

DIRECT TAX CASE LAWS

Guideline value shown in sale deed could not be construed as actual sale value to conclude that assessee had under quoted sale amount in return

S. Kamarasu V Income Tax Office September 30, 2020 HIGH COURT OF MADRAS Section 69,147 and 148, of the Income-tax Act. 2020 (10) TMI 305 - MADRAS HIGH COURT

Assessee purchased a property for a sale consideration of Rs. 1.5 crores - Guideline value of property was Rs. 1.95 crores - Assessing Officer considering reply of assessee regarding difference in actual sale consideration and guideline value completed assessment under section 143(3) - Thereafter, a notice was issued to assessee under section 148 alleging under quoting of sale amount - Whether since recitals in sale deed evidenced that property was purchased at Rs. 1.5 crores, guideline value shown in sale deed could not be construed to be an actual sale value, and therefore, consequential decision that assessee had under quoted sale amount in returns, could not be accepted.

Where Assessing Officer disallowed exemption under section 54F to assessee on ground that assessee was owner of two other residential properties along with one purchased by him out of consideration from sale of shares, in view of fact that one of those properties was a commercial property and other residential property was fully owned by wife of assessee and merely name of assessee was included in purchase deed, assessee was to be allowed exemption under section 54F

Anil Devv. Deputy Commissioner of Income Tax, Circle-2(2)(1), Bengaluru AUGUST 25, 2020 IN THE ITAT BANGALORE BENCH 'C' - Section 54F of the Income-tax Act. 2020 (8) TMI 722 - ITAT BANGALORE

Assessee had sold shares and sale proceeds were deposited by assessee in bank account maintained in joint name of assessee and his wife - He further invested sale consideration in purchase of new residential house and accordingly, claimed deduction under section 54F - Assessing Officer disallowed same on ground that assessee was owner of two other residential properties, thus, as per proviso (ii) of section 54F assessee could not be allowed exemption - It was noted that one of those properties was a -

-commercial property and remaining one was residential property which was fully owned by wife of assessee and merely name of assessee was included in purchase deed - Thus, only one residential property was fully owned by assessee which was purchased by him out of consideration from sale of shares - Further, there was no doubt that purchase consideration for property which was claimed to be jointly owned by assessee and his wife was completely paid by his wife as she had sufficient own funds which were received as her share in sale proceeds of shares - Whether, on facts, assessee was to be allowed exemption under section 54F.

Where assessee entered into agreement for purchase of flat and had made certain payment at time of booking of flat, stamp duty valuation or fair market value of immovable property was to be considered as on date of payment made by assessee towards booking of flat

Radha Kishan Kungwani v. Income Tax Officer, ward 1(2), Ajmer August 19, 2020 IN THE ITAT JAIPUR BENCH 'SMC'. Section 56 of the Income-tax Act. 2020 (8) TMI 511 - ITAT JAIPUR

Assessee purchased a flat for a consideration of Rs. 1.38 crores on 17-9-2014 whereas Sub-Registrar, Mumbai determined market value for purpose of stamp duty at Rs. 1.53 crores - Accordingly, Assessing Officer proposed to invoke provisions of section 56(2)(vii) to make addition of differential amount shown in sale documents and stamp duty valuation taken by Sub-Registrar - However, it was noted that there was an agreement between parties regarding purchase and sale of flat in question at time of booking of said flat and part payment was made by assessee on 10-10-2010 and 14-10-2010 through cheque - Booking of flat and part payment by assessee constituted agreement between parties and terms and conditions which were reduced in writing in agreement registered on 16-9-2014 related to performance of both parties right from beginning i.e. date of booking of flat - These facts were duly acknowledged by parties in registered agreement that earlier there was a booking of flat and assessee paid part payment of consideration - Whether first and second proviso to section 56(2)(vii) carve out exception for taking stamp duty value on date of agreement prior to date of registration if an amount of consideration or part thereof has been paid by any mode other than cash before date of agreement for transfer of such

immovable property - Held, yes - Whether therefore, stamp duty valuation or fair market value of immovable property was to be considered as on date of payment made by assessee towards booking of flat.

Where assessee invested sale proceeds of old asset in new property before due date of filing belated return and took possession within three years, she was entitled to exemption under section 54F though she had not invested sale proceeds in Capital Gain Account Scheme before due date of filing of return under section 139(1)

Commissioner of Income tax v. Smt. Umayal Annamalai JULY 22, 2020 **HIGH COURT OF MADRAS Section 54F of the Income-tax Act. 2020 (7) TMI 630 - MADRAS HIGH COURT**

in case of investment in residential house (Condition precedent) - Assessment year 2005-06 - Assessee sold property and invested sale proceeds in new property before due date of filing belated return and took possession within three years from date of transfer/sale of original asset - Assessee, however, had not invested sale proceeds in Capital Gain Account Scheme before due date filing of return under section 139(1) - Whether since assessee had complied with conditions under section 54F(1), she was entitled for availing benefit of exemption under section 54F.

Where reopening notice was issued against assessee for reason that assessee was not eligible for exemption under sections 53(b) and 54(1)(i) in respect of consideration received from sale of a property being an agricultural land in form of a farmhouse along with water tank, servant quarter, etc., constructed on it as property in question was an agricultural land, since assessee had disclosed fully and truly all relevant material facts regarding this issue during original assessment proceedings, impugned reassessment notice issued after four years from end of relevant assessment year was unjustified

Arun Munshaw HUF v. Income-tax Officer, Ward 7(1) January 13, 2020 – Section 53, 54 and 148 of Income Tax Act. 2020 (2) TMI 122 - GUJARAT HIGH COURT

Assessee sold a property being an agricultural land in form of a farmhouse along with water tank, servant quarter, etc., constructed on it for a consideration of certain amount - Assessee claimed exemption under sections 53(b), 54(1)(i) and 54E in respect of capital gains arising from sale of property - Same was allowed - After four years, Assessing Officer issued a reopening notice on ground that property in question was an agricultural land and, therefore, exemption under sections 53(b) and 54(1)(i) was wrongly allowed - Accordingly, reassessment was completed withdrawing exemption under sections 53(b) and 54(1)(i) respectively - It was noted that there was full and true disclosure of all material facts

regarding this issue during original assessment - Conveyance deed, permission of appropriate authority to sell property and other documents were filed by assessee at time of original assessment proceedings - Nothing was suppressed - In such circumstances, it could be said that there was no tangible material with Assessing Officer for purpose of reopening assessment after four years - Whether, on facts, impugned reassessment notice and consequent reassessment order was unjustified.

Where Assessing Officer rejected assessee's claim for deduction under section 54F on ground that at time of sale of capital asset, assessee was owner of more than one residential house properties, in view of fact that one residential property was co-jointly owned in name of assessee and his wife and he could not be treated as 'absolute owner' of said property, deduction under section 54F could not be denied to him.

Ashok G. Chauhan v. Assistant Commissioner of Income-tax, Mumbai April 12, 2019 IN THE ITAT MUMBAI BENCH 'ASection 54F of the Income-tax Act. 2019 (4) TMI 1024 - ITAT MUMBAI

Assessing Officer noted that at time of transfer of capital asset, assessee was owner of two residential houses out of which one he had jointly purchased with his wife - Assessing Officer thus rejected assessee's claim for deduction on ground that he was owner of two flats on date of transfer of capital assets - Whether word 'own' in section 54-F would include only case where a residential house is fully and wholly owned by assessee and, consequently, would not include a residential house owned by more than one person - Held, yes - Whether, since, in instant case, a residential property was co-jointly owned in name of assessee and his wife, he could not be treated as 'absolute owner' of said property and, thus, deduction under section 54F could not be denied to him.

NOTIFICATIONS

Notification No. 82/2020-Income Tax 1st October 2020 - G.S.R. 610(E)

In exercise of the powers conferred by section 44AB, section 92E, clause (iv) of sub-section (2) of section 115BAA, the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely: -

(1) These rules may be called the Income-tax (22nd Amendment) Rules, 2020.

(2) They shall come into force on the date of their publication in the Official Gazette.(Please refer relevant notification for details)

Notification No. 83/2020-Income Tax 19th October 2020S.O. 3660 (E)

In exercise of the powers conferred by the third proviso to sub-section (2) of section 92C of the Income-tax Act, 1961 (43 of 1961)(hereinafter referred to as the said Act), the Central

Government hereby notifies that where the variation between the arm's length price determined under section 92C of the said Act and the price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed one per cent of the latter in respect of wholesale trading and three per cent of the latter in all other cases, the price at which the international transaction or specified domestic transaction has actually been undertaken shall be deemed to be the arm's length price for assessment year 2020-2021.

Notification No. 84/2020-Income Tax 22nd October 2020

In exercise of the powers conferred by sub-section (1) of section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:-

1. Short title and Commencement.-

(1) These rules may be called the Income-tax (23rd Amendment) Rules, 2020.

(2) They shall come into force from the 1st day of April, 2021.

2. In the Income-tax Rules, 1962, in rule 67, in sub-rule (2), -

(i) in the fifth proviso, for the letters "AA", the letter "A" shall be substituted;

(ii) in the eighth proviso, for the letters, "AA", the letter "A" shall be substituted; and

(iii) in the eleventh proviso, for the letters, "AA" occurring at both the places, the letter "A" shall be substituted.

Notification No. 85/2020-Income Tax 27th October 2020 S.O. 3847 (E)

In exercise of the powers conferred by section 3 of the **Direct Tax Vivad se Vishwas Act, 2020** (3 of 2020), the Central Government hereby notifies that the,-

(a) 31st day of December, 2020 shall be the date, on or before which a declaration shall be filed to the designated authority, by the declarant, in accordance with the provisions of section 4 of the said Act in respect of tax arrear;

(b) 31st day of March, 2021 shall be the date on or before which the amount payable under the said Act shall be paid as per third column of the Table to section 3 of the said Act; and

(c) 1st day of April, 2021 shall be the date on or after which the amount payable under the said Act shall be paid as per fourth column of the Table to section 3 of the said Act.

Notification No. 86/2020-Income Tax 28th October 2020 S.O. 3854(E)

In exercise of the powers conferred by sub-section (1) of section 280A of the Income-tax Act, 1961 (43 of 1961) and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 37/2018 dated the 8th August, 2018, published in the Gazette of

India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number S.O. 3942(E), dated the 8th August, 2018, except as respects things done or omitted to be done before such supersession, the Central Government, in consultation with the Chief Justice of the Gauhati High Court, hereby designates the Court of Munsiff No. 3-cum-Judicial Magistrate, 1st Class, Kamrup (M), Guwahati as the Special Court for the States of Assam, Nagaland, Mizoram and Arunachal Pradesh for the purposes of the said sub-section.

Notification No. 87/2020-Income Tax 28th October 2020 S.O. 3865(E)

In exercise of the powers conferred by sub-section (1) and sub-section (2) of Section 179 of the Finance Act, 2016 (28 of 2016), the Central Government hereby makes the following rules to amend the **Equalisation levy Rules, 2016** These rules may be called the Equalisation levy (Amendment) Rules, 2020. (please refer relevant notification for details)

Notification No. 88/2020-Income Tax 29th October 2020 S.O. 3906(E)

In exercise of the powers conferred by sub-section (1) of section 3 of the **Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020** (38 of 2020)

(i) furnishing of return under section 139 thereof, the time-limit for furnishing of such return, shall -
(a) in respect of the assessee referred to in clauses (a) and (aa) of Explanation 2 to sub-section (1) of the said section 139, stand extended to the 31st day of January, 2021; and
(b) in respect of other assessee, stand extended to the 31st day of December, 2020:

Provided that the provisions of the fourth proviso to sub-section (1) of the Act shall, mutatis mutandis apply to these extensions of due date, as they apply to the date referred to in sub-clause (b) of clause (i) of the third proviso thereof.

(ii) furnishing of report of audit under any provision of that Act, the time-limit for furnishing of such report of audit shall stand extended to the 31st day of December, 2020.

CIRCULARS

Circular No. 18/2020-Income Tax - 28th October, 2020

Sub: Clarifications in respect of the Direct Tax Vivad se Vishwas Act, 2020

With the objective to reduce pending income tax litigation, generate timely revenue for the Government and benefit taxpayers by providing them peace of mind, certainty and savings on account of time and resources that would otherwise be spent on the long-drawn and vexatious litigation process, the Direct Tax Vivad se Vishwas Act, 2020 (hereinafter referred to as 'Vivad se Vishwas') was enacted on 17th March, 2020. The provisions of Vivad se Vishwas had been amended by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions)

Act, 2020 to provide certain relaxation in view of the COVID-19 pandemic and also to empower the Central Government to notify certain dates. (Please refer relevant notification for details)

Order under section 119 of the Income-tax Act, 1961 for exercising power of survey u/s 133A of the Income-tax Act, 1961 and in pursuance of The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 Regarding - Income Tax F No. 187/3/2020-ITA-I Dated the 19 October, 2020

In pursuance of the 'The Taxation and Other Laws (Relaxation And Amendment of Certain Provisions) Act, 2020' and in supersession of the order u / s 119 of the Income-tax Act 1961 (the Act) Vide F.No 187/3/2020-ITA- 1 dated 18th September, 2020, prescribing the "Income-tax Authority" for the purpose of power of survey u/s 133A of the Act, the Central Board of Direct Taxes, in exercise of powers under section 119 of the Act, has directed on various issues. (Please refer relevant order for further details)

Order under section 119 of the Income-tax Act, 1961 for exercising power of intrusive or coercive action for recovery of tax demand by Assessing Officers or Tax Recovery Officers - Income Tax F. No. 275/29/2020-IT(B) Dated 16 October, 2020

In pursuance of Board's letter F. No. 275/29/2020-IT(B) dated 21st September, 2020 wherein at Para 2(ii) it was stated that with respect to any coercive action like attachment or intrusive action like recovery survey etc. by the Assessing Officers (AOs) or Tax Recovery Officers (TROs), separate guidelines are being issued and in further pursuance of " The Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020", prescribing the "Income-tax Authority" for the purpose of power of survey u/s 133A of the Act, the Central Board of Direct Taxes, in exercise of powers under section 119 of the act, has directed on various issues. (Please refer relevant order for further details)

NEWS

Finance Minister announces measures of Rs 73,000 crore to stimulate consumer spending before end of this Financial Year in fight against COVID-19

Cash payment and leave encashment in lieu of one LTC during 2018-21 according to entitlement Special Festival Advance Scheme revived as a one-time measure for both Gazetted and non-Gazetted employees Special interest free 50-year loans to States for capital expenditure for Rs. 12,000 crore Additional budget of Rs. 25,000 crore, in addition to Rs. 4.13 lakh crore given in Union Budget 2020, is being provided for Capital Expenditure

Union Minister for Finance & Corporate Affairs Smt. Nirmala Sitharaman here today announced measures of Rs 73,000 crore to stimulate

consumer spending in the economy in an effort to fight the slowdown due to COVID-19 pandemic following lockdown. Union Minister of State for Finance & Corporate Affairs Shri Anurag Singh Thakur, Finance Secretary Dr Ajay Bhushan Pandey, Department of Financial Services Secretary Shri Debashish Panda and Department of Economic Affairs Secretary Shri Tarun Bajaj were also present during the announcement of stimulus package.

While announcing the demand stimulus package, Smt. Sitharaman said, "Indications are that savings of government and organised sector employees have increased and we want to incentivise such people to boost demand for the benefit of the less fortunate." The Finance Minister further said that if demand goes up based on the stimulus measures announced today, it will have an impact on those people who have been affected by COVID-19 and are desperately looking for demand to keep their business going. The Finance Minister stressed on the idea that today's solution should not cause tomorrow's problem. Smt. Sitharaman said that the Government does not want to burden the common citizen with future inflation and also not put the Government debt on an unsustainable path.

The proposals presented today by the Finance Minister are designed to stimulate spending in a fiscally prudent manner as some of the proposals are for advancing or front-loading of expenditure with offsetting changes later while others are directly linked to increase in GDP. The present announcement by Smt. Sitharaman highlights the active intervention by the Government of India to combat economic slowdown created by COVID-19. The details are as follows:-

A. CONSUMER SPENDING

i. Leave Travel Concession (LTC) Cash Voucher Scheme

While announcing the scheme, the Finance Minister said, "The biggest incentive for employees to avail the LTC Cash Voucher Scheme is that in a four-year block ending in 2021, the LTC not availed will lapse, instead, this will encourage employees to avail of this facility to buy goods which can help their families."

Central Government employees get LTC in a block of 4 years in which air or rail fare, as per payscale/entitlement, is reimbursed and in addition, Leave encashment of 10 days (pay + DA) is paid. But dueto COVID-19, employees are not in a position to avail of LTC in the current block of 2018-21.



Therefore, the Government has decided to give cash payment in lieu of one LTC during 2018-21, in which: Full payment on Leave encashment and Payment of fare in 3 flat-rate slabs depending on class of entitlement Fare payment will be tax free.

An employee, opting for this scheme, will be required to buy goods / services worth 3 times the fare and 1 time the leave encashment before 31st March 2021.

The scheme also requires that money must be spent on goods attracting GST of 12% or more from a GST registered vendor through digital mode. The employee is required to produce GST invoice to avail the benefit.

If Central Government employees opt for it, cost will be around Rs. 5,675 crore. Employees of Public Sector Banks (PSBs) and Public Sector Undertakings (PSUs) will also be allowed this facility and the estimated cost for them will be Rs. 1,900 crore. The tax concession will be allowed for State Government/Private Sector too, for employees who currently are entitled to LTC, subject to following the guidelines of the Central Government scheme. The demand infusion in the economy by Central Government and Central PSE/PSB employees is estimated to be Rs. 19,000 crore approx. The demand infusion by State Government employees will be Rs. 9,000 crore. It is expected that it will generate additional consumer demand of Rs. 28,000 crore.

Special Festival Advance Scheme

A Special Festival Advance Scheme for non-gazetted employees, as well as for gazetted employees too, is being revived as a one-time measure to stimulate demand. All Central Government employees can now get an interest-free advance of Rs. 10,000, to be spent by 31st March, 2021 on the choice of festival of the employee. The interest-free advance is recoverable from the employee in maximum 10 instalments.

The employees will get pre-loaded RuPay Card of the advance value. The Government will bear Bank charges of the card. Disbursal of advance through RuPay card ensures digital mode of payment, resulting in tax revenue and encouraging honest businesses.

The one-time disbursement of Special Festival Advance Scheme (SFAS) is expected to amount to Rs.4,000 crore; and if the SFAS given by all State Governments, another tranche of Rs. 8,000 crore is expected to be disbursed.

B. CAPITAL EXPENDITURE

i. Special Assistance to the States:

While announcing measures related to Capital Expenditure, Smt. Sitharaman said that money spent on infrastructure and asset creation has a multiplier effect on the economy. It not only improves current GDP but also future GDP. The Government wants to give a new thrust to Capital Expenditure of both States and Centre.

Giving a new thrust on Capital Expenditure, Smt. Sitharaman said that money spent on infrastructure and asset creation has a multiplier effect on the economy. It not only improves current GDP but also future GDP. The Government wants to give a new thrust to Capital Expenditure of both States and Centre. Smt. Sitharaman said that the

Central Government is issuing a special interest-free 50-year loan to States of Rs. 12,000 crore Capital Expenditure. The Scheme consists of 3 Parts.

Part - 1 of the scheme provides for:

Rs. 200 crore each for 8 North East states (Rs. 1,600 crore)

Rs. 450 crore each Uttarakhand, Himachal Pradesh (Rs. 900 crore)

Part - 2 of the scheme provides for:

Rs. 7,500 crore for remaining states, as per 15th Finance Commission devolution.

The Finance Minister said that both Part 1 and Part 2 of interest-free loans given to States are to be spent by 31st March, 2021 and 50% will be given initially, the remaining 50% will be given upon utilization of first 50%. Unutilised funds will be reallocated by the Central Government.

Under Part - 3 of Rs. 12,000 crore interest-free loans to states, Rs. 2,000 crore will be given to those states which fulfill at least 3 out of 4 reforms spelled out in Aatma Nirbhar Bharat Package (ANBP) vide Department of Expenditure's Letter F.No. 40(06)/PF-S/17-18 Vol. V dated 17 May 2020. Rs 2,000 crore is over and above other borrowing ceilings.

Following are the features of this Scheme:

It can be used for new or ongoing capital projects needing funds and / or settling contractors'/ suppliers' bills on such projects CAPEX to be spent by 31 March 2021. This funding will be over and above all other additional borrowing ceilings given to states Bullet repayment after 50 years, no servicing required for 50 years.

Enhanced Budget Provisions:

The Finance Minister said that additional budget of Rs. 25,000 crore, in addition to Rs. 4.13 lakh crore given in Union Budget 2020, is being provided for Capital Expenditure on roads, defence, water supply, urban development and domestically produced capital equipment. To allow smooth conducting of Government business, allocations will be made in forthcoming Revised Estimate discussions of Ministry of Finance with concerned ministries.

It may be recalled that a package of Rs 1.70 lakh crore under Pradhan Mantri Garib Kalyan Package (PMGKP) was announced on 26 March, 2020 and the Aatma Nirbhar Bharat Package (ANBP), a Special economic and comprehensive package of Rs 20 lakh crore - equivalent to 10% of India's GDP - was announced on 12 May, 2020 by Hon'ble Prime Minister Shri Narendra Modi. He gave a clarion call for आनभर भारत अभियान or Self-Reliant India Movement and also outlined five pillars of Aatmanirbhar Bharat - Economy, Infrastructure, System, Vibrant Demography and Demand.

Income-tax Exemption for payment of deemed LTC fare for non-Central Government employees

In view of the COVID-19 pandemic and resultant nationwide lockdown as well as disruption of transport and hospitality sector, as also the need for observing social distancing, a number of employees are not able to avail of Leave Travel Concession (LTC) in the current Block of 2018-21. With a view to compensate Central Government employees and incentivise consumption, thereby giving a boost to consumption expenditure, the Government of India allowed payment of cash allowance equivalent to LTC fare to Central Government employees subject to fulfilment of certain conditions vide OM No F. No 12(2)/2020-EII (A) dated 12th October 2020. It has also been provided that since the cash allowance of LTC fare is in lieu of deemed actual travel, the same shall be eligible for income-tax exemption on the lines of existing income-tax exemption available for LTC fare.

In order to provide the benefits to other employees (i.e. non-Central Government employees) who are not covered by the above mentioned OM, it has been decided to provide similar income-tax exemption for the payment of cash equivalent of LTC fare to the non-Central Government employees also. Accordingly, the payment of cash allowance, subject to maximum of Rs 36,000 per person as Deemed LTC fare per person (Round Trip) to non-Central Government employees, shall be allowed income-tax exemption subject to fulfilment of conditions specified in para 4.

The income-tax exemption to receipt of deemed LTC fare by a non-Central Government employee ('the employee') shall be allowed subject to fulfilment of the following conditions:-

(a) The employee exercises an option for the deemed LTC fare in lieu of the applicable LTC in the Block year 2018-21.

(b) The employee spends a sum equals to three times of the value of the deemed LTC fare on purchase of goods / services which carry a GST rate of not less than 12% from GST registered vendors / service providers ('the specified expenditure') through digital mode during the period from the 12th of October, 2020 to 31st of March, 2021 ('specified period') and obtains a voucher indicating the GST number and the amount of GST paid.

(c) An employee who spends less than three times of the deemed LTC fare on specified expenditure during the specified period shall not be entitled to receive full amount of deemed LTC fare and the related income-tax exemption and the amount of both shall be reduced proportionately as explained in Example-A below.

The DDOs shall allow income-tax exemption subject to fulfilment of the above conditions after obtaining copies of invoices of specified expenditure incurred during the specified period. Further, as this exemption is in lieu of the exemption provided for LTC fare, an employee who

has exercised an option to pay income tax under concessional tax regime under section 115BAC of the Income-tax Act, 1961 shall not be entitled for this exemption.

The clarifications issued by the Department of Expenditure, Ministry of Finance for the Central Government employees vide OM F. No 12(2)/2020-EII (A) Dated 20th October, 2020 and subsequent clarification, if any, issued in this regard shall apply mutatis mutandis to non-Central Government employees also subject to fulfilment of conditions specified in the preceding paras.

The legislative amendment to the provisions of the Income-tax Act, 1961 for this purpose shall be proposed in due course.

Example-A

Deemed LTC Fare : Rs.20,000 x 4 = Rs. 80,000

Amount to be spent : Rs. 80,000 x 3 = Rs. 2,40,000

Thus, if an employee spends Rs. 2,40,000 or above on specified expenditure, he shall be entitled for full deemed LTC fare and the related income-tax exemption. However, if the employee spends Rs. 1,80,000 only, then he shall be entitled for 75% (i.e. Rs. 60,000) of deemed LTC fare and the related income-tax exemption. In case the employee already received Rs. 80,000 from employer in advance, he has to refund Rs. 20,000 to the employer as he could spend only 75% of the required amount

GST

NOTIFICATIONS

Notification No. 73/2020 – Central Tax dated 1st October, 2020.

Govt. of India on the recommendations of GST Council had notified that registered persons shall require to prepare tax invoice in the manner specified under sub-rule (4) of rule 48 of CGST Rules 2017 and who shall prepared the tax invoice from 1st October 2020 to 31st October 2020, shall follow the procedure to obtain an Invoice Reference Number by uploading specified particulars in **FORM GST INV-01** on the Common CGST Electronic Portal within 30 days from the date of invoice otherwise the same shall not be treated as an Invoice.

Notification No. 74/2020 – Central Tax dated 15th October, 2020.

The due dates to furnish GSTR-1 by registered persons having aggregate turnover of up to Rs. 1.5 crore in the preceding financial year or current financial year for the quarter October to December, 2020 shall be 13-1-2021 and for the quarter January to March, 2021 shall be 13-4-2021.

Notification No. 75/2020 – Central Tax dated 15th October, 2020

Govt. of India on the recommendations of GST Council, has revised the time limit for filing the Form GSTR-1 under CGST Rules 2017 for class of registered persons whose aggregate turnover is more than Rs 1.5 Crore in the preceding financial

year or the current financial year. The effective date to file Form GSTR-1 for the months from October 2020 to March 2021 shall be 11th day of month succeeding such month.

Notification No. 76/2020 – Central Tax dated 15th October, 2020

The due date to file GSTR-3B by registered persons has been prescribed for each of months from October, 2020 to March, 2021 which shall be 20th day of the month succeeding such month. Small taxpayers having aggregate turnover of upto Rs. 5 crore in the previous financial year, in the specified category of states shall furnish GSTR-3B on or before 22nd or 24th day of the of the next succeeding month, as the case may be.

Only filing date has been revised but payment of Tax, Interest, Penalty, Fees etc shall be deposited (Credit Leger/ Cash Ledger) by 20th Day of month of succeeding month which is the original date for filing Form GSTR3B.

Notification No. 77/2020 – Central Tax dated 15th October, 2020

The furnishing of annual return in Form GSTR-9 has been made optional for the FY 2019-20 for small taxpayers whose aggregate turnover in a financial year does not exceed Rs. 2 crore. Earlier, this benefit was provided for the FY 2017-18 and FY 2017-18 which has now been extended to FY 2019-20 as well.

Notification No. 78/2020 – Central Tax and 06/2020 –Integrated Tax dated 15th October, 2020

The requirement to furnish HSN code in tax invoice has been revised w.e.f. 1-4-2021. The small taxpayers having aggregate turnover in the preceding FY upto Rs. 5 crore shall furnish 4 digit HSN code and in case of large taxpayers having turnover of more than Rs. 5 crore, 6 digit HSN code shall be required to be furnished. On supplies made to unregistered persons, small taxpayers may not require to mention HSN code on invoice issued by it.

Notification No. 79/2020 – Central Tax dated 15th October, 2020

Govt. of India on the recommendations of GST Council has notified rules to further amend the Central Goods and Services Tax Rules 2017 namely Central Goods and Services Tax Rules (Twelfth Amendment) 2020 and shall come into force on the date of their publication in the Official Gazette. Vide this notification Govt. of India has amended various provisions related to mentioning HSN Code, manner of furnishing Returns or outward supplies details by short messaging service facility, relaxation for filing of audited annual accounts for financial year 2018-19 and 2019-20 whose aggregate turnover is upto Rs 5 Crore and amended the Form GSTR1 and GSTR-2A.

Notification No. 80/2020 – Central Tax dated 28th October, 2020

The Commissioner on the recommendations of GST Council has extended the time limit to file annual returns for the financial year 2018-19 from 31st October to 31st December 2020.

Notification No. 05/2020 – Central Tax (Rate), 05/2020 – Integrated Tax (Rate) and 05/2020 – Union Territory Tax (Rate) dated 16th October, 2020

Govt. of India on the recommendations of GST Council amended the notification no. 12/2017-Central Tax (Rate), 09/2017-Integrated Tax (Rate) and 12/2017- Union Territory Tax (Rate) dated 28th June 2019 and Exempt the Satellite launch services supplied by Indian Space Research Organisation, Antrix Corporation Limited or New Space India Limited.

CIRCULARS

Circular No. 142/12/2020- GST dated 9th October, 2020

CBIC has clarified the cumulative application of Rule 36(4) of the CGST Rule for months of February to August, 2020. It explained that cumulative ITC availed for the said months in GSTR-3B should not exceed 110% of the cumulative value of the eligible credit available in respect of invoices/debit notes uploaded by the suppliers in GSTR-1, till the due date of furnishing of GSTR-1 for the month of September, 2020.

PRESS RELEASE

GST Revenue Collections for the month of October, 2020 is Rs. 1,05,155 crores

The gross GST revenue collected in the month of October, 2020 is Rs.1,05,155 crores. Out of which CGST is Rs.19,193 crores, SGST is Rs.25,411 crores, IGST is Rs.52,540 crores (including Rs.23,375 crores collected on import of goods) and Cess is Rs.8,011 crores (including Rs.932 crores collected on import of goods).

The revenues for the month are 10% higher than the GST revenues in the same month last year. During the month, revenues from import of goods was 9% higher and the revenues from domestic transaction (including import of services) are 11% higher than the revenues from these sources during the same month last year. The total number of GSTR-3B returns filed for the month of October upto 31st October, 2020 is Rs.80 lakhs.

Clarification on auto populated data of FY 2017-18 in annual return of FY 2018-19: dated 09-10-2020

Ministry of Finance has clarified in a press release regarding auto populated data in annual return (GSTR 9) for the year 2018-19 which also includes data of FY 2017-18 that has been already furnished by the taxpayers in the GSTR 9 filed for FY 2017-18. In this regard, taxpayers are required to report only the values pertaining to FY 2018-19 and the values pertaining to FY 2017-18 which

may have already been reported or adjusted are to be ignored.

CBIC releases guidebook for 'Faceless Assessment' under Customs- dated 30.10.2020

CBIC has release guidebook for 'Faceless Assessment' under Customs. This will guide stakeholders about Turant Customs enabling Faceless Assessment which has been rolled out in phases and would be applicable to the entire country by 31-10-2020. It also incorporates FAQs.

CASE LAWS / ADVANCE RULINGS

Notification denying rebate claim to importer of goods under AA licenses is not ultra vires of the CGST Act: Guj HC.

Cosmo Films Limited, In re - [2020] 120 taxmann.com 417 (Gujarat)

The petitioner was engaged in the business of manufacturing and sale of flexible packaging films. It obtained Advance Authorization Licenses ('AA Licenses'), granted in terms of Foreign Trade policy. It was entitled to import raw materials without payment of IGST under AA Licenses and pay IGST on exports and claim rebate (refund) of the IGST so paid on exports. It received benefits of rebate at the relevant point of time. Thereafter, sub-rule 10 of Rule 96 of the Central Goods and Service Tax Rules, 2017 ('CGST Rules') was amended by notification on 4-9-2018 with retrospective effect from 23-10-2017, providing that rebate on exports cannot be availed by the petitioner, if the inputs procured by the petitioner enjoyed AA licenses benefits.

The petitioner filed a petition challenging the aforesaid notification and amendment made being ultra vires the provisions of the CGST Act and the CGST Rules and Article 14 of the Constitution of India.

The Hon'ble Gujarat High Court observed that as per amendment, the person who availed the benefits of advance authorization would not have the benefit of claiming refund of IGST paid on export of goods or services. The amendment was made applicable retrospectively from the date when Rule 96 (10) of the CGST Rule came into force. The petitioner availed the benefits under Advance Authorization License scheme and paid IGST on the goods procured by for the export purpose but the petitioner would not be able to get the refund of the IGST paid. The amendments denying option to claim rebate to petitioner for importing goods under AA Licenses were not ultra vires of CGST Act and CGST Rules and Article 14 of Constitution of India and same would be effective from 23-10-2017. Also, exporters who already claimed refund need to payback IGST along with interest and avail ITC.

GST Authorities have power to seize cash from assessee under section 67(2) of the CGST Act:

MP HC: Smt. Kanishka Matta v. Union of India - [2020] 120 taxmann.com 174 (Madhya Pradesh)

The petitioner is the wife of the proprietor of the firm functioning in the name and style of M/s. S. S. Enterprises. The firm is in the business of Confectionery and Pan Masala items. Search operation was carried out at the business premises as well as residential premises and cash of around Rs. 66 lakhs were seized.

The petitioner contended that the department is not competent to seize the cash under Section 67(2) of the Central Goods and Services Tax Act, 2017 ('CGST Act') since cash cannot be treated as 'Document, Book or Things'. Therefore, the department should be directed to release the cash seized by it.

The issue before the Hon'ble High Court for consideration involves determination of expression 'things' under Section 67(2) of the CGST Act whether includes cash or not.

The Hon'ble High Court on going through the provisions of Section 67(2) of the CGST Act observed that the said section provides that confiscation of any documents or books or things, secreted in any place, which in the opinion of proper officer shall be useful for or relevant to any proceedings under CGST Act. The meaning of the word 'things' needs to be seen widely and would include 'money' as well. . Further, interpretation of statute must be adopted in a way that anomaly is avoided and which suppresses the mischief and advances the remedy.

Therefore, in view of interpretation of the word 'thing', money shall be included and hence, the cash has been rightly seized by the department from the petitioner. Further, unless and until the investigation is carried out and the matter is finally adjudicated, the question of releasing the amount does not arise.

No withdrawal of assessment order where returns are filed after 30 days from date of service of the said order: KL HC

K.U. Niyas, In re- [2020] 120 taxmann.com 175 (Kerala)

The assessee did not file GST returns for the period April 2018 to May, 2019. The department passed the assessment orders on best judgement basis and uploaded on the web portal of the assessee on the same date when they were passed. As per the assessee's submission, the assessment orders were not served upon him and hence, assessee did not file the returns within 30 days. Thereafter, when the department issued demand-cum-recovery notice and the assessee filed the returns within 30 days from the date of receipt of such notice. The assessee filed the writ petition against such demand-cum-recovery notice issued upon him.

The Hon'ble High Court observed that as per Section 169(c) and (d) of the Central Goods and Services Tax Act, 2017 ('CGST Act'), the service of any communication to the e-mail address provided by an assessee at the time of registration and also by making available the communication in the GST portal of the department, shall be treated as

an effective communication under the statute. Section 62 of the CGST Act provides that if the registered person furnishes a valid return within 30 days of the service of the assessment order, then the said assessment order shall be deemed to have been withdrawn.

In the present case, since the returns for the period covered by the assessment orders were filed belatedly i.e., 30 days after the date of service of the assessment orders on the assessee via the web portal of the department, he cannot avail the benefit of withdrawal of the assessment orders under Section 62 of the CGST Act.

In view of the above, the Writ Petition filed by the assessee fails and is accordingly dismissed.

Credit of EC, SHEC & KKC cannot be carried forward under GST regime, judgment of single judge set aside: Madras. HC

High Court of Madras, Assistant Commissioner of CGST and Central Excise v. Sutherland Global Services Private Limited, Writ Appeal No.53 of 2020

The learned Single Judge of the Hon'ble High Court vide its order dated 5-9-2019 ruled that assessee is entitled to adjust such unutilized credit of Education Cess ('EC'), Secondary and Higher Education Cess ('SHEC') and Krishi Kalyan Cess ('KKC') against the output GST liability w.e.f 1-7-2017. The revenue filed an appeal against the said order.

The Hon'ble High Court observed that the cross utilization of EC and SHEC was not allowed against Excise Duty and other duties under existing law prior to GST Regime. These cesses could be set off only against the Output EC and SHEC liability. Once the levy itself was ceased and dropped in 2015, the question of their carry forward and utilization becomes only academic. Thus, the character of levy in the form of said cesses was distinct and in the nature of standalone levies. The credit of such cesses even under the Cenvat Rules did not permit any such cross utilization.

Further, Explanation 3 to Section 140 of the Central Goods and Services Tax Act, 2017 ('CGST Act') excludes cess from 'eligible duties and taxes' not specified under Explanation 1 and 2. EC, SHEC and KKC are not specified cesses under Section 140 of the CGST Act. However, Explanation 3 could not be applied in a restricted manner only to the specified Sub-sections of Section 140 mentioned in the Explanations 1 and 2. As a tool of interpretation, Explanation 3 would apply to the entire Section 140 of the CGST Act and since it excluded any cess for the purpose of Section 140 which is not being specified, the carry forward or adjustment of unutilised cess of any kind other than specified cess, against output GST liability could not arise.

Given the above, the learned single judge has erred in allowing the claim of such credit to the assessee under Section 140 of the CGST Act. Hence, the judgment of the single judge is set aside and

appeal of revenue is allowed. Therefore, Hon'ble High Court held that assessee was not entitled to carry forward and set off unutilized EC, SHEC and KKC against the output GST liability in terms of Section 140 of the CGST Act.

Recommendation of GST Council on rate reduction of fabric, not being notified, cannot be challenged: DL HC

Manufacturers Traders Association v. Union of India - [2020] 120 taxmann.com 34 (Delhi)

The petitioner, a society comprising of members, was engaged in the manufacture of fabrics. It filed writ petition seeking direction for Central Government as well as Government of NCT of Delhi to notify GST rate of 5% for all varieties of fabrics falling under Chapters 50 to 63 of Customs Tariff in furtherance of recommendations made by Goods and Services Tax Council.

It is submitted that the GST rates on fabrics was discussed in detail in the 15th GST Council meeting and the GST rates were prescribed on the recommendations of the Council. The rate of 5% was prescribed on fabrics used for making apparels. The GST Council had recommended 12% GST rate on specialized and industrial fabrics.

The Revenue submitted that the GST Council had made a specific recommendation to prescribe 12% GST rate on specialized and industrial fabrics of chapters 56 to 59 which was notified by the Central and the State Governments and thus there was no variance in the recommendations of the GST Council on specialized and industrial fabrics of chapters 56 to 59 and the notifications issued by the Central and State Governments issued in pursuance of these recommendations. Moreover, the Council discussed the requests for reduction in tax rates on fabrics of chapters 56 to 59 from 12% to 5% in various meetings after the rollout of GST. All these requests for reduction were examined in detail by the GST Council and were rejected by the GST Council on the grounds that GST rate on technical textiles and specialised fabrics of chapters 56 to 59 shall attract GST at the rate of 12% as these fabrics attracted more than 13% tax incidence in pre-GST regime.

The Honorable High Court of Delhi observed that the 101st Amendment to the Constitution had brought into existence the GST framework and created Government as the highest deliberative forum to resolve the issues arising out of the implementation of the GST. The rate of taxes is jointly decided by the centre and states on the recommendations of the Council. The Council has the power and prerogative to issue recommendations on issues in terms of Article 279A (4) of the Constitution. Now, in its 38th Meeting, it has been reiterated that the recommendation for rate of tax was indeed 12%. The court cannot sit in appeal and postulate that the decision of the Council is not what they have unwaveringly held it to be. Therefore, there is no merit in the present petition and the same is accordingly dismissed.

Food supplied to Govt. / Pvt. Hospitals on outsourcing basis is chargeable @ 5% GST: Telangana AAR - Navneeth Kumar Talla, In re - [2020] 120 taxmann.com 453 (AAR-TELANGANA)

The Authority for Advance Ruling ('AAR') observed that Health care services provided by the clinical establishments are exempt from GST. Health care services will include food supplied to the patients. If such food prepared by the canteens run by the hospitals then such supply would be exempt and no ITC shall be claimed in respect of the inputs received. If such food would be outsourced by the Hospitals to outdoor caterers then the supplier shall charge tax as applicable and hospital shall not be eligible for claim the input tax credit. Therefore, it was held that GST would be levied on supply of food to the patients of the hospital on outsourcing basis.

Prop. ITC available on goods/services used in installation of Renewable Power Generation Plant under 'REC Scheme'

Kumaran Oil Mill, In re - [2020] 120 taxmann.com 386 (AAR - TAMILNADU)

The Authority for Advance Ruling ('AAR') observed that as per Section 17(1) of the Central Goods and Services Tax Act, 2017 ('CGST Act'), ITC is eligible to the extent attributable to the taxable supply. Further, Section 17(2) read with Rule 42/43 of the Central Goods and Services tax Rules ('CGST Rules') provides for the apportionment of ITC of inputs, capital goods and input services which are used to make both exempted and taxable supply. In the given case, the supply of REC by the applicant is chargeable to GST while the electrical energy generated and supplied is exempted from GST. Thus, the applicant is making both taxable as well as exempt supply. Accordingly, the applicant shall be eligible for proportionate claim of Input tax credit (ITC) on the goods/services used in installation of Renewable Power Generation Plant.

Pure consultancy services provided to local bodies & state govt. dept. as per Article 243W of COI are exempt from GST

Vimos Technocrats (P.) Ltd., In re - [2020] 120 taxmann.com 410 (AAR - KARNATAKA)

The Authority for Advance Ruling ('AAR') observed that the pure services provided to Central/State Government or local authority or Governmental authority by the applicant in relation to any function entrusted to a Municipality under Article 243W of the constitution is exempt from GST vide Notification No. 12/2017-Central Tax (Rate) dated 28-6-2017. Definition of local authority and Governmental authority under GST covers municipality and Govt. department respectively. Also, various services provided by the applicant such as provision of urban amenities, solid waste management, etc. qualifies as pure services prescribed under Article 243W of the constitution.

Therefore, the applicant is providing pure services to local bodies and govt. department is exempt from GST.

No ITC on medicines used in supply of healthcare services provided to patients admitted in hospital:

Kar. AAR M/s Ambara, In re - [2020] 120 taxmann.com 369 (AAR - KARNATAKA)

The Authority for Advance Ruling ('AAR') observed that the medicines provided to the patients admitted in the hospital are in the course of treatment of such patients. There is no separate contract for the supply of medicines which is independent of the supply of treatment services. Thus, any medicines which are administered to the admitted patient are a part of their treatment services and hence, there is no separate supply of medicines to the patients.

Further, the applicant is a 'clinical establishment' and is providing 'health care services' which is exempt from GST as per Notification No. 12/2017-Central tax (Rate) dated 28-6-2017. Since the health care services are exempt, the applicant is not eligible to claim input tax paid on the inward supplies of medicines that are used in providing such exempt supplies to the patients.

In view of the above, AAR ruled that the ITC is required to be restricted on medicines used in supply of health care services provided to admitted patients.

Access cards' printed based on contents given by customers are 'goods' under tariff item 49011020, taxed @ 5% GST

Pattabi Enterprises, In re - [2020] 120 taxmann.com 237 (AAAR - KARNATAKA)

The Authority for Advance Ruling ('AAR') held that the supply of access cards with the contents supplied by the recipient of supply are classifiable as a supply of service and attracts GST rate of 18%. The applicant has filed an appeal to Appellate Authority for Advance Ruling ('AAAR'). The AAAR observed that all the physical inputs required for access cards such as paper, machinery, ink, etc. belongs to the applicant and only the intangible input of creative content to be printed on such cards is provided by the customer. Activity of printing brings into existence a specific new product known as 'access cards'. Printing in this case is ancillary to the main activity of making access cards. Printing is a service rendered by the applicant to himself in order to execute the supply of access cards. Therefore, principal supply is not the service of printing but a supply of access cards which a product is emerging out of the printing activity.

Hence, the supply of access cards by the applicant qualifies as supply of goods classifiable under sub-heading 49011020 which includes pamphlets, booklets, leaflets and similar printed matter, attracting 5% GST. Ruling of AAR has been set aside.

Leased property used for providing paying guest accommodation do not qualify as residential dwelling: KN AAAR

Taghar Vasudeva Ambrish, In re - [2020] 120 taxmann.com 104 (AAAR-KARNATAKA)

The AAAR observed that the term 'residential dwelling' is not defined under GST law. As per Service Tax Education Guide, 'residential dwelling' is any residential accommodation but does not include hotel, motel, lodge, etc. meant for temporary stay. From the perusal of records, it is found that the applicant has constructed the building with the intention of providing hostel accommodation which is more similar to sociable accommodation rather than residential dwelling.

In the present case, the lessee is using the property for running the business of paying guest accommodation. The exemption is available only if the residential dwelling is used as a residence by the person who has taken the same on lease. However, the lessee is not using the leased property for use as residence but is using the same for operating its business of providing paying guest accommodation to students. Hence, the applicant is not eligible for exemption, ruling of AAR has been upheld.

Pasteurised milk with haldi, fortified with vitamins A & D is classified under heading 0401, exempt from GST

ITC Ltd., In re - [2020] 120 taxmann.com 387 (AAR - WEST BENGAL)

The Authority for Advance Ruling ('AAR') observed that heading 0401 covers unconcentrated milk without sugar or other sweetening matter. In common parlance, product offered by applicant is treated as unconcentrated milk. The Explanatory Note to heading 0401 provides that such milk remains classified under heading 0401 even if a small quantity of items containing anti-oxidant properties are added. Further, Circular dated 9-8-2018 had clarified that milk fortified with vitamins A and D is classifiable under heading 0401.

Therefore, in view of the above, the applicant's product is classified under heading 0401 and is exempt from GST.

Installation of oil pipeline o/s India is works contract chargeable @18% GST, do not qualify exports:

WB AAR: Maninder Singh, In re - [2020] 120 taxmann.com 341 (AAR - WEST BENGAL)

The Authority for Advance Rulings ('AAR') observed that NRL awarded the contract to the applicant for construction of the pipeline in Bangladesh for which it would pay the consideration and thus, NRL would be treated as a recipient. NRL being registered and resident of India, the location of the recipient of the service would be in India. The place of supply of the service provided by the applicant for carrying out the construction work of immovable property located outside India, would be the location of the recipient in terms of proviso to section 12(3)(a) of the Integrated Goods and

Services Tax Act, 2017 ('IGST Act') which would be in India.

Hence, the services provided by the applicant would not be treated as export of service but it would qualify as works contract service taxable at the rate of 18% GST.

No ITC available of GST paid on lift installation charges paid to lift contractor by society

Appellate Authority for Advance Ruling, Maharashtra Las Palmas Co-Op. Housing Society, In re - [2020] 120 taxmann.com 128 (AAAR-MAHARASHTRA)

The Appellate Authority for Advance Ruling, Maharashtra observed that the assessee was not a work contract service provider. The ITC would be available on tax paid on work contract services if such services are input services for further supply of work contract services. Therefore, it was held that ITC in respect of GST paid on such works contract services would not be admissible as society itself was not a works contract service provider and works contract service was received by society for common benefit of members.

TDR, is a benefit rising out of land & not land itself, sale of TDR/FSI is liable to GST at the rate of 18%

Vilas Chandanmal Gandhi, In re - [2020] 120 taxmann.com 83 (AAAR-MAHARASHTRA)

The applicant has entered into an agreement with the developer to develop the land owned by him. The applicant agreed to assign/ transfer the development rights in land to the developer for the purpose of construction of residential/commercial project on the land. The applicant has sought an advance ruling to determine the applicability of GST on sale of Transferable Development Right ('TDR')/ Floor Spacing Index ('FSI') in land.

The Authority for Advance Ruling ('AAR') held that GST is leviable on sale of TDR/FSI which is a service, attracting 18% GST. The applicant filed an appeal before the Appellate Authority for Advance Ruling ('AAAR').

The applicant has submitted that the development rights in the land can be construed as land only and therefore, any transaction pertaining to the sale of TDR would be sale of land and would not be treated as supply as per Clause 5 of the Schedule III of the Central Goods and Services Tax Act, 2017 ('CGST Act') and hence, would be out of the purview of GST.

The AAAR observed that TDR is not a land but a right arising out of land and hence it is an immovable property. The term 'land' has to be interpreted strictly and cannot be extended to cover the 'benefits arising out of land'. The Schedule III of the CGST Act only mentions 'land' to be outside the ambit of GST and not 'benefits' arising out of land. Thus, TDR is a benefit arising out of land and not land itself and hence, would be liable to tax.

Since TDR is an immovable property which is not covered under the definition of goods, but will be

treated as service as benefits arising out of land is in the nature of service, attracting GST at the rate of 18%.

Hence, in view of the above, ruling of AAR has been upheld

Trust not liable to GST registration for carrying 'charitable activities' which are exempt from GST:

Guj. AAR: All India Disaster Mitigation Institute, In re - [2020] 120 taxmann.com 165 (AAR - GUJARAT)

The Authority for Advance Rulings ('AAR') observed that the services provided by an entity registered under Section 12AA of the Income-tax Act by way of charitable activities have been exempt from GST. 'Charitable activities' includes activities relating to preservation of environment. Activities carried out by the applicant for disaster prevention, mitigation and management are relating to preservation of environment. Thus, the activities of the applicant are considered as charitable activities which are exempt from GST.

Further, as per Section 23 of the Central Goods and Services Tax Act, 2017 ('CGST Act'), any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax shall not be liable to obtain registration under GST.

Hence, the applicant is not liable to obtain GST registration in respect of charitable activities relating to preservation of environment which are exempted from GST.

REAL ESTATE

The Supreme Court has held that a complaint before Consumer Fora by allottees against builders is not barred by the Real Estate (Regulation and Development) Act, 2016.

IN THE SUPREME COURT OF INDIA, CIVIL APPELLATE JURISDICTION, CIVIL APPEAL NO. 3581-3590 OF 2020 (CIVIL APPEAL DIARY NO.9796/2019)

M/S. IMPERIA STRUCTURES LTD. VERSUS ANIL PATNI AND ANOTHER

The Supreme Court on ruled that the Real Estate (Regulation and Development) Act, 2016 does not preclude the National Consumer Disputes Redressal Commission (NCDRC) or the Consumer Forum from entertaining any complaint under Consumer Protection (CP) Act. (M/S Imperial Structures Ltd vs Anil Patni and another)

A two-judge bench of the court consisting of Justices UU Lalit and Vineet Saran held that real estate allottees can approach NCDRC apart from authorities under the RERA and there is no provision under RERA which bars initiation of a consumer complaint under CP Act.

RAJASTHAN NEWS

Rajasthan: Now, pay new charges if you want to change land use in master plan areas

UDH Department is now following the land use norms laid down for master plan after the High Court has directed the government. Now, Master Plan can only be changed in larger public interest. Owners will now have to pay administrative charges as per the new rules framed by UDH for allowing change in land use defined in the city master plans. The new rules will replace the existing rules framed in 2010. Previously, the department changed land use rules frequently to allow development of areas without adhering to the original master plans.

The charges will be imposed for the first time which will vary from a minimum of ₹ 50,000/- to a maximum of ₹ 5,00,000/- as per the area.

The state-level committee constituted for land use change will decide the matter for agriculture land in cities where master plans have been implemented.

UDH will allow activities including daycare centres, nurseries, schools, dispensaries, hostels, informal shops, restaurants, libraries, MSMEs and petrol pumps. In commercial land use, activities including hotels, marriage gardens, banks, cinema halls, multiplexes and others will be allowed

[Source: Economic Times

<https://realty.economicstimes.indiatimes.com/news/industry/rajasthan-now-pay-new-charges-if-you-want-to-change-land-use-in-master-plan-areas/78802361>]

SC panel to inspect illegal sand mining areas in Rajasthan from Oct 22

The committee was formed after a Special Leave



Petition was filed in the Supreme Court stating that illegal mining on riverbeds was continuing despite a ban by the apex court in November 2017.

A central empowered committee (CEC) will start a three-day inspection of illegal sand mining areas in Rajasthan asap. It will also submit a report and suggest solutions on the problems related to sand mining faced by traders, consumers, transporters, the state and other stakeholders over illegal mining. The CEC will submit its report along with recommendations in six weeks. The court had observed that illegal sand mining is rampant in Rajasthan. Directions were issued to the collectors and superintendent of police of each district to take action to check illegal mining.

The petitioner also alleged that the state government issued leases on agriculture land reasoning that environmental impact will be minimal which was against Supreme Court directions. However, the lease holders are digging sand in uncontrolled manner after deploying heavy machinery on riverbeds. Also, no replenishment has been done by them which is mandatory as per Government regulations.

There are approximately 350 sand mining leases on agriculture plots in Rajasthan. If survey is conducted, majority of these leases are inside the river. The department issued lease deeds when the applicants produced NOC issued by the water resources department that they are 45 meter away from the riverbed.

[Source: Economic Times

<https://realty.economictimes.indiatimes.com/news/regulatory/sc-panel-to-inspect-illegal-sand-mining-areas-in-rajasthan-from-oct-22/78802217>]

Rajasthan UDH department directs civic bodies not to pay cash compensation for land acquisition

The UDH has directed civic bodies not to pay cash compensation against land acquisition made in public interest as the reserves are significantly reduced to slump in real estate and Covid-19 crisis. This might lead to delay in projects or huge protest against department for inadequate compensation. Earlier the department has proposed to give only 25% of developed land in the project against the land acquired by them. This led to high dissatisfaction to the farmers and plot owners because the land provided as compensation is not developed.

In the Land Acquisition and Rehabilitation and Resettlement Act, there is a provision to pay cash compensation. If the government does not have money, it should not acquire land of farmers for projects, which remains defunct for years. Over 300 farmers in 34 villages are waiting for compensation. Since the government cannot provide developed land in Jaipur, our plea has fallen on deaf ears. Many believe that this move might lead to more protests as there can be many owners whose lands are acquired might not settle without cash compensation

A distressed said that the government cannot decide for land owners. The decision should stay with land owners, whether they wish to have cash or land, as per their requirement. The officials are also sighted that this may hamper projects as dissatisfied owners might approach the court to get the relief against the department

[Source: Economic Times

<https://realty.economictimes.indiatimes.com/news/infrastructure/rajasthan-udh-department-directs-civic-bodies-not-to-pay-cash-compensation-for-land-acquisition/78615802>]

RERA

Rajasthan RERA Notification No.F1(184)RJ/RERA/CMJAY/2020/1569 dated 13.10.2020



Registration of projects proposed to be developed under Provision- 3C of CMJAY-2015. The Authority has given the promoters a choice of-

(1) Registration of the project as group housing project wherein some plots not exceeding 80% under any category (EWS/LIG/MIG-A) may be sold without constructing houses;

(2) Registration of the project in 2 phases as plotted development and group housing project wherein plots in group housing phase shall not be less than 20% of total plots under each category (EWS/LIG/MIG-A).

RERA registered projects can be tracked online in Rajasthan

Prospective home buyers can soon track the progress of real estate projects online as all developers and builders registered under the Real Estate Regulatory Authority (RERA), Rajasthan, will soon have to upload quarterly progress report of their projects on the RERA website.

The move to upload reports online will help buyers to assess the properties, the progress of the projects, evaluation of the company's financial status and legal aspects.

After the enactment and implementation of the Real Estate (Regulation and Development) Act, 2016, a total of 1,375 projects have been registered under RERA across the state. For consumer protection, the regulatory body making quarterly reports online will ensure transparency in the system. The prospective buyer can take a comparative decision on buying a property after analysing quarterly report of projects.

As per the mandatory provision, the promoter has to upload updates on the RERA website for the project at the end of each quarter on apartments/flats, status update of each building, floor, internal infrastructure and common areas construction. Other details including information on approvals, bank account details, revision in plans, licence issues, permits or approvals for the projects also have to be displayed in public forum.

A Penalty will be imposed if developers failed to adhere to the norms of uploading the quarterly report. However, due to Covid- 19, the authorities have provided relaxation and decided not to take any action on defaulters.

[Source: Economic Times

<https://realty.economictimes.indiatimes.com/news/industry/rera-registered-projects-can-be-tracked-online-in-rajasthan/79012401>]

UTTAR PRADESH NEWS

UPRERA colour codes to mark developer reliability

UPRERA has carried out colour coding for its all registered projects to give homebuyers an idea about the safety of their investment in the project. The regulatory body's assessment revealed that only 35.6% housing projects are completely safe for investment.

The Authority has categorized projects in green, orange and red color on the basis of approval of layout plan by the development authorities, complaints registered against the promoter in

projects, financial status of the promoter and efficiency record of a developer's previous projects. Projects which fulfill all four parameters as described above are marked with green colour as it denotes the projects which are safe for investment, those qualifying 2-3 standards are marked "Orange" (a little risky) and those clearing one or none of the parameters have been placed in "red" category.

[Source:

<https://timesofindia.indiatimes.com/city/lucknow/uprera-colour-codes-to-mark-developer-reliability/articleshow/78633318.cms>]

HARYANA NEWS

Niti Aayog releases draft model act on land titles

The Niti Aayog has released a draft model Act and rules for states on conclusive land titling with an aim to reduce litigations and ease the land acquisition process for infrastructure projects.

The model Act and rules will provide state governments power to order for establishment, administration and management of a system of title registration of immovable properties. The aim of the draft

model Act is to reduce a large number of land related litigations and also improve land acquisitions for the infrastructure projects. Under the model Act, the land dispute resolution officer and land title appellate tribunal are one-shot institutions which will fade away as the work reduces.

Also, after three years of its notification, the register of title attains conclusivity without any external action. Conclusive land titles are guaranteed by the state for correctness and entail provision for compensation by the state in case of any dispute.

[Source: Economic Times]

RERA

Haryana RERA penalises several realtors for malpractices

The Haryana Real Estate Regulatory Authority has penalised several colonisers for indulging in malpractices. The RERA bench, headed by its Chairman K.K. Khandelwal and member S.C. Kush, took action against the promoters of various companies in the wake of complaints by allottees.

In proceedings against CHD Developers, Ireo Private Ltd, Landmark Apartments Private Ltd, Siddhartha Buildhome Private Ltd, Vatika Ltd, Tashee Land Developers Private Ltd and Tulsiani Constructions and Developers Private Ltd, it ordered attachment of the bank accounts to the extent of Rs 7 crore along with the movable properties of their directors. An order has been given to issue a

ailable warrant against the directors of Prime Time Infra Projects Private Ltd for not complying with the orders of the authority. During the hearing pertaining to execution petitions, the authority observed that Clarion Properties Ltd has committed a gross violation of Section 3 of the Act by not registering its project with the authority. It directed to issue a show-cause notice against the developer for non-registration of project under Section 59, which states that "the promoter shall be liable to a penalty up to 10 per cent of the estimated cost of the real estate project" and if the promoter continues to violate the provisions of Section 3, he shall be punishable with imprisonment for a term up to three years or with fine further up to 10 per cent of the estimated cost of real estate project, or with both.

[Source: Economic Times]

H-RERA asks Spaze developers to pay Rs 2 crore to buyers for delay in flats delivery

The Haryana Real Estate Regulatory Authority (H-Rera) ordered a city-based developer to pay delay possession charges (DPC) of Rs 2 crore to homebuyers for failing to deliver flats in time. H-Rera chairman KK Khandelwal directed Spaze developers to pay the compensation to the homebuyers, while disposing of complaints by over 80 allottees in multiple projects. For one of these projects, Spaze Privy AT4 in Sector 84, the regulatory authority has directed the developer to submit documents related to 'deed of declaration', sanction of floor area ratio (FAR) and also proof regarding final offer of possession. Khandelwal has also ordered the planning branch of the authority to issue notices to the developer for violation of Section 14(2) (ii) of the Act and also non-completion of the project within the stipulated period and not applying for extension of registration within the prescribed time.

[Source: Economic Times]

The Haryana Real Estate Regulatory Authority, Gurugram vide Office order No. 3/5-2020 HARERA/GGM (Admn) had issued regulation for the "Auto Credit of 10% of the receipts from the 70% realizations account maintained under Section 4(2)(I)(D) of the Real Estate (Regulation and Development) Act, 2016 to EDC- Provision and integration thereof".

[Link:

<https://haryanarera.gov.in/login/viewPdf/NzQz>]

The Haryana Real Estate Regulatory Authority, Panchkulavide Office order had issued policy/procedure for refund of the amount deposited by the Appellant with the Haryana Real Estate Appellate Tribunal pursuant to Section 43(5) of the RERA Act, 2016

[Link:

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

PUNJAB RERA

The Punjab Real Estate Regulatory Authority vide Circular No. RERA/PROG/2020/7404 had issued public notice regarding the Adhaar Number to be "masked" for all documents uploaded on the Web Portal

[Link:

https://rera.punjab.gov.in/pdf/circulars/20201020_PublicNoticeANMADUWP.pdf]

RERA CASE LAWS

Anjana and Shaifali Goyal VS M/s Sushma Buildtech Limited

Complaint No.: 1288 of 2019

Facts: The allotment letter for unit no.10 on the 4th Floor of the project "Homework" developed by the respondent in village Singhpura, Zirakpur was issued in the name of the complainants on 11.03.2015. The area of the unit is 440.80 sq. ft. and the basic sale price was Rs.12.00 lakhs. The Buyer's Agreement was signed on 26.03.2015 and as per its terms and conditions the possession was to be delivered within a period of 42 months (36 months + 6 months' grace period). The contention is that the possession has not still been delivered to the complainant. Accordingly, relief sought is early delivery of possession, and payment of Interest for the period of delay in doing so.

Respondent Contentions: It has firstly been pointed out that in the present case there was no Agreement for Sale in the format prescribed in the Punjab State Real Estate (Regulation and Development) Rules, 2017 and hence the complainants could not seek any relief under the Act. It is also contended that since the date of completion of the project was 26.07.2022 the complaint was premature. Apart from the above legal issues, on merits it has been pointed out that the possession of the unit had been offered to the complainants on 02.04.2018. The complainants had been paid 'assured return' under an agreement between the parties and were not entitled for any further relief.

Held: The absence of agreement in Form 'A' is not fatal to the case of the complainants. This is fortified by the judgement of the Haryana Real Estate Appellate Tribunal in Appeal No.138 of 2019 decided on 17.12.2019. Para 34 of this order reads as follows:

"... we are of the considered opinion that the provisions of the Act are quasi retroactive to some extent in operation and will be applicable to the agreements for sale entered into even prior to coming into operation of the Act where the transaction are still in the process of completion..." The Respondent had offered possession of the unit on 02.04.2018. Having done the same they cannot be simultaneously allowed to contend that they are not bound to deliver possession before July 2022. As per the Buyer's Agreement possession was to be handed over within a maximum of 42 months from the date of its execution. This period expired on 25.09.2018. The respondent's contention that

possession had been offered to the complainants on 02.04.2018 is not acceptable since the letter issued on this date (Annexure R-5 with the reply) does not say anything about delivery possession. Instead, it is only seeking payment of further amount of Rs.22,039/- from the complainants. Also the respondent has admitted that the Occupation Certificate for the project was obtained only on 21.01.2019. Any offer of possession prior to obtaining the Occupation Certificate would not be valid.

Order: The respondent is directed to pay interest for the period of delay i.e from 25.09.2018 till actual delivery of possession. On their part the complainant will be bound to take possession within 2 months of its being offered. The amount paid by way of 'assured return' is allowed to be set off against the interest due, to avoid unjust enrichment of the complainant.

MAHARASHTRA RERA CASE LAWS

MahaRERA fines Mahimkar Builders for not registering project under MahaRERA

The Maharashtra Real Estate Regulatory Authority (Maha-RERA) has imposed a fine of Rs 1 (one) crore on Mahimkar Builders and Developers Private Limited for violating provisions of the Real Estate (Regulation and Development) Act 2016. The order directed the builder to refund Rs 11.87 lakh for providing 63 sq ft lesser area, to remove an alleged illegal construction on the 8th floor and keep the refuge area vacant. The order also asked the developer to refund 4 per cent excess GST amount taken from a home buyer, provide covered car parking, and form a co-operative society within one month.

The order came on a complaint by home buyers Dayaram Shetty and Harinakshi Shetty. The complaint said that the developer had constructed ground plus seven floors and alleged that there was a duplex flat illegally constructed on the 8th floor due to which the builder had failed to get the occupancy certificate (OC) from the municipal corporation. Since OC is yet to be obtained, it is an ongoing real estate project as per the rules which need to be registered with MahaRERA.

[Source:

<https://realty.economictimes.indiatimes.com/news/regulatory/maharera-fines-mahimkar-builders-for-not-registering-project/79012232>]

Maharashtra Real Estate Appellate Tribunal (MREAT) has considered the injunction stopping water supply to construction sites as a mitigating circumstance, and directed the developer to pay interest on delayed possession from April 2018 instead of September 2017 as ordered by MahaRERA.

(Maharashtra Real Estate Appellate Tribunal in Case of M/s. Laabh Buildwell V/s. Mr. Sanket Prabhakar Yadav) (Appeal No: AT006-31609) (Date of order: 28.10.2020)

The Maharashtra Real Estate Appellate Tribunal (MREAT) has considered the May 2017 Bombay High Court injunction stopping water supply to construction sites as a mitigating circumstance, and directed the developer to pay interest on delayed possession from April 2018 instead of September 2017 as ordered by MahaRERA. The order came on an appeal filed by developer Laabh Buildwell against MahaRERA order. The MahaRERA had held that the possession promised to home buyer, Sanket Yadav, on or before September 30, 2017 was delayed, and hence the developer should pay interest from that date till actual possession is given. During the appeal proceedings, the advocate for the developer argued that one of the major reasons for delay was to obtain approval of the Thane Municipal Corporation (TMC) to the revised plan as per new Transferable Development Rights (TDR) policy of 2016 to load TDR on the project building. He contended that as per clause 'J' of the agreement for sale executed in March 2016, his client had informed Yadav about this, and that he had agreed for the same by signing the agreement. He submitted that another reason for delay was the injunction granted by Bombay High Court on May 5, 2017 in a public interest litigation directing Thane Municipal Corporation to stop water supply to constructions sites. The Advocate argued that as a result, his client could not undertake construction for more than a year. He argued that due to these factors beyond his control, the developer cannot be penalized for the delay that took place. The Advocate appearing for the home buyer contended that the was entitled to possession on or before September 30, 2017 as per the agreement and as per Bombay High Court judgment, the agreed date of possession in the agreement for sale is binding on the developer, and no extension can be granted. Since possession is delayed, his allottee is entitled to interest and compensation for the delayed period from September 30, 2017. After hearing arguments by both parties, the tribunal said as per Bombay High court ruling in Neelkamal Realty case, the agreed date of possession in the agreement for sale is important to calculate delay under RERA provisions, and even if the developer uploaded December 2019 as the revised date of possession while registering the project with MahaRERA, September 30, 2017 will be taken as the date of possession.

Regarding the developer's claim that High Court restrictions on water supply to construction sites also contributed to the delay in completing the project, the tribunal said it finds merit in the submission. The tribunal said the ban was effective for five months from May 5, 2017 till October 11, 2017, and did cause a disrupting effect on construction activities in Thane's Ghodbunder Road area. Therefore, it felt that it was reasonable to extend the possession date by six months from September 30, 2017 to April 1,

2018 and award interest on delayed possession from the new date.

GUJARAT RERA CASE LAWS

GujRERA has ordered the respondent promoter to apply for extension of its project within 30 days of the order, and to complete work within the extended time limit under the supervision of a monitoring committee appointed by the Authority to track the progress of the project (Simit Pankaj kumar Sheth and others Vs Dharti Madrid County LLP) (CMP/Ahmedabad/181228/000225)

In a landmark judgment with regard to an ongoing tussle between landowners and the developer of a big-ticket real estate project in Vadodara, which has left around 200 allottees in a lurch for over four years, the Gujarat Real Estate Regulatory Authority (RERA) has directed the joint venture to resolve its issues over the share of profit and appointed a monitoring committee to track the progress of the project.

RERA has ordered the Special Purpose Vehicle named Dharti Madrid County LLP (DMC) to apply for extension of the project, San Lucas, within 30 days of the order, and to complete work within the extended time limit. The same is as per the estimates of an indepth forensic audit undertaken to examine the claims and contentions between the two developers that had led to a dispute and stalling of the project for over four years.

The order stated, "A monitoring committee shall be constituted under the Chairmanship of senior technical consultant, Gujarat RERA, and shall comprise of member including Finance Controller, Technical Officer (Regulatory branch) and the Representatives of the San Lucas Owners Association. This monitoring committee will supervise and provide necessary guidance to the technical office. The technical officers, consultants and auditors will report the project progress till the completion of the project to the monitoring committee and apprise them about the technical and financial aspects"

With respect to detailed examination by the auditors in this regard, the order stated, "The plea of the land owner (Bhatt) for not signing the sale deeds for non-payment of the land dues does not appear to hold water. Be that as it may, according to the forensic audit, a sum of Rs 5.58 crore is the total remaining payment due to the landowner, which could easily be paid from expected receipts of the project."

Additionally, RERA said that despite repeated requests, Bhatt's "failed to produce any clear evidence regarding ownership of the land; documentary evidence which shows that the four blocks (of land) in contention belong to Bhatt and have been transferred by Bhatt to the DMC".

Taking a stern stand against Bhatt, RERA said, "As per the RERA Act, 2016, his (Bhatt's) first responsibility is towards the allottees who have paid for the apartments in his project and not been

delivered the same as promised. He can only claim his share once the project is completed and the conveyance of the apartments is complete along with the legal documentation.”

Bhatt's conduct was also deemed “unconcerned” as the family skipped important virtual hearings held during the pandemic. The order added, “The last hearing was scheduled on February 19, 2020. Due to the Covid-19 pandemic, no hearing was possible until May 31. A virtual hearing was scheduled on July 27. However, Bhatt did not remain present on the ground that he is in self-quarantine and his father being a senior citizen is vulnerable to infections. Bhatt's conduct evidences the fact that he is not concerned with the timely adjudication in the matter.”

The DMC has also been directed to submit a bank guarantee of the amount equivalent to three months of requirement of funds for the project or Rs 1.3 crore, whichever is higher, in the name of Gujarat RERA.

RERA has directed the Vadodara Urban Development Authority and the Vadodara Municipal Corporation to not grant any further permission or commencement certificate for the seven contentious block numbers of the land of the project, located in Bhayli village until the San Lucas project is completed. No RERA registration will be issued for these blocks until the completion or the resolution of the dispute between the developers. RERA has asked promoters of the project to pay for the fees of the forensic and internal audit proportion to their share in the LLP.

CORPORATE LAWS & OTHER COMMERCIAL POLICIES

NEWS

The Ministry of Corporate Affairs has notified the Companies (Prospectus and Allotment of Securities) Amendment Rules, 2020 to further amend the Companies (Prospectus and Allotment of Securities) Rules, 2014.

The Amendment is brought under Rule 14 which deals with private placement in which a company may make an offer or invitation to subscribe to securities through issue of a private placement offer letter in Form PAS-4. A private placement offer letter shall be accompanied by an application form serially numbered and addressed specifically to the person to whom the offer is made and shall be sent to him, either in writing or in electronic mode, within thirty days of recording the names of such persons in accordance with sub-section (7) of Section 42. Through this amendment the proviso has been inserted under Rule 14 to provide that in case of offer or invitation of any securities to qualified institutional buyers, it shall be sufficient if the company passes a previous special resolution only once in a year for all the allotments to such buyers during the year.

[Source:

http://mca.gov.in/Ministry/pdf/SecuritiesAmendmentRules_16102020.pdf]

MCA has extended the Relaxation in minimum residency requirements of 182 days in India by at least one director in every Company.

MCA has clarified that relaxation of the residency norms of minimum stay of 182 days in India, by at least one director of every Company, for the financial year 2020-2021 and that non-compliance of residency norms of minimum stay of 182 days in India, by at least one director of every Company, shall not be treated as a violation of Section 149 of the Companies Act, 2013 for the financial year 2020-2021. Earlier, MCA had relaxed the aforesaid residency norms for the financial year 2019-2020 vide General Circular No. 11/2020 dated March 24, 2020.

[Source:

http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.36_20102020.pdf]

MCA has issued a Sensitizing General Public Notice about Nidhi Companies.

In order to make regulatory regime for Nidhi Companies more effective and also to accomplish the objectives of transparency & investor friendliness in the corporate environment of the country, the Central Government has amended the provisions related to NIDHI under the Companies Act and the Rules (effective from 15.08.2019).

The amended provisions of the Companies Act (Section 406) and Nidhi rules (as amended w.e.f.

15.08.2019) require that the companies have to apply to the Central government for updation/declaration of their status as Nidhi Company in e-Form NDH-4. These companies are required to ensure strict adherence to provision of Companies Act, 1956/ 2013 and Nidhi Rules, 2014 as amended. Further, applications are being received by the Ministry of Corporate Affairs from such companies in e-form NDH4 for either updation or declarations as Nidhi Company. It has been noticed that many of these companies are not following the extant rules. Stakeholders are advised to verify/ensure that the Nidhi Company, in which they are planning to become a member, has been declared as such under the amended provisions of Companies Act and is following the rules prescribed in this regard.

[Source:

http://www.mca.gov.in/Ministry/pdf/NoticeNidhi_26102020.PDF]

**MCA eases private placement norms for qualified institutional buyers
Notification No. [F. No. 1/21/2013-CL-V-Part],
Dated 16.10.2020**

The Ministry of Corporate Affairs has notified the Companies (Prospectus and Allotment of Securities) Amendment Rules, 2020 whereby rule 14 which prescribes ‘procedure for issue of private placement’ has been amended to include fourth proviso to Rule 14(1). Now, companies need not pass Special resolution over and over again in case of offer or invitation of any securities to qualified

institutional buyers, it shall be sufficient if previous special resolution is passed only once in a year for all the allotment to such buyers.

The Code on Social Security 2020: How will this new labour Code benefit employees, workers?

The Code on Social Security 2020, which received the Presidential Assent on 28 September 2020, subsumes nine regulations relating to social security, retirement and employee benefits. Revamping labour regulations has been an area of focus for the government. The objective is to consolidate and simplify the multitude of labour regulations into four labour Codes – the Code on Wages, Social Security, Industrial Relations and Occupational Safety and Health, subsuming 29 existing regulations.

[Source:

<https://www.financialexpress.com/money/the-code-on-social-security-2020-how-will-this-new-labour-code-benefit-employees-workers/2098269/>]

Interest subvention on MSME loans extended till end of March 2021

The two per cent interest subvention scheme for micro, small and medium enterprises (MSMEs) on loans extended by co-operative banks has been extended till March 31 next year.

{Source:

<https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=11976&Mode=0>]

JUDGEMENTS / ORDERS

DIN of disqualified company directors can be reactivated to avail the benefit of the Centre's Fresh Start Scheme: Kerala HC

The Kerala High Court directed the Registrar of Companies to reactivate the cancelled Director Identification Numbers (DIN) and Digital Signatures of two disqualified directors whose DINs were cancelled on account of failure to furnish prescribed returns.

[Source:

https://images.assettype.com/barandbench/2020-10/27102d6c-5868-47df-89dc-02e9d032fac5/Thirunavukkarasu_Ragunathan_v_Union_of_India_and_Ors___Judgment_Dated_September_28.pdf]

Financier continues to be Owner of Goods which are subject of Hire Purchase Agreement until Hirer pays all installments: SC

The financier continues to be Owner of Goods being the subject of Hire Purchase until the option to purchase is exercised by the Hirer, upon payment of all amounts agreed upon between the hirer and the financier.

[Source:

https://www.livelaw.in/pdf_upload/pdf_upload-382316.pdf]

NCLT directs Company to transfer shares to transferee as no complaint of loss of share certificate was filed

R. Ajayender v. Karvy Computershare (P.) Ltd. [2020] 119 taxmann.com 412 (NCLT - Hyd.)

In the instant case, the petitioner's father purchased 100 shares of the respondent company paying full sale consideration through share broker from its first registered joint holders 'M' and 'D'. However, the petitioner's father being ignorant of the procedure, kept shares with him on as is where basis.

The Petitioner later approached the respondent company requesting for transfer of physical shares into the petitioner's name. The Respondent - company returned the original transfer form and original shares stating shares as bad delivery on account of signature of transferor mismatch and directed the petitioner to re-lodge shares with transferor attestation.

In reply, the petitioner stated that the whereabouts of the transferor was not known and so he could not submit the required documents. The petitioner filed a petition under section 58 seeking directions to respondents to transfer the share certificate from its first registered holder to the petitioner and further to allot bonus shares and all other benefits in favor of the petitioner .

Since the notice was sent to the original transferor/shareholders, 'M' and 'D' but notices could not be served and further no complaint was lodged regarding theft/loss of share certificate till date, the respondent was be directed to register the transfer of shares in favor of petitioner provided petitioner furnished indemnity for an amount to be fixed by the respondent. Thus, the petition filed by the petitioner was to be allowed and the respondent was directed to transfer impugned 100 shares, in favor of the petitioner.

ACCOUNTING & AUDIT

Exposure Draft issued on Interest Rate Benchmark Reform - Phase 2 Replacement issues.

Considering Phase 2 of Interest Rate Benchmark Reform, the board had issued amendments to certain IFRS Standards in August, 2020 to address issues affecting financial statements when changes are made to contractual and hedging relationships. Following this, an exposure draft has been issued proposing amendments to specific requirements in Ind AS 109 Financial Instruments; Ind AS 107 Financial Instruments: Disclosures; Ind AS 116 Leases.

Exposure draft issued on seven Forensic Accounting and Investigation Standards (FAISs).

The Digital Accounting and Assurance Board (DAAB) of ICAI has issued another set of exposure draft proposing seven Forensic Accounting and Investigation Standards (FAIs) to enable the professionals to conduct their professional assignments in a uniform manner by referring to

comprehensive, quality and prudent set of standards. It will prove advantageous to the industry in terms of process standardization relating to FAI engagements.

MISCELLANEOUS

India and ADB Sign \$300 Million Loan to Develop Rajasthan's Secondary Towns

Government of India and the Asian Development Bank (ADB) signed a \$300 million loan to finance inclusive and sustainable water supply and sanitation infrastructure and services in 14 secondary towns of the state of Rajasthan.

Through the project, water supply systems in at least eight project towns are expected to improve by 2027, benefiting more than 570,000 people. Citywide sanitation systems will benefit about 720,000 people in atleast 14 secondary towns. The project will strengthen the institutional capacity of the local governments and the Rajasthan Urban Drinking Water, Sewerage, and Infrastructure Corporation Limited, a corporate entity established with ADB's technical support. Enhanced support to women and vulnerable groups will be provided through skills training, paid internships, and community engagement and awareness activities.

ADB, India sign \$270 million loan to improve urban services in 64 Madhya Pradesh small cities

The Asian Development Bank (ADB) and the Government of India today signed a \$270 million loan to develop water supply and integrated storm water and sewage management infrastructure and strengthen capacities of urban local bodies (ULBs) for improved service delivery in the state of Madhya Pradesh.

This is an additional financing to scale up the scope of the ongoing Madhya Pradesh Urban Services Improvement Project, which was approved in 2017 with a \$275 million loan. It will expand the outcome of the current project by covering additional 64 small cities benefiting 185,000 households consisting of about 1.3 million people.

ADB, India sign \$177 million loan for state road improvements in Maharashtra

The Asian Development Bank (ADB) and the Government of India today signed a \$177 million loan to upgrade 450 kilometers (km) of state highways and major district roads in the state of Maharashtra.

After signing the loan agreement, Shri Khare said the project will improve connectivity between rural areas and urban centres in the state enabling rural communities to better access markets, employment opportunities and services. Improved mobility will expand development and livelihood opportunities outside of the state's major urban centers to second-tier cities and towns thus reducing income disparities.

MSME Ministry introduces Artificial Intelligence (AI) and Machine Learning (ML)

strengthening its Single Window System Portal 'Champions' to assist MSMEs of the country Ministry implements AI & ML tools to get insights into MSME related issues and grievances for their quick and effective resolution;

The Ministry of MSME in a major initiative has on boarded latest IT tools of Artificial Intelligence(AI) and Machine Learning (ML) for providing assistance and solutions to the issues of Micro, Small, and Medium Enterprises (MSMEs). Ministry has implemented AI & ML on its robust Single Window System 'Champions' which was launched by the Prime Minister on 1st June, 2020. This multi-modal system has a portal at virtual level and technology equipped physical control rooms at around 69 locations of the country. It has emerged as one of the front runner platforms for the MSMEs in a very short span of time.

NITI Aayog, QCI Launch National Program and Project Management Policy Framework Initiative to Transform Infrastructure Sector in India


NITI Aayog and Quality Council of India today launched the 'National Program and Project Management Policy Framework' (NPMPF), envisaged to bring radical reforms in the way infrastructure projects are executed in India.


Lauding the initiative, Union Minister Nitin Gadkari said, 'NPMPF will help in realizing the Prime Minister's vision of an Aatmanirbhar Bharat by building a stronger India, in which we would need good quality infrastructure; we would need to reduce costs and waste material, without compromising on the environment and ecology. We also need to ensure time-bound and result-oriented delivery of projects.'

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

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