

**R.C.JAIN AND ASSOCIATES LLP**

**NEWSLETTER**

**March**

**2022**

*“Don’t work for Money,  
Let the money work for you”*

*-Robert T Kiyosaki*



# INDEX

1. Income Tax _____	3
2. Case Law _____	7
3. GST _____	12
4. RBI _____	13
5. Corporate Law _____	21
6. Hunaar Haat _____	24

## EDITORIAL TEAM

### **CHIEF EDITOR**

CA R. C. Jain

### **EDITOR**

CA Dimpri Gala

### **MEMBERS**

Aishwarya Sarwade

Pooja Gorana

Revati Pillai

Siddhi Dhonde

Soham Talashilkar

Bhavesh Bang

### **SUPPORT TEAM**

Ulhas Jain

CA Meera Joisher

Mangesh Kolekar

The contents provided in this newsletter are for information purpose only and are intended, but not promised or guaranteed, to be correct, complete and up-to-date. The firm hereby disclaims any and all liability to any person for any loss or damage caused by errors or omissions, whether such errors or omissions result from negligence, accident or any other cause.

**Income Tax**

**1) ADDITIONAL CONDITIONS FOR FURNISHING RETURN OF INCOME U/S 139(1)(B)-**

CBDT notified additional conditions for filing return of Income:

- if his total sales, turnover or gross receipts, as the case may be, in the business exceeds sixty lakh rupees during the previous year; or
- if his total gross receipts in profession exceeds ten lakh rupees during the previous year; or
- if the aggregate of tax deducted at source and tax collected at source during the previous year, in the case of the person, is twenty-five thousand rupees or more; or
- the deposit in one or more savings bank account of the person, in aggregate, is rupees fifty lakh or more during the previous year:

Provided that in the case of an individual resident in India who is of the age of sixty years or more, at any time during the relevant previous year, the provision of clause (iii) shall have effect as if for the words “twenty-five thousand”, the words “fifty thousand” had been substituted.'

**2) TAXATION OF INCOME FROM RETIREMENT BENEFIT ACCOUNT MAINTAINED IN A NOTIFIED COUNTRY:**

- i. Where a specified person has income accrued in specified account or accounts, from Assessment Year 2022-23 onwards, such income at the option of the specified person, be included in his total income of the previous year relevant to the assessment year in which income from the said specified account or accounts is taxed at the time of withdrawal or redemption, as the case may be, in the notified country.+
- ii. Where the option has been exercised by a specified person, the total income of the

## **DIRECT TAX**

- iii. the specified person shall not include the income which,
  - a. has already been included in the total income of such specified person in any of the earlier previous years during which such income accrued and tax thereon has been paid in accordance with the provisions of the Act; or
  - b. was not taxable in India, in the previous year during which such income accrued, on account of, —
    - such specified person being a non-resident, or not ordinarily resident or
    - application of the Double Taxation Avoidance Agreement, if anyAnd the foreign tax paid on such income, shall be ignored for the purpose of computation of the foreign tax credit under rule 128.
- iv. The option shall be exercised by the specified person in respect of all the specified accounts maintained by the specified person.
- v. In a case where the specified person becomes a non-resident during any relevant previous year, then-
  - a. the option exercised under sub-rule (1) shall be deemed to have never been exercised with effect from the relevant previous year; and
  - b. the income which has accrued in the specified account or accounts during the period, beginning with the previous year in respect of which the option under sub-rule (1) was exercised and ending with the previous year immediately preceding the relevant previous year, shall be taxable during the previous year immediately preceding the relevant previous year and tax shall be paid on or before the due date for furnishing the return of income for the relevant previous year.
- vi. The person shall file form 10EE electronically on or before due date of furnishing IT Return.
- vii. The option once exercised, shall apply to all subsequent previous year & cannot be withdrawn.

3) **CLARIFICATION REGARDING OTHER INSTITUTION:**

The Central Government approves 'Sri Sharada Institute of Indian Management Research Foundation Trust, New Delhi, (PAN: AAJTS0088H)' as 'other Institution' under the category of 'University, College or other institution' for research in social science or statistical research for the purposes of Section 35(1)(iii) of Income-tax Act, 1961 read with rules 5C and 5E of the Income-tax Rules, 1962.

This notification shall be applicable for Assessment Years 2023-2024 to 2027-2028.

4) **CLARIFICATION REGARDING NATIONAL BANK:**

The Central Government notifies the National Bank for Financing Infrastructure and Development, established under section 3 of the National Bank for Financing Infrastructure and Development Act, 2021 (17 of 2021), for the purposes of clause 48D of Section 10, for a period of ten consecutive assessment years beginning from the assessment year 2022-2023.

5) **CLARIFICATION REGARDING SPECIAL ECONOMIC ZONE:**

The Central Government notifies for, 'SEEPZ Special Economic Zone Authority' (PAN AAALS4995G), an Authority constituted under the Special Economic Zone Act, 2005 by the Government of India, in respect of the below incomes: -

- Lease rentals/Service charges from various units operating in the SEZ;
- Income by way of Gate Pass Entry Fees, Fine & Penalties from various units and other misc. income (Fire cess income, sale of garbage, contribution for crèche facilities); and
- Interest on Bank Deposits and Investments
- This notification shall be effective subject to the conditions that SEEPZ Special Economic Zone Authority: -
- shall not engage in any commercial activity;
- activities and the nature of the specified income shall remain unchanged throughout the financial years; and

## **DIRECT TAX**

- Shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

### **6) *NHAI BONDS U/S 54EC OF INCOME TAX ACT DISCONTINUED***

- National Highways Authority of India has said in a letter that NHAI Bonds have been discontinued w.e.f. 31st March 2022.
- The Authority also demanded in the letter that financial institutions disconnect the link for payment of NHAI Bonds under section 54EC of the Income Tax Act.

**~Compiled by Aishwarya Sarwade**

## **Case Laws**

### **1. Issue Involved:**

- The amount in challenge before ITAT & HC is what is relevant for determining tax effect below which Departmental appeal to HC is barred by CBDT Circular

In The Supreme Court of Indi “Late Shri Gyan Chand Jain v. Commissioner of Income-tax”

### **GIST OF CASE**

Revenue's appeal before the ITAT and High Court involved tax effect less than Rs. in penalty in view of the subsequent order cannot oust the jurisdiction. What is required to be considered is what was under challenge before the Tribunal as well as the High Court Where AO levied a penalty of Rs.29,02,743 u/s 271(1)(c) and CIT(A) reduced penalty to Rs.6,00,000 on assessee's appeal, it cannot be said that tax effect in 20,00,000 for which appeal cannot be filed to HC in terms of CBDT Circular No.21 of 2015 dated 10-12-2015. Before the Tribunal, both the Revenue, as well as the assessee, preferred the appeals and the entire penalty amounting to Rs.29,02,743/- was an issue before the Tribunal as well as before the High Court. The subsequent reduction.

As per Court, “what was challenged by the Revenue was the penalty amounting to Rs.29,02,743/ and not the subsequent reduction of penalty by the CIT(A). The aforesaid aspect has been dealt with by the High Court in paragraph 17 of the impugned judgment and order. We are in complete agreement with the view taken by the High Court. Therefore, it cannot be said that the appeal before the High Court at the instance of the Revenue challenging the order passed by the ITAT was not maintainable in view of CBDT circular dated 10-12-2015.”

**HELD**

Feeling aggrieved and dissatisfied with the impugned judgment and order dated 29-3-2016 passed by the High Court of Judicature for Rajasthan, Jaipur in D.B. Income Tax Appeal No.33 of 2014 by which the High Court has allowed the said appeal preferred by the Revenue and has set aside the order passed by the Income Tax Appellate Tribunal (hereinafter referred to as the 'ITAT') deleting the penalty under Section 271(1)(c) of the Income Tax Act (for short 'the Act'), the assessee has preferred the present appeal.

It is mainly submitted on behalf of the appellant that in view of the CBDT (Central Board of Direct Taxes) Circular No.21 of 2015 dated 10-12-2015 the appeal preferred by the Revenue was not maintainable. It is the case on behalf of the appellant that in view of the aforesaid circular no appeal can be filed by the Department in any High Court, for nonpayment of taxes, where the tax effect is less than Rs.20,00,000/-. It is the case on behalf of the appellant that in view of the order passed by the CIT(A) and in view of the subsequent demand, the penalty amount was reduced to Rs.6,00,000/- (approximately) and therefore when the tax effect would be less than Rs.20,00,000/-, in view of the CBDT Circular dated 10-12-2015 the appeal preferred by the Revenue before the High Court was not maintainable.

Learned counsel appearing on behalf of the appellant has also made some submissions on merits on the jurisdiction of the Additional Commissioner of Income Tax. However considering the definitions contained in Section 2(28C) read with Section 274(2) of the Income Tax Act, 'Joint Commissioner' means a person appointed to the post of Joint

Commissioner of Income Tax and includes Additional Commissioner of Income Tax and in the present case the approval of the Additional Commissioner of Income Tax was obtained, we see no reason to interfere with the findings recorded by the High Court on merits on the powers of the Additional Commissioner to grant the approval sought by the AO for imposing penalty under Section 271(1)(c) of the Income Tax Act.

Now so far as the primary submission on behalf of the appellant assessee that as the penalty amount was substantially reduced to Rs.6 lakhs and even the subsequent demand notice was for an amount of Rs.6 lakhs (approximately) only and therefore in view of the CBDT Circular dated 10-12-2015 the tax effect being lower than the permissible limit to prefer the appeal before the High Court and therefore the appeal

## **DIRECT TAX**

before the High Court was not maintainable is concerned, at the outset it is required to be noted that what was assailed by the Revenue was the penalty amounting to Rs.29,02,743/- and not the penalty reduced by the CIT(A). Before the Tribunal, both the Revenue, as well as the assessee, preferred the appeals and the entire penalty amounting to Rs.29,02,743/- was an issue before the Tribunal as well as before the High Court. The subsequent reduction in penalty in view of the subsequent order cannot oust the jurisdiction. What is required to be considered is what was under challenge before the Tribunal as well as the High Court. At the cost of repetition, it is observed that what was challenged by the Revenue was the penalty amounting to Rs.29,02,743/- and not the subsequent reduction of penalty by the CIT(A). The aforesaid aspect has been dealt with by the High Court in paragraph 17 of the impugned judgment and order. We are in complete agreement with the view taken by the High Court. Therefore, it cannot be said that the appeal before the High Court at the instance of the Revenue challenging the order passed by the ITAT was not maintainable in view of CBDT circular dated 10-12-2015.

In view of the above and for the reasons stated above there is no substance in the present appeal and the same deserves to be dismissed and is accordingly dismissed. No costs.

### **2) Issue Involved:**

- HC cannot dismiss appeal u/s 260A by simply observing that no substantial question of law is involved; HC's order must be reasoned and speaking order

In the Supreme Court Of India “Principal Commissioner of Income-tax v. Bajaj Herbals (P.) Ltd.”

### **GIST OF CASE**

High Court cannot dismiss an appeal u/s. 260A by simply observing that none of the questions as proposed by the revenue could be termed as the substantial questions of law and all the questions proposed are on factual aspects of the matter. HC's order should be a reasoned and speaking order with discussion of factual matrix of the case.

**HELD**

Feeling aggrieved and dissatisfied with impugned order dated 01.10.2020/02.12.2020 (modification order) passed by the Division Bench of the High Court of Gujarat at Ahmedabad in R/Tax Appeal No. 278 of 2020, by which the High Court has dismissed the said appeal preferred by the appellant herein – Revenue, the present appeal has been preferred by the Revenue.

As per the office report the respondent is served. From the office report, it appears that the respondent – assessee sent a letter to the Registry of this Court on 22-10-2021 to grant an adjournment of three months. The time was accordingly granted. Despite the same no one has filed vakalatnama and none has appeared on behalf of the respondent. Hence, service of notice on the respondent is complete.

By the impugned order the High Court has dismissed the said appeal simply by observing that none of the questions as proposed by the revenue could be termed as the substantial questions of law and all the questions proposed are on factual aspects of the matter. However, it is required to be noted that except re-producing the proposed questions of law, there is no further discussion on the factual matrix of the case. While issuing the notice, this Court passed the following order: -

"Mr. Balbir Singh, learned ASG, has vehemently submitted that in the impugned order except narrating the proposed questions of law, there is no independent reasoning given by the High Court while dismissing the appeal except recording that "having gone through the materials on record, we are of the view that none of the questions as proposed by the revenue could be termed as the substantial questions of law. All the questions proposed are on factual aspects of the matter".

Hence, issue notice for final disposal returnable within six weeks.

Counter be filed within four weeks from the date of receipt of the notice.

Dasti, in addition, is permitted."

As the impugned order passed by the High Court is a non-speaking and non-reasoned order and even the submissions on behalf of the revenue are not recorded, the impugned order passed by the High Court dismissing the appeal is unsustainable.

## **DIRECT TAX**

Under the circumstances, the impugned order is hereby quashed and set aside. The matter is remanded to the High Court to decide and dispose of the appeal afresh in accordance with law and on its own merits. If the High Court is of the opinion that the proposed questions of law are not substantial questions of law and they are on factual aspects, it will be open for the High Court to consider the same in accordance with law, however, the High Court to pass a speaking and reasoned order after recording the submissions made on behalf of the respective parties.

The present appeal is allowed to the aforesaid extent. No costs.

**~Compiled by Soham Talashilkar**

**GST****1.Notification No. 03/2022-Central Tax, Dated 31st March, 2022**

In exercise of the powers conferred by sub-section (2) of section 23 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter referred to as the “said Act”), the Central Government, on the recommendations of the Council, hereby specifies the following category of persons, as the category of persons exempt from obtaining registration under the Act-

Any person, who is engaged in exclusive supply of goods and whose aggregate turnover in the financial year does not exceed forty lakh rupees, except, -

- persons required to take compulsory registration under section 24 of the said Act;
- persons engaged in making supplies of the goods, the description of which is specified in column (3) of the Table below and falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Table;
- persons engaged in making intra-State supplies in the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand; and
- persons exercising option under the provisions of sub-section (3) of section 25, or such registered persons who intend to continue with their registration under the said Act.

To this, following further entries has been inserted, namely:-

4	6815	Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash blocks
5	6901 00 10	Bricks of fossil meals or similar siliceous earths
6	6904 10 00	Building bricks
7	6905 10 00	Earthen or roofing tiles

- This notification shall come into force on the 1st day of April, 2022.

~Compiled by Revati Pillai

**Part A: Foreign Exchange Management Notifications****1) RBI/2022-23/28****A.P. (DIR Series) Circular No. 01 (revised number)****Limits for investment in debt and sale of Credit Default Swaps by Foreign Portfolio Investors (FPIs)**

Attention of Authorised Dealer Category-I (AD Category-I) banks is invited to Schedule 1 to the Foreign Exchange Management (Debt Instruments) Regulations, 2019 notified, vide Notification No. FEMA. 396/2019-RB dated October 17, 2019, as amended from time to time and the relevant Directions issued thereunder.

A reference is also invited to the following directions issued by the Reserve Bank:

- A.P. (DIR Series) Circular No. 25 dated March 30, 2020;
- Circular No. FMRD.FMSD.No.25/14.01.006/2019-20 dated March 30, 2020;
- A.P. (DIR Series) Circular No. 05 dated May 31, 2021; and
- A.P. (DIR Series) Circular No. 23 dated February 10, 2022.

**Investment Limits for the financial year (FY) 2022-23:**

- The limits for FPI investment in Government securities (G-secs), State Development Loans (SDLs) and corporate bonds shall remain unchanged at 6%, 2% and 15% respectively, of outstanding stocks of securities for FY 2022-23.
- As hitherto, all investments by eligible investors in the 'specified securities' shall be reckoned under the Fully Accessible Route (FAR) in terms of A.P. (DIR Series) Circular No. 25 dated March 30, 2020.
- The allocation of incremental changes in the G-sec limit (in absolute terms) over the two sub-categories - 'General' and 'Long-term' - shall be retained at 50:50 for FY 2022-23.
- The entire increase in limits for SDLs (in absolute terms) has been added to the 'General' sub-category of SDLs.

**The revised limits (in absolute terms) for the different categories, are in Table-1:**

<b>Table - 1: Investment limits for FY 2022-23</b>						
all figures in ₹ Crore						
	<b>G-Sec General</b>	<b>G-Sec Long Term</b>	<b>SDL General</b>	<b>SDL Long Term</b>	<b>Corporate Bonds</b>	<b>Total Debt</b>
Current FPI limits	2,53,298	1,22,298	85,902	7,100	6,07,039	10,75,637
Revised limit for the HY Apr 2022-Sept 2022	2,60,594	1,29,594	89,365	7,100	6,37,455	11,24,107
Revised limit for the HY Oct 2022-Mar 2023	2,67,890	1,36,890	92,828	7,100	6,67,871	11,72,578

- In terms of A.P. (DIR Series) Circular No. 23 dated February 10, 2022, the aggregate limit of the notional amount of CDS sold by FPIs shall be 5% of the outstanding stock of corporate bonds. Accordingly, an additional limit of ₹ 2, 22,623 crore is set out for FY 2022-23.
- AD Category - I banks may bring the contents of this circular to the notice of their constituents and customers concerned.
- The Directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions/approval, if any, required under any other law.

## **Part B: Other RBI Notifications**

### **1) RBI/2022-23/24**

**Ref.No.DoS.CO.PPG./SEC.01/11.01.005/2022-23**

### **Compliance Function and Role of Chief Compliance Officer (CCO) – NBFCs**

1. A Revised Regulatory Framework for NBFCs' issued vide Circular Ref.DOR.CRE.REC.No.60/03.10.001/2021-22 dated October 22, 2021<sup>1</sup>. As indicated therein, Non-Banking Financial Companies in the Upper Layer (NBFC-UL) and Middle Layer (NBFC-ML) would be required, inter alia, to have an independent Compliance Function and a Chief Compliance Officer (CCO). Accordingly, this Circular shall be applicable to all NBFC-UL and NBFC-ML. NBFCs in the Base Layer (NBFC-BL) shall continue to be governed under the existing guidelines<sup>2</sup>.
2. As part of the overall structure for Corporate Governance, Compliance Function serves a critical role. Accordingly, it has been decided to introduce certain principles, standards and procedures for Compliance Function in NBFC-UL and NBFC-ML, keeping in view the principles of proportionality.
3. NBFC-UL and NBFC-ML shall put in place a Board approved policy and a Compliance Function, including the appointment of a Chief Compliance Officer (CCO), based on the framework given in the Annex, latest by April 1, 2023 and October 1, 2023, respectively.
4. This Circular shall be placed in the immediate next meeting of the Board of Directors for information and devising an implementation strategy, under the Board's supervision, in a time-bound manner.

**2)RBI/2022-23/19****DOR.AUT.REC.12/22.01.001/2022-23****Establishment of Digital Banking Units (DBUs)**

In recent times, digital banking has emerged as the preferred banking service delivery channel in the country along with 'brick and mortar' banking outlets. Reserve Bank has been taking progressive measures to improve availability of digital infrastructure for banking services. In furtherance of this objective and as a part of efforts to accelerate and widen the reach of digital banking services, the concept of "Digital Banking Units" (DBUs) is being introduced by the Reserve Bank.

In pursuance of announcements made in the Union Budget 2022-23, guidelines have been prepared for setting up of Digital Banking Units (DBUs) by commercial banks on the basis of recommendations of a Working Group formed by RBI which included representatives of banks and Indian Banks' Association (IBA).

**3)RBI/2022-23/20****DOR.CRE.REC.13/08.12.015/2022-23****Individual Housing Loans – Rationalisation of Risk Weights**

Rationalization of risk weights on Individual Housing Loans in terms of which risk weights were rationalised irrespective of the amount, for all new housing loans sanctioned from October 16, 2020 and up to March 31, 2022.

On review, it has been decided to continue with the risk weights contained in the circular ibid for all new individual housing loans sanctioned up to March 31, 2023. All other instructions applicable in terms of the circular dated October 16, 2020 remain unchanged.

**4)RBI/2022-23/21****DOR.MRG.REC.14/21.04.141/2022-23****Review of SLR holdings in HTM category**

At present, banks have been granted a special dispensation of enhanced Held to Maturity (HTM) limit of 22 per cent of Net Demand and Time Liabilities (NDTL), for Statutory Liquidity Ratio (SLR) eligible securities acquired between September 1, 2020 and March

31, 2022, until March 31, 2023.

On a review, it has now been decided to further enhance the existing HTM limit of 22 per cent of NDTL to 23 per cent of NDTL and allow banks to include securities acquired between April 1, 2022 and March 31, 2023 under the enhanced limit of 23 per cent.

The enhanced HTM limit of 23 per cent shall be restored to 19.5 percent in a phased manner, beginning from the quarter ending June 30, 2023, i.e. the excess SLR securities acquired by banks during the period September 1, 2020 to March 31, 2023 shall be progressively reduced such that the total SLR securities held in the HTM category as a percentage of the NDTL do not exceed:

- 22.00 per cent as on June 30, 2023
- 21.00 per cent as on September 30, 2023
- 20.00 per cent as on December 31, 2023
- 19.50 per cent as on March 31, 2024

All other instructions shall remain unchanged.

The relevant sections of the Master Direction are being amended to reflect the aforementioned changes.

### **Applicability**

- This circular is applicable to all Commercial Banks.
- These instructions shall come into force with immediate effect.

**5)RBI/2022-23/25**

**DOR.LRG.REC.19/21.04.098/2022-23**

### **Basel III Framework on Liquidity Standards – Liquidity Coverage Ratio (LCR)**

In terms of the circular *ibid*, the assets allowed as Level 1 High Quality Liquid Assets (HQLAs) for the purpose of computing the LCR, *inter alia*, include (a) Government securities in excess of the mandatory SLR requirement and (b) within the mandatory SLR requirement, Government securities to the extent allowed under (i) Marginal Standing

Facility (MSF) and (ii) Facility to Avail Liquidity for Liquidity Coverage Ratio (FALLCR) [15 per cent of the banks' Net Demand and Time Liabilities (NDTL)].

Since MSF has been reduced to 2 per cent from 3 per cent of NDTL from January 1, 2022, the total HQLA carve out from the mandatory SLR, which can be reckoned for meeting LCR requirement, has reduced to 17 per cent of NDTL (2 per cent MSF plus 15 per cent FALLCR) from 18 percent.

On a review, it has been decided to permit banks to reckon Government securities as Level 1 HQLA under FALLCR within the mandatory SLR requirement up to 16 per cent of their NDTL. Accordingly, the total HQLA carve out from the mandatory SLR, which can be reckoned for meeting LCR requirement will be 18 per cent of NDTL (2 per cent MSF plus 16 per cent FALLCR).

**Applicability:**

- This circular is applicable to all Commercial Banks other than Regional Rural Banks, Local Area Banks and Payments Banks.
- These instructions shall come into force with immediate effect.

**6)RBI/2022-23/26**

**DOR.ACC.REC.No.20/21.04.018/2022-23**

Non-Banking Finance Companies (NBFCs) are required to make disclosures in their financial statements in accordance with existing prudential guidelines, applicable accounting standards, laws, and regulations. The additional disclosure requirements for NBFCs in accordance with the SBR framework are outlined in the Annex.

These disclosures are in addition to and not in substitution of the disclosure requirements specified under other laws, regulations, or accounting and financial reporting standards. More comprehensive disclosures than the minimum required are encouraged, especially if such disclosures significantly aid in the understanding of the financial position and performance.

**Applicability**

This circular is applicable to all NBFCs. The Annex specifies the applicability of specific disclosure requirements to specific NBFC layers as per Scale Based Regulation. It may be noted that disclosure requirements applicable to lower layers of NBFCs will be applicable

to NBFCs in higher layers. These guidelines shall be effective for annual financial statements for year ending March 31, 2023, and onwards.

**7)RBI/2022-23/33****DOR.GOV.REC.No.26/18.10.004/2022-23****Creation of Honorary Designations at Board level in Urban Co-operative Banks**

It has been observed during the course of supervisory reviews that some of the Urban Co-operative Banks (UCBs) have adopted the practice of creating honorary designations (remunerated or otherwise)/conferring titles at Board level, such as Chairman Emeritus, Group Chairman, etc., which are not recognised in applicable statutes or regulations.

While such positions/titles may be indicative of certain privileges/ rights for the incumbent to access all board materials and participate in board/committee meetings, enforcing liability or obligations on such person may be difficult. Such positions may be seen as creating conflicts of interest as well as creation of a parallel or shadow authority impeding effective and independent functioning of the legally constituted board in the best interest of all its stakeholders.

As such, UCBs are directed not to create any honorary positions/titles at Board level or confer such titles that are non-statutory in nature and to eliminate any such existing position/titles within one year from date of this circular.

These directions are issued under Section 35A and Section 36(1)(d) of the Banking Regulation Act, 1949 (AACS).

**8)RBI/0222-23/34****DOR.CRE.REC.28/21.04.048/2022-23****Legal Entity Identifier (LEI) for Borrowers**

On a review, it has been decided that the guidelines on LEI stand extended to Primary (Urban) Co-operative Banks (UCBs) and Non-Banking Financial Companies (NBFCs). It is further advised that non-individual borrowers enjoying aggregate exposure of ₹5 crore and above from banks<sup>1</sup> and financial institutions (FIs)<sup>2</sup> shall be required to obtain LEI codes as per the timeline given in the Annex.

“Exposure” for this purpose shall include all fund based and non-fund based (credit as well as investment) exposure of banks/FIs to the borrower. Aggregate sanctioned limit or outstanding balance, whichever is higher, shall be reckoned for the purpose. Lenders may ascertain the position of aggregate exposure based on information available either with them, or CRILC database or declaration obtained from the borrower.

Borrowers who fail to obtain LEI codes from an authorized Local Operating Unit (LOU) shall not be sanctioned any new exposure nor shall they be granted renewal/enhancement of any existing exposure. However, Departments/Agencies<sup>3</sup> of Central and State Governments (not Public Sector Undertakings registered under Companies Act or established as Corporation under the relevant statute) shall be exempted from this provision.

These directions are issued under sections 21, 35A and 56 of the Banking Regulation Act, 1949, sections 45JA and 45L of the Reserve Bank of India Act, 1934, section 30A of the National Housing Bank Act, 1987 and section 6 of the Factoring Regulation Act, 2011.

**Timeline for obtaining LEI by borrowers**

<b><u>Total Exposreu</u></b>	<b><u>LEI to be obtained on or before</u></b>
<b>Above ₹25 crore</b>	<b>April 30, 2023</b>
<b>Above ₹10 crore, up to ₹25 crore</b>	<b>April 30, 2024</b>
<b>₹5 crore and above, up to ₹10 crore</b>	<b>April 30, 2025</b>

**~Compiled by Siddhi Dhonde**

## **CORPORATE LAW**

### **1) LLP 2<sup>ND</sup> AMENDMENT RULES, 2022:**

The LLP amendments have been came into effect from **01<sup>st</sup> April, 2022**. The following amendments has been made by the Ministry of Corporate Affairs in order to incorporate ease of doing business and to bring decriminalize in certain provisions of the Act:

### **2) Concept of "SMALL LLP":**

Small Limited Liability Partnership means a Limited Liability Partnership in which contribution does not exceed 25 Lakhs rupees or such higher amount not exceeding 5 crore rupees as may be prescribed and the turnover of which as per Statement of Accounts and Solvency for the immediate preceding financial year does not exceed 40 lakhs rupees or such higher amount not exceeding 50 crore rupees as may be prescribed.

### **3) Concept of "START-UP LLP":**

This concept has been recognized in order to attract individuals to incorporate LLP rather than Proprietorship or Partnership with introduction of minimum penalty provision for start-up and small LLP's:

Rs. 1,00,000/- on LLP

And

Rs. 50,000/- on Designated Partners or any other persons.

**4) AUDIT TRAIL AND USE OF ACCOUNTING SOFTWARE**

As per the provision of sub-rule (1) of rule 3, of Chapter IX The Companies (Accounts) Rules, 2014, it is mandatory to keep books of account and other relevant papers in electronic form.

Ministry of Corporate Affairs has provided mandatory use of accounting software which has a feature of recording audit trail of each and every transaction in order to protect data from any future editing in software with effect from 01<sup>st</sup> April, 2022.

Vide notification dated 31<sup>st</sup> March, 2022, MCA has extended date of using audit trail with effect from **1<sup>st</sup> April, 2023**.

**5) FILING OF CSR-2**

As per the provision of Section 135(1) of Companies Act, 2013, every company shall file form CSR-2 for the preceding financial Year 2020-2021 with the Registrar separately and after 2020-2021 as an addendum in Form AOC-4 or AOC-4 XBRL, or AOC-4 NBFC (Ind AS) as case may be.

The last for filing form CSR-2 for Companies was 31<sup>st</sup> March, 2022 which has not been extended till **31<sup>st</sup> May, 2022**.

**6) INDEX OF MEMBERS**

With effect from **06<sup>th</sup> April, 2022**, it is not mandatory to provide details for inspection or taking extracts or copies by the members of such as:

- Address or registered address (in case of Body corporate);
- E-mail ID;
- Unique Identification Number;
- PAN Number; of the members in the register Index of Member.

## **CORPORATE LAW**

### **7) ASSOCIATION OF DSC**

DSC Association is a post login service in V3. User Registration is mandatory for DSC Association. Multiple DSC Associations cannot be done using one user id.

Steps to Associate DSC as follows:

- Firstly create your login as a business user in V3
- Login your credentials at [www.mca.gov.in](http://www.mca.gov.in)
- Go the MCA Services→ FO LLP Services→ Associate DSC→ select certificate details from drop down→ enter and Register your DSC.

### **8) COMPANIES (INCORPORATION) AMENDMENT RULES, 2022:**

On 31/03/2022, amendment has been notified with respect to incorporation of “NIDHI COMPANY” - stating that no business shall be commence business before approval of Central Government and approval need to be obtained form Central Government at stage of incorporation only and declaration with regard to same is to be submitted at time of incorporating Nidhi Company.

### **9) FAQ'S FOR MCA V3**

FAQ's for MCA V3 has been released on 24<sup>th</sup> April, 2022 with respect to issue faced by stakeholder while filing forms and other details.

<https://www.mca.gov.in/bin/dms/getdocument?mds=ahWgo6Kaf5L5yGqFnK3hSQ%253D%253D&type=open>

### **10) SEBI has issued Streamlining the process of public issues and redressal of investor grievances due to delay in unblocking the amount of investors in ASBA application.**

[https://www.sebi.gov.in/legal/circulars/apr-2022/streamlining-the-process-of-public-issues-and-redressal-of-investor-grievances\\_58226.html](https://www.sebi.gov.in/legal/circulars/apr-2022/streamlining-the-process-of-public-issues-and-redressal-of-investor-grievances_58226.html)

~Compiled by Pooja Gorana

03

**ATTITUDE+****BHAVESH  
BANG**  
WRO0670358

Attitude is a great way to achieve success in our life. A positive attitude converts the difficulties into opportunities. It gives us self-motivation, courage and also rise the power of visualisation. Good things only happen when things will be visualised. It builds up a good personality. It fills courage to convert our own dreams into reality and it also boosts our confidence. If we want happiness in every work of the life so a positive attitude is very necessary. It also encourages doing every work which creates some value to the life whether it is small or large because every work have their own importance. If our attitude is positive in every situation so it gives a peaceful life.

*ATTITUDE MAINLY DEPENDS UPON WHAT WE THINK, HOW WE LOOK TO EVERY SITUATION, ETC.*

What we think - Attitude relates to our thinking because everything in our life is dependent upon what we think. If our thinking is positive then it gives us better results and also gives courage to fight the problems and also convert problems into opportunities.

How we look to every situation - Attitude also depends upon how we look to every situation because it gives courage to take responsibilities and perform the work. Attitude gives a better framework to handle the any situation in the life.

It develops positivity and also converts the selfish behaviour into selfless behaviour. It enhances the feeling of uniqueness in oneself and not to compare with others. It gives a best direction to the mind to reach the goal in a systematic way. Positive thoughts and attitude always construct a beautiful life. It is a powerful way to express the opinion in a better way and also increase our skills. It also encourages in handling the mistakes and making a better strategy to perform more and more in the life. A great example of positive attitude is that nothing is impossible in the life and also depends upon simple equation i.e. without efforts - nothing is possible, with efforts - something is possible, with efforts and positive attitude - everything is possible.

So always be positive in the life and it always depends upon the thinking. With a positive attitude, whatever happens in the life gives happiness whether it is small or big. All successful person have a positive attitude in their life. Always be happy in life.

**SKILL-SET & WILL-SET TO BE A  
CHARTERED ACCOUNTANT**

Allow us to tell you more!



**R.C. JAIN & ASSOCIATES LLP**  
**Chartered Accountants**  
**Website: [www.rcjainca.com](http://www.rcjainca.com)**

**Head Office:**

**Mumbai -**

622-624, The Corporate Centre,  
Nirmal Lifestyles, L.B.S. Marg,  
Mulund (W),  
Mumbai – 400080.  
Email: [info@rcjainca.com](mailto:info@rcjainca.com)  
Phone: **25628290/91, 67700107**

**Branch Offices:**

**Bhopal -**

M-272, Near Arya Samaj Bhawan,  
Gautam Nagar, Bhopal,  
Madhya Pradesh- 462 023  
Email: [hmjainca@rediffmail.com](mailto:hmjainca@rediffmail.com)

Phone: **0755-2600646**

**Aurangabad -**

Su-Shobha, Plot No.7,  
Mitranagar, Behind Akashwani,  
Near Maratha Darbar Hotel,  
Aurangabad - 431001.  
Email: [sskasliwal@gmail.com](mailto:sskasliwal@gmail.com)  
Phone: **0240-2357556**

**Ahmedabad-**

D-305, Riverside Park Society,  
Opp. Shantabaug Society,  
Near APMC Market, Vasna  
Ahmedabad- 380007  
Email: [cajigna.nanda@gmail.com](mailto:cajigna.nanda@gmail.com)  
Phone: **706902639**

