dispute resolution.

[Source: The Hindu Business Line]

### **Zomato acquires Uber Eats business in India**

Zomato on Tuesday announced acquisition of Uber's food delivery business, Uber Eats, in India in an all-stock deal.

[Source: The Hindu]

### **Consumer Protection Act - SC sets aside NCDRC findings of unfair trade practices against Star TV & Airtel in relation to KBC Show**

In a relief to Star TV and Bharti Airtel, the Supreme Court has set aside the order of National Consumer Dispute Redressal Commission which directed them to jointly pay punitive damages of Rs One Crore for alleged unfair trade practice in relation to the quiz show 'Kaun Banega Crorepati (KBC)

[Source: Live Law]

### **Insurance Act - Mere delay in intimating insurance company about the theft cannot be a ground to deny insurance claim**

The Supreme Court has held that mere delay in intimating the insurance company about the occurrence of the theft cannot be a ground to deny the claim of the insured.

[Source: Live Law]

### **Pramerica's Rs 4,100cr claim for DHFL rejected**

The insolvency professional (RP) for troubled housing finance company DHFL has rejected a Rs 4,100-crore claim submitted by Prudential International Insurance Holding — the bankrupt company's partner in asset management. The RP while releasing the list of admitted claims said the claim was rejected as no documentation was submitted for substantiating the claim.

[Source: Times of India]

### **Not Printing MRP on Books Amounts to Unfair Trade Practice: Hyderabad Consumer Forum**



The District Consumer Disputes Redressal Forum, Hyderabad has held that failure to print the MRP on books amounts to unfair trade practices,

under Section 2(1)(g) of the Consumer Protection Act, 1986. [Source: Live law]

### **RBI announces relief for real estate sector**

The Reserve Bank of India today announced some measures to boost the real estate sector. "It has been decided to permit extension of date of commencement of commercial operations (DCCO) of project loans for commercial real estate, delayed for reasons beyond the control of promoters, by another one year without downgrading the asset classification, in line with treatment accorded to other project loans for non-infrastructure sector.

### **Employer can't be held liable for criminal acts of employee**

Rejecting an appeal of a resident seeking Rs. 4 lacs compensation for harm caused to his health due to smoking by a bus driver, the District Consumer Forum said the employer cannot be held liable for criminal acts of an employee.

[Source: Tribuneindia]

### **Auditor Cannot Be Debarred For 5 Years Under Section 140 (5) Of The Companies Act 2013 In Absence Of Evidence: NCLAT**

The NCLAT has set aside an order passed by NCLT in a matter relating to debarring of an auditor for a period of 5 years. The court while



allowing the appeal held that though he was negligent, there was no material on record to infer that the auditor had acted fraudulently or misused his position as statutory auditor. [Source: Livelaw]

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## HIGHLIGHTS OF UNION BUDGET 2020



### Taxation:

\* New optional tax slabs: New income tax slabs will be available for those who forgo exemptions.

#### **Tax slabs under new, optional regime**

<b>Total income (Rs)</b>	<b>Simplified, optional tax rate</b>
Up to Rs 2.5 lakh	Nil
From 2,50,001 to 5,00,000	5%
Rs 5,00,001 to 7,50,001	10%
Rs 7,50,001 to 10,00,000	15%
Rs 10,00,001 to 12,50,000	20%
Rs 12, 50,001 to 15,00,000	25%
Above Rs 15,00,000	30%

*Cess and surcharge on income tax payable in the new proposed personal tax regime remain the same as in the existing tax regime.*

To simplify the tax system and lower tax rates, around **70** of more than 100 income tax deductions and **exemptions** have been **removed**.

\* Dividend Distribution Tax (DDT) abolished; Companies will not be required to pay DDT; dividend to be taxed only at the hands of recipients, at applicable rates.

\* Cash reward system envisaged to incentivise customers to seek invoice.

\* 15% concessional tax rate for new power generation companies.

\* Tax on **cooperative societies** reduced to **22%** without exemptions.

\* 100% tax concession to sovereign wealth funds on investment in infrastructure projects.

\* Tax on Cooperative societies to be reduced to 22 per cent plus surcharge and cess ,as against 30 per cent at present.

\* **To end tax harassment**, new taxpayer charter to be instituted. Tax harassment will not be tolerated, says FM.

\* Proposes to amend Companies Act to bring criminal liability in certain areas.

\* To amend I-T Act to allow **faceless appeals**.

\* To launch **new direct tax dispute settlement scheme** -- Vivaad se Vishwaas scheme.

\* **Interest and penalty will be waived** for those who wish to pay the disputed amount till March 31.

\* Government to look at ensuring that contracts are honoured.

\* Proposes new **National Policy on Official Statistics to improve data collection** and dissemination with the help of technology.

\* Rules of origin requirements in Customs Act to be reviewed, to ensure FTAs are aligned with the conscious direction of our policy: FM

\* **Aadhaar-based verification of taxpayers** is being introduced to weed out dummy or non-existent units; instant **online allotment of PAN** on the basis of Aadhaar.

\* Registration of charity institutions to be made completely electronic, donations made to be pre-filled in IT return form to claim exemptions for donations easily.

### Housing:

\* Tax holiday for affordable housing extended by 1 year. Additional deduction up to Rs. 1.5 lakhs for interest paid on loans taken for an affordable house extended till 31st March, 2021.

### Investment:

\* Govt plans to sell part of its holding in Life Insurance Corporation (LIC) by way of Initial Public Offering.

\* Certain specified categories of **government securities** will be open fully for **NRIs**, apart from being open to domestic investors

\* **FPI limit in corporate bonds** raised to **15% from 9%**.

\* Government doubles divestment target for the next fiscal at Rs 2.1 lakh crore.

\* Expand Exchange Traded Fund by floating a Debt ETF, consisting primarily of govt. securities.

### Indirect Tax :

\* Customs duty raised on footwear to 35% from 25% and on furniture goods to 25% from 20%.

\* **Excise duty** proposed to be **raised on Cigarettes** and other tobacco products, no change made in the duty rates of bidis.

\* Basic customs duty on imports of news print and light-weight coated paper reduced from 10% to 5%.

\* Customs duty rates revised on electric vehicles and parts of mobiles.

- \* 5% health cess to be imposed on the imports of medical devices, except those exempt from BCD.
- \* Lower customs duty on certain inputs and raw materials like fuse, chemicals, and plastics.
- \* Higher customs duty on certain goods like auto-parts, chemicals, etc. which are also being made domestically.

#### **Startups & MSME:**

- \* Tax burden on employees due to tax on ESOPs to be deferred by five years or till they leave the company or when they sell, whichever is earliest.
- \* New Simplified return for GST from April 2020
- \* Start-ups with turnover up to Rs. 100 crore to enjoy 100% deduction for 3 consecutive assessment years out of 10 years.
- \* Turnover threshold for audit of MSMEs to be increased from Rs 1 crore to Rs 5 crore, to those businesses which carry out less than 5% of their business in cash.
- \* App-based invoice financing loans product to be launched, to obviate problem of delayed payments and cash flow mismatches for MSMEs.
- \* Amendments to be made to enable NBFCs to extend invoice financing to MSMEs

#### **Fiscal numbers & allocations:**

- \* FY20 **fiscal deficit** revised to **3.8%** from 3.3% in the current fiscal. For **FY21**, fiscal target seen at **3.5%**.
- \* Deviation of 0.5%, consistent with Section 4(3) of FRBM Act.
- \* Net **market borrowing** for FY20 at **Rs 4.99 lakh crore**; For **FY21** it's pegged at **Rs 5.36 lakh crore**.
- \* **Nominal GDP** growth for 2020-21 estimated at **10%**.
- \* **Receipts** for 2020-21 estimated at **Rs 22.46 lakh crore**. **Expenditure** at **Rs 30.42 lakh crore**.
- \* **Defence gets Rs 3.37 lakh crore as the defence budget.**
- \* **Rs 2.83 lakh crore** to be allocated for the 16 Action Points; **Rs 1.6 lakh crore** allocated to **agriculture and irrigation**; **Rs 1.23 lakh crore** for **Rural development** and Panchayati Raj.
- \* **Rs 4,400 crore for clean air**; **Rs 53,700 crore** for **ST** schemes; **Rs 85,000 crore** for **SC, OBCs** schemes; **Rs 28,600 crore** for women specific schemes; **Rs 9,500 crore** for **senior citizen** schemes.
- \* **Rs 30,757 crore** rupees for Union Territory of **J&K**; **Rs 5,958 crore** rupees for Union Territory of **Ladakh**.

#### **Banking:**

- \* To help bank depositors, government increases **depositor insurance to Rs 5 lakh** from current Rs 1 lakh.
- \* Encourage PSBs to approach capital markets for fund raising.
- \* Banking Regulation Act to be amended to strengthen Cooperative banks.

#### **Jobs:**

- \* National recruitment agency: New **common entrance test for non-gazetted government jobs** and public sector banks.
- \* Special bridge courses to be designed by the Ministries of Health, and Skill Development: To fulfill the demand for teachers, nurses, para-medical staff and care-givers abroad.
- \* Urban local bodies to provide internships for young engineers for a period of up to one year.

#### **Infrastructure:**



- \* Five new Smart cities to be set up via PPP model.
- \* Rs 1.7 lakh crore allocated to transportation.
- \* 100 more airports to be set up by 2024 to support UDAN scheme.
- \* Accelerated development of highways will be undertaken; Delhi-Mumbai expressway and two other projects to be completed by 2023. Chennai-Bengaluru Expressway to be started.
- \* NHAI to **monetize 12 lots of highway** bundles of over 6,000 km before 2024.
- \* Young engineers and management graduates will be roped in for infrastructure projects under Project Preparation Facility.
- \* About Rs 22,000 crore already provided for supporting National Infrastructure Pipeline.
- \* Investment Clearance Cell to set up through a portal, will provide end-to-end facilitation, support and information on land banks
- \* National Logistics Policy will soon be released, creating single window e-logistics market.

#### **Telecom:**

- \* Rs 6,000 crore for BharatNet programme; Fibre to Home connections under BharatNet will be

provided to 1 lakh gram panchayats this year itself  
\* New policy for private sector to build Data Centre Parks.

### Tourism:

\* **5 archaeology sites** to be developed for **world-class museums**

1. Rakhigarhi (Haryana) 2. Hastinapur (Uttar Pradesh) 3. Shivsagar (Assam) 4. Dholavira (Gujarat) 5. Adichanallur (Tamil Nadu)

\* Rs 2,500 crore for tourism promotion.

\* An Indian Institute of Heritage and Conservation under Ministry of Culture proposed; with the status of a deemed University.

\* 4 more museums from across the country to be taken up for renovation and re-curation.

\*Rs.3150 crore proposed for Ministry of Culture for 2020-21.

\* Maritime museum to be set up at Lothal- the Harrapan age maritime site near Ahmedabad, by Ministry of Shipping.

### Energy:

\* Expansion of **National Gas Grid from 16,200 km to 27,000 km** along with reforms to deepen gas markets, enable ease of transactions and transparent price discovery .

\* Rs 22,000 crore allocated to to power and renewable energy.

\* FM urges all states and UTs to replace conventional energy meters by pre-paid smart meters in 3 years, this will give consumers the freedom to choose supplier and rate as per their requirements.

\* Advise to shut thermal plants if they don't meet emission norms.

### Railways:

\*Large **solar power** capacity to be set up alongside rail tracks, on land owned by Railways

\* More **Tejas-like trains** for tourists.

\* **150 new train** to be introduced on PPP basis; **Four stations** will be also be redevelopment with the help of **PPP**.

\* Rs 18,600 crore worth **Bengaluru suburban transport** project launched; 20% equity will be provided be the Centre.

### Education:

\* **Rs 99,300 crore** allocated or **education** sector, **Rs 3,000 crore** rupees for **skill development**

\* External commercial borrowings and FDI to be leveraged to improve the education system.

\* A medical college to be attached to a district hospital in PPP mode, viability gap funding to be

set up for setting up such medical colleges.

\* **US-like SAT exam** to be held in African and Asian countries for benchmarking foreign candidates who wish to **Study In India**

\* Degree-level full-fledged **online education programme** to be offered by institutes in top 100 in National Institutional Ranking Framework

\* **New Education Policy** to be announced soon.

\* To bring in equivalence in the skill sets of the workforce and employers' standards.

\* 150 higher educational institutions to start apprenticeship embedded degree/diploma courses by March 2021.

\* To launch 2 new National science scheme

\* National Police University and National Forensic Science University proposed for policing science, forensic science, and cyber-forensics.

### Agriculture

\* Agriculture market needs to be liberalised; govt proposes to handhold farmers, says FM

\* Comprehensive measures for 100 water-stressed districts being proposed

\* PM KUSUM scheme will be expanded to 20 lakh farmers.

Government will help 20 lakh farmers for setting up solar pumps; Farm market will to be liberalized.

\* Another 15 lakh farmers to be helped to solarise their grid-connected pump sets.

\* Scheme to enable farmers to set up solar power generation capacity on their fallow/barren lands and to sell it to the grid.

\* Supporting states to focus on one product for one district so as to make way for Horticulture to gain momentum.

\* **Change in incentive scheme for chemical fertilisers.** We will encourage balanced use of all fertilizers, a necessary step to change the incentive regime which encourages excessive use of chemical fertilizer.

\* **Krishi UDAN scheme for agricultural exports** on international and national routes. This will also improve value realization in North East and tribal districts.

\* Railways will set up Kisan Rail through PPP arrangement, for transportation of perishable goods.

\* For better marketing and export, supporting states will focus on one product for one district, so that high focus is given at district level for horticulture to gain momentum

\* Zero Budget farming focus of the government.

\* MGNREGS to be used to develop fodder farm.

\* Jaivik Kheti Portal – online national organic



products market to be strengthened.

### Healthcare:

- \* **Rs 69,000 crore** allocated to healthcare sector.
- \* Rs. 6400 crore (out of Rs. 69,000 crore) for *PM Jan Arogya Yojana* (PMJAY)
- \* Indradhanush immunization plan expanded to cover 12 new diseases.
- \* Viability gap funding window to be set up to cover hospitals, with priority given to aspirational districts that don't have hospitals empanelled under Ayushman Bharat.
- \* Propose Rs 35,600 crore nutrition-related plan.
- \* Jan Aushadhi Kendra Scheme to offer 2000 medicines and 300 surgicals in all districts by 2024.



\* Over 6 lakh anganwadi workers have been equipped with smartphones to upload the nutrition status of 10 crore households.

- \* Nominal health cess on import of medical equipment to be introduced to encourage domestic industry and generate resources for health services.
- \* A new scheme to provide higher insurance cover, reduced premium for small exporters and simplified procedure for claims
- \* Targeting diseases with an appropriately designed preventive regime using Machine Learning and AI.

### Other announcements:

\* **Three prominent themes of the Budget:**

**Aspirational India:** Better standards of living with access to health, education and better jobs for all sections of the society. Three components of Aspirational India

- Agriculture, Irrigation, and Rural Development
- Wellness, Water, and Sanitation
- Education and Skills

\* **Economic Development for all:**

"Sabka Saath , Sabka Vikas , Sabka Vishwas".

\* **Caring Society:**

Both humane and compassionate; Antyodaya as an article of faith.

- \* Provision of Rs 8,000 crore over five years for Quantum Technologies and its applications.
- \* GIFT City to have an International Bullion Exchange, enabling better price discovery of gold
- \* India will host G20 Presidency in 2022, Rs 100

crore to be allocated for making preparations for this historic occasion, where India will drive global economic agenda

\* This is the Budget to boost income and purchasing power of Indians, says Sitharaman.

\* This Budget is woven around three prominent themes:

Aspirational India;

Economic Development for All;

A Caring Society

\* Proliferation of technologies such as analytics, machine learning, Artificial Intelligence, bioinformatics and number of people in productive age group at its highest, point out two cross-cutting developments.

\* Sitharaman cites a poem -- *Pyara Watan*.

\* Budget aims to meet hopes and aspirations of all the sections of the society.

\* Govt has taken several steps to formalisation of economy.

\* Govt wants to improve the life of the people through Rs 100 lakh crore infrastructure pipeline projects.

\* FM terms GST as historic structural reform; says it integrated country economically

\* GST has resulted in efficiency gains in transport and logistics sector, inspector raj has vanished, it has benefitted MSME Consumers who have got an annual benefit of Rs 1 lakh crore by GST.

\* 6 million new taxpayers have been added.

\* Average household now saves nearly 4% more on the monthly basis after implementation of GST.

\* Govt says aim is to achieve seamless delivery of services through digital governance.

\* GST resulted in Rs 1 lakh crore gains to consumers, removed inspector raj and helped transport sector.

\* India uplifted 271 million people out of poverty.

\* India is now 5th largest economy in world. Central Govt debt reduced to 48.7% of GDP from 52.2 per cent in March 2014

\* We shall strive to bring ease of living for every citizen.

\* 7.4% growth surpassed in 2014-19 with average inflation of 4.5%.

\* Centre's debt down from 52.2% in 2014 to 48.7% in 2019

\* During 2014-19, govt brought paradigm shift in governance.

\* Fundamentals of economy strong, inflation well contained, banks cleaned up accumulated loans.

\* Finance Minister lists out welfare schemes like affordable housing scheme, DBT and Ayushman Bharat.