NANUBHAI DESAI & CO.

January 2020

the RECKONER

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Contents

INCOME TAX

DOMESTIC TAXATION

Circulars/ Notifications/ Press Release

Relaxation of time-Compounding of Offences under Direct Tax Laws-One-time measure-Extension of Timeline-Reg

- Reference is invited to the Circular No. 2512019 F. No. 285/08/2014-IT(Inv. V)/350 dated 09.09.2019, whereby, the condition for filing of applications for compounding of offences under the Income-tax Act, 1961 (the Act), to be filed within 12 months from filing of complaint in the court, was relaxed by CBDT till 31.12.2019, as a one-time measure.
- The CBDT has received references from the field formation, including requests made by the ICAI chapters, wherein, it has been brought to the notice of CBDT that the taxpayers could not avail the benefit of the one-time relaxation window due to genuine hardships.
- With a view to give a final opportunity to such taxpayers, and to reduce the pendency of existing prosecution cases before the courts, the CBDT in exercise of powers u/s 119 of the Act, read with explanation below sub-section (3) of section 279 of the Act, issues this Circular, whereby para 4. 1 i) of the Circular No. 25/2019 F. No. 285/08/20 14-IT(Inv. V)/350 dated 09.09.2019 stands modified as under:
  "Such application shall be filed before the Competent Authority i.e. the Pro CCIT/CCIT/Pr. DGIT/DGIT concerned, on or before 31.01.2020."
- It is clarified that all other prescriptions/conditions of the Circular No. 25/2019 shall remain unchanged and shall apply to all such applications.
  (Circular No.1/2020, dated 03rd January, 2020)

Section 12A of Income-tax Act, 1961

- Under the provision of section 12A of Income-tax Act, 1961 (hereafter 'Act') where the total income of a trust or institution as computed under the Act without giving effect to the provisions of section 11 and section 12 exceeds the maximum amount which is not chargeable to income tax in any previous year, the accounts of the trust or institution for that year have to be audited by any accountant as defined in the Explanation below sub-section (2) of section 288 and the person in receipt of the income is required to furnish along with the return of income for the relevant assessment year the report of such audit in the prescribed from duly

signed and verified by such accountant and setting forth such particulars as may be prescribed.

- As per Rule 17B of the Income-tax Rules, 1962 (hereafter 'Rules') the audit report of the accounts of such a trust or institution is to be furnished in Form No. 10B. As per Rule 12(2) of the Rules, such audit report is to be furnished electronically. The failure to furnish such report in the prescribed from along with the return of income results in disentitlement of the trust or institution from claiming exemption under sections 11 and 12 of the Act.
- Representations have been received by the Board/field authorities stating that Form No. 10B could not be filed along with the return of income for A.Y. 2016-17 and A.Y. 2017-18. It has been requested that the delay in filing of Form No. 10B may be condoned. Previously, vide instruction in F.No. 267/482/77-IT(part) dated 9-2-1978, the CBDT had authorized the ITO to accept a belated audit report after recording reasons in cases where some delay has occurred for reasons beyond the control of the assessee.
- Accordingly, the CBDT issued Circular No. 10/2019 circulated through F.No. 197/55/2018-ITA-I in supersession of earlier circular/Instruction issued in this regard, and with a view to expedite the disposal of applications filed by such trust or institution for condoning the delay in filing Form No. 10B and in the exercise of the powers conferred under section 119(2) of the Act, the Central Board of Direct Taxes vide Circular No. 10/2019 dated 23rd May, 2019 and Circular No. 28/2019 dated 27th September, 2019 both issued vide F.No. 197/55/2018-ITA-I has directed that :—
    i. The delay in filing of Form No. 10B for A.Y. 2016-17 and A.Y. 2017-18, in all such cases where the Audit Report for the previous year has been obtained before the filing of return of income and has been furnished subsequent to the filing of the return of income but before the date specified under section 139 of the Act is condoned.
    ii. In all other cases of belated applications in filing Form No. 10B for years prior to AY. 2018-19, The commissioner of Income-tax are authorized to admit and dispose off by 31-3-2020 such applications for condonation of delay u/s 119(2)(b) of the Act. The Commissioner will while entertaining such belated applications in filing Form No. 10B shall satisfy themselves that the assessee was prevented by reasonable cause from filing such application within the stipulated time.
- In addition to the above, it has also been decided by the CBDT that where there is delay of upto 365 days in filing Form No. 10B for Assessment Year 2018-19 or for any subsequent Assessment Years, the Commissioners of Income-tax are hereby

authorized to admit such belated applications of condonation of delay under section 119(2) of the IT Act and decide on merits.

- The Commissioners of Income-tax shall, while entertaining such belated applications in filing Form No. 10B, satisfy themselves that the assessee was prevented by reasonable cause from filing such application within the stipulated time

(Circular No.2/2020, dated 03rd January, 2020)

Section 11 of the Income-tax Act, 1961

- Under the provisions of Section 11 of the Income-tax Act, 1961 (hereafter 'Act') the primary condition for grant of exemption to trust or institution in respect of income derived from property held under such trust or institution is that the income derived from property held under trust or institution should be applied during the previous year, and it has to be accumulated and applied for such purposes in accordance with various conditions provided in the section.
- The Finance Act, 2015 amended section 11 and section 13 of the Act with effect from 1-4-2016 (Assessment Year 2016-17). Consequently, Income-tax Rules, 1962 (hereafter 'Rules') were also amended vide the Income-tax (1st Amendment) Rules, 2016. As per the amended provisions of the Act read with rule 17 of the Rules, while 15% of the income can be accumulated indefinitely by the trust or institution, 85% of income can only be accumulated for a period not exceeding 5 years subject to the conditions, inter alia, that such person submits the prescribed Form No. 10 electronically to the Assessment Officer within the due-date specified under section 139(1) of the Act.
- Further, where the income from property held under trust or institution applied to charitable or religious purposes falls short of 85% of the income derived during the previous year for the reason that the income has not been received during that year or any other reason, then on the exercise of the option by submitting in Form. No. 9A electronically by the trust or institution on or before the due-date of furnishing the return of income, such income shall be deemed to have been applied for charitable or religious purpose.
- Representations have been received by the Board/field authorities stating that Form No. 9A and Form No. 10 could not be filed along with the return of income starting from AY. 2016-17, which was the first year of e-filing of these forms, and for subsequent assessment years also. It has been requested that the delay in filing of Form No. 9A and Form No. 10 may be condoned under section 119(2)(b) of the Act.
- Accordingly, in suppression of earlier Circulars/Instructions issued in this regard, with a view to expedite the disposal of application filed by the trust or institution

for condoning the delay and in exercise of the powers conferred under section 119(2)(b) of the Act, the Central Board of Direct Taxes has already authorized the Commissioners of Income-tax to admit belated applications in Form No. 9A and Form No. 10 in respect of Assessment Year 2016-17 and Assessment Year 2017-18 where such Form No. 9A and Form No. 10 are filed after the expiry of the time allowed under the relevant provisions of the Act vide Circular No. 7/2018 dated 20-12-2018 and Circular No. 30/2019 dated 17- 12-2019 both issued vide F.No. 197/55/2018-ITA-I.

- In addition to the above, it has also been decided by the CBDT that where there is delay of up to 365 days in filing Form No. 9A and Form No. 10 for Assessment Year 2018-19 or for any subsequent Assessment Years, the Commissioners of Income-tax are hereby authorized to admit such belated applications of condonation of delay under section 13 9(2) of the IT Act and decide on merits.
- The Commissioners of Income-tax shall, while entertaining such belated applications in Form No. 9A and Form No. 10, satisfy themselves that the assessee was prevented by reasonable cause from filing of applications in Form No.9A and Form No. 10 within the stipulated time. Further, in respect of Form No. 10, the Commissioners shall also satisfy themselves that the amount accumulated or set apart has been invested or deposited in any one or more of the forms or modes specified in sub-section (5) of Section 11 of the Act.

(Circular No.3/2020, dated 03rd January, 2020)

SECTION 92D of sub-section (1) & (4) and SECTION 286 of sub-section (8) read with section 295 of the Income Tax Act 1961

- In exercise of the powers conferred by sub-section (1) and sub-section (4) of section 92D and sub-section (8) of section 286 read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely
- In the Income-tax Rules, 1962 (hereinafter referred to as the said rules), in rule 10 DA, with effect from the 1st day of April, 2020,
  - for the marginal heading, the following marginal heading shall be substituted, namely: - "Maintenance and furnishing of information and document by certain person under section 92D";
  - for sub-rules (2), (3), (4) and (5), the following sub-rules shall be substituted, namely: -

    "(2) The information and document specified under sub-rule (1) shall be furnished to the Joint Commissioner referred to in sub-rule (1) of rule 10DB, in

Form No. 3CEAA on or before the due date for furnishing the return of income as specified under sub-section (1) of section 139.

(3) The constituent entity shall furnish Part A of Form No. 3CEAA even if the conditions specified under sub-rule (1) are not satisfied.

(4) Where there are more than one constituent entities resident in India of an international group, the Form No. 3CEAA may be furnished by any one constituent entity, if, —

a. the international group has designated such entity for this purpose; and
b. the information has been conveyed in Form No. 3CEAB to the Joint Commissioner referred to in sub-rule (1) of rule 10DB, in this behalf thirty days before the due date of furnishing the Form No. 3CEAA.";

- sub-rules (6), (7) and (8) shall be re-numbered as sub-rules (5), (6) and (7) respectively.

- In the said rules, in rule 10DB, —
  - for sub-rules (1) and (2), the following shall be substituted, namely: -
    "(1) The income-tax authority for the purposes of section 286 shall be the Joint Commissioner as may be designated by the Director General of Income-tax (Risk Assessment).
    (2) The notification under sub-section (1) of section 286 shall be made in Form No. 3CEAC two months prior to the due date for furnishing of report as specified under sub-section (2) of said section.";
  - in sub-rule (3), the words and brackets "to the Director General of Income-tax (Risk Assessment)" shall be omitted;
  - for sub-rule (5), the following sub-rule shall be substituted, namely: -
    "(5) The information required to be conveyed under proviso to sub-section (4) of section 286 regarding the designated constituent entity shall be furnished in Form No. 3CEAE.".

(Notification No.3/2020/F. No. 370142/19/2019-TPL, dated 06th January, 2020)

Case laws

Commissioner of Income Tax (Exemptions) vs. Society of Indian Automobile Manufacturers SPECIAL LEAVE PETITION (CIVIL) NO. 19563 OF 2017, JANUARY 14, 2020

Facts:

- Section 2(15), read with section 11, of the Income-tax Act, 1961 - Charitable purpose (Objects of general public utility - Trade association)
- Assessee was incorporated with object of promoting awareness and information dissemination with respect to automobile industry
- For relevant year, assessee reported receipt of some amounts towards fees for conducting seminars - Assessing Officer opined that since assessee was engaged in carrying out commercial activity, proviso to section 2(15) was attracted
- Tribunal, however, held that mere collection of seminar fee did not result in assessee losing its essential character of being established for charitable purpose
- High Court upheld Tribunal's order - Revenue sought to withdraw SLP filed against High Court's order due to low tax effect - Whether, on facts, SLP filed by revenue was to be dismissed as withdrawn

Issue:

Where High Court upheld Tribunals' order holding that even though assessee, incorporated with object of promoting awareness and information dissemination with respect to automobile industry, collected seminar fee, yet same would not result in assessee losing its essential character of being established for charitable purpose, SLP filed against said order was to be dismissed due to low tax effect

Held:

- In this appeal, the Revenue urges that the decision of the Income Tax Appellate Tribunal (ITAT) in holding that the assessee was entitled to exemption under section 11 of the Income-tax Act, 1961, is incorrect.
- The assessee was incorporated with the object of promoting awareness and information dissemination with respect to automobile industry and is also

engaged in advocacy in that industry. For the relevant year, it reported receipt of some amounts towards fees for conducting seminars and other like activity.

- The Assessing Officer (AO) felt that since the assessee was engaged in providing commercial activity, the proviso to section 2(15) was attracted. The ITAT ruled - on the basis of this Court's judgments in India Trade Promotion Organization v. DGIT(Exemptions) [2015] 53 taxmann.com 404/229 Taxman 347/371 ITR 333 (Delhi) and Institution of Chartered Accountants of India v. DGIT (Exemptions) [2013] 35 taxmann.com 140/217 Taxman 152/358 ITR 91 (Delhi) that the mere circumstance of collection of such amounts did not result in the assessee losing its essential character of being established for charitable purposes.
- We are of the opinion that the ITAT's decision is sound in law and facts. No substantial question of law arises. The appeal is accordingly dismissed.

Manambur Service Co-Operative Bank Ltd.vs Income-tax Officer, W.P. (C) NO. 601 OF 2020(A) JANUARY 22, 2020

Facts:

- Section 154, read with section 80P of the Income-tax Act, 1961 - Rectification of mistakes
- Mistaken apparent from record (Others) - Assessment years 2008-09, 2013-14 and 2015-16
- Assessee, a primary co-operative society, filed return of income declaring total income at Nil after claiming eligible deduction under section 80P
- Assessing Officer completed assessment under section 143(3) by disallowing eligible deduction under section 80(P)(2)(a)(i)
- Commissioner (Appeals) allowed appeal filed by assessee by granting deduction under section 80P(2)(d)(a)(i)
- Later Commissioner (Appeals) suo motu initiated rectification proceedings and passed an order under section 154 dated 15-10-2019 disallowing deduction under section 80P
- Assessee aggrieved by order of Commissioner (Appeals) dated 15-10-2019 filed an application for rectification of mistake under section 154 - In meanwhile, Assessing Officer initiated coercive steps to recover disputed tax from assessee - Assessee filed writ petition seeking relief in this regard

- Whether Commissioner (Appeals) was to be directed to consider rectification application filed by assessee without much delay and affording reasonable opportunity of being heard - Held, yes
- Whether until order was passed on rectification application of assessee, further coercive steps for enforcement of impugned order shall be kept in abeyance by concerned authorities - Held, yes

Issue:

Where assessee claimed deduction under section 80P and both Assessing Officer and Commissioner (Appeals) disallowed deduction and assessee aggrieved by order of Commissioner (Appeals) file application for rectification of mistake and in meanwhile Assessing Officer initiated steps to recover disputed tax from assessee, Commissioner (Appeals) was to be directed to consider application of assessee without much delay

Held:

- The facts projected in this Writ Petition (Civil) are as follows: The petitioner is a primary co-operative society who filed return of income for the assessment year 2015-16 declaring total income at Nil after claiming eligible deduction u/s 80P of the Income-tax Act, 1961. The assessing officer completed the assessment u/s 143(3) by Ext.P-1 order dated 29-11-2017 disallowing eligible deduction u/s 80(P)(2)(a)(i) of the Income-tax Act, 1961 and computed total income as Rs. 41,28,889/- as against the declared income of Nil. Ext.P-2 demand notice u/s 156 for Rs. 17,43,640/- also been issued. The assessment was done against the judgment of this Court in Chirakkal Service Co-op. Bank Ltd. v. CIT [IT Appeal No. 212 of 2013 dated 15-2-2016.] The petitioner filed Ext.P-3 statutory appeal before the 3rd respondent challenging Ext.P-1 assessment order. By Ext.P-4 order the 3rd respondent allowed the appeal by granting deduction u/s 80(P)(2)(d)(a)(i) of the Income-tax Act, 1961, by deleting the tax amount assessed by the 1st respondent. After one year of Ext.P-4 order, the 3rd respondent suo motu initiated rectification proceedings u/s 154 of the said Act stating that there is apparent mistake. The petitioner filed objection and also enlightened the 3rd respondent the clarification Circular No.133/6 dated 9.5.2017 issued by the Central Board of Direct Taxes that a co-operative society, irrespective of its classification or nomenclature, is eligible for deduction u/s 80P. But without considering any of the objections raised by the petitioner, the 3rd respondent unilaterally allowed the

rectification petition as per Ext.P-6. Consequent to that, the 1st respondent issued Ext.P-7 order giving effect to the order of the 3rd respondent. Aggrieved by Ext.P-6 order, the petitioner filed Ext.P-8 petition for rectification of mistake u/s 154 of the Income-tax Act, 1961, which is pending before the 3rd respondent. Meanwhile, coercive steps are initiated to recover the disputed tax amount from the petitioner. The similar issues occurred for assessment years 2013-14 and 2008-09. The Exts.P-8, P-15 and P-21 statutory rectification petitions are pending before the 3rd respondent. But the 1st respondent initiated coercive steps by Exts.P-22, P-23 and P-24 letters of demand to recover the disputed tax amount. It is in the light of these averments and contentions that the petitioner has filed the instant Writ Petition (Civil) with the following prayers:

i. To issue a writ of certiorari quashing Exts.P-6, P-13 and P-19 rectification orders and P-22, P-23 and P-24 letters of demand issued by the respondents.

ii. To issue a writ, order or direction to the 1st respondent to keep in abeyance all the recovery proceedings pursuant to Exts.P-22, P-23 and P-24 letters of demand till the final disposal of the appeals before the 3rd respondent.

iii. To issue a writ of mandamus or other appropriate writ, order or direction to the 2nd respondent to consider the Exts.P-8, P-15 and P-21 rectification petitions on merit and also restrain the respondents from initiating coercive proceedings against the petitioner society till the final orders are passed in Exts.P-8, P-15 and P-21 by the 3rd respondent.

iv. To grant such other reliefs which this Hon'ble Court may deem fit and proper in the circumstances of the case."

- Heard Sri.C.A. Jojo, learned counsel appearing for the petitioner and Sri.Christopher Abraham, learned Standing Counsel for the Income Tax Department appearing for the respondents.
- Taking note of the facts and circumstances of the case, it is ordered that the rectification applications as per Exts.P-8, P-15 & P-21 will be taken up for consideration by R-3 without much delay, and affording reasonable opportunity of being heard to the petitioner through authorised representative/counsel, if any, may pass orders thereon without much delay preferably within a period of 4 to 6 weeks from the date of production of a certified copy of this judgment. Until orders are passed on Exts.P-8, P-15 & P-21 as aforestated, further coercive steps for enforcement of the impugned orders shall be kept in abeyance by the respondents concerned.

- With these observations and directions, the above Writ Petition (Civil) stands finally disposed

INTERNATIONAL TAXATION

Circulars/ Notifications/Press Release

RESOLUTION OF BAPA & MAP

- A two-member delegation of the State Secretariat of International Finance (SIF), Switzerland, visited India for bilateral **Mutual Agreement Procedure (MAP)** and **Advance Pricing Agreement (APA)** case discussions with the Indian delegation during 7th to 9th January, 2020. The 3-day meeting was productive and resulted in resolution of 1 BAPA case and 7 MAP cases.
- During 20th to 24th January, 2020, India hosted a 5-member delegation from Her Majesty's Revenue & Customs (HMRC), United Kingdom at New Delhi. The two delegations discussed a large number of MAP and APA cases during the week-long meeting and successfully resolved 3 APAs and 10 MAP cases. In addition, 1 concluded APA was revised to change the terms of the APA to accommodate changed economic circumstances and another APA was closed as the two sides could not reach an agreement.
- Transfer pricing cases involving adjustments on Advertisement, Marketing, and Sales Promotion expenses ('AMP expenses') are fiercely litigated in Indian courts. A distinctive feature of the above meeting between Competent Authorities of India and UK was resolution of a MAP case involving AMP adjustments. It is the first time that a MAP was resolved wherein a part of the AMP adjustments were retained.

SYNTHESIZED TEXTS OF INDIA'S TAX TREATIES AND MLI

- India is developing synthesized texts of its tax treaties and Multilateral Instruments (MLI) to facilitate the interpretation and application of the treaties as modified by the MLIs. India has prepared 13 synthesized texts till the end of January 2020, and hosted them on the official website of the Income Tax department.
- The treaties for which synthesized texts have been prepared are Australia, Austria, Finland, Ireland, Japan, Lithuania, Montenegro, Poland, Serbia, Singapore, Slovak Republic, UAE, and UK. All synthesized texts contain provisions that are minimum standards of MLI, viz preamble and Principal Purpose Text (PPT). PPT is an anti-abuse provision. Other clauses vary from treaty to treaty depending upon whether the clauses of MLI have been ratified by both India and the treaty partner.

Case Laws

Abbott Healthcare Pvt. Ltd. – Kerala High Court (International Taxation)

Facts

- The petitioner is in the business of supply of pharmaceutical products, diagnostic kits, etc. In the instant case, the petitioner had entered into Reagent Supply and Instrument agreement with various unrelated hospitals, laboratories, etc. By virtue of the agreement, the petitioner is required to place diagnostic medical instruments for specified periods at the premises of such hospital/laboratories without any consideration.
- Under the said agreement, the hospital/laboratories have an obligation to purchase specified quantities of reagent, calibrators, disposables, etc. at the prices specified in the agreement through the distributors of the petitioner.
- Based on the above facts, the petitioner had filed an application before the AAR, to seek a ruling on whether the free placement of medical instrument at the premises of an unrelated-parties would constitute 'supply' or whether it constitutes 'movement of goods otherwise than by way of supply'
- The AAR examined the issue in the backdrop of the agreement and ruled that the petitioner was making two supplies, namely, of medical instrument and of reagent, calibrators, disposables, etc. to be used along with the instrument. Since the instrument supplied had no utility unless the reagent, calibrators, disposables, etc. are bought along with it, the two supplies are to be treated as naturally bundled to form composite supply.
- Treating the said supply of medical instrument as the principal supply, the AAR held that the supply of reagent, calibrators, disposables, etc. shall be required to be taxed at the rate applicable to supply medical instrument.
- The order of the AAR was subsequently confirmed by the AAAR. Aggrieved, by the same, the petitioner filed a writ before the High Court of Kerala.

Issue:

AAR ruling, holding that free supply of medical instrument and reagents to be composite supplies quashed by High Court of Kerala

Held

- The High Court has observed in its order that the findings of the AAR with regards to treating both the supply, i.e. supply of medical instrument and the

supply of reagent, calibrators, disposables, etc. as a composite supply is without jurisdiction. The AAR did not go into the real issue for which the application was filed before the AAR i.e. whether the supply of instruments per se constituted a taxable supply, or whether it constitutes 'movement of goods otherwise than by way of supply'.

- In addition to the above, the Court made the following further observations –
- The concept of enhancement of utility of the instrument through supply of reagent, calibrators, disposables, etc., are relevant for the purpose of valuation of the supply of medical instruments, the same cannot be applied to determine whether the supply is a composite supply.
- The supplies are made by two different taxable persons; the supply of instrument by the petitioner and the supply of the reagent, calibrators, disposables, etc. by the distributor, who purchases it from him on principal to principal basis. Although it could be argued that there is a relationship between the said persons that influences the valuation of the supply, the same does not take away from the fact that the supplies are made by two different taxable persons.
- There is no material to suggest that the two supplies are bundled and supplied in conjunction with each other in "the ordinary course of business". The business model of supply of reagent, calibrators, disposables, etc. through distributors has been followed by the petitioner for a considerable time, and it shows that placement of instrument is not bundled with sale of reagent, calibrators, disposables, etc. in the ordinary course of business.
- Based on the above observation, the High Court remitted the matter back to the AAR for fresh decision on the query raised before it by the petitioner

REGULATION GOVERNING INVESTMENTS

FOREIGN EXCHANGE MANAGEMENT ACT (FEMA)

Reporting of OTC Currency Derivative transactions to trade repository

- Reference to the circular FMD.MSRG.No.94/02.05.002/2013-14 dated December 04, 2013 on the captioned subject, wherein a threshold of USD 1 million, and equivalent thereof in other currencies, was stipulated for reporting client transactions in currency derivatives (currency swaps and FCY FRA/IRS) to the Trade Repository (TR).
- It has now been decided that all client transactions in currency derivatives, including those with notional amount of below USD 1 mn, shall now be reported to the TR, with effect from January 06, 2020
- As a one-time measure, in order to update the transactions in the Trade Repository, AD Category – I banks shall report all outstanding client transactions with notional amount below USD 1 mn to the TR by January 31, 2020.
- These directions are issued under section 45W of RBI Act and shall come into force with effect from the date of these directions.

[RBI/2019-20/132 -FMRD.FMID No.23/02.05.002/2019-20, dated on 1st January 2020]

Investment by Foreign Portfolio Investors (FPI) in Deb

- On a review, the following changes are made to the Directions: -.
    - In terms of paragraph 4(b) (i) of the Directions, short-term investments by an FPI shall not exceed 20% of the total investment of that FPI in either Central Government Securities (including Treasury Bills) or State Development Loans. This short-term investment limit is hereby increased from 20% to 30%.
    - In terms of paragraph 4(b) (ii) of the Directions, short-term investments by an FPI shall not exceed 20% of the total investment of that FPI in corporate bonds. This short-term investment limit is hereby increased from 20% to 30%.
    - FPI investments in Security Receipts are currently exempted from the short-term investment limit (paragraph 4 (b)(ii)) and the issue limit (paragraph 4(f)(iii)). These exemptions shall also extend to FPI investments in the following securities:

i. Debt instruments issued by Asset Reconstruction Companies; and

ii. Debt instruments issued by an entity under the Corporate Insolvency Resolution Process as per the resolution plan approved by the National Company Law Tribunal under the Insolvency and Bankruptcy Code, 2016

- These directions are issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions/ approvals, if any, required under any other law.

[A.P. (DIR Series) Circular No.18 dated 23rd January, 2020]

COMPANY LAW

Notification of under section 67 of LLP

- In exercise of the powers conferred by sub-section (1) of section 67 of the Limited liability Partnership Act, 2008 (6 of 2009], the central Government hereby directs that the provisions of section 460 of the Companies Act, 2013 (18 of 2013) shall apply to a limited liability partnership from the date of publication of this notification in the official Gazette.
  [F.No. 17/612016-CL-V, dated 30th January, 2020]

ACCOUNTS & AUDIT

Accounting Treatment of Expenditure Relating to Employee Benefits Expenses, Rent Expenses, Travelling Expenses and House-keeping Expenses which are compulsorily required to be incurred for Construction of the Project

Opinion is issued by EAC of ICAI on accounting treatment of expenditure (capital v/s revenue) relating to employee benefits, rent, travelling costs and house-keeping which are incurred for construction of a project. EAC has opined that only directly attributable costs such as salaries of project departments, rent expense of site offices, etc., can capitalized along with the cost of the project. Other elements of cost which are normally in the nature of administration and general overheads should be charged to profit & loss account.

GOODS AND SERVICE TAX

Standard Operating Procedure (SOP) for IGST refunds for exporters issued.

- As you are aware, several cases of monetisation of credit fraudulently obtained or ineligible credit through refund of Integrated Goods & Service Tax (IGST) on exports of goods have been detected in past few months. On verification, several such exporters were found to be non-existent in a number of cases. In all these cases it has been found that the Input Tax Credit (ITC) was taken by the exporters on the basis of fake invoices and IGST on exports was paid using such ITC.
- To mitigate the risk, the Board has taken measures to apply stringent risk parameters-based checks driven by rigorous data analytics and Artificial Intelligence tools based on which certain exporters are taken up for further verification. Overall, in a broader time frame the percentage of such exporters selected for verification is a small fraction of the total number of exporters claiming refunds. The refund scrolls in such cases are kept in abeyance till the verification report in respect of such cases is received from the field formations. Further, the export consignments/shipments of concerned exporters are subjected to 100 % examination at the customs port.
- While the verifications are caused to mitigate risk, it is necessary that genuine exporters do not face any hardship. In this context it is advised that exporters whose scrolls have been kept in abeyance for verification would be informed at the earliest possible either by the jurisdictional CGST or by Customs. To expedite the verification, the exporters on being informed in this regard or on their own volition should fill in information in the format attached as Annexure 'A' to this Circular and submit the same to their jurisdictional CGST authorities for verification by them. If required, the jurisdictional authority may seek further additional information for verification. However, the jurisdictional authorities must adhere to timelines prescribed for verification.
    - Verification shall be completed by jurisdiction CGST office within 14 working days of furnishing of information in proforma by the exporter. If the verification is not completed within this period, the jurisdiction officer will bring it the notice of a nodal cell to be constituted in the jurisdictional Pr. Chief Commissioner/Chief Commissioner Office.
    - After a period of 14 working days from the date of submission of details in the prescribed format, the exporter may also escalate the matter to the Jurisdictional Pr. Chief Commissioner/Chief

Commissioner of Central Tax by sending an email to the Chief Commissioner concerned

- The Jurisdictional Pr. Chief Commissioner/Chief Commissioner of Central Tax should take appropriate action to get the verification completed within next 7 working days.

- In case, any refund remains pending for more than one month, the exporter may register his grievance at www.cbic.gov.in/issue by giving all relevant details like GSTIN, IEC, Shipping Bill No., Port of Export & CGST formation where the details in prescribed format had been submitted etc.. All such grievances shall be examined by a Committee headed by Member GST, CBIC for resolution of the issue

[Circular No.131/1/2020-GST, dated 23rd January 2020]

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