

R.C. JAIN AND ASSOCIATES LLP

NEWSLETTER

April 2023

*“Push today for what you want
tomorrow.”*



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1. RBI/2023-24/16

A.P. (DIR Series) Circular No. 02 dated April 12, 2023

All Authorised Dealers in Foreign Exchange

Authorized Dealers Category-II are now allowed online submission of Form A2

- Authorized Dealer (AD) Category-I banks and AD Category-II entities are invited to read A.P. (DIR Series) Circular No. 50 dated February 11, 2016 on 'Compilation of R>Returns: Reporting under FETERS'. **It has been decided to permit AD Category-II entities also to allow online submission of Form A2.** AD Category-II entities must frame appropriate guidelines with the approval of their Board within the ambit of extant statutory and regulatory framework. The terms and conditions mentioned in A.P. (Dir Series) circular No. 50 shall continue to apply to all Authorized Dealers. Authorized Dealers may bring the contents of this circular to their constituents. The directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 and are without prejudice to permissions/approvals required under any other law.

2. RBI/2023-24/21

A.P. (DIR Series) Circular No.03

April 26, 2023

All Category-I Authorised Dealer Banks

Remittances to International Financial Services Centers (IFSCs) under the Liberalized Remittance Scheme (LRS)

The International Financial Services Centers Authority Act, 2019 has amended the directions under Para 2 (ii) of the A.P. (DIR Series) Circular dated February 16, 2021 to allow Resident Individuals to open a Foreign Currency Account (FCA) in IFSCs. **The condition of repatriating any funds lying idle in the account for a period up to 15 days from the date of its receipt is withdrawn with immediate effect.** The Master Direction

No. 7 is being updated to reflect these changes. AD Category - I bank should bring the contents of this circular to their constituents and customers.

3. RBI/2023-24/24
DOR.AML.REC.111/14.01.001/2023-24
April 28, 2023

The Chairpersons/ CEOs of all the Regulated Entities

Amendment to the Master Direction (MD) on KYC

- The Master Direction (MD) on KYC dated February 25, 2016, which requires Regulated Entities (REs) to undertake Customer Due Diligence (CDD) for their customers, has been amended to align the instructions with the recent amendments in the Prevention of Money Laundering (Maintenance of Records) Rules, 2005, incorporate instructions in terms of the Government Order dated January 30, 2023, update certain instructions in accordance with FATF Recommendations, and refine certain extant instructions post review. The changes carried out in the MD in this regard are provided in **Annexure I**. The amended provisions in the MD shall come into force with immediate effect.

Link for **Annexure I** (in detail) is given below

https://rbidocs.rbi.org.in/rdocs/content/pdfs/NT2428042023_AN.pdf

4. RBI/2023-24/08
DOR.CRE.REC.No.06/08.12.001/2023-24
April 03, 2023

Master Circular - Housing Finance

Consolidates instructions on Housing Finance issued up to March 31, 2023.

- Banks have a strategic role in providing credit to the housing sector. Banks must ensure that bank credit is used for production, constructions activities and not for speculation in real estate. Banks must obtain a copy of the sanctioned plan and an affidavit-cum-undertaking from the borrower before sanctioning a home loan.
- Banks should not grant finance for construction of buildings meant for Government/Semi-Government offices, but may grant loans for activities refinanced by NABARD. An Architect appointed by the bank must certify that the building is constructed as per sanctioned plan and has a completion certificate. Banks should not

finance projects undertaken by public sector entities which are not corporate bodies, but can supplement budgetary resources if envisaged.

- **QUANTUM OF LOAN**

While deciding the quantum of loan to be granted as housing finance, banks should abide by the following Loan to Value (LTV) and Risk Weights (RWs):

Category of Loan	LTV Ratio (%)	Risk Weight (%)
(a) Individual Housing Loans		
Upto ₹ 30 lakh	≤ 80	35
	> 80 and ≤ 90	50
Above ₹ 30 lakh & upto ₹ 75 lakh	≤ 80	35
Above ₹ 75 lakh	≤ 75	50
(b) CRE - RH	NA	75

Individual Housing Loans - Rationalisation of Risk Weights. The risk weights are as under

LTV Ratio (%)	Risk Weight (%)
≤ 80	35
> 80 and ≤ 90	50

Banks should not include stamp duty, registration and other documentation charges in the cost of housing property, but may add them if it does not exceed Rs. 10 lakhs.

- Banks have introduced innovative Housing Loan Schemes in association with developers/builders, such as 80:20 and 75:25 schemes. These schemes involve upfront disbursement of sanctioned individual housing loans to the builders without linking the disbursements to various stages of construction. Banks should not disburse loans upfront on behalf of individual borrowers without any linkage to the stages of construction. Banks should charge interest on housing finance in accordance with the Master Direction - Reserve Bank of India (Interest Rate on Advances) Directions, 2016, and ensure that borrowers have obtained prior permission from government/local governments/other

statutory authorities for the project. Banks should disclose the name of the bank to which the property is mortgaged, append the information relating to mortgage while publishing advertisement of a particular scheme, and provide No Objection Certificate (NOC) / permission of the mortgagee bank for sale of flats/property. Banks should also frame prudential norms relating to the ceiling on the total amount of real estate loans, single/group exposure limit for such loans, margins, security, repayment schedule and availability of supplementary finance.

5. RBI/2023-24/12
DOR.SIG.FIN.REC8/26.03.001/2023-24
April 03, 2023.

Master Circular - Asset Reconstruction Companies

The Reserve Bank of India issues updated circulars/guidelines to provide current instructions/directions.

For master circulars refer link below

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12484&Mode=0#GuidanceNotes>

Guidance notes is given below

- The Bank has issued a Guidance Note on the acquisition of financial assets. It states that all financial assets due from a single debtor to various banks/FIs may be considered for acquisition. Assets classified as Special Mentioned Account (SMA) in the books of the originator may also be acquired. The valuation process should be uniform for assets of the same profile and done in scientific and objective manner. Loans not backed by proper documentation should be avoided. Valuation may be done internally or by engaging an independent agency. Assets acquired by ARC should be transferred to trusts set up by the ARC at the price at which they were acquired from the originator. SRs should be issued through a trust set up exclusively for the purpose and made disclosures in the offer document. Special features of SRs should be disclosed, as they combine features of both equity and debt.
- ARCs must obtain initial rating/grading of SRs from a SEBI registered CRA within 6 months and declare the NAV of SRs forthwith. They must retain a CRA for at least 6 rating cycles and get the SRs rated on 'recovery rating scale' and disclose the assumptions and rationale for rating. The Recovery Rating should reflect present value of anticipated recoverability of future cash flows and be assigned on a Recovery Rating (RR) scale. Factors such as extent of debt acquired, composition of lenders, collaterals available, security and seniority of debt, individual lender vis-à-vis institutional lender,

estimated cash flows, uncertainty in realising expected cash flows, management, business risk, financial risk, etc. should also be factored in. The Rating Agency should disclose the rationale for rating on request. The methodology for valuation of SRs for declaration of NAV each rating category in the recovery scale will have an associate range of recovery, which should be restricted within the recovery range associated with the rating assigned to the SRs

6. RBI/2023-24/97

DCM(NE)No.G-2/08.07.18/2023-24

April 03, 2023

Master Direction - Facility for Exchange of Notes and Coins

- The Reserve Bank of India issued Directions in the public interest. All branches of banks must provide customer services such as issuing fresh/good quality notes and coins, exchanging soiled/mutilated/defective notes, and accepting coins and notes for transactions or exchange. Coins in the denomination of 50 paise, 1, 2, 5, 10 and 20 remain legal tender. The Reserve Bank of India (Note Refund) Rules, 2009 and the Reserve Bank of India (Note Refund) Amendment Rules, 2018 have delegated powers to all branches to exchange mutilated/defective notes free of cost. Non-chest branches must adjudicate mutilated and imperfect notes and pay the exchange value over the counter. Tenderers should send mutilated notes to nearby currency chest branches by insured post or get them exchanged in person. Mutilated/defective notes bearing PAY/PAID stamps will be rejected. Bank branches must display a notice board indicating the availability of note and coin exchange facility, remit reports of notes adjudicated and full value paid notes to chest branches and RBI Issue Offices, and pack half value paid and rejected notes separately. Noncurrent coins have ceased to be legal tender with effect from June 30, 2011.

~ Complied by Yagnik Koriya

A. Sub: Clarification regarding deduction of TDS under section 192 read with sub-section (IA) of section 115BAC of the Income-tax Act, 1961 - reg.

- 1) The new tax regime has become the default tax regime from the assessment year 2024-25. This regime applies to an individual or Hindu undivided family or association of persons [other than a cooperative society] or body of individuals, whether incorporated or not, or an artificial juridical person. Under this new regime, the income-tax in respect of the total income of the person shall be computed at the rates provided in section 115BAC, subject to certain conditions, including the condition that the person does not avail of specified exemptions and deductions.
- 2) The above mentioned new tax regime is the default tax regime applicable to all persons mentioned above. However, a person may exercise an option to opt out of this tax regime. A person not having income from business or profession can exercise this option every year.
- 3) Deductor being an employer, usually faced an issue regarding how would he(employer) know if the person, being an employee, would opt out from taxation of the Act or not.
- 4) In order to avoid the genuine hardship in such cases, the Board, in exercise of powers hereby directs that a deductor, being an employer, shall seek information from each of its employees having income under section 192 of the Act regarding their intended tax regime and each such employee shall intimate the same to the deductor, being his employer, regarding his intended tax regime for each year and upon intimation, the deductor shall compute his total income, and deduct tax at source thereon according to the option exercised.
- 5) If intimation is not made by the employee, it shall be presumed that the employee continues to be in the default tax regime and has not exercised the option to opt out of the new tax regime. Accordingly, in such a case, the employer shall deduct tax at source, on income under section 192 of the Act,
- 6) The intimation given by employee to employer will not amount to exercising option u/s 115BAC. The person has to separately intimate the department.

B. Sub: Cost Inflation Index for FY 2022-23

Sr. No.	Financial Year	Cost Inflation Index
1)	2022-23	348

C. Sub: The Central Government hereby notifies 'Maharashtra Electricity Regulatory Commission', Mumbai, a commission established by the State Government of Maharashtra, in respect of the following specified income arising to that Commission, namely: -

- a) Grants from Government of Maharashtra;
- b) Fees for annual license;
- c) Interest on Fixed Deposit and Savings Account;
- d) Fees for application/petition filed;
- e) Fees for Documents;
- f) Penalty for delayed payment of Annual License Fees;
- g) Fees for RTI;
- h) Sale of Scrap;
- i) Interest on Loans and Advances given to employees;
- j) Fees for annual performance review;
- k) Fees for determination of tariff; and
- l) Fees for initial license.

These are the newly inserted points

- m) Profit on sale of fixed assets;
- n) Charges collected for the personal use of office vehicle by employees;
- o) Interest on Income Tax Refund; and
- p) Interest earned on Government Securities.

~ Complied by Sahil Vachhani

Case Laws:

1) Issue Involved:

Levy of a penalty under Section 271B for failure to get books audited in a case where no books of account were maintained was justified.

In the ITAT Ranchi Branch, in the case of Rakesh Kumar Jha Vs. Income tax officer, Ward-2(1)(15th May,2023).

Gist of the Case:

In the stated Case Law, Rakesh Kumar Jha, Assessee, admittedly, was required to get his books of account audited as required u/s 44AB of the Act and on account of failure to do so, the Assessing Officer levied penalty u/s 271B of the Act which has been confirmed by the CIT(A). The assessee appeals against the levy of such penalty.

Held:

1. The assessee has been running a business of imparting tuition classes and has been assessed for the year under consideration on the basis of non-maintenance of books of accounts.
2. The assessee was required to get their books of account audited and on account of failure to do so, the Assessing Officer levied a penalty u/s 271B of the Act.
3. The Id. counsel for the assessee relies on the decision of the Hon'ble Allahabad High Court in the case of CIT vs. Bisauli Tractors, which is not applicable to the facts and circumstances of the present case.
4. The provisions of section 44AA and 44AB are distinct, with the former (section 44AA) requiring persons carrying on legal, medical, engineering, architectural, accountancy, technical consultancy or interior decoration to keep and maintain books of account and other documents that would enable the assessee to determine estimated income.
5. The latter (section 44AB) requires persons carrying on business or profession to keep and maintain books of account and other documents if their total sales, turnover or gross receipts exceeds one crore rupees(or five crores if certain conditions are fulfilled) in previous year.
6. The object of requiring the assessee to get his books of accounts audited u/s 44AB is to get a clear picture of the assessee's accounts so as to enable the Income Tax Authorities to assess true and correct income of the assessee. The penalty u/s 271B is attracted for failure of the assessee to get the books of account audited. Since, the case in hand, the assessee did not get his books of account audited, therefore, as per the provisions of

section 44AB read with section 271B of the Income Tax Act, the Assessing Officer rightly levied the penalty u/s 271B of the Act

7. In the result, the appeal of the assessee stands dismissed.

2) Issue Involved:

Where a Return has been furnished under section 139 or in response to a notice u/s 142(1), the Assessee has to attend the office of the Assessing Officer or to produce, or cause to be produced before the Assessing Officer any evidence on which the assessee may rely in support of the return, provided no notice under this sub-section shall be served on the assessee after the expiry of six months from the end of the financial year in which the return is furnished.

In the case of Anidhi Impex Pvt. Ltd. v/s ITO (2019) 73 ITR 379 (Mum.) (Trib.)

Gist of the Case:

1. The AO had served notice u/s 143(2) on 27 August 2013 upon a certain person who was in part time employee of the assessee till 31 March 2011. Subsequently, the AO had again issued notice u/s 143(2) on the directors **beyond the time limit** for the said notice.
2. The Tribunal noted that the assessee had submitted affidavit from the part time employee wherein the said person had refused to accept the notice (as he was no longer associated with the assessee), and he could not send the notice to the company due to the change in address. Further, the directors also filed affidavits reconfirming the facts.

Held:

The Tribunal after analyzing the provisions of Sec. 282 of the Act and the provisions of the Civil Procedure Code, 1908 considered that the notice was not served upon a person who was authorised to receive it and thus lead to invalid service/ non-service of notice and the **assessment order u/s 143(3) was to be quashed.**

~ Compiled by Salman and Omkar

A) AMENDMENT OF THE COMPANIES (REMOVAL OF NAMES OF COMPANIES FROM THE REGISTER OF COMPANIES) RULES, 2016:

The Ministry of Corporate Affairs (MCA) has set up the **Centre for Processing Accelerated Corporate Exit (C-PACE)** for striking off companies from the MCA Register

The introduction of **Centre for Processing Accelerated Corporate Exit (C-PACE)** is a result of continuous endeavors for ease of business.

According to the ministry, the C-PACE will reduce the burden on the registry and provide stakeholders with hassle-free filing, timely and process-bound striking off of their company's names from the register. The establishment of C-PACE is part of MCA's efforts towards ease of doing business and ease of exit for companies.

An application for removal of name of a company under sub-section (2) of section 248 shall be made to the Registrar, Centre for Processing Accelerated Corporate Exit in Form No. STK-2 along with fee of ten thousand rupees."

The Registrar, Centre for Processing Accelerated Corporate Exit established under sub-section (1) of section 396, shall be the Registrar of Companies for the purposes of exercising functional jurisdiction of processing and disposal of applications made in Form No. STK-2 and all matters related thereto under section 248 having territorial jurisdiction all over India.

Pursuant to said amendment the Following forms are substituted:

1. Form No. STK-2
2. Form No. STK-6
3. Form No. STK-7

~ Compiled by CS Manan Vadhan



Life is like an ice-cream, enjoy it before it melts

- Priya Suthar

Allow us to tell you more!



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