We have started a fortnightly update called 'Professional Update' that summarises significant changes in different laws applicable in India.

Link for source of information is also provided at the end.

This edition covers updates from 01st June, 2016 to 15th June, 2016.

We would be pleased to receive reader's feedback with any comments, questions and queries, if any at akashtyagi197@gmail.com. Our website is 'coming soon'.

Professional Update -1

01.June.2016 to 15.June.2016

INCOME TAX

1. **Coaching Income of ICAI is exempt u/s 11. (Dy. Director of Income Tax (E) vs. ICAI (ITAT Delhi))**
2. **CBDT notified Cost Inflation Index (CII) for F/Y 2016-17**
3. **Amendment in 206 C vide Finance Act, 2016 – Clarification by CBDT**
4. **Simplification of Procedure for Form no. 15G & 15H – Clarification**
5. **ATM - based validation of Tax Returns activated**
6. **Furnishing of Form 61 for specified transactions w.e.f 01st January, 2016**

1. Coaching Income of ICAI is exempt u/s 11. (Dy. Director of Income Tax (E) vs. ICAI (ITAT Delhi))

Tribal held that the income of the coaching classes earned by the ICAI is within its objects and its Regulations and further these activities are educational activity within the definition of section 2(15) of the Income Tax Act, 1961, and consequently therefore cannot be activity of business for which separate books of accounts are required to be maintained. The order of the ld.DIT(E) is therefore, not sustainable as the income of the Institute is exempt not only u/s 10(23C)(iv) but also under section 11. The institute is an educational institute and hence its income will also be exempt under section 11 as education falls within the meaning of charitable purpose under section 2(15) of the Act.

For text of Judgement. Click here

2. CBDT notified Cost Inflation Index (CII)

CBDT vide notification dated 2nd June, 2016 notified the cost inflation index for financial year 2016-2017 as **1125**. Last Year's CII was **1081**.

For notification Click here

3. Amendment in 206 C vide Finance Act, 2016 – Clarification by CBDT

CBDT vide Circular no. 22/2016 dated 08th June, 2016 clarified the provisions pertaining to Collection of Tax on sale of motor vehicles whose consideration exceeds Rs 10 lakhs. CBDT done it by with the help of 7 questions and answers.

For notification Click here

4. Simplification of Procedure for Form no. 15G & 15H – Clarification

CBDT vide Notification no. 09/2016 dated 9th June, 2016 clarified that specified that the due date for quarterly furnishing of 15G/15H declarations received by the payer from 01.04.2016 onwards shall be as given below :-

Date of ending of the quarter of the F/Y	Due Date
30th June	15th July of F/Y
30th September	15th October of F/Y
31st December	15th January of F/Y
31st March	30th April of the F/Y immediately following the F/Y which declaration is made.

For notification click here

5. ATM - based validation of Tax Returns activated

The Income Tax (I-T) Department has launched an ATM based validation system for online filing of income tax return. Under the initiative, the electronic verification code needed to validate returns on the e-filing portal of the I-T department can be generated through the ATM where the taxpayer has an account. Currently, only SBI has initiated the facility, an I-T official said.

Source : Inshorts

6. Furnishing of Form 61 for specified transactions w.e.f 01st January, 2016

- As per Section 139A read with Rule 114B, every person shall quote his permanent account number in all documents pertaining to the specified transactions provided in table given under Rule 114B.(same provisions existed earlier , only limits has been revised)
- Penalty for contravention of Section 139A – Section 272B – Rs.10,000

As per Rule 114C(2) , every person raising document(bill or invoice) for following transactions shall verify PAN or Form 60 (for Nonresident without PAN) and ensure it has been correctly mentioned in such document : -

Nature of Transaction	**Value of Transactio**
Payment to a hotel restaurant against a bill or invoice at any one Time	Payment in cash amount exceeding Rs.50,000
Payment in connection with travel to any Foreign country or payment for purchase of any foreign currency at any one time	Payment in cash amount exceeding Rs.50,000
Sale or purchase of goods services of any nature other than those specified at Sl. No. 1 to 17 of Rule 114B	Amount exceedi Rs.2,00,000 per transaction

- As per Rule 114D,every person entering into above transaction (Rule 114C(2)) and who is required to get his accounts audited under Section 44AB who has received any declaration in Form No.60 in relation to specified transactions entered after 1 st Jan 2016 (Rule 114B transactions) shall :-
  - Furnish a statement in Form No.61 online and
  - Retain Form No.60 for six years.
- Due Date for filing Form No.61
  - For declaration received till 30th Sep - 31st Oct of that year
  - For declaration received till 31st Mar - 30th Apr of that year
- As per Circular No.14/2016 dated 18th May 2016, for Form 60 received during quarter ended March 31,2016 , reporting may be done with the reporting of quarter ending Sept 2016 i.e. on or before 31st Oct 2016.

  Circular No. 14/2016.Click here

SERVICE TAX

1. Mega Cabs Pvt. Ltd. Vs. Union Of India & Ors. (Delhi High Court) - A Landmark Judgement
2. Point of Taxation of Levy of Krishi Kalyan Cess (KKC)
3. Reverse Charge applicable on Senior Advocates

1. Mega Cabs Pvt. Ltd. Vs. Union Of India & Ors. (Delhi High Court) - A Landmark Judgement

Honourable Delhi high Court on 3rd June, 2016 declares:

a. Amended Rule 5A(2), to the extent it authorises the officers of the Service Tax Department, the audit party deputed by a Commissioner or the CAG to seek production of the documents mentioned therein on demand
b. Circular No. 181/7/2014-ST, letter dated 30th April 2015 issued by the Commissioner of Service Tax, Audit-1
c. CBEC Circular No. 995/2/2015-CX dated 27th February 2015

are ultra vires the Finance Act 1994 and, therefore, strikes it down. Therefore, no more audit of assessee records by the Central Excise and Service Tax Department as well as CAG.

Click here to read the judgement.

2. Point of Taxation of Levy of Krishi Kalyan Cess (KKC)

Explanation 1 and 2 inserted with effect from March 1, 2016 to Rule 5 of the Point of Taxation Rules, 2011 directs that KKC will be applicable in the following cases:

• Service provided and invoice issued before June 1, 2016 if but payment received after this date

• Service provided before June 1, 2016 but invoice issued and payment received after this date

• Payment received and service provided before 01.06.2016 but invoice issued after 14.06.2016

The levy of tax cannot be postponed until the time when it is due for quantification of the tax. This has been established by Hon'ble Supreme Court has held in Vazir Sultan Tobacco v. UoI 83 ELT 3. As such, to impose KKC (levied under section 161 of Finance Act, 2016) which is a new levy when service has already been provided before June 1, 2016 merely by the wordings of the explanation in Rule 5. Rule 4A of the Service Tax Rules, 2004 determines completion of service to be the date of invoice. Accordingly, if completion of service can be evidenced to be prior to imposition of KKC, it is doubtful if the rule can eclipse the levy under section 66B of Finance Act, 1994

Source: ICAI Indirect Committee Comments

3. Reverse Charge applicable on Senior Advocates

Finance Act 2016 provided for service tax to be paid by Senior Advocates w.e.f. 1st April 2016.

But now CBEC vide Notification No. 32/2016 dated 6th June, 2016 has amended Notification No. 25/2012(Generally called Mega Exemption) to exempt services provided by a Senior Advocate by way of legal services to any person other than a business entity or business entity up to turnover of Rs. 10 lakhs in the preceding financial year.

For notification click here

Also, CBEC vide Notification No. 33/2016 dated 6th June, 2016 has amended Service Tax Rules, 1994 to provide that services provided by senior advocates would be covered under reverse charge mechanism. Also, if the senior advocate is engaged by another lawyer, the Service Tax is to be paid by the litigant under reverse charge.

For notification click here

Further, CBEC vide Notification No. 34/2016 dated 6th June, 2016 has amended Notification No. 30/2012 (Reverse Charge Mechanism) to provide 100% payment of tax by the recipient of the service provided by senior advocates.

For notification click here

EXCISE & CUSTOMS

1. **Circular No. 25/2016**
   Form of application for a Licence under Public Warehousing Licensing Regulations, 2016 / Private Warehousing Regulations, 2016 /Special Warehousing Regulations, 2016.

2. **Circular No. 26/2016**
   Maintenance of records in relation to warehoused goods in electronic form, filing of Returns and acknowledgement of receipt of goods.

3. **Circular No. 27/2016**
   Procedure to be followed by nominated agencies importing gold/silver/platinum under the scheme for 'Export Against Supply by Nominated Agencies' - reg
   .

1. Form of application for a Licence under Public Warehousing Licensing Regulations, 2016 / Private Warehousing Regulations, 2016 / Special Warehousing Regulations, 2016.

CBEC with a view to rationalize licencing of warehouse has recently issued Circular on Form of application for a Licence under Public Warehousing Licensing Regulations, 2016 / Private Warehousing Regulations, 2016 / Special Warehousing Regulations, 2016. The circular aims at providing certainty in providing information by applicants & transparency in procedure regarding processing of applications. Some of the major highlights are that process of completing the granting the licence should complete within 30 days of the receipt of application, officer shall submit the report within 15 days to the Commissioner and approval/rejection within next 15 days.

Licences issued earlier to the notification of Licensing Regulations on 14th May, 2016, the requirement of annual renewal is dispensed. All warehouses appointed under the erstwhile section 57 or licensed under erstwhile section 58 shall be deemed to remain valid till their surrender / cancellation, once the conditions under the new regulations have been complied.

Click here to read circular.

2. Maintenance of records in relation to warehoused goods in electronic form, filing of Returns and acknowledgement of receipt of goods.

CBEC has recently issued circular on Maintenance of records in relation to warehoused goods in electronic form, filing of Returns and acknowledgement of receipt of goods in view of the Warehouse (Custody and Handling of Goods) Regulations, 2016. The circular prescribes the method to licensee to maintain detailed records of the receipt, handling, storage and removal of goods into and from the warehouse and file monthly returns regarding the same in digital form only. Also it specifies certain minimum facilities to be maintained at the warehouse.

The provisions of the circular will be applicable from 14th May, 2016 and there is no requirement of converting the manual records maintained upto 13th May, 2016 to digital form.

Click here to read circular.

3. Procedure to be followed by nominated agencies importing gold/silver/platinum under the scheme for 'Export Against Supply by Nominated Agencies' - reg.

CBEC rescinded its Circular 28/2009 dated 14th Oct, 2009 & issued a fresh circular clarifying the procedure to be adopted by nominated agencies importing gold/silver/platinum under the scheme for 'Export Against Supply by Nominated Agencies'. The Board simplified the procedure of duty free import & henceforth it shall be followed, conditions for filing of bonds & bank guarantees for respective bodies have been laid. Some of it are as follows:

- Nominated agencies to file bond equivalent to the duty involved.
- Nominated Agencies also to furnish a bank guarantee equal to 25% of duty.
- Designated banks nominated by RBI & public sector undertakings exempted from furnishing bank guarantee subject to certain conditions.

Also procedures & limitations have been stated for filing of accounts and payment of duty if export not effected within the stipulated time specified under FTP 2015-2020.

Click here to read circular.

OTHER LAWS

1. Constitution of National Company Law Tribinal (NCLT) and National Company Law Appellate Tribinal (NCLAT) u/s 408 and 410 respectively of Companies Act, 2013
2. Cyber Security framework in all scheduled commercial banks (excluding Regional Rural Banks)
3. Refinancing of Project Loans for NBFCs
4. Amendment in Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2015
5. MCA notified Limited Liability Partnership (LLP) (Second Amendment) Rules, 2016

1. Constitution of National Company Law Tribinal (NCLT) and National Company Law Appellate Tribinal (NCLAT) u/s 408 and 410 respectively of Companies Act, 2013

MCA notified 29 sections including sub sections on 01st June, 2016 pertaining constitution of NCLT and NCLAT. Also, the Central Government appointed 1st June 2016 as date on which all matters or cases pending before the Board of Company Law Administration shall stand transferred to the National Company Law Tribunal and it shall dispose of such matters or proceedings or cases in accordance with the provisions of the Companies Act, 2013 or the Companies Act, 1956

For notification Click here

2. Cyber Security framework in all scheduled commercial banks (excluding Regional Rural Banks)

RBI vide Circular No. RBI/2015-16/418which requires the banks to formulate a Cyber-Security policy duly approved by the Board to deal with the cyber threats. The strategy so formulated must deal with the following aspects:

- Cyber-Security Policy to be separate from the broader IT Policy/IS Security Policy
- Arrangement for continuous surveillance which means testing the vulnerabilities at reasonable intervals. It has been mandated that a SOC (Security Operations Centre) be set up, if not yet been done to monitor and manage cyber risks in real time.
- IT architecture should be reviewed by the IT Sub Committee of the Board and upgraded, if required
- Thorough review of network security is important to avoid unauthorized access
- Maintenance of Confidentiality, Integrity and Availability of Customer Information
- Evolvement of a CCMP (Cyber Crisis Management Plan) addressing for aspects namely Detection, Response, Recovery and Containment
- Reporting of all unusual cyber-security incidents to RBI in the format as given by RBI
- Reporting of assessment of gaps in cyber-security preparedness to RBI
- Promoting cyber-security awareness among stakeholders /top management/Board

For notification click here

3. Refinancing of Project Loans for NBFCs

RBI vide Circular No. RBI/2015-16/417 dated 02nd June 2016, NBFCs may refinance any existing infrastructure and other project loans by way of take-out financing, without a pre-determined agreement with other lenders, and fix a longer repayment period, the same would not be considered as restructuring provided certain conditions as specified in this circular are satisfied. A lender who has extended only working capital finance for a project may be treated as 'new lender' for taking over a part of the project term loan as required under the guidelines. But the above facility will be available only once during the life of the existing project loans.

For notification click here

4. Amendment in Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2015

RBI has made amendments to the Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2015 [Notification No. FEMA 10(R)/2015-RB dated January 21, 2016] through this notification(FEMA 10 (R)/(1)/2016 dated. The amendments are as follows :

Amendment to Regulation 5:

The existing sub-regulation (E) shall be re-numbered as (F) which substitutes the sub-regulation 3 as-

Insurance/reinsurance companies registered with IRDA may open and maintain a Foreign Currency Account with a bank outside India for the purpose of insurance/reinsurance business carried on by them .

The new sub-regulation (E) specifies that an Indian startup or any other entity as may be notified by the Reserve Bank, having an overseas subsidiary, may open a foreign currency account with a bank outside India for the purpose of crediting to it foreign exchange earnings out of exports/ sales made by the said entity and/ or the receivables, arising out of exports/ sales, of its overseas subsidiary

Amendment to Schedule 1(Exchange Earner's Foreign Currency (EEFC) Account Scheme):

The sub-paragraph (1) of paragraph 1 of the Schedule 1 says that a person resident in India may credit to the EEFC Account with an Authorised Dealer in India 100 percent of the foreign exchange earnings in respect of the transactions specified therein. A new clause has been inserted in the above mentioned sub-paragraph which reads as follows:

Payments received in foreign exchange by an Indian startup, or any other entity as may be notified by the Reserve Bank, arising out of exports/ sales made by the said entity or its overseas subsidiaries, if any.

For notification click here

6. MCA notified Limited Liability Partnership (LLP) (Second Amendment) Rules, 2016

MCA vide notification dated 10th June, 2016 notifies the LLP(Second Amendments Rules), 2016 to amend Form 2, 3 , 4 and 11 to include details of nominee.

For notification click here

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