TAX CONNECT

fIFTH ISSUE APRIL 2014

Friends,

In the course of his speeches during the VCES period Mr. Chidambaram had remarked, ***"All financial transactions can be traced once you are identified as a tax evader. We can construct a 360 degree profile on them. In fact we have such profiles. We have dossiers on them"***.

The notices of the Service Tax Department received throughout the city are a testament to the fact that the Hon. Finance Minister is actually putting his words to action. However Law is not a gift of omnipotence, or a product of providence that we have to take as given. We give ourselves the law. Therefore the law makers would be making a colossal mistake if they allow the law and rules to act as an impediment to businesses.

Nevertheless, in this era of 360 degree profiling, it is important for businesses to adapt to the dynamic environment all around. While in 2012-13 we witnessed ***Revised Schedule VI*** and ***The Negative List Regime***, in 2013-14 we look ahead for a ***New Companies Act***.

This dynamic legal and taxation environment also makes it imperative for professionals to expand their horizons. Therefore in addition to updating you on all matters of Direct And Indirect Taxes we are also presenting a section on The recently notified Sections of the New Companies Act.

We hope you find this bulletin useful.

May we reiterate **that we shall be available for your queries on any issue 24x7 on our mail id or over a telecon.**

DUE DATE	COMPLIANCE
07-Apr-14	Income Tax TDS Payment
10-Apr-14	Sales Tax TDS Payment
10-Apr-14	ER1, ER2 & ER6 Return for March, 2014
10-Apr-14	Submission of ER-3 Return for the 4th Quarter of 2013-2014
15-Apr-14	Provident Fund e-Payment for March, 2014 (Cheque to be cleared by 20-Apr-14)
21-Apr-14	ESI Tax Payment for March, 2014
25-Apr-14	Provident Fund Return for F.Y. 2013-2014
25-Apr-14	West Bengal Sales Tax TDS Certificate Issue
25-Apr-14	**Service Tax Return (Oct,13-Mar,14)**
30-Apr-14	Payment of TDS for March, 2014
30-Apr-14	Annual Provident Fund Return (2013-2014)
30-Apr-14	**West Bengal VAT/CST/ Entry Tax/ Professional Tax Payment for March, 2014**
30-Apr-14	**West Bengal VAT, CST, Entry Tax & Professional Tax Return for the 4th Quarter of 2013-2014**
30-Apr-14	West Bengal Professional Tax Return for F.Y. 2013-2014 if Annual Tax Liability does not exceed Rs.30,000
30-Apr-14	ER-5 & ER-7 Return for F.Y. 2013-2014

Truly Yours

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SERVICE TAX

COURT DECISIONS

NO SERVICE TAX FOR INFORMATION TECHNOLOGIES SOLUTIONS & SERVICES (ITSS) UNDER RCM FOR SERVICES RECEIVED FROM OVERSEAS BRANCH

In the case of **M/s Infosys Limited vs. Commissioner of Service Tax-Bangalore**, the Bangalore Tribunal has held that:

- The demand for service tax in the capacity of receiver for ITSS received from overseas subcontractor by overseas branches of the appellant is set aside.
- Denial of CENVAT credit and demand for the same in respect of service tax paid on insurance premium of group health insurance scheme as regards employees is set aside.
- Denial of CENVAT credit attributable to services utilized for construction, maintenance or repair or renovation of Global Training Centre up to 01/04/2011 is not sustainable and is set aside. However for the period subsequent to 01/04/2011, if any service has been used for setting up of global training centre, such credit would not be available.
- CENVAT credit would not be admissible in respect of service tax paid relating to construction, maintenance, repair or renovation to hostel, food court, gym etc.
- The demand of service tax with interest in respect of Telecommunication service is set aside. As regards service tax on international private leased circuit, the demand for service tax against the appellant is set aside in its entirety.

CONTINUING OFFENCE OF NON-DEPOSIT OF SERVICE TAX AMOUNTS TO ARREST WHICH IS NOT BAILABLE

In the case of **Kandra Rameshbabu Naidu Vs Superintendent (A.E.) Service Tax, Mumbai-II,** the Bombay High Court has held that if arrest under Section 89 read with Section 90 of Finance Act, 1994 for **non-deposit of Service Tax is a continuing offence, the offence is not bailable.**

SERVICE TAX COLLECTED AND KEPT IN ESCROW ACCOUNT AND NOT PAID TO GOVERNMENT LIABLE TO INTEREST AND PENALTY

In the case of **M/s Sliverline Estates Vs Commissioner of Service Tax- Bangalore,** the Bangalore Tribunal held that if the following conditions exist:

- Service Tax is collected from the customer,
- Kept in Escrow Account, and
- The appellant is liable to pay Service Tax,

But the amount is not paid to the Government Treasury, the Appellant will be liable to pay interest and penalty under Section 73A of the Finance Act, 1994.

EXEMPTION OF SERVICES PROVIDED BY VOCATIONAL TRAINING INSTITUTES

In the case of **Commissioner of Service Tax, Delhi Vs Ashu Exports Pvt. Ltd.,** the Delhi High Court, with reference to the Notification No. 24/2004-ST dated 10.09.2004, has held that **Coaching Centre or a Commercial Training Centre imparting procedural and practical skill based training in areas such as export import management, retail management and merchandising are exempt.** The decision is given in favour of the assessee.

PROCEDURE FOR SURRENDER/CANCELLATION OF SERVICE TAX REGISTRATION

The following guidelines are issued vide **Trade Notice No. 40/2014 dated 17.02.2014** detailing the procedure to be followed for surrender/cancellation of Service Tax Registration:

1. **An application for surrender/cancellation of the service tax registration is to be made for following reasons**:
   - Assessee's turnover is below the threshold limit.
   - Change in the constitution of assessee.
   - Death of proprietor.
   - Assessee closing down the taxable service business.
   - Assessee has taken centralized registration.
   - Assessee has shifted its office from the jurisdiction of one Division/Commissionerate to another and instead of requesting for change in the location code and premises code of the

assessee, a fresh registration has been taken for the new address.

- Due to technical error in the system, the assessee has been issued multiple registrations for the same address.

2. **The following documents are required to be submitted after filing application online along with application form:**

   - Undertaking to surrender the Service Tax Registration (Annexure-I),
   - Copies of last six ST-3 returns filed with the department from the date of taking registration till the date of surrender but up to a maximum of last six returns,
   - Copies of Profit & Loss account and Balance Sheet from the date of taking registration to the date of surrender, but for a maximum of last 3 financial years only. However, if Balance Sheet or P/L Statement has not been prepared, the applicant may submit copies of ITR for the said period.
   - Details of Show Cause Notice pending adjudication, details of confirmed demands, details of court cases, details of audit conducted, etc. as per Annexure-II.
   - the death certificate of the proprietor needs to be enclosed along with the application form where registration is surrendered due to death of the proprietor.
   - Partnership deed or Articles of Association etc. showing change of constitution in case of change of constitution.
   - Order passed by the Hon'ble High Court or Article of Association to that effect in case of merger or acquisition.
   - the copy of centralized registration certificate, showing the premises for which surrender application is being submitted, In case of assessee taking centralized registration
   - copy of registration certificate for which the applicant wants to continue with should abe submitted in case where there are multiple registrations.

It may be noted that if the assessee fails to submit the complete set of hard copies within 15 days of submission of on-line application, it is liable to be rejected.

CENTRAL EXCISE

AMENDMENT IN RULE 12CCC OF CENTRAL EXCISE RULES, 2002

The CBEC vide **Notification No. 14/2014-Central Excise (N.T.) dated 21.03.2014 substituted Rule 12CCC of Central Excise Rules, 2002 regarding power to impose restrictions in certain types of cases.** The Central Government is of the opinion that in order to prevent evasion of, or default in payment of duty of excise, it is necessary in the public interest to provide for certain measures including restrictions on a manufacturer, first stage and second stage dealer or an exporter. **The nature of restrictions includes suspension of registration in case of a dealer, types of facilities to be withdrawn.**

RESTRICTIONS ON MANUFACTURER FOR COMMITTING OFFENCE

The Central Government vide **Notification No. 16/2014-Central Excise (N.T.) dated 21.03.2014** hereby declares that **where a manufacturer, first stage or second stage dealer, or an exporter including a merchant exporter is prima facie found to be knowingly involved in committing the following offences:**

- removal of goods without the cover of an invoice and without payment of duty;
- removal of goods without declaring the correct value for payment of duty;
- taking of CENVAT Credit without the receipt of goods specified in the document based on which the said credit has been taken;
- taking of CENVAT Credit on ingenuine invoices or other documents;
- issuing duty of excise invoice without delivery of goods specified in the said invoice;
- claiming of refund or rebate based on the duty of ingenuine excise paid invoice or other documents;
- removal of inputs as such on which CENVAT credit has been taken, without paying an amount equal to credit availed on such inputs,

the Chief Commissioner of Central Excise may impose following restrictions on the facilities:

- the monthly payment of duty of excise may be withdrawn and the assessee shall be required to pay duty of excise for each consignment at the time of removal of goods;
- payment of duty of excise by utilisation of CENVAT credit may be restricted and the

assessee shall be required to pay duty of excise without utilising the CENVAT credit;

- the assessee may be required to maintain records of receipt, disposal, consumption and inventory of the principal inputs on which CENVAT credit has not been taken;

The provisions of this notification shall be applicable only in a case where the duty of excise or CENVAT Credit alleged to be involved in exceeds rupees ten lakhs.

CENVAT CREDIT RULES, 2004

REFUND OF CENVAT CREDIT ALLOWED TO SERVICE PROVIDER

The CBEC vide **Notification No. 12/2014-Central Excise (N.T.) dated 03.03.2014** hereby directs the **refund of CENVAT Credit shall be allowed to the provider of services notified u/s 68(2) of the Finance Act, 1994** subject to the following:

1. Safeguards, Conditions & Limitations:

(a) the **refund shall be claimed of unutilised CENVAT credit** taken on inputs and input services during the half year for which refund is claimed, for providing **following output services**:

   i. **renting of a motor vehicle** designed to carry passengers on non abated value, to any person who is not engaged in a similar business;

   ii. **supply of manpower** for any purpose or security services; or

   iii. **service portion in the execution of a works contract**;

(hereinafter the above mentioned services will be termed as partial reverse charge services).

(b) the **refund of unutilised CENVAT credit shall not exceed an amount of service tax liability paid or payable by the recipient of service** with respect to the partial reverse charge services provided during the period of half year for which refund is claimed.

(c) in case the **amount of refund sanctioned is less than the amount of refund claimed**, then the **claimant may take back the credit of the difference** between the amount claimed and the amount sanctioned.

(d) The **refund claim shall be filed after filing service tax return** for the period for which refund is claimed.

(e) **No refund shall be admissible for the CENVAT Credit taken on input or input services received prior to the 1st day of July, 2012.**

2. Procedure for filing the refund claim:

The **service provider shall submit an application in Form A** along with the documents and enclosures specified therein, to the jurisdictional AC/DC of Central Excise, as the case may be, before the expiry of one year from the due date of filing of return for the half year, **provided that the last date of filing of application in Form A, for the period starting from the 1st day of July, 2012 to the 30th day of September, 2012, shall be the 30th day of June, 2014.**

AMENDMENT IN RULE 12AAA OF CENVAT CREDIT RULES, 2004

The CBEC vide **Notification No. 15/2014-Central Excise (N.T.) dated 21.03.2014 substituted Rule 12AAA of CENVAT Credit Rules, 2004 regarding power to impose restrictions in certain types of cases.** The Central Government is of the opinion that in order to prevent the misuse of the provisions of CENVAT credit, it is necessary in the public interest to provide for certain measures including restrictions on a manufacturer, first stage and second stage dealer or an exporter. **The nature of restrictions includes restriction on utilization of CENVAT Credit and suspension of registration in case of a dealer, and other such measures which may be specified.**

CUSTOMS

DIRECTIONS ON IMPORT OF GOLD BY ELIGIBLE PASSENGERS THROUGH VARIOUS AIRPORTS

The CBEC vide **Circular No. 06/2014-Customs dated 06.03.2014,** with reference to the Notification No. 12/2012-Customs dated 17.03.2012, **directed the Commissioners of Customs/ Customs and Central Excise having jurisdiction of airports to ensure the following on import of gold by eligible passengers:**

- The engraved serial number of gold bars must be invariably mentioned in the baggage receipt issued by Customs.
- In case of gold in any other form, including ornaments, the eligible passenger must be asked to declare item wise inventory of the ornaments being imported.
- The field officer, may ascertain the antecedents of such passengers, source for

funding for gold as well as duty being paid in the foreign currency, person responsible for booking of tickets etc. so as to prevent the possibility of the misuse of the facility by unscrupulous elements.

INCOME TAX

SUPREME COURT DECISIONS

1. **19th March, 2014:** A charitable and religious trust which does not benefit any specific religious community is not hit by Section 13(1)(b) & is eligible to claim exemption u/s 11. *[IT vs. M/s Dawoodi Bohara Jamat(Supreme Court)]*

HIGH COURT DECISIONS

1. **After rejecting stay application u/s 220, the Assessing Officer must give reasonable time to the petitioner before taking steps for coercive recovery** since the petitioner, faced with an order rejecting the stay application, may need some time to make arrangements to pay the entire tax demand or come up with proposals for paying the same in instalments. *[Sony India Pvt. Ltd. Vs ACIT (Delhi High Court)]*

2. **AO need not examine books of account before directing special audit under Section 142(2A).** The question whether the accounts and the related documents and records available with the A.O. present complexity is essentially to be decided by the A.O. and in this area the power of the court to intrude should necessarily be used sparingly. *[AT&T Communication Services India (P) Ltd. Vs CIT (Delhi High Court)]*

3. **Court can examine existence but not adequacy of reasons. The Assessing Officer is only required to provide material on which he relies to reopen the assessment under Section 147 of the Income Tax Act, 1961.** *[Acorus Unitech Wireless Pvt. Ltd. Vs ACIT (Delhi High Court)]*

ITAT DECISIONS

1. **Section 56(2)(vii) does not apply to bonus & rights shares offered on a proportionate basis even if the offer price is less than the FMV of the shares.**

Section 56(2)(vii)(c) (ii) provides that where an individual or a HUF receives any property for a consideration which is less than the FMV of the property, the difference shall be assessed as income of the recipient. Section 56(2)(vii) does not apply to the issue of bonus shares because there is a mere capitalization of profit by the issuing-company and there is neither any increase nor decrease in the wealth of the shareholder as his percentage holding remains constant. The same argument applies pari materia to the issue of additional shares to the extent it is proportional to the existing share-holding.
[Sudir Menon HUF Vs ACIT (ITAT Mumbai)]

2. **Companies in ITES cannot be classified into low-end BPO services and high-end KPO services for comparability analysis but have to be classified based on the functions performed.** Comparables with abnormal profit margins cannot be discarded per se but must be examined to determine whether the high margins are due to normal business conditions or not. *[Maersk Global Centres (India) Pvt. Ltd vs. ACIT (ITAT Mumbai Special Bench)]*

CBDT INSTRUCTION ON TDS OBLIGATION U/S 195 ON PAYMENT TO NON-RESIDENTS

The CBDT has issued **Instruction No. 02/2014 dated 26.02.2014** in which it has referred to the judgements of the Supreme Court in **Transmission Corp of A. P.** 299 ITR 587 and **GE India Technology Pvt. Ltd** 327 ITR 456 on the issue of deduction of tax at source u/s 195 while making payments to non-residents. **The CBDT has directed AOs u/s 119 that in a case where the assessee fails to deduct TDS u/s 195, the AO cannot treat the whole sum remitted to the non-resident as being chargeable to tax but he has to determine the appropriate proportion of the sum chargeable to tax as mentioned in Section 195(1) for treating the assessee as being in default u/s 201.**

EXTENSION OF DUE DATE FOR FILING TDS/TCS STATEMENTS FOR FY 2012-13 AND 2013-14

The CBDT vide **Circular No. 07/2014 dated 04.03.2014** hereby **extended the due date for filing TDS/TCS Statement for FY 2012-13 and FY 2013-14 to 31.03.2014 for the Government Deductors** and mapped to a **valid AIN** (**Application for allotment of Accounts Office Identification Number**) for:

- FY 2012-13: 2nd to 4th Quarter
- FY 2013-14: 1st to 3rd Quarter

However, any fee under section 234E of the Act already paid by a Government deductors shall not be refunded.

VAT

CHANGE IN PROCEDURE OF SUBMISSION OF APPLICATION FOR AND AMENDMENT OF CERTIFICATE OF REGISTRATION

The Commissioner of Commercial Taxes, West Bengal vide **Trade Circular No. 04/2014 dated 14.03.2014** hereby provided **the procedure of filing online application for amendment in the certificate of registration by the dealer registered under West Bengal VAT Act, 2003.**

The **new procedure** to be followed is laid down below:

- Dealer will log on in the Directorate's website www.wbcomtax.gov.
- Dealer has to **submit his amendment application online** in the Form as may be applicable in his case following the instruction given therein.
- Dealer will **send a duly signed print-out of the application generated electronically along with a photo copy of the acknowledgment slip, self attested photocopies of the necessary supporting documents in connection with the amendment and original RC** issued to him prior to the introduction of e-generation of R.C. **to the AO within ten working days from the date of making application electronically.**
- On being satisfied, the **AO shall, within forty five days from the date of receipt of the print-out of the application, amend the RC** of the dealer and will inform the applicant dealer the fate of his application through e-mail.

All **manual applications, found not disposed as on 31.03.2014, shall be deemed to have been rejected or non-applied at all.** Those dealers are to make fresh applications using online module.

EXTENSION OF DATE TO THE "SALE/PURCHASE MISMATCH APPLICATION" FOR 2011-12

The Commissioner of Commercial Taxes, West Bengal has issued on 26.03.2014 an **Addendum to Trade Circular No. 03/2014 dated 18.02.2014, hereby extending the online settlement of purchase-sale mismatch upto 16.04.2014** (31.03.2014 previously) on receiving representations from Chambers of Commerce/ Trade Bodies/ individual dealers, requesting for extension of date. **The Assessment u/s 46 or Special Audit u/s 43A is to be conducted mandatorily for every unsettled mismatch case.** The procedure to be followed for submission of data to the "Sale Purchase Mismatch Application" is laid down in the Trade Circular No. 03/2014 dated 18.02.2014.

EXTENTION OF ELECTRONIC SYSTEM OF FILING APPEAL /REVISION/REVIEW PETITION

The Commissioner of Commercial Taxes, West Bengal has issued on 26.03.2014 an **Addendum to Trade Circular No. 14/2013 dated 05.12.2014, hereby extending the system of electronic filing of appeal/ revision/ review petition to the dealers registered under the West Bengal VAT Act, 2003 and the CST Act, 1956 within the administrative jurisdiction of Kolkata (South) Circle** and the dealers will follow the same procedure as laid down in Trade Circular No. 14/2013 dated 05.12.2013.

CREATION OF VIGILANCE WING UNDER THE DIRECTORATE

The Commissioner of Commercial Taxes, West Bengal vide **Trade Circular No. 05/2014 dated 28.03.2014** has announced the **creation of Vigilance Wing under the Directorate. The objective of the Wing is to address any complaint against any public servant of the Directorate and to maintain integrity in public services ensuring just and fair exercise of administrative powers.**

The Officials of the Directorate are also **assigned duties involving visits at dealers' places of business for examination of accounts, records, stock of goods etc.** and while all concerned are expected to cooperate in the performance of official duties, in case of any complaint in such matter the same may also be sent to this Wing. The Wing will also **look into allegations involving tax evasion and misuse of requirements of different Acts** being administered by this Directorate.

Complaints and allegations may be sent to the e-mail id: vigilance.ctd-wb@nic.in. Complaints must be objective and founded on documentary evidences.

COMPANIES ACT, 2013

APPLICABILITY OF SECTIONS OF COMPANIES ACT, 2013

MCA, vide a **Notification dated 26th March 2014, has notified applicability of further more Sections of the Companies Act, 2013 with effect from 1st April 2014.**

In Section 2 (Section for definitions), 94 definitions have been made applicable. Definition of "Company Liquidator" has not been made applicable.

Vide the current notification, **183 sections and 13 sub-sections have been made applicable in total**, which includes certain sections partially made applicable during September 2013.

As on date, with effect from 1st April 2014, 283 sections will be applicable (wholly or partially). Besides, Schedules I to VI have also been made applicable.

Provisions relating to National Financial Reporting Authority, Investor and Education Protection Fund, Compromise and arrangement, Oppression and mismanagement, Winding up, Sick companies, Special courts, National Company Law Tribunal have not been made applicable.

APPLICABILITY OF RULES OF COMPANIES ACT, 2013

Within a day of notifying 183 new sections of the Companies Act 2013, MCA has now **notified final rules for 10 chapters by way of Notification dated 27th March 2013.**

The list of notified rules is given below:

CHAPTER	RULE
Chapter I	Companies (Specification of definition details) Rules 2014
Chapter II	Companies (Incorporation) Rules 2014
Chapter III	Companies (Prospectus and allotment of securities) Rules 2014
Chapter IV	Companies (Share Capital and Debentures) Rules 2014
Chapter VI	Companies (Registration of Charges) Rules 2014
Chapter VII	Companies (Management and Administration) Rules 2014
Chapter VIII	Companies (Declaration and Payment of Dividend) Rules 2014
Chapter IX	Companies (Accounts) Rules 2014
Chapter XI	Companies (Appointment and Qualification of Directors) Rules 2014
Chapter XII	Companies (Meetings of Board and its Powers) Rules 2014

BRIEF ON THE IMPORTANT NEWLY ADDED SECTIONS/SCHEDULES ON 26.03.2014

SECTION	BRIEF ON THE SECTION
2(41)	**Financial year to be compulsorily between April 1 – March 31.** This section poses a major shift specially for subsidiaries of foreign companies. Proviso of course allows to continue with the present financial year subject to consent of NCLT.
2(47)	For the first time ,Act defines the **who shall be the independent director** and also lays down the qualifying criteria. Criteria of independence as in Sec. 149(5)
2(48)	For the first time definition of an **Indian Depository Receipt (IDR)** has been incorporated in the Act. It is Instrument created by a domestic depository against underlying securities of foreign company.
2(62)	Definition of **One Person Company**. A noble feature in the Act.
2(85)	**"Small Company"** means a company, **other than a public company,—** (i) paid-up share capital of which does not exceed Rs. 50 Lakhs or such higher amount as may be prescribed which shall not be more than Rs. 5 Crores; or (ii) turnover of which as per its last profit and loss account does not exceed Rs. 2 crore or such higher amount as may be prescribed which shall not be more than Rs.20 crore: Provided that nothing in this clause shall apply to— (A) a holding company or a subsidiary company; (B) a company registered under section 8; or

	(C) a company or body corporate governed by any special Act;.
3	**Formation of a Company**
4	Memorandum of Association. newly incorporated companies need not have "other objects clause"
5	Contents and models of Articles of Association. **One section which needs to be paid a lot of attention. With retrenchment provisions being also allowed, companies may have to immediately amend their AoAs.**
6	Act to override memorandum , articles
7	**Incorporation of a Company.** Certain provisions have been retained. However, additions include declarations from a practitioner, affidavit of subscribers to MoA, address for correspondence till registered office is established.
8	**Formation of Companies with charitable object**. Lots of new provisions have been prescribed. Section now also talks about amalgamation or winding up of such companies.
11	Commencement of business etc. A major change is doing away with the requirement of containing **Certificate of Commencement of Business** for public companies
23(1)(b) & 23(2)	**Private companies may issue securities by way of rights/ bonus/ private placement.** This is to be read with section 42 of Act, 2013 since sweeping amendments have been done.
42	A company may make an offer or invitation of securities by way of private placement. Sweeping changes made. Not only have the provisions of rules pertaining to preferential allotment by unlisted companies been incorporated, the section is also applicable to private companies presently, which will now have to comply with the elaborate provisions.
53	**Companies cannot issue shares at discount** except by sweat equity
55	No company limited by shares shall, after the commencement of this Act, issue any **preference shares which are irredeemable.**
62	Company can increase its subscribed share capital , by sending the letter of offer to the holders of equity shares in proportion to the paid up share capital, to employees subject to special resolution , to any persons ,if authorised by special resolution and share price is determined by the valuation report of registered valuer subject to the prescribed conditions.
71	**Debentures.** A company may issue debenture with an option to convert such debentures into shares , either wholly or partly at the time of redemption. Debentures shall not carry any voting
74(1)	**Repayment of deposits, etc., accepted before commencement of this Act.** This is a very important Section for companies which have already issued deposits. They need to pay extra attention lest they incur the violations prescribed
96	**AGM.** Some major changes have been done like convening of AGM on all days excepting national holidays and has also prescribed business hours
134	**Financial statement, Board's report, etc.** This is one section which companies need to pay special attention to. It lays down the contents of the board's report.
139	It seems that appointment of auditors will have to be given effect to from AGM in 2014 itself. All the qualification and certificate requirements will have to be acted upon immediately.
144	Auditor shall provide to the company only such other services as are approved by the Board of Directors or the audit committee excluding such services mentioned in the section
149	**Company to have Board of Directors.** Minimum 3 directors in case of public companies, two directors in case of Private companies and **maximum 15 directors**
150	Manner of selection of independent directors and **maintenance of databank of independent directors.**

165	No person shall hold office as a director, including any alternate directorship, in more than 20 at the same time subject to maximum 10 public companies
173	First **Board meeting** within 30days of incorporation and thereafter 4 meetings in a year with maximum gap of 120 days. Participation can be in person or through video conferencing. Atleast minimum seven days notice required
174	**Quorum** shall be 1 / 3rd of total strength or 2 directors, higher one
184	Every director shall at the first meeting of the Board in which he participates as a director and thereafter at the first meeting of the Board in every financial year or whenever there is any change in the disclosures already made, then at the first Board meeting held after such change, disclose his concern or interest in any company or companies or bodies corporate, firms, or other association of individuals which shall include the shareholding
188	No company shall enter into any contract or arrangement with a **related party** except with the consent of the Board of Directors given by a resolution
203	**Prescribed companies to appoint KMPs.** This is a very big change and the companies will have to immediately take care of the same including re-designations of CEO/CFO. However, the class of companies are prescribed under the rules which have not been notified yet. Likewise, disclosures in board report and annual return will now become applicable. Further, provision of articles will need to be amended for appointment of chairperson. Therefore, AoA needs immediate change.
212	Investigation into affairs of Company by Serious Fraud Investigating Officer **(SFIO).** Sec 208 read with this section, being enforced, may have serious implications

SCHEDULE	BRIEF ON THE SCHEDULE
Schedule I	**Samples of various types of Memorandum of Association and Articles of Association.** The companies will therefore have to start amendment to AoA
Schedule II	**Old Sch. XIV.** Methods and ways of computing depreciation. This will have impact on calculation. New depreciation rules to be followed now.
Schedule III	**Old Sch VI.** Method and format of preparing the Balance Sheet and Statement of Profit and loss of a company.
Schedule IV	**Outlines a guideline for the professional conduct of Independent Directors.** With the code being notified, lots of new responsibilities follow on IDs including new methods of appointment of IDs. The same to be done in AGM of 2014 itself also with enforcement of sec 149.
Schedule V	**Procedure for appointment of Managing or Wholetime Director or Manager** and method of ascertaining the Managerial Remuneration. With enforcement of sections 197, 198 with the schedule new remuneration limits will now become applicable.
Schedule VI	**Describes the various projects to be included in infrastructural projects and infrastructural facilities**. This is a new schedule altogether and with enforcement of section 186 will be applicable for same.

QUERY & REPLY

QUERY

Some businesses which are taxing service tax and some which are not charging service tax on flex printing. Please let me know as to why service tax will not be charged in printing?

CA MOHAN AGARWAL, GUWAHATI

REPLY

With reference to **Clause 'f' of Section 66D of the Finance Act, 1994** which puts *"any process amounting to manufacture or production of goods"* in Negative List, ***printing*** **amounts to a manufacturing activity** as printed flex have a different identity & utility from its input i.e. plain flex. Hence, chargeability of Service Tax will not be applicable on printing of paper material.

Further, with reference to the following table, it is very clear that most of the printing works are covered under Chapter 48 & Chapter 49 of the First Schedule to the Central Excise Tariff Act, 1985. If a printing firm is not paying excise on printed flex etc, it should be only because they are zero-rated.

PRODUCTS	CENTRAL EXCISE TARIFF NUMBER	EXCISE DUTY
Labels	48211020	12%+2%+1%
Diaries / registers/a/c books	48201090	12%+2%+1%
CD covers	48192010	12%+2%+1%
CD inlays	48211020	12%+2%+1%
Cartons	48192090	12%+2%+1%
Carry bags	48194000	12%+2%+1%
Letter pads	48201020	12%+2%+1%
Envelopes	48171000	2%+2%+1%
Letter cards Plain post cards Correspondence Cards	48172000	2%+2%+1%
Paper tags	48211010	12%+2%+1%
Printed post cards	49090010	2%+2%+1%
Greeting cards Wedding cards With or without Envelopes	49090010	2%+2%+1%
Calenders	49100010	2%+2%+1%
Printed posters	49111010	NIL
Printed books	49011010	NIL
Brochures, pamphlets, booklets, leaflets and similar printed matter	49011010	NIL
Lamas – trade advertising material	49011010	NIL