

R.C.JAIN AND ASSOCIATES LLP

NEWSLETTER

July 2022

“To succeed in life, you need two things: Ignorance and Confidence.”

-Priya Suthar



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Income Tax

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

Circular No. 15/16/17/2022.

Condonation delay in filing form No. 10BB/ Form No. 10B/Form No. 9A and Form No. 10	For Assessment Year 2018-19 or for any subsequent Assessment Years
In all cases in filing form no. 10BB	Commissioners of Income-tax are authorized to admit applications for condonation of delay u/s 119(2) (b) of the Act. The Commissioner while entertaining such applications regarding filing Form No. 10BB shall satisfy themselves that the applicant was prevented by reasonable cause from filing such form within the stipulated time.
Delay upto 365 days	Commissioners of Income-tax are authorized to admit such applications of condonation of delay under section 119(2) of the Act and decide on merits.
Delay beyond 365 days upto 3 years	Pr. Chief Commissioners, 1 Chief Commissioners of Income-tax are authorized to admit such applications of condonation of delay under section 119(2) of the Act and decide on merits.

- The Pr. Chief Commissioner ,1 Chief Commissioner or Commissioners of Income-tax, as the case may be, while entertaining such applications for condonation of delay in filing Form No. 10BB / Form No. 10B/ Form No. 9A and Form No. 10 shall satisfy themselves that the applicant was prevented by reasonable cause from filing such Form within the stipulated time.
- In respect of Form No. 10, the Pr. Chief Commissioner, 1 Chief Commissioner of Income-tax, as the case may be, shall also satisfy themselves that the amount accumulated or set apart has been invested or deposited in anyone or more of the forms or modes specified in sub-section (5) of section 11 of the Act.

DIRECT TAX

- Further, the Pr. Chief Commissioner, 1 Chief Commissioner of Income-tax, as the case may be, shall preferably dispose the application within 3 months of receipt of the application.

2) Conditions required to be fulfilled in case of transfer of Alternative Investment Fund as per Notification No. 80/2022, dated 8th July, 2022

- The following rule shall be inserted, in Section 47(a) (iv) after rule 21AK, namely: -
"21AL. Other Conditions required to be fulfilled by the original fund :-
- In a case where a capital asset is transferred to a resultant fund being a Category III Alternative Investment Fund, shall fulfill the condition that the aggregate participation or investment in the original fund, directly or indirectly, by persons resident in India shall not exceed five per cent of the corpus of such fund at the time of such transfer.
- For the purpose of this rule, the expressions "original fund" and "resultant fund" shall have the meanings- any transfer of a capital asset by the original fund to the resultant fund at the time of relocation of the entity to an IFSC shall not be considered as a transfer. Resultant fund means a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership.

3) Insertion of Form No. 8A as per Notification No. 83/2022, dated 12th July, 2022

- CBDT notifies Form No. 8A to defer filing of appeal on identical issues, the following rule shall be inserted, namely: -16. Application under section 158AB to defer filing of appeal before the Appellate Tribunal or the jurisdictional High Court.- The application required to be made before the Appellate Tribunal or the jurisdictional High Court, as the case may be, shall be made in Form No. 8A by the Assessing Officer.

DIRECT TAX

4) Eligibility for tax exemption of Pension Fund as per Notification No. 86/2022 ,dated 21st July, 2022 -

The Central Government specifies the pension fund, namely, CPPIB Credit Investments VI Inc. (PAN: AAGCC5549K), (hereinafter referred to as the 'assessee') as the specified person for the purposes of the said clause in respect of the eligible investment made by it in India on or after the date of publication of this notification in the Official Gazette but on or before the 31st day of March, 2024 subject to the fulfillment of the following conditions.

- Violation of any of the conditions as stipulated in the said clause (23FE) of section 10 of the Act and this notification shall render the assessee ineligible for the tax exemption.
- This notification shall come into force from the date of its publication in the Official Gazette

Refer below link for more information -

<https://incometaxindia.gov.in/communications/notification/notification-86-2022.pdf>

5) PAN integration with LLP incorporation form (FiLLiP):

Powers delegated by the Central Board of Direct Taxes vide notification G.S.R. No. 117(E) dated 9/02/2017 , the Director General of Income-tax (Systems) lays down the classes of persons, forms, format and procedure for safe and secure transmission in relation to furnishing of Permanent Account Number (PAN) as under:

Sr. No.	Particulars	
1.	Classes of persons to which FiLLiP form will apply	Newly incorporated Limited Liability Partnership (LLP)
2.	Applicable form	A Common Application Form (CAF) in the form of Simplified Proforma for incorporating Limited Liability Partnerships (Form : FiLLiP) of Ministry of Corporate Affairs (MCA) notified vide notification G.S.R. 173(E), dated 4'h March, 2022

DIRECT TAX

3.	Procedure	Application for allotment of Permanent Account Number (PAN) will be filed in FiLLip form using Digital Signature of the applicant as specified by the Ministry of Corporate Affairs. After generation of Limited Liability Partnership Identification Number (LLPIN), MCA will forward the data in form 49A to the Income-tax Authority under its Digital signature, Class 2/Class 3 of MCA
4.	Format	Xml

~ Compiled by Priya Suthar

Case Laws

1. Issue Involved:

CIT (A) cannot summarily dismiss appeal in case of the non-appearance of assessee-appellant

- **In the ITAT of Mumbai bench 'A' ,in the case of Marvel Industries Ltd. v. Deputy Commissioner of Income-tax, Circle 2(2)(2) , dated July 19,2022.**

Gist of the Case:

- Power of CIT (A) to pass an ex parte order on non-appearance of assessee appellant does not mean that such ex parte order can be by way of a summary dismissal of appeal disregarding the issues raised by the assessee-appellant in his statement of facts and grounds of appeal. Even ex parte order passed has to be on merits and a speaking order dealing with issues raised by assessee.
- Whether an appellant appears before the CIT (A) or not, it is the statutory obligation of the CIT (A) to dispose of an appeal on merits. The exercise of the "right to be heard at the hearing of the appeal" by "the appellant, either in person or by an authorized representative condition", under section 250(2)(a), is not a condition precedent for the disposal of appeal on merits in accordance with the scheme of Section 250(6). Irrespective of the non-appearance of the assessee before the CIT(A),the CIT(A) ought to have dealt with the issues so raised by the assessee-appellant(in statement of facts and grounds of appeal) on merits and by way of speaking order and in accordance with the law.

Per Tribunal

- Whether an appellant appears before the CIT(A) or not, it is the statutory obligation of the CIT(A) to dispose of an appeal on merits. The scheme of section 250 does not visualize any situation in which an appeal can be summarily dismissed disregarding the material on recorder. Section 250 (6) lays down that the CIT(A)'s order "disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision". As for the points of determination, in our considered view, it cannot be open to the learned CIT(A) to disregard what the assessee has placed before him by way of a statement of facts and the grounds of appeal.

DIRECT TAX

- While an assessee indeed has, under section 250(2)(a), "the right to be heard at the hearing of the appeal", such a right of the assessee-appellant cannot be put against the assessee inasmuch while the assessee-appellant is to be essentially extended a fair and reasonable opportunity of hearing before an appeal can be disposed of, the non-exercise of this right by the assessee appellant cannot be a reason enough for the CIT(A)'s not dealing with the points so raised before him on merits. The exercise of the "right to be heard at the hearing of the appeal" by "the appellant, either in person or by an authorized representative condition", under section 250(2)(a), is not a condition precedent for the disposal of appeal on merits in accordance with the scheme of Section 250(6). In our considered view, irrespective of the non-appearance of the assessee before the CIT(A), the CIT(A) ought to have dealt with the issues so raised by the assessee-appellant on merits and by way of speaking order and in accordance with the law.

2) Issue Involved:

NBFC's claim for bad debts w/o cannot be rejected on the grounds of change of method of accounting from mercantile to cash

- **High Court of Bombay, in the case of L.K.P. Merchant Financing Ltd. v. Deputy Commissioner of Income-tax, Special Range-34, dated July 18, 2022.**

Gist of the Case:

- Where assessee-NBFC had offered lease rentals to tax on accrual basis and subsequently the same turned irrecoverable and had to be written off as bad debt, the claim of assessee-NBFC for deduction of bad debts written off u/s 36(1)(vii) cannot be disallowed on the grounds of change in the method of accounting from mercantile to cash even if such change is a violation of accounting principles.

Per Court

- A change of the method of accounting by the assessee from mercantile to cash may even be a breach of the accounting principles. However, that in our view is not a requirement of Section 36(1)(vii) of the Income Tax Act for allowing a debt as a bad debt. In fact, what emerges from Note-5 of making a special mention is that a prudent practice has been adopted by a limited company of informing its shareholders about the remote possibility of recovery of the said amounts and the decision to reverse and that the same would be accounted for as and when received.

DIRECT TAX

- In our view, the finding of the Tribunal that the claim of the assessee in respect of bad debt cannot be considered, is without any basis. Once, a business decision has been taken to write off a debt as a bad debt in its books which decision as discussed above, is bona fide, that in our view, should be sufficient to allow the claim of the assessee. The method of accounting has no relevance to the issue. In our view, the Tribunal has misdirected itself in proceeding to give precedence to accounting principles over clear statutory provisions. Evidently, the written off lease rental amount has not been reversed from the income entry in Schedule-16. This is a clear case of writing off a bad debt in accordance with the provision of Section 36(1)(vii) of the Income Tax Act. The Tribunal has erred in rejecting the claim of the assessee for deduction of bad debt written off under Section 36(1)(vii) of the Act. The substantial question of law framed in this Appeal is accordingly answered in favour of the Appellant Assessee and against the Revenue.

~ **Compiled by Ramanand Yadav**

GSt Notifications:

1. **Deemed revocation of suspension of GST registration on filing of all pending GST returns:**

As per Notification 14/2022 -when the assessee files all the pending returns along with payment of tax and applicable Interest the GST number suspended shall be deemed to be revoked (i.e. notice shall be deemed to be cancelled or withdrawn).

2. **Mandatory declaration on Invoice**

As per Rule 48 (4), The invoice shall be prepared by such class of registered persons by particulars of invoice in **FORM GST INV 01** after obtaining an Invoice Reference Number from E-Invoice portal. If the said rule is not applicable to any registered person. Such person has to mention or provide declaration that **“we are not required to prepare an invoice in terms of the provision mentioned in rule 48(4).”**

When a registered person erroneously receives excess refund from government under section 54(3) which is redeposited by the registered person along with applicable rate of interest and penalty with FORM DRC-03 by debiting electronic cash ledger on his own or on demand by proper officer same as shall be redeposited to electronic credit ledger of the registered person by proper officer by an order made in FORM GST PMT - 03A

3. **New modes of payment to be added to pay GST Tax liability**

Registered Person can make payment by following method as per rule 87: -

- Unified Payment Interface (UPI) from any bank
- Immediate Payment Services (IMPS) from any bank,
- Real Time Gross Settlement (RTGS)
- National Electronic Fund Transfer (NEFT)

INDIRECT TAX

4. Transfer of cash ledger balance amongst different GSTIN under same PAN.

A Registered person may transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger to the electronic cash ledger for central tax or integrated tax of a distinct person using FORM GST PMT-09. Provided that no such transfer shall be allowed if the said registered person has any unpaid liability in his electronic liability register.

5. Methodology for calculation of Interest payable from 1st July, 2017: -

- In case, where the supplier furnishes the return after the applicable due date the interest on tax payable (i.e. after adjusting Input Tax credit or Net tax payable) shall be calculated on the portion of tax which is paid by debiting the electronic cash ledger, for the period of delay in number of days beyond the due date, as per rate applicable.
- In all other cases, where interest is payable, the interest shall be calculated on the amount of tax which remains unpaid, for the period starting from the date on which such tax was due to be paid till the date such tax is paid, as per rate applicable.
- In case, where interest is payable on the amount of input tax credit wrongly availed and utilized, the interest shall be calculated on the amount of input tax credit wrongly availed and utilized, for the period starting from the date of utilization of such wrongly availed input tax credit till the date of reversal of such credit or payment of tax in respect of such amount, as per the rate applicable.

Explanation-For the above sub-rule

- Input tax credit wrongly availed shall be construed to have been utilized, when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, and the extent of such utilization of input tax credit shall be the amount by which the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed.

INDIRECT TAX

The date of utilization of such input tax credit shall be taken as

- The due date of furnished the return or the actual date of filing of the return, whichever is earlier, if the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, on account of payment of tax through the return, or
 - The date of debit in the electronic credit ledger when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, in all other cases.
6. A statement containing the number and date of the export invoices, details of energy exported, tariff per unit for export of electricity as per agreement, along with the copy of statement of scheduled energy for exported electricity by Generation Plants issued by the Regional Power Committee Secretariat as a part of the Regional Energy Account (REA) under clause of sub- regulation 1 of Regulation 2 of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 and the copy of agreement detailing the tariff per unit, in case where refund is on account of export of electricity.
7. *Extension in time limit for issuing order under section 73 and section 74 and extension in time limit for filing Refund Application*

Notification No 13/2022- Central Tax

(i) extends the time limit specified under sub-section (10) of section 73 for issuance of order under subsection (9) of section 73 of the said Act, for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilized, in respect of a tax period for the financial year 2017-18, **up to the 30th day of September, 2023;**

(ii) excludes the period from the **1st day of March, 2020 to the 28th day of February, 2022 for computation of period of limitation** under sub-section (10) of section 73 of the said Act **for issuance of order** under subsection (9) of section 73 of the said Act, for recovery of erroneous refund;

INDIRECT TAX

(iii) excludes the period from the **1st day of March, 2020 to the 28th day of February, 2022** for computation of period of limitation for filing refund application under section 54 or section 55 of the said Act.

This notification shall be deemed to have come into force with effect from the 1st day of March, 2020.

8. Exemption to file Annual Return in case aggregate turnover is less than 2 crores in for FY 2021-22.

In exercise of the powers conferred by the first proviso to section 44 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Commissioner, on the recommendations of the Council, hereby exempts the registered person whose aggregate turnover in the financial year 2021-22 is up to two crore rupees, from filing annual return for the said financial year.

9. As per sub-rule (4), for the purposes the value of goods exported out of India shall be taken as: -
- The Free on Board (FOB) value declared in the Shipping Bill or Bill of Export form, as the case may be, as per the Shipping Bill and Bill of Export (Forms) Regulations, 2017; or
 - the value declared in tax invoice or bill of supply, whichever is less.

10. No more Refund to outgoing International tourist

Rule 95A which relates to Refund of taxes to the retail outlets established in departure area of an international Airport beyond immigration counters making tax free supply to an outgoing international tourist shall be deemed to have been omitted with effect from the 1st July, 2019.

11. As per Rule 96(b)(1) with effect from the 1st day of July, 2017, the following clause shall be deemed to have been substituted,

INDIRECT TAX

- Provided that if there is any mismatch between the data furnished by the exporter of goods in Shipping Bill and those furnished in statement of outward supplies in GSTR-1, such application for refund of integrated tax paid on the goods exported out of India shall be deemed to have been filed on such date when such mismatch in respect of the said shipping bill is rectified by the exporter.
- The Commissioner in the Board or an officer authorized by the Board, on the basis of data analysis and risk parameters, is of the opinion that verification of the availment of ITC by the exporter, is considered essential before grant of refund, in order to safeguard the interest of revenue.
- Where refund is withheld in accordance with the provisions of clause (a) or clause (c) of sub-rule (4), such claim shall be transmitted to the proper officer of Central tax, State tax or Union territory tax, as the case may be, electronically through the common portal in a system generated **FORM GST RFD-01** and the intimation of such transmission shall also be sent to the exporter electronically through the common portal, and notwithstanding anything to the contrary contained in any other rule, the said system generated form shall be deemed to be the application for refund in such cases and shall be deemed to have been filed on the date of such transmission.
- Where refund is withheld in accordance with the provisions of clause (b) of sub-rule (4) and the proper officer of the Customs passes an order that the goods have been exported in violation of the provisions of the Customs Act, 1962 (52 of 1962), then, such claim shall be transmitted to the proper officer of Central tax, State tax or Union territory tax, as the case may be, electronically through the common portal in a system generated **FORM GST RFD-01** and the intimation of such transmission shall also be sent to the exporter electronically through the common portal, and notwithstanding anything to the contrary contained in any other rule, the said system generated form shall be deemed to be the application for refund in such cases and shall be deemed to have been filed on the date of such transmission.

INDIRECT TAX

A. Rate Rationalization to remove inverted duty structure (Approval of recommendations made by GoM on rate rationalization)

Sr. No.	Description	From	To
GOODS			
1.	Printing, writing or drawing ink	12%	18%
2.	Knives with cutting blades, Paper knives, Pencil sharpeners and blades therefor, Spoons, forks, ladles, skimmers, cake- servers etc	12%	18%
3.	Power driven pumps primarily designed for handling water such as centrifugal pumps, deep tube-well turbine pumps, submersible pumps; Bicycle pumps	12%	18%
4.	Machines for cleaning, sorting or grading, seed, grain pulses; Machinery used in milling industry or for the working of cereals etc. Pawan Chakki that is Air Based Atta Chakki; Wet grinder;	5%	18%
5.	Machines for cleaning, sorting or grading eggs, fruit or other agricultural produce and its parts, Milking machines and dairy machinery	12%	18%
6.	LED Lamps, lights and fixture, their metal printed circuits board;	12%	18%
7.	Drawing and marking out instruments	12%	18%
8.	Solar Water Heater and system;	5%	12%
9.	Prepared/finished leather/chamois leather composition leathers;	5%	12%
10.	Refund of accumulated ITC not to be allowed on Following goods: (i) Edible oils (ii) Coal		

INDIRECT TAX

Services			
11	Services supplied by foreman to chit fund	12%	18%
12	Job work in relation to processing of hides, skins and leather	5%	12%
13	Job work in relation to manufacture of leather goods and footwear	5%	12%
14	Job Work in relation of manufacture of clay bricks	5%	12%
15	Works contract for roads, bridges, railways, metro, effluent treatment plant, crematorium etc.	12%	18%
16	Works contract supplied to central and state governments, local authorities for historical monuments, canals, dams, pipelines, plants for water supply, educational institutions, hospitals etc.& sub-contract or thereof	12%	18%
17	Works contract supplied to central and state governments, union territories & local authorities involving predominantly earthwork and sub-contracts thereof	5%	12%

INDIRECT TAX

B. Other GST rate changes recommended by the Council

Goods			
Sr.No.	Description	From	To
1	Ostomy Appliances	12%	5%
2	Orthopaedic appliance- Splints and other fracture appliances; artificial part of the body: other appliances which are worn or carried, or implanted in the body, to compensate for a defect or disability; intraocular lens	12%	5%
3	Tetra Pak (Aseptic Packaging Paper)	12%	18%
4	Tar (whether from coal, coal gasification plants, producer Gas plants and coke oven plants.	5%/18%	18%
5	IGST on import of Diethylcarbamazine (DEC) tablets supplied free of cost for National Filariasis Elimination Programme.	5%	Nil
6	Cut and Polished diamonds	0.25%	1.5%
7	IGST on specified defence items imported by private entities/vendors, when end-users is the defence force.	Applicable rate	Nil

INDIRECT TAX

Services			
1	Transport of goods and passengers by ropeways.	18%	5% (with ITC of services)
2	Renting of truck/goods carriage where cost of fuel is included.	18%	12%

C. Withdrawal of exemptions (Approval of recommendations made by GoM on rate rationalization)

1. GST was exempted on specified food items, grains etc when not branded, or right on the brand has been foregone. It has been recommended to revise the scope of exemption to exclude from it prepackaged and pre-labelled retail pack in terms of Legal Metrology Act, including pre-packed, pre-labeled curd, lassi and butter milk.
2. In case of the following goods exemption from GST will be withdrawn:

Sr. No.	Description of goods	From	To
GST rate challans			
1.	Cheques, lose or in book form	Nil	18%
2.	Maps and hydrographic or similar charts of all kinds, including atlases, wall maps, topographical plans and globes, printed	Nil	12%
3.	Parts of goods of heading 8801	Nil	18%

3. In case of the following goods, the exemption in form of a concessional rate of GST is being rationalized:

INDIRECT TAX

Sr. No.	Description of goods	From	To
GST rate changes			
1.	Petroleum/ Coal bed methane	5%	12%
2.	Scientific and technical instruments supplied to public funded research institutes	5%	Applicable rate
3.	E-waste	5%	18%

4. In case of Services. following exemptions are being rationalized:

Sr. No	Description
1.	Exemption on transport of passengers by air to and from NE states & Bagdogra is being restricted to economy class
2	Exemption on following services is being withdrawn. a. Transportation by rail or a vessel of railway equipment and material. b. storage or warehousing of commodities which attract tax (nuts, spices, copra, jaggery, cotton etc.) c. Fumigation in a warehouse of agricultural produce. d. Services by RBI, IRDA, SEBI, FSSAI, e. GSTN. f. Renting of residential dwelling to business entities (registered persons). However, RCM will be applicable where services has been taken by registered person. g. Services provided by the cord blood banks by way of preservation of stem cells
3.	Like CETPs, common bio-medical waste treatment facilities for treatment or disposal of biomedical waste shall be taxed at 12% so as to allow them ITC

INDIRECT TAX

4.	Hotel accommodation priced up to Rs. 1000/day shall be taxed at 12%
5.	Room rent (excluding ICU) exceeding Rs 5000 per day per patient charged by a hospital shall be taxed to the extent of amount charged for the room at 5% without ITC.
6.	Tax exemption on training or coaching in recreational activities relating to arts or culture, or sports is being restricted to such services when supplied by an individual.

D. Clarification on GST rate.

- a. Electric vehicles whether or not fitted with a battery pack, are eligible for the concessional GST rate of 5%.
- b. All fly ash bricks attract same concessional rate irrespective of fly ash content

~Compiled by Gaurav Chande

Part A: Foreign Exchange Management Notifications

1) RBI/2022-23/80

CO.DPSS.POLC.No.S-590/02-14-006/2022-23

Requirement for obtaining prior approval in case of takeover/acquisition of control of non-bank PSOs and sale/transfer of payment system activity of non-bank PSO.

- i) The Reserve Bank of India (RBI) said on Monday said non-bank payment system operators (PSOs) will need its approval in case of a takeover that may or may not result in a change of management and sale or transfer of payment activity to an entity not authorised for undertaking similar activity.
- ii) The transferor non-bank PSO has to submit an application to the Department of Payment and Settlement Systems (DPSS), Central Office (CO), RBI, along with the required documents for any takeovers.
- iii) And, in case of sale of payment activity to an entity not authorized to undertake similar activity, the seller
- iv) PSO has to apply to DPSS, CO, RBI for obtaining prior approval along with the minimum appropriate details. Also, the buyer will need to apply for authorization from the RBI. If the acquiring entity is a bank, it will have to apply to DPSS, CO, and RBI for approval.
- v) "RBI shall endeavour to respond within 45 calendar days after receipt of complete details from both the entities. The timeline is not applicable in case of overseas principal in the Money Transfer Service Scheme", said the central bank.
- vi) After obtaining RBI approval, a public notice of at least 15 calendar days needs to be given before effecting the changes. "Such public notice shall be given either separately by the authorised non-bank PSO and the buyer / acquirer bank / non-bank, or jointly by them. The public notice shall indicate the intention and reasons for such changes, particulars of the entities concerned, etc.", RBI said.
- vii) Further, non-bank PSOs would also need to inform the central bank of any change in management or directors and sale or transfer of payment activity to an entity authorised for undertaking similar activity within 15 days.

For More information, refer

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12348&Mode=0>

2) RBI/2022-23/81

DoR.RET.REC.52/12.07.160/2022-23

Inclusion of “Unity Small Finance Bank Limited” in the Second Schedule of the Reserve Bank of India Act, 1934

- It is advised that “Unity Small Finance Bank Limited” has been included in the Second Schedule to the Reserve Bank of India Act, 1934 vide Notification DoR.LIC.No.S543/16.13.216/2022-23 dated April 28, 2022 and published in the Gazette of India (**Part III - Section 4**) dated July 02-July 08, 2022.

3) RBI/2022-23/82

DOR.SOG (SPE).REC.No 53/13.03.000/2022-23

Master Direction on Interest Rate on Deposits - Foreign Currency (Non-resident) Accounts (Banks) Scheme [FCNR(B)] and Non-Resident (External) Rupee (NRE) Deposit

- In its circular, RBI has said that “At present, interest rates on Foreign Currency Non-Resident Bank [FCNR(B)] deposits are subject to ceilings of Overnight Alternative Reference Rate (ARR) for the respective currency/swap plus 250 basis points for deposits of 1 year to less than 3 years maturity and overnight ARR plus 350 basis points for deposits of 3 years and above and up to 5 years maturity.
- In case of NRE deposits, as per extant instructions, interest rates shall not be higher than those offered by the banks on comparable domestic rupee term deposits.
- It has been decided to temporarily permit banks to raise fresh FCNR(B) and NRE deposits without reference to the extant regulations on interest rates, with effect from July 7, 2022.
- This relaxation will be available for the period up to October 31, 2022.”

4) RBI/2022-23/86

FMRD.FMID.No.04/14.01.006/2022-23

‘Fully Accessible Route’ for Investment by Non-residents in Government Securities - Additional specified securities

- The Reserve Bank introduced the FAR in pursuance of the announcement made in the Union Budget 2020-21 that certain specified categories of Central Government securities would be opened fully for non-resident investors without any restrictions, apart from being available to domestic investors as well.
- In addition, it has been decided to designate the two securities listed in the following Table as well as all new issuances of Government securities of 7-year and 14-year tenors as 'specified securities' under the FAR. Accordingly, these securities will, henceforth, be eligible for investment under the FAR.

SR No	ISIN	Security
1.	IN0020220011	7.10% GS 2029
2.	IN0020220029	7.54% GS 2036

5) RBI/2022-23/87**A.P. (DIR Series) Circular No.07****Investment by Foreign Portfolio Investors (FPI) in Debt - Relaxations**

- The Reserve Bank of India (RBI) on July 07, 2022 has issued a notification to provide certain relaxations on Investment by Foreign Portfolio Investors (FPI) in Debt.
- RBI has decided that investments by FPIs in government securities and corporate bonds made between July 08, 2022 and October 31, 2022 (both dates included) shall be exempted from the limit on short-term investments till maturity or sale of such investments and to allow FPIs to invest in commercial papers and non-convertible debentures with an original maturity of up to one year, during the period between July 08, 2022 and October 31, 2022 (both dates included). These investments shall be exempted from the limit on short-term investments till maturity or sale of such investments.

For More information, refer

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12355&Mode=0>

6) RBI/2022-2023/90**A.P. (DIR Series) Circular No.10****International Trade Settlement in Indian Rupees (INR)**

- i. The Reserve Bank on Monday asked banks to put in place additional arrangements for export and import transactions in Indian rupees in view of increasing interest of the global trading community in the domestic currency. Before putting in place this mechanism, banks will require prior approval from the Foreign Exchange Department of the Reserve Bank of India (RBI), the central bank said in a circular.
- ii. “In order to promote growth of global trade with emphasis on exports from India and to support the increasing interest of global trading community in INR, it has been decided to put in place an additional arrangement for invoicing, payment, and settlement of exports / imports in INR,” it said. For settlement of trade transactions, the concerned banks will require Special Rupee Vostro Accounts of correspondent bank/s of the partner trading country.
- iii. “Indian importers undertaking imports through this mechanism shall make payment in INR which shall be credited into the Special Vostro account of the correspondent bank of the partner country, against the invoices for the supply of goods or services from the overseas seller /supplier,” it said.
- iv. Exporters, undertaking overseas shipments of goods and services through this mechanism, will be paid the export proceeds in Indian rupees from the balances in the designated Special Vostro account.
- v. This mechanism may enable Indian exporters to receive advance payment against exports from overseas importers in rupees. As per the circular, the rupee surplus balance held can be used for permissible capital and current account transactions in accordance with mutual agreement. The balance in special vostro accounts can be used for payments for projects and investments; export/import advance flow management; and investment in government bonds.

7) RBI/2022-23/94**CO.DPSS.POLC.No.S-761/02-14-008/2022-23****Regulation of Payment Aggregators - Timeline for submission of applications for authorisation - Review**

- i. To avoid disruption in payment systems, the Reserve Bank of India (RBI) has decided to allow another window up to September-end 2022 to all non-bank payment aggregators (existing as on March 17, 2020) to submit applications for seeking authorisation under the Payment and Settlement Systems Act, 2007 (PSS Act).
- ii. This breather has been given to the payment aggregators (PAs) keeping in view the disruption caused by the Covid -19 pandemic, and to ensure smooth functioning of the payments ecosystem.
- iii. PAs can apply by September 30, 2022 and shall have a net worth of ₹ 15 crore as on March 31, 2022, per a RBI notification. "They shall be permitted to continue their operations till they receive communication from RBI regarding the fate of their application. The timeline of March 31, 2023 for achieving the net worth of ₹ 25 crore shall, however, remain," the notification said.
- iv. PAs are entities that facilitate e-commerce sites and merchants to accept various payment instruments from customers for completion of their payment obligations without the need for merchants to create a separate payment integration system of their own.

~Compiled by Gerard Manjaly

1. Companies (Removal of Names of Companies from the Register of Companies) Amendment Rules, 2022

In the Companies (Removal of Names of Companies from ROC) Rules, 2016, after Rule 4(3) the following sub-rule shall be inserted:

- i) Form STK-2: Upon examination of Form STK-2, if it found necessary by the Registrar to call for further information or if the application or any document is incomplete or defective, registrar shall inform to the applicant to remove such defects & re-submit the complete form within 15 days from the date of such information and failing of such re-submission within time limit, ROC shall treat the Form as invalid.

After such re-submission, if registrar find that the form or document still contains any defect or incomplete information, registrar shall provide time-limit of 15 days to rectify the defect, failure of such shall treat form invalid.

Any re-submission of the application in form STK-2 made to the prior of commencement of these rules shall not be counted for the purposes of reckoning the maximum number of re-submissions.

- ii) In addition to the above, Forms STK-1, STK-5 & STK-5A have also been revised.

2. Companies (Incorporation) Second Amendment Rules, 2022

The Form INC-9 is related to Declaration by Subscribers and First Directors. Following point has been inserted in declaration with effect from 1st June, 2022:

“I am required to obtain the Government approval under the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 prior to subscription of shares and the same has been obtained, and is enclosed herewith.”

OR

“I am not required to obtain the Government approval under the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 prior to subscription of shares and the same has been obtained, and is enclosed herewith.”

Form INC-32 (SPICe+), in Part-B, in Declaration, the following words have been inserted at the end, namely:-

“I, on behalf of the proposed directors, hereby declare that person seeking appointment is a national of a country which shares a land border with India, necessary security clearance from Ministry of Home Affairs, Government of India shall be attached with the consent (if yes is opted, a copy of the security clearance is to be attached)”

3. Clarification on Spending of CSR funds for “Har Ghar Tiranga” Campaign

The Ministry of Corporate Affairs wide general circular no. 08/2022 dated 26th July, 2022, stated that companies can allocate CSR funds for activities related to 'Har Ghar Tiranga' campaign.

The campaign being a part of “Azadi Ka Amrit Mahotsav”, is aimed to invoke the feeling of patriotism in the hearts of the people and to promote awareness about the Indian National Flag. In this regard, it is clarified that spending for the activities related to the mass scale production and supply of the National Flag, outreach and amplification efforts and other related activities, are eligible CSR activities under item no. (ii) of Schedule VII of the Companies Act, 2013 pertaining to promotion of education relating to culture. The companies may undertake the aforesaid activities, subject to fulfillment of the Companies (CSR Policy) Rules, 2014 and related circulars/clarifications issued by the Ministry thereof, from time to time.

4. New ROC filing Forms Launching on MCA21 V3 Portal

The MCA is launching first set of Company forms will be rolled-out in this phase: DIR3-KYC WEB, DIR-KYC E-FORM, DPT-3, DPT-4, CHG-1, CHG-4, CHG-6, CHG-8 & CHG-9 on MCA21 V3 portal on 31st August, 2022 at 12.00 a.m.

To facilitate implementation of these forms in V3 MCA21 portal, following points to be noted:

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- i) Company e-Filings on V2 portal will be disabled from 15th August, 2022 at 12:00 AM for the above 9 forms and all stakeholders are advised to ensure that there are no SRNs are pending for payment and any Resubmission status.
- ii) Offline payments for the above 9 forms in V2 using Pay later option would be stopped from 07th August, 2022 at 12:00 AM. Stakeholders are requested to make payments for these forms in V2 through online mode (Credit/Debit Card and Net Banking).

~Compiled by Hetni Shah

#HUNAAR HAAT



~Priya Suthar

Allow us to tell you more!



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