



**Success does not lie in 'Results', But in 'Efforts',
'Being' the best is not so important; 'Doing' the
best is all that matters.**



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Income Tax

1.Menu Restructuring:

The Functionalities under menus available post login to e-Filing portal are restructured for making better user experience.

After restructuring, the functionalities available under “My Account” are explained below

- 1) View Form 26AS (Tax Credit)
- 2) View e-Filed Returns/Forms:
 - a) e-Filed Returns/Forms
 - b) Form 15CA
 - c) Form 6(for undisclosed foreign assets)
 - d) Forms (Income Declaration Scheme, 2016)
 - e) Rectification Status
 - f) 15CA Bulk (If applicable)
- 3) Tax Credit Mismatch
- 4) Download Pre-filled XML
- 5) Generate EVC (If applicable)
- 6) Manage ITDREIN
- 7) My CA/ERI
- 8) Service Request:
 - a) Refund Re-issue Request
 - b) Request for Intimation u/s 143(1)/154
 - c) Register as Legal Heir (If applicable)

2. Clarifications on the Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016:

Question No.1:

Whether the amounts deposited in an account maintained with a bank or post office like Saving account, Current Account, Recurring Deposit Account, Fixed Deposit Account, PPF Account, Senior Citizen Saving Scheme Account, Monthly Income Scheme Account, Jan Dhan Yojana Account are eligible for being declared in the Scheme?

Answer:

As per section 199C(1) of the Scheme, a person can make declaration in respect of any income in the form of deposit in an account maintained by the person with a specified entity and as per Explanation to section 199C(2) the banks and post offices come under the definition of specified entity. Hence, the undisclosed income deposited in the accounts specified above can be declared under the Scheme.

Question No.2:

Whether declaration under the Scheme can be made in respect of income which is represented in the form of investment in any asset like jewellery, stock or immovable property?

Answer:

No. Under the Scheme, only income represented in the form of cash or deposit in an account maintained with specified entity can be declared. The Scheme is hence not available for declaration of an income which is

represented in the form of assets like jewellery, stock or immovable property.

Question No.3:

Where a notice under section 142(1)/ 143(2)/ 148/ 153A/ 153C of the Income-tax Act has been issued to a person for an assessment year, will such person be eligible for making a declaration under the Scheme?

Answer:

Yes, such person is eligible to avail the Scheme subject to fulfilment of conditions specified in the Scheme.

Question No.4:

Whether credit of advance tax paid, tax deducted at source (TDS), tax collected at source (TCS), in respect of an income declared under the Scheme would be available?

Answer:

No credit for advance tax paid, TDS or TCS shall be allowed under the Scheme.

Question No.5:

Can a person come under the Scheme with respect to deposit made in a bank account prior to the Financial Year 2016-17?

Answer:

A person can avail the Scheme for any assessment year commencing on or before the 1st day of April, 2017. Hence, deposits made in bank

account prior to financial year 2016-17 can also be declared under the Scheme.

Question No. 6:

Whether undisclosed income deposited/repaid in an Overdraft Account or Cash Credit Account or any loan account maintained with a bank is eligible for being declared under the Scheme?

Answer:

Yes, the amount deposited or repaid against an overdraft account/cash credit account/any loan account maintained with a bank or any specified entity is eligible for being declared under the Scheme.

3. Income Tax Department receives Silver Award for e-filing of Income Tax Returns project- National Awards on e-Governance 2016-17

The Income Tax Department is proud to announce that it has been conferred the Silver Award in the National Awards on e-Governance-2016-17 for the e-filing of Income Tax returns and other forms project in the category “Incremental Innovations” in existing projects.

The path breaking innovations introduced by the Department in the e-filing of Income Tax returns project are:

I . Introduction of Electronic Verification Code (EVC)-

This innovation introduced in July 2015 enables the citizen to electronically verify Income tax returns and other forms using EVC through third party authentication services provided by Aadhaar using Aadhaar OTP, authentication by banks using net banking,

ATM, bank account validation and security depositories such as NSDL and CDSL using demat account validation. The taxpayer can use any of these authenticating mechanisms to receive an Electronic Verification Code (EVC) which can be entered after submission of a return to verify and complete the process. This year alone over 1.1 Cr Income Tax returns have been electronically verified using EVC thereby obviating the need to submit a paper copy of the ITR-V to CPC Bangalore as was being done earlier.

II. Easy compliance through Non-Filers Monitoring and E-Sahyog-

This innovation aims at providing convenience to the tax payer for submitting tax compliance response through the e-filing portal. The taxpayer can now sitting at home or office any time any where respond

to any letter from the Department seeking taxpayer clarification regarding non filing of return or any mismatch in Income Tax return. This innovation has the potential to significantly reduce compliance cost and increase voluntary compliance.

4. Income Tax Department (ITD) launches Operation Clean Money

Income Tax Department (ITD) has initiated Operation Clean Money, today. Initial phase of the operation involves e-verification of large cash deposits made during 9th November to 30th December 2016. Data analytics has been used for comparing the demonetisation data with information in ITD databases. In the first batch, around 18 lakh persons

have been identified in whose case, cash transactions do not appear to be in line with the tax payer's profile.

ITD has enabled online verification of these transactions to reduce compliance cost for the taxpayers while optimising its resources. The information in respect of these cases is being made available in the e-filing window of the PAN holder (after log in) at the portal <https://incometaxindiaefiling.gov.in>. The PAN holder can view the information using the link "Cash Transactions 2016" under "Compliance" section of the portal. The taxpayer will be able to submit online explanation without any need to visit Income Tax office.

Email and SMS will also be sent to the taxpayers for submitting online response on the e-filing portal. Taxpayers who are not yet registered on the e-filing portal (at <https://incometaxindiaefiling.gov.in>) should register by clicking on the 'Register Yourself' link. Registered taxpayers should verify and update their email address and mobile number on the e-filing portal to receive electronic communication

Case Laws

Supreme Court

1. S. 2(22) Deemed Dividend

Facts: The Assessing Officer concluded that the assessee was both the registered shareholder of the company and also the beneficial owner of shares, as it was holding more than 10 per cent of voting power and, therefore, amount received by the assessee-HUF from said company was to be included in the income of the assessee as deemed dividend. On appeal, the assessee contended that being a HUF, it could neither be the beneficial shareholder nor the registered shareholder of the company and that the company had issued shares in the name of Karta of the HUF, and not in the name of the assessee/HUF as shares could not be directly allotted to a HUF and, therefore, provisions of section 2(22)(e) could not be attracted. However, the Commissioner (Appeals) rejected the contention of the assessee. On second appeal, the Tribunal deleted the addition made by the Assessing Officer. On revenue's appeal, the High Court sustained the addition made by the Assessing Officer

Held: Section 2(22)(e) creates a fiction, thereby bringing any amount paid otherwise than as a dividend into the net of dividend under certain circumstances. It gives an artificial definition of 'dividend'. It does not take into account that dividend which is actually declared or received. The dividend taken note of by this provision is a deemed dividend and not a real dividend. Loan or payment made by the company to its shareholder is

actually not a dividend. In fact, such a loan to a shareholder has to be returned by the shareholder of the company. It does not become income of the shareholder. Notwithstanding the same, for certain purposes, the Legislature has deemed such a loan or payment as 'dividend' and made it taxable at the hands of the said shareholder. It is, therefore, not in dispute that such a provision which is a deemed provision and fictionally creates certain kinds of receipts as dividends, is to be given strict interpretation. It follows that unless all the conditions contained in the said provision are fulfilled, the receipt cannot be deemed as dividends. Further, in case of doubt or where two views are possible, benefit shall accrue in favour of the assessee. In the instant case, the payment in question is made to the assessee which is a HUF. Shares are held by Karta of this HUF. The said Karta is, undoubtedly, the member of HUF. He also has substantial interest in the assessee/HUF, being its Karta. It was not disputed that he was entitled to not less than 20 per cent of the income of HUF. In view of the aforesaid position, provisions of section 2(22)(e) get attracted and it is not even necessary to determine as to whether HUF can, in law, be beneficial shareholder or registered shareholder in a company. It is also found as a fact, from the audited annual return of the company filed with ROC that the money towards shareholding in the company was given by the assessee/HUF. Though, the share certificates were issued in the name of the Karta, Gopal Kumar Sanei, but in the annual returns, it is the HUF which was shown as registered and beneficial shareholder. In any case, it cannot be doubted that it is the beneficial shareholder. Even if it is presumed that it is not a registered shareholder, as per the provisions of section 2(22)(e), once

the payment is received by the HUF and shareholder (Karta, in this case) is a member of the said HUF and he has substantial interest in the HUF, the payment made to the HUF shall constitute deemed dividend within the meaning of clause (e) of section 2(22). This is the effect of Explanation 3 to the said section. Therefore, it is no gainsaying that since HUF itself is not the registered shareholder, the provisions of deemed

[Gopal and Sons HUF vs. CIT]

2. S. 28(i) r.w.s 145 Method of Accounting

Facts: Business income - Year in which chargeable (Advance payments) - Assessment year 2006-07 - Assesseees were appointed for a period of 5 years as management consultant for chain of hospitals run and managed by UGHPL - UGHPL paid to assesseees a consolidated amount for 5 years in advance and deducted TDS from advance payment - High Court by impugned order held that since accounts were maintained on cash basis and there was no agreement about spreading income over 5 years, entire amount received should be brought to tax in year of receipt - Whether Special Leave petition filed against impugned order was to be dismissed as withdrawn - Held, yes [In favour of revenue]

Held: SLP dismissed against High Court's ruling that where assesseees were paid a consolidated amount for 5 years in advance for their services but there was no agreement between parties about spreading amount over 5 years and accounts were maintained on cash basis, entire amount was to be taxed in year of receipt

[Aman Khara vs. CIT]

High Court**3. S.9 Income Accrued and arise in India**

Facts: The assessee was a tax resident of the Republic of China. It was engaged in the business of supplying telecom equipment i.e. mobile handsets. The assessee's plea was that the payments for supply of software embedded in hardware were in the nature of business profits and not royalty. The Assessing Officer held that the payments made for the right to use the software was royalty as per clause (I), (ii) and (v) to Explanation 2 to section 9(1)(vi) of the Act. The Tribunal, however, allowed assessee's claim.

Held: The supplies made of the software enabled the use of the hardware sold. It was not disputed that without the software, hardware use was not possible. The mere fact that separate invoicing was done for purchase and other transactions did not imply that it was royalty payment. In such cases, the nomenclature (of license or some other fee) is indeterminate of the true nature. Nor is the circumstance that updates of the software are routinely given to the assessee's customers. These facts do not detract from the nature of the transaction, which was supply of software, in the nature of articles or goods. Thus, it being a case of sale of copyrighted good, payment made for supply of software was not taxable as royalty.

[CIT vs. ZTE Corporation]

Value Added Tax

1. Full / Partial exemption of late fee under section 20 (6) of MVAT Act, for late returns.

It is a known fact that the returns for the periods from 1st April 2016 are being filed in the new formats on the new automation SAP system whereas the returns for the earlier periods are being accepted in the old formats on the old automation system. It had been noted that there are quite a large number of dealers who have not filed the returns for the earlier periods.

With a view to grant opportunity to such defaulters, the Government of Maharashtra has waived the late fee by amending the notification, No. VAT 1513/CR 124/ Taxn-1, dated 1st January 2014, issued u/s 20 (6) of the MVAT Act by notification No. VAT 1516/CR 178/ Taxn-1, dated 28th December 2016. By virtue of this notification, a **limited period opportunity** is being given for the returns defaulters to upload returns **without payment of late fee or on payment of partial fee.**

A registered dealer, who uploads the pending returns for any period upto 31st March 2016, shall be eligible to take benefit of the waiver of late fee, depending on the phase, in which he uploads the return. The scheme of full/partial exemption of the late fee will be operative in **two phases** as follows:

Sr No	Phase	Return filed during the period	Late fee for uploading
1	Phase I	1 st January 2017 to 31 st January 2017	No late fee payable
2	Phase II	1 st February 2017 to 28 th February 2017	Rs. 2,000/- payable per return

The departmental machinery shall be put into full force after 28th February 2017 for taking stringent action against defaulters. The returns for the old periods, would be allowed to be uploaded on or after 1st March 2017 only on payment of full late fee of Rs. 5,000/-

2. Distribution of Provisional Login ID and Passwords for GST

Trade circular 35T of 2016 dt.12.11.2016 explained the step-to-step instructions to obtain Provisional Login ID and Password (i.e Access Token)

In the first phase, dealers with active registration status and Pan's and registered under MVAT Act/ CST Act/ Luxury Act/ Entry Tax Act upto 31/08/2015 were allotted provisional ID's and Passwords.

Now, the activity of distribution of Provisional IDs and Password for second phase has been started. The list is made available in the "What's New" section on departmental portal (www.mahavat.gov.in). The step-by--step procedure for obtaining Provisional ID and password explained in trade circular 35T of 2016 dt.12.11.2016

Those dealers with active registration status and valid PAN's, who are not covered in Phase 1 & Phase 2 lists, will be covered in subsequent phases. It has also been noticed that, in case of a few dealers, in the Maharashtra Sales Tax Department's registration database, PAN is either invalid or Blank or have more than one TINs are generated on a single PAN. The list of such dealers is made available in the "What's New" section on department's portal. Such dealers should contact their Nodal Officers along with a copy of PAN and amendment applications for further necessary corrections in their PAN.

There are some cases, where it is noticed that while enrolling on GST Portal, some dealers noticed the fact about incorrect PAN against their Provisional Id. Such dealers are advised not to proceed for GST enrollment and contact to their respective Nodal Officer for correction in their PAN first.

3. Filing of the VAT Audit Report in Form-704 for the year 2015-16

According to rule 17A (1) of the Maharashtra Value Added Tax Rules, 2005, the VAT Audit Report in Form 704 should be uploaded electronically. Rule 66 of the said Rules mandates that such Audit Report in Form-704 shall be submitted within 9 months and 15 days of the end of the year to which such report relates. Accordingly, the prescribed date for filing of Form e-704 for the year 2015-16 is 15th January 2017. After careful consideration of the representations obtained from various Trade and Associations and with the approval of the Finance Department, Government of Maharashtra, it has been decided to allow the uploading of Audit Report in Form e-704 for the year 2015-16 upto **9th February 2017**.

In view of the above, the physical copy of the acknowledgement and the statement of submission of Audit Report shall be submitted to the respective Nodal Officers, Dy. Commissioner of Sales Tax, Asst. Commissioner of Sales Tax or Sales Tax Officers on or before **27th February 2017**. The list of Nodal Officers is available on the website www.Mahavat.gov.in For dealers uploading the Audit Report under section 61(1) of the said Act on or before 9th February 2017 and submitting the physical copy of the acknowledgement on or before 20th February 2017, the penalty proceeding shall not be initiated.

4. Go live of improved functionality of new registration with integrated payment gateways and functionality for amendment and cancellation of registration certificate

The SAP based Registration System for providing unified online application for registration under various Acts administered by the department has been in operation since 25th May 2016. This system has been upgraded from 19th December 2016. The additional features updated in this system are:

1. Integration of Payment Gateways for payment for fee or deposit or both along with application for new registration
2. Online facility of application for amendment or cancellation of registration certificate

With implementation of this upgraded version, now,

- i) The applicant who wishes to apply for registration can pay applicable fee and or deposit through the Payment Gateways of GRAS and SBI e-pay, while submitting the application for registration.

- ii) The registered dealer shall apply online through this SAP based system for amendment or cancellation of registration. This facility is available for the dealers registered prior to 25th May 2016 as well as dealers registered after 25th May 2016

Prior to the implementation of the upgraded version, the applicant applying for registration had to pay applicable fee or deposit or both and had to upload the corresponding challan with the application for registration. As the new system was being introduced in near future, the applicant, who had already paid the applicable amount, were asked to submit their applications through the earlier system of application.

However it was observed that some of the applicants had paid the aforesaid amount of fees/deposits through the earlier system but failed to apply for registration in earlier system which was in existence prior to 19th December 2016. For such dealers, the following guidelines are being issued-

- a) The applicant, who have already created Login Id and password for registration before 17th December 2016 and did not/could not upload the application for registration before 17th December 2016, shall be required to use the same for the system implemented from 19th December 2016
- b) If the password does not work, then the applicant is required to reset it by using "Forgot Password" functionality. The security questions and other information submitted earlier can also be used.

- c) The applicant, who made the payment of Registration Fee and or deposit before 19th December 2016 but failed to submit registration application on or before 19th December 2016 or have not received registration certificate under MVAT Act, shall be again required to pay the applicable fee or deposit through payment gateways to obtain the registration under the various Acts administered by Maharashtra Sales Tax Department
- d) Such applicant may apply for refund of such amount of fee and or deposit paid under earlier system to the concerned Additional Commissioner of Sales Tax or they can claim this amount as payment of tax in the returns to be filed by them for FY 2016-17 onwards

All pending applications for amendment/cancellation before 19th December 2016 will be cleared through old mahavat portal only.

Service Tax

1. Notification No. 1/2017-Service Tax dated 12th January,2017

In Mega exemption Notification, in entry no 29,for item (g),business facilitator or a business correspondent to a banking company or an insurance company, in a rural area; has been substituted as **“business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch.”**w.e.f. 22nd January,2017

2. Notification No. 2/2017-Service Tax dated 12th January,2017

In the Service Tax Rules, 1994, in rule 2, in sub-rule (1),-

(i) in clause (aa), the following proviso shall be inserted, namely:-

“Provided that aggregator shall not include such person who enables a potential customer to connect with persons providing services by way of renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes subject to following conditions, namely:-

(a) the person providing services by way of renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes has a service tax registration under provision of these rules; and

(b) whole of the consideration for services provided by such service provider is received directly by such service provider and no amount, which forms part of the consideration of services of such service

provider, is received by the aggregator directly from either recipient of the service or his representative.”

ii) in clause (d), in sub-clause(i), after item (EEB), the following item shall be inserted, namely:-

“(EEC) in relation to services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India, the person in India who complies with sections 29, 30 or 38 read with section 148 of the Customs Act, 1962 (52 of 1962) with respect to such goods”

3.Notification No. 3/2017-Service Tax dated 12th January,2017

In Notification No 30/2012-Service Tax, in paragraph I, in clause (A), after the sub-clause (vi), the following sub-clause shall be inserted, namely:-

In case of service provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India the service tax shall be paid by service receiver.

4. Notification No. 4/2017-Service Tax dated 12th January,2017

Below mentioned changes has been made in tour operator services:-

Service	Taxable Rate	CENVAT Rules
Services by a tour operator including Service solely of arranging or booking accommodation and Other than above services	60%	<p>(i) CENVAT credit on inputs and capital goods used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004</p> <p>(ii) The bill issued for this purpose indicates that it is inclusive of charges of accommodation and transportation required for such a tour and the amount charged in the bill is the gross amount charged for such a tour including the charges of accommodation and transportation required for such a tour.</p>

5. Notification No. 6/2017-Service Tax dated 30th January,2017

In the Service Tax Rules, 1994, in rule 6, in sub-rule (1), after the last proviso, the following proviso shall be inserted, namely,-

“Provided also that in case of online information and database access or retrieval services provided or agreed to be provided by any person located in a non-taxable territory and received by non-assesse online recipient, the service tax payable for the month of December, 2016 and January, 2017, shall be paid to the credit of the Central Government by the 6th day of March, 2017.”

6. Notification No. 7/2017-Service Tax dated 2nd February,2017

➤ Following changes are made in Mega Exemption Notification No No.25/2012-Service Tax:-

- in entry 9B, in item (a), the word “residential” shall be omitted;
- after entry 23, the following entry shall be inserted, namely:-

“23A. Services provided to the Government by way of transport of passengers, with or without accompanied belongings, by air, embarking from or terminating at a Regional Connectivity Scheme Airport, against consideration in the form of Viability Gap Funding (VGF):

Provided that nothing contained in this entry shall apply on or after the expiry of a period of one year from the date of commencement of operations of the Regional Connectivity Scheme Airport as notified by the Ministry of Civil Aviation.”;

- **After entry 26C, the following entry shall be inserted, namely**
26D “Services provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds by way of life insurance to members of the Army, Navy and Air Force under the Group Insurance Schemes of the Central Government, is being exempted from 10th day of September, 2004”

(The date when services of life insurance became taxable)

- **For entry 30, the following entry shall be substituted with effect from the date on which the Finance Bill, 2017 receives assent of the President, namely:-**

- The Negative List entry in respect of “services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption” is proposed to be omitted.
- However, the same entry is being placed in exemption notification No. 25/2012-Service Tax dated 20th June, 2012.
- Consequently, the definition of ‘process amounting to manufacture’ [clause (40) section 65B] is also proposed to be omitted from the Finance Act, 1994 and is being incorporated in the general exemption notification.
- It is amended by notification No. 07/2017-ST, dated 2nd February, 2017.

Case Law

1. No service tax under reverse charge when service recipient reduces transportation charges from invoice value .

FACTS:- Adjudicating Authority held that assessee, a sugar factory, was liable to discharge service tax liability on amount paid by it as freight charges for transportation of sugarcane from fields to its factory. He rejected submission of assessee that transportation of sugarcane was done by farmers as per agreement and said amount paid by it as freight inward/transportation charges was recovered from individual farmers .

HELD:- No service tax under reverse charge when service recipient reduces transportation charges from invoice value

RBI & FEMA

1. RBI/2016-17/216

A.P. (DIR Series) Circular No. 28 Dated January 25, 2017

Prohibition on Indian Party from making direct investment in countries identified by the Financial Action Task Force (FATF) as “Non Co-operative countries and territories”

At present, there is no restriction on an Indian Party with regard to the countries, where it can undertake Overseas Direct Investment. In order to align, the instructions with the objectives of FATF, on a review, it has been decided to prohibit an Indian Party from making direct investment in an overseas entity (set up or acquired abroad directly as JV/ WOS or indirectly as step down subsidiary) located in the countries identified by the FATF as “non co-operative countries and territories” as per list available on FATF website www.fatf-gafi.org or as notified by the Reserve Bank of India from time to time.

AD- Category I banks may bring the contents of this circular to the notice of their constituents and customers concerned.

[Master Direction No.15/2015-16 dated January 01, 2016](#) is being updated to reflect the changes.

The directions contained in this circular have been issued under section 10(4) and 11(1) of the Foreign Exchange Management Act (FEMA), 1999

(42 of 1999) and are without prejudice to permissions/approvals, if any, required under any other law.

2. RBI/2016-17/212

A.P. (DIR Series) Circular No. 27 Dated January 12, 2017

Evidence of Import under Import Data Processing and Monitoring System (IDPMS)

This notification relates to Obligation of Purchaser of Foreign Exchange and submission of document as Evidence of Import.

Bill of Entry (BoE) data is received in IDPMS from Customs Department for EDI ports and from NSDL for SEZ on daily basis. BoE data for non-EDI ports are entered by AD Category – I bank of the importer on receipt of BoE (importer's copy) and then the bank uploads the data in IDPMS through "Manual BOE reporting" process. In order to enhance ease of doing business and reduce transaction costs, it has been decided to discontinue submission of hardcopy of Evidence of Import documents i.e. BoE, with effect from December 01, 2016, as it is available in IDPMS. The revised procedures are as set out below:

AD Category – I bank will enter BoE details (BoE number, port code and date) as received from the importer and download the BoE message data from "BOE Master" in IDPMS. Thereafter, match and settle the BoE data with Outward Remittance Message (ORM) associated with the payment for import as per the message format "BOE Settlement" in IDPMS.

Multiple ORMs can be settled against single BoE and also multiple BoE(s) can be settled against one ORM.

In respect of imports on 'Delivery against Acceptance' basis, on request of importer, AD Category - I bank shall verify the evidence of import from IDPMS at the time of effecting remittance of import bill.

On settlement of ORM with evidence of import AD Category - I bank shall in all cases issue an acknowledgement slip to the importer containing the following particulars:

- a. importer's full name and address with code number ;
- b. number and date of BoE and the amount of import; and
- c. a recap advice on number and amount of BoE and ORM not settled for the importer.

The importer needs to preserve the printed 'Importer copy' of BoE as evidence of import and acknowledgement slip for future use.

The extant instructions and guidelines for Evidence of Import in Lieu of Bill of Entry will apply mutatis mutandis. The evidence of import in lieu of BoE in permitted/approved conditions will be created and uploaded by AD Category - I bank of the importer in the form of BoE data as per message format "Manual BOE reporting" in IDPMS. Follow-up for Evidence of Import : AD Category - I banks shall continue to follow up for outward remittance made for import (i.e. unsettled ORM) in terms of extant guidelines and instructions on the subject. In cases

where relevant evidence of import data is not available in IDPMS on due dates against the ORM, AD Category - I bank shall follow up with the importer for submission of documentary evidence of import. Similarly, if BoE data is not settled against ORM within the prescribed period AD Category - I banks shall follow up with the importer in terms of extant instructions.

Verification and Preservation: Internal inspectors and IS auditors (including external auditors appointed by AD Category - I bank) should carry out verification and IS audit and assurance of the “BOE Settlement” process in IDPMS. Data and process followed by AD Category -I bank for “BOE Settlement” should be preserved in terms of the guidelines under Cyber Security Framework in the bank. However, in respect of cases which are under investigation by investigating agencies, the data, process and/or documents may be destroyed only after obtaining clearance from the investigating agency concerned.

Authorised Dealers may bring the contents of this circular to the notice of their constituents and customers concerned.

Master Direction No. 17 dated January 1, 2016 is being updated to reflect the changes.

The directions contained in this circular have been issued under Section 10(4) and 11(1) of the FEMA, 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

Case Law

1) Innovative Tech Pack Ltd. versus Special Director Of Enforcement (Delhi High Court)

- Appellant failed to submit the Exchange copy of Bill of Entry for three transactions. Later, Bill of Entry for one transaction was submitted.

Details of Transactions are as follows.

Date of Remittance	Particulars (Currency)	Amount
22nd September, 1993	USD	24,03,000
23rd March, 1993	USD	96,000
26th March, 1993	JPY	11,24,500

- Show cause notice was issued **13 years later**.
- Adjudicating Authority levied a penalty of Rs. 15 lakhs on the Appellant.
- Aggrieved by the order of the Adjudicating Authority, the appellant preferred an appeal before the Appellate Tribunal.
- **Held:** In view of the belated show cause notice being served on the appellant, the defense of the appellant that it was not in possession of the copies of Bill of Entry for the two transactions is plausible. It cannot be held that the respondent has proved its allegation beyond reasonable doubt and the copies of the Bills of Lading probablise that **the remittances were utilized for import.**

Corporate Law

1. Companies (incorporation) Amendment Rules, 2017

G.S.R. (E) – In exercise of the powers conferred by sub-sections (1) & (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Incorporation) Rules, 2014, namely: –

1. (1) These rules may be called the Companies (Incorporation) Amendment Rules, 2017.
2. (2) They shall come into force on the 30th day of January, 2017.

http://www.mca.gov.in/Ministry/pdf/IncorporatinRules_27012017.pdf

2. Investor Education and Protection Fund Authority (Recruitment, Salary and other Terms and Conditions of Service of General Manager and Assistant General Manager) Rules, 2017

G.S.R. 46(E). – In exercise of the powers conferred by sub-section (7) of section 125 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules, namely:-

http://www.mca.gov.in/Ministry/pdf/IEPFAuthorityRules_06022017.pdf

Allow us to tell you more!



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