

Circulars/Notifications

Given below are the important Circulars and Notifications issued by the CBDT, CBEC, FEMA, MCA, RBI during the last month for information and use of members. Readers are requested to use the citation/website or weblink to access the full text of desired circular/notification. You are requested to please submit your feedback and suggestions on the column at eboard@icai.in



(Matter on Direct Taxes has been contributed by the Direct Taxes Committee of the ICAI)

A. INCOME TAX I. NOTIFICATIONS

1. Specification of Forms and time limit for furnishing statement of income paid/credited by an Investment Fund to its unit holder- Insertion of Rule 12CB & Form No. 64C & Form No. 64D - Notification No. 92/2015, dated 11-12-2015

Chapter XII-FB, consisting of Section 115UB has been inserted after Chapter XII-FA by the Finance Act, 2015 w.e.f 1.04.2016. The said Chapter deals with special provisions relating to tax on income of Investment Funds and income received from such funds by unit holders.

Section 115UB(7) provides that *the person responsible for crediting or making payment of the income on behalf of an investment fund and the investment fund shall furnish, within such time as may be prescribed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in the prescribed form and verified in such manner, giving details of the nature of the income paid or credited during the previous year and such other relevant details, as may be prescribed.*

In exercise of the powers conferred by Section 295 read with Section 115UB(7) of the Income-tax Act, 1961, the CBDT has, through this notification, notified Income-tax (Twentieth Amendment) Rules, 2015 which shall be deemed to have come into force from the date of their publication in the Official Gazette.

Rule 12CB shall be inserted after Rule 12CA. Sub-rule (1) of the said Rule provides that the statement of income paid or credited by an investment fund to its unit holder shall be furnished by the person responsible for crediting or making payment of the income on behalf of an investment fund and the investment fund to the—

- i. Unit holder by 30th June of the financial year following the previous year during which the income is paid or credited in Form No. 64C, duly verified by the person paying or crediting the income on behalf of the investment fund in the manner indicated therein; and
- ii. Principal Commissioner or the Commissioner of Income-tax within whose jurisdiction the Principal office of the investment fund is situated by 30th November of the financial year following the previous year during which the income is paid or credited, electronically under digital signature, in Form No. 64D duly verified by an accountant in the manner indicated therein.

Further, Sub-rule (2) provides that the Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems), as the case may be, shall specify the procedure for filing of Form No. 64D and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the statements of income paid or credited so furnished under this rule.

Accordingly, in Appendix II, the following Forms have been inserted after Form No. 64B:

- **Form No. 64C**—Statement of income distributed by an investment fund to be provided to the unit holder under section 115UB of the Income-tax Act, 1961
- **Form No. 64D**—Statement of income paid or credited by investment fund to be furnished under section 115UB of the Income-tax Act, 1961

2. Furnishing of information for payment to a non-resident, not being a company, or to a foreign company-Substitution of Rule 37BB, Form No.15CA and Form No.15CB - Notification No. 93/2015, dated 16-12-2015

Section 195 of the Income-tax Act ('the Act') empowers the Central Board of Direct Taxes to capture information in respect of payments made

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to non-residents, whether chargeable to tax or not. Rule 37 BB of the Income-tax Rules has been amended to strike a balance between reducing the burden of compliance and collection of information under Section 195 of the Act.

The significant changes under the amended Rules are:

- No Form 15CA and 15CB will be required to be furnished by an individual for remittance which do not requiring RBI approval under its Liberalised Remittance Scheme (LRS).
- Further the list of payments of specified nature mentioned in Rule 37 BB which do not require submission of Forms 15CA and 15CB has been expanded from 28 to 33 including payments for imports.
- A CA certificate in Form No. 15CB will be required to be furnished only in respect of such payments made to non-residents which are chargeable to tax and the amount of payment during the year exceeds ₹5 lakh.

The amended Rules will become applicable from 1.4.2016.

3. Agreement for avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income with the Republic of Macedonia to have effect from 1.4.2015–Notification No. 94/2015, dated 21-12-2015

In exercise of the powers conferred by Section 90 of the Income-tax Act, 1961, the Central Government has directed that all the provisions of the agreement between the Government of the Republic of India and the Government of the Republic of Macedonia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, which was signed at Delhi on 17.12.2013, and came into force on 12th September, 2014, shall have effect in India from 01.04.2015.

4. Monetary limits of specified transactions which require quoting of PAN enhanced with effect from 1st January, 2016-Substitution of Rules 114B, 114C, 114D, 114E, Form Nos. 60, 61 and 61A-Notification No. 95/2015, dated 30-12-2015

The Government is committed to curbing the circulation of black money and widening of tax base. To collect information of certain types of transactions from third parties in a non-intrusive manner, it is mandatory under Rule 114B of the Income-tax Rules to quote PAN where the transactions exceed

a specified limit. In case of transactions of sale or purchase of goods and service PAN will be required to be quoted, irrespective of the mode of payment if the transaction exceeds ₹two lakhs.

To bring a balance between burden of compliance on legitimate transactions and the need to capture information relating to transactions of higher value, the Government has amended Rule 114B to enhance the monetary limits of certain transactions which require quoting of PAN.

These changes will take effect from 1st January, 2016.

5. Agreement for avoidance of double taxation and prevention of fiscal evasion with Belarus–Notification No. 2/2016, dated 13-1-2016

In exercise of the powers conferred by Section 90 of the Income-tax Act, 1961, the Central Government had notified that all the provisions of the protocol amending the agreement between the Government of the Republic of India and the Government of the Republic of Belarus for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on Property (Capital), which was signed at Minsk, Belarus on the 03.06.2015, shall be given effect to in the Union of India with effect from the 19.11.2015.

6. Notification of Rule and Forms and exercise of option for accumulation of income by a trust-Notification No. 3/2016 /2015, dated 14-1-2016

1. As per Section 11, application of income derived from property held under trust for charitable purpose in India is the main condition for grant of exemption to trust or institution in respect of income derived from property held under such trust. Section 11 permits accumulation of 15% of the income indefinitely by the trust or institution. This implies that 85% of income has to be applied for charitable/religious purposes in India.

If in any previous year, the income so applied falls short of 85% of income derived from property held under trust:

- a. By reason that the whole or part of the income has not been received during the year, then, so much of the income applied to charitable purposes in the previous year of receipt or in the immediately following previous year; or
- b. For any other reason, then, so much of the

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income applied to charitable purpose in India during the previous year immediately following such previous year,

may, at the option of the person in receipt of the income be deemed to be income applied to such purposes during the previous year in which the income was derived. Such option has to be exercised before the expiry of the time allowed u/s 139(1) for furnishing return of income in the prescribed form and manner.

Accordingly, the CBDT has, in exercise of the powers conferred by Section 11 read with Section 295 of the Income-tax Act, 1961, through this notification, substituted Rule 17 providing the form and manner of exercising such option.

As per sub-rule (1) of new Rule 17, the option to be exercised in accordance with the provisions of the Explanation to Section 11(1) in respect of income of any previous year relevant to the assessment year beginning on or after the 1st April, 2016 shall be in **Form No. 9A** and shall be furnished before the expiry of the time allowed under Section 139(1) for furnishing the return of income of the relevant assessment year.

2. Section 11(2) permits accumulation of 15% of the income indefinitely by the trust or institution. However, 85% of income can only be accumulated for a period not exceeding 5 years subject to the conditions that such person submits the statement in prescribed form i.e. Form No. 10 to the Assessing Officer and the money so accumulated or set apart is invested or deposited in the specified forms or modes. As per sub-rule (2) of Rule 17, the statement to be furnished to the Assessing Officer or the prescribed authority under Section 11(2) or under the said provision as applicable under clause (21) of Section 10 shall be in **Form No. 10** and shall be furnished before the expiry of the time allowed under Section 139(1), for furnishing the return of income.
3. As per sub-rule (3) of Rule 17, the option in Form No. 9A referred to in sub-rule (1) and the statement in Form No.10 referred to in sub-rule (2) shall be furnished electronically either under digital signature or electronic verification code.
4. As per sub-rule (4) of Rule 17, the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall—
 - i. specify the procedure for filing of Forms referred to in sub-rule (3);
 - ii. specify the data structure, standards and manner of generation of electronic verification code, referred to in sub-rule(3), for purpose of verification of the person furnishing the said Forms; and
 - iii. be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to Forms so furnished.

5. Further, Form No. 9A prescribing the Application for exercise of option under clause (2) of the Explanation to Section 11(1) of the Income-tax Act, 1961 has been inserted and Form No. 10 being the Statement to be furnished to the Assessing Officer/Prescribed Authority under Section 11(2) of the Income-tax Act, 1961 has been substituted.

The complete text of the above Notifications can be downloaded from the link below: <http://www.incometaxindia.gov.in/Pages/communications/notifications.aspx>

II. CIRCULARS

1. Allowability of Employer's Contribution to funds for welfare of employees in terms of Section 43B(b) of the Income-tax Act, 1961-Circular No.22/2015, Dated 17-12-2015

As per Section 43B of the Act certain deductions are admissible only on payment basis. It is observed by the Board that some field officers disallow employer's contributions to provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees, by invoking the provisions of Section 43B of the Act, if it has been paid after the 'due dates', as per the relevant Acts.

The CBDT has examined the matter in light of the judicial decisions on this issue. In the case of *Commissioner vs. Alom Extrusions Ltd*, [2009] 185 TAXMAN 416 (SC), the Apex Court held that the amendments made in Section 43B of the Act i.e. deletion of second proviso and amendment in the first proviso, being curative in nature are retrospectively applicable from 1-4-1988. It further held that by deleting the second proviso to Section 43B of the Act and amending the first proviso, the contribution to welfare funds have been brought at par with the other duty, cess, fee, etc. Thus, the proviso is equally applicable to the welfare funds also. Therefore the deduction is allowable to the employer assessee if

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he deposits the contributions to welfare funds on or before the 'due date' of filing of return of income.

Accordingly, w.e.f. 1.4.1988, the settled position is that if the assessee deposits any sum payable by it by way of tax, duty, cess or fee by whatever name called under any law for the time being in force, or any sum payable by the assessee as an employer by way of contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees, on or before the 'due date' applicable in his case for furnishing the return of income under Section 139(1) of the Act, no disallowance can be made under Section 43B of the Act.

In the light of the Supreme Court's decision in the matter, the issue is well settled. Accordingly, the CBDT has decided that no appeals may henceforth be filed on this ground by the officers of the Department and appeals already filed, if any, on this ground before Courts/Tribunals may be withdrawn/not pressed upon.

It is further clarified that this Circular does not apply to claim of deduction relating to employee's contribution to welfare funds which are governed by Section 36(1)(va) of the Income-tax Act, 1961.

2. TDS under section 194A of the Act on interest on fixed deposit made on directions of courts-Circular No.23/2015 , Dated 28-12-2015

Section 194A of Income-tax Act, 1961 stipulates deductions of tax at source (TDS) on interest other than interest on securities if the aggregate of amount of such interest credited or paid to the account of the payee during the financial year exceeds the specified amount.

In the case of UCO Bank in Writ Petition No. 3563 of 2012 (available on NJRS at 2014) and CM No. 7517/2012 *vide* judgment dated 11/11/2014, the Hon'ble Delhi High Court has held that the provisions of Section 194A do not apply to fixed deposits made in the name of Registrar General of the Court on the directions of the Court during the pendency of proceedings before the Court. In such cases, till the Court passes the appropriate orders in the matter, it is not known who the beneficiary of the fixed deposits will be. Amount and year of receipt is also unascertainable. The Hon'ble High Court thus held that the person who is ultimately granted the funds would be determined by orders that are passed subsequently. At that stage, undisputedly, tax would be required to be deducted at source to the credit

of the recipient. The High Court has also quashed Circular No. 8 of 2011.

The CBDT has accepted the aforesaid judgment. Accordingly, it is clarified that interest on FDRs made in the name of Registrar General of the Court or the depositor of the fund on the directions of the Court, will not be subject to TDS till the matter is decided by the Court. However, once the Court decides the ownership of the money lying in the fixed deposit, the provisions of section 194A will apply to the recipient of the income.

Accordingly, such issues may not be contested in appeal and pending litigation, if any on the issue before various Courts/Tribunals may be withdrawn/not pressed upon.

3. Supreme Court Guidelines on recording of satisfaction note under Section 158BD to apply to proceedings under Section 153C for the purposes of assessment of income of other than the searched person-Circular No.24/2015, Dated 31-12-2015

The issue of recording of satisfaction for the purposes of Section 158BD/153C has been subject matter of litigation.

The Hon'ble Supreme Court in the case of *M/s Calcutta Knitweaves* in its detailed judgment in Civil Appeal No. 3958 of 2014 dated 12-3-2014 (available in NJRS at 2014-LL-0312-51) has laid down that for the purpose of Section 158BD of the Act, recording of a satisfaction note is a prerequisite and the satisfaction note must be prepared by the AO before he transmits the record to the other AO who has jurisdiction over such other person u/s 158BD. The Hon'ble Court held that the satisfaction note could be prepared at any of the following stages:

- at the time of or along with the initiation of proceedings against the searched person under section 158BC of the Act; or*
- in the course of the assessment proceedings under section 158BC of the Act; or*
- immediately after the assessment proceedings are completed under section 158BC of the Act of the searched person.*

Several High Courts have held that the provisions of Section 153C of the Act are substantially similar/ *pari-materia* to the provisions of Section 158BD of the Act and therefore, the above guidelines of the Hon'ble SC, apply to proceedings u/s 153C of the IT Act, for the purposes of assessment of income of other than the searched person. This view has been accepted by CBDT.

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It is further clarified that even if the AO of the searched person and the "other person" is one and the same, then also he is required to record his satisfaction as has been held by the Courts.

In view of the above, filing of appeals on the issue of recording of satisfaction note should also be decided in the light of the above judgment. Accordingly, the CBDT has directed that pending litigation with regard to recording of satisfaction note under Section 158BD/153C should be withdrawn/not pressed if it does not meet the guidelines laid down by the Apex Court.

4. Non-Applicability of Penalty under Section 271(1)(c) wherein additions/disallowances made under normal provisions of the Income-tax Act, 1961 but tax levied under MAT provisions under Sections 115JB/115JC, for cases prior to Assessment Year 2016-17- Circular No.25/2015, Dated 31-12-2015

Section 115JB of the Act is a special provision for levy of Minimum Alternate Tax on Companies, inserted by Finance Act, 2000 with effect from 1-4-2001.

Under Section 271(1)(iii) of the Act, penalty for concealment of income or furnishing inaccurate particulars of income is determined based on the "amount of tax sought to be evaded" which has been defined *inter-alia*, as the difference between the tax due on the income assessed and the tax which would have been chargeable had such total income been reduced by the amount of concealed income or income in respect of which inaccurate particulars had been filed.

In this context, the Hon'ble Delhi High Court in its judgment dated 26-8-2010 in ITA No.1420 of 2009 in the case of *Nalwa Sons Investment Ltd.* (available in NJRS as 2010-LL-0826-2), held that when the tax payable on income computed under normal procedure is less than the tax payable under the deeming provisions of Section 115JB of the Act, then penalty under Section 271(1)(c) of the Act could not be imposed with reference to additions/disallowances made under normal provisions. The judgment has attained finality.

Subsequently, the provisions of Explanation 4 to Section 271(1) have been substituted by Finance Act, 2015, which provide for the method of calculating the amount of tax sought to be evaded for situations even where the income determined under the general provisions is less than the income declared for the purpose of MAT u/s 115JB of the Act. The

substituted Explanation 4 is applicable prospectively w.e.f. 1-4-2016.

Accordingly, in view of the Delhi High Court judgment and substitution of Explanation 4 of Section 271 of the Act with prospective effect, it is now a settled position that prior to 1-4-2016, where the income tax payable on the total income as computed under the normal provisions of the Act is less than the tax payable on the book profits u/s 115JB of the Act, then penalty under Section 271(1)(c) of the Act, is not attracted with reference to additions/disallowances made under normal provisions. It is further clarified that in cases prior to 1-4-2016, if any adjustment is made in the income computed for the purpose of MAT, then the levy of penalty u/s 271(1)(c) of the Act, will depend on the nature of adjustment.

The above settled position is to be followed in respect of Section 115JC of the Act also.

Accordingly, the CBDT has directed that no appeals may henceforth be filed on this ground and appeals already filed, if any, on this issue before various Courts/Tribunals may be withdrawn/not pressed upon.

The detailed circulars can be downloaded from the link below: <http://www.incometaxindia.gov.in/Pages/communications/circulars.aspx>

III. Press Releases/ Instructions/Letters

1. Facilitating taxpayers' electronic interface with the Department—Letter Dated 15-12-2015

The Revenue Secretary has directed that henceforth any notice/letter/communication issued by any officer under Department of Revenue; including CBDT, its directorates and field formations; to the taxpayers, members of public should invariably contain mention of e-mail address and office phone numbers, of the officers signing such, communications/notice/letters for facilitating taxpayers' electronic interface with the Department.

Accordingly, the members of CBDT, Principal CCsIT/DGsIT and JS(Admin) CBDT have been requested to ensure that the above directions are strictly followed. This issue in supersession of earlier letter dated 2-12-2015.

2. Applicability of MAT on foreign companies for period prior to 1-4-2015-Instruction No.18/2015, Dated 23-12-2015

1. On the issue of applicability of Minimum Alternate Tax (MAT) under Section 115JB of the

Income-tax Act, 1961 on Foreign Institutional Investors (FIIs)/Foreign Portfolio Investors (FPIs), the CBDT had issued Instruction No.9 dated 2-9-2015 informing the field authorities that the Government has accepted the recommendation of the Committee on Direct Tax Matters that Section 115JB be amended to clarify the inapplicability of MAT to FIIs/FPIs having no permanent establishment/place of business in India and decided to carry out appropriate amendment to this effect. In view of this, the field authorities were advised to keep in abeyance, for the time being, the pending assessment proceedings in cases of FIIs/FPIs involving the said issue. It was also advised that the recovery of outstanding demands, if any, in such cases may not be pursued.

2. The Government had, subsequently, considered the broader issue of applicability of Section 115JB to foreign companies which do not have a place of business/permanent establishment in India. A Press Release dated 24-9-2015 was issued conveying the decision of the Government on inapplicability of

MAT on foreign companies in certain cases. Subsequently, the Government conveyed its intention of abiding by the decision contained in the aforesaid Press Release to the Supreme Court in the case of Castleton Investment Ltd. The Supreme Court disposed of the case based on the commitment made by the Government.

3. In view of the decision as reflected in the Press Release dated 24-9-2015 and the commitment made by the Government before the Supreme Court, it is hereby reiterated that with effect from 1-4-2001, the provisions of Section 115JB shall not be applicable to a foreign company (including an FII/FPI) if—
 - (i) the foreign company is a resident of a country with which India has a Double Taxation Avoidance Agreement and such foreign company does not have a permanent establishment in accordance with the provisions of the relevant Double Taxation Avoidance Agreement, or
 - (ii) the foreign company is a resident of a country with which India does not have a Double Taxation Avoidance Agreement

and such foreign company is not required to seek registration under Section 592 of the Companies Act, 1956 or Section 380 of the Companies Act, 2013.

An appropriate amendment to the Income-tax Act in this regard shall be undertaken through Finance Bill, 2016.

4. In view of the above and the fact that Government's commitment to abide by its decision as contained in para 3 above has been taken into account by the Supreme Court while disposing of the Civil Appeal No. 4559/2013 in the case of Castleton Investment Ltd., the field authorities have been directed that pending assessments involving applicability of MAT on foreign companies (including FIIs/FPIs) should be completed in accordance with the decision of the Government as reflected in para 3 above.

3. Draft guiding principles for determination of place of effective management (POEM) of a company – F. No.142/11/2015-TPL Dated 23-12-2015

Section 6(3) of the Income-tax Act, 1961, prior to its amendment by the Finance Act, 2015, provided that a company is said to be resident in India in any previous year, if it is an Indian company or if during that year, the control and management of its affairs is situated wholly in India. This allowed tax avoidance opportunities for companies to artificially escape the residential status under these provisions by shifting insignificant or isolated events related with control and management outside India. To address these concerns, the existing provisions of Section 6(3) of the Income-tax Act, 1961 were amended vide Finance Act, 2015, with effect from 1st April, 2016 to provide that a company is said to be resident in India in any previous year, if—

- (i) it is an Indian company; or
- (ii) its place of effective management in that year is in India.

For the purposes of Section 6(3), "Place of Effective Management" means a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance, made.

'Place of Effective Management' (PoEM) is an internationally recognised test for determination of residence of a company incorporated in a foreign jurisdiction. Most of the tax treaties entered into by India recognise the concept of 'place of effective

management' for determination of residence of a company as a *tie-breaker* rule for avoidance of double taxation.

The Explanatory Memorandum to the Finance Bill, 2015 has stated that a set of guiding principles to be followed in the determination of PoEM would be issued for the benefit of the taxpayers as well as the tax administration. Accordingly, CBDT has proposed to issue the draft guiding principles for determination of place of effective management (POEM) of a company.

The comments and suggestions of stakeholders and general public on the draft guiding principles for determination of place of effective management (POEM) of a company have been invited. The guiding principles for determination of place of effective management (POEM) of a company can be finalised after due consideration of the concerns of the stakeholders.

4. Issuing questionnaire in cases selected for scrutiny—Instruction No. 19/2015 dated 29-12-2015

Instances have come to the notice of the CBDT that in cases selected under scrutiny, while issuing the first notice, Assessing Officers do not convey the specific compliance requirements like production of accounts, furnishing of documents, information, evidences, submission of other requisite particulars etc. Since the taxpayers or their authorised representatives are required to comply with the statutory notice issued by the Assessing Officer, they remain clueless about the information required to be submitted and their appearance before the Assessing Officer does not serve any fruitful purpose except recording of their presence. This causes undue hardship to the taxpayers and unnecessary wastage of their time.

Since the CASS cycles are proposed to be run well in advance now, sufficient time shall be available with the Assessing Officers to go through the returns of income which have been selected for scrutiny and identify the issues which require examination. Therefore, in cases selected for scrutiny, it should be the endeavour of the Assessing Officer that the initial notice issued under Section 143(2) of the Income-tax Act, 1961 is accompanied by a notice under Section 142(1) along with the questionnaire containing details of specific documents/information/evidences etc. that are required to be furnished by the taxpayer in connection with scrutiny assessment proceeding in their respective case.

Accordingly, the CBDT has directed all the Assessing Officers to comply with the above directions.

5. Scrutiny Assessment - Some important issues and scope of Scrutiny in cases selected through Computer Aided Scrutiny Selection (CASS)-Instruction No. 20/2015 dated 29-12-2015

The CBDT had vide Instruction No. 7/2014 dated 26-9-2014 clarified the extent of enquiry in certain category of cases specified therein, which are selected for scrutiny through CASS. Further clarifications have been sought regarding the scope and applicability of the aforesaid Instruction to cases being scrutinised.

In order to facilitate the conduct of scrutiny assessments and to bring further clarity on some of the issues emerging from the aforesaid Instruction, following clarifications are being made:

- i. **Year of applicability:** As stated in the Instruction No. 7/2014, the said Instruction is applicable only in respect of the cases selected for scrutiny through CASS-2014.
- ii. **Whether the said Instruction is applicable to all cases selected under CASS:** The said Instruction is applicable where the case is selected for scrutiny under CASS only on the parameter(s) of AIR/CIB/26AS data. If a case has been selected under CASS for any other reason(s)/parameter(s) besides the AIR/CIB/26AS data, then the said Instruction would not apply.
- iii. **Scope of Enquiry:** Specific issue based enquiry is to be conducted only in those scrutiny cases which have been selected on the parameter(s) of AIR/CIB/26AS data. In such cases, the Assessing Officer, shall also confine the Questionnaire only to the specific issues pertaining to AIR/CIB/26AS data. Wider scrutiny in these cases can only be conducted as per the guidelines and procedures stated in Instruction No. 7/2014.
- iv. **Reason for selection:** In cases under scrutiny for verification of AIR/CIB/26AS data, the Assessing Officer has to intimate the reason for selection of case for scrutiny to the assessee concerned.

As far as the returns selected for scrutiny through CASS-2015 are concerned, two type of cases have been selected for scrutiny in the current Financial Year- one is 'Limited Scrutiny' and other is 'Complete Scrutiny'. The assessee concerned have duly been intimated about their cases falling either in 'Limited Scrutiny' or 'Complete Scrutiny' through notices issued under Section 143(2) of the Income-tax Act, 1961. The procedure for handling 'Limited Scrutiny' cases shall be as under:

- a. In 'Limited Scrutiny' cases, the reasons/issues shall be forthwith communicated to the assessee concerned.
- b. The Questionnaire under Section 142(1) of the Act in 'Limited Scrutiny' cases shall remain confined only to the specific reasons/issues for which case has been picked up for scrutiny. Further, the scope of enquiry shall be restricted to the 'Limited Scrutiny' issues.
- c. These cases shall be completed expeditiously in a limited number of hearings.
- d. During the course of assessment proceedings in 'limited Scrutiny' cases, if it comes to the notice of the Assessing Officer that there is potential escapement of income exceeding ₹ five lakh (for metro charges, the monetary limit shall be ₹ ten lakh) requiring substantial verification on any other issue(s), then, the case may be taken up for 'Complete Scrutiny' with the approval of the Pr. CIT/CIT concerned. However, such an approval shall be accorded by the Pr. CIT/CIT in writing after being satisfied about merits of the issue(s) necessitating 'Complete Scrutiny' in that particular case. Such cases shall be monitored by the Range Head concerned. The procedure indicated at points (a), (b) and (c) above shall no longer remain binding in such cases. (For the present purpose, 'Metro charges' would mean Delhi, Mumbai, Chennai, Kolkata, Bengaluru, Hyderabad and Ahmedabad).

The CBDT has further desired that in all cases under scrutiny, where the Assessing Officer proposes to make additions or disallowances, the assessee would be given a fair opportunity to explain his position on the proposed additions/disallowances in accordance with the principle of natural justice. In this regard, the Assessing Officer shall issue an appropriate show-cause notice duly indicating the reasons for the proposed additions/disallowances along with necessary evidences/reasons forming the basis of the same. Before passing the final order

against the proposed additions/disallowances, due consideration shall be given to the submissions made by the assessee in response to the show-cause notice.

Accordingly, the CBDT has directed that the contents of this Instruction should be immediately brought to the notice of all concerned for strict compliance.

6. Electronic filing of first appeal before CIT (Appeals)- Press Release, Dated 30-12-2015

It is the endeavour of the Income tax Department to digitise various functions of the Department for providing efficient taxpayer services. As another significant step in this direction, electronic filing of appeal before CIT (Appeals) is being made mandatory for persons who are required to file the return of income electronically.

Electronic filing of appeal along with the documents relied upon before CIT (Appeals) will remove human interface, reduce paperwork and decrease the transaction cost for the taxpayer. It would ensure consistent and error free service as validations will be inbuilt resulting in fewer deficient appeals. Online filing will also facilitate fixation of hearing of appeals electronically.

The existing Form 35 for filing of first appeal is being substituted by a new Form. The new format for filing of appeals is more structured, objective, systematic, and aligned with the current provisions of the Income-tax Act.

With these changes, the burden of compliance on the taxpayers in appellate proceedings will be significantly reduced.

7. Streamlining scrutiny assessment proceedings and facilitating electronic communication-Press Release, Dated 31-12-2015

The Income Tax Department is committed to providing fair and transparent tax administration and continuously improve taxpayer services.

Taking another step in this direction, CBDT has issued instructions to the Assessing Officers to be specific in enquires made in the case of tax payers whose returns are under scrutiny. The directions are comprehensive and cover cases selected through Computer Aided Scrutiny Selection (CASS) for limited scrutiny for verification of information contained in Annual Information Return (AIR)/ Form No. 26AS or received through Central

Information Branch, or complete scrutiny. The assessing officers have been advised to inform the assessee forthwith of the reasons for limited scrutiny, confine enquiries on the specific points for which the case has been selected and conclude the proceedings expeditiously in a limited number of hearings. Cases selected for limited scrutiny can be converted to complete scrutiny only with the approval of the Principal Commissioner of Income Tax/Commissioner of Income tax if the potential income escaping assessment exceeds a certain monetary limit. In all cases the initial notice will be accompanied with a specific questionnaire. Any addition to income or disallowance of deductions will be made only after following due process of natural justice.

The Department has also initiated a pilot project for carrying out an e-mail based scrutiny assessment in select cases of non-corporate charges at Delhi, Mumbai, Bengaluru, Ahmedabad and Chennai. Through this pilot, the Department endeavours to completely remove the need for the taxpayer to visit the offices of the Department while moving towards paperless scrutiny assessment proceedings.

Separately, the CBDT has directed all its officers to mention e-mail address and phone numbers in all communications to facilitate electronic interface of the taxpayer with the Department.

These recent measures are steps towards obviating the need for avoidable personal interface with the Department and ushering in a non-adversarial tax regime.

The communications issued by CBDT are available on the website of the Department at www.incometax.gov.in.

8. Issue of refunds of smaller amounts-Press Release, Dated 15-01-2016

In an initiative to reduce taxpayer grievances and enhance the taxpayer satisfaction, the CBDT had issued instructions to Central Processing Center (CPC), Bengaluru and the field officers in December, 2015 to issue refunds of amounts less than ₹50,000/- expeditiously.

As a result of the special drive to issue smaller refunds, 18,28,627 refunds below ₹50,000/- involving a sum of ₹1,793 crore have been issued between 1st December, 2015 and 10th January, 2016.

These refunds relate to Assessment years 2013-14 to 2015-16.

In order to further expedite the process of issue of small refunds, CBDT has also directed CPC-Bengaluru and the field units that refunds up to ₹5,000/-, and refunds in cases where outstanding arrears are up to ₹5,000/- may be issued without any adjustment of outstanding arrears. Office Memorandum F. No. 312/109/2015-OT dated 14th January 2016, conveying these directions of CBDT is available on the website of the Department www.incometaxindia.gov.in.

9. Initiatives for reducing litigation-Press Release, Dated 15-01-2016

Reducing litigation with the taxpayers has been a key focus area for the Income Tax Department. Several initiatives have been taken by the CBDT in the last three months up to December 2015 to significantly reduce disputes and provide relief to taxpayers facing long standing litigation.

The significant steps taken by CBDT include issue of a Circular revising the monetary limits for filing of appeals by the Department with the objective of reducing litigation as a part of its initiatives to reduce grievances of the taxpayers. CBDT has also directed Principal Chief Commissioners to constitute a collegium of Chief Commissioners of Income Tax to consider withdrawal of appeals filed by the Department in cases involving tax effect above the revised monetary limit from the High Courts in cases where, no question of law is involved, the issue is considered settled by the Department, or the appeal is no longer relevant in view of subsequent amendment.

Besides this, the CBDT has issued a number of Circulars for withdrawing or not pressing of appeals on settled issues relating to the subjects listed below:

- Non applicability of Rule 9A of the Income-tax Rules 1962 in case of abandoned feature films.
- Measurement of the distance for the purpose of Section 2(14)(iii)(b) of the Income-tax Act for the period prior to assessment year 2014-15.
- Interest from non-statutory liquidity ratio (non-SLR) securities.
- Allowability of employer's contribution to funds for welfare of employees in terms of Section 43(b) of the Income-tax Act.
- TDS under Section 194A of the Act on interest on fixed deposit made on the directions of the courts.

- Recording of satisfaction note under Section 158BD/153C of the Income-tax Act.
- Non levy of penalty u/s 271(1) (c) wherein additions/disallowances were made under normal provisions of Income-tax Act 1961 but tax was levied under MAT provisions under Section 115JB/115JC, for cases prior to A.Y. 2016-17

10. Guidance Note on Implementation of reporting requirements under Rules 114F to 114H of the Income-tax Rules, 1962 hosted at the website of the Department www.incometaxindia.gov.in, updated as on 31st December, 2015.

The Guidance Note on Implementation of reporting requirements under Rules 114F to 114H of the Income-tax Rules, 1962 issued by the CBDT intends to provide guidance to the Financial Institutions, Regulators and officers of the Income Tax Department for ensuring compliance with the reporting requirements provided in Rules 114F to 114H and Form 61B of the Income-tax Rules, 1962.

The Guidance Note is intended to explain the reporting requirements of FATCA and CRS in a simple manner. Since a large part of the Rules is based on IGA between India-USA and the CRS on AEOI, the Financial Institutions may refer to the IGA and CRS along with its Commentary to get further understanding of the terms used. In this Guidance Note, reference to the CRS and Commentary has been made at appropriate places.

The stakeholders have been requested to provide feedback and suggestions so that Guidance Note can be further updated as per evolving issues in the implementation of FATCA and CRS.

In this Guidance Note, an attempt has been made to discuss and describe the various provisions contained in the relevant Rules notified by the Government of India. In case of unlikely event of any inconsistency between the Rules and Guidance Note, the statutory position contained in the Rules shall prevail.

11. Changes In APAR Format For Assessing Officers-Press Release, Dated 8-1-2016

The Income Tax Department is committed to the objective of timely delivery of quality taxpayer services in a fair and transparent environment.

The Department has modified the Annual Performance Appraisal Report (APAR) of Assessing Officers (Income Tax Officers as well as Assistant

Commissioners/Deputy Commissioners of Income Tax) to bring about greater accountability in assessment functions. In the revised format, the performance of the assessing officers will also be specifically measured for quality of assessment, the pace of disposal, and efforts made towards widening of tax base. With these changes the assessing officers will be more conscious of their accountability for the quality of their assessment orders and the tax demanded in such orders. This system is expected to bring about greater judiciousness in application of law by the assessing officers.

The modified APAR form will be applicable for the reporting year 2015-16.

This measure is another step by the Income Tax Department to provide a non-adversarial tax regime.

B. The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015

1. Declarations and payments made under the Black Money (Undisclosed Foreign Income and Assets) and

Imposition of tax Act, 2015-Press Release, Dated 06-01-2016

The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 came into force with effect from 1st July, 2015. The Act provided for a one time compliance window to declare assets held abroad and pay due taxes and penalty on the value of assets declared.

A total of 644 declarations were made under the compliance window provided in the Act which closed on 30th September, 2015. The amount involved in these 644 declarations was ₹4,164 crore.

The declarants were liable to pay tax at the rate of 30 % and a like amount of 30 % by way of penalty on the value of assets declared, by 31st December, 2015. The amount received by way tax and penalty upto 31st December, 2015 is ₹2,428.4 crore. The shortfall is primarily on account of certain declarations, in respect of which there was prior information under the provisions of Double Taxation Avoidance Agreements/Tax Information Exchange Agreements or receipt of payment after 31st December, 2015.

INDIRECT TAXES



(Matter on Indirect Taxes has been contributed by the Indirect Taxes Committee of the ICAI)

A. CENTRAL EXCISE

1. Monetary limits for filing appeals by the Department before CESTAT/High Courts and Supreme Court.

CBEC vide Instruction F.No.390/Misc./163/2010-JC dated December 17, 2015 (as modified) has provided the following monetary limits for the Department below which appeal shall not be filed in the Tribunal, High Court and the Supreme Court:

S. No.	Appellate Forum	Revised Monetary Limit	Old Monetary Limit
1.	CESTAT	₹10,00,000/-	₹1,00,000/-
2.	High Courts	₹15,00,000/-	₹2,00,000/-
3.	Supreme Courts	₹25,00,000/-	₹5,00,000/-

These limits would also apply to all pending appeals in High Courts/CESTAT.

[Instruction F.No.390/Misc./163/2010-JC dated December 17, 2015 & January 1, 2016]

2. Withdrawal of cases pending before HC/CESTAT on the basis of earlier Supreme Court's decision on the identical matters.

CBEC vide Instruction F.No.390/Misc./67/2014-JC Dated: December 18, 2015 has advised the Commissionerates to withdraw cases pending in High Court/CESTAT, where Supreme Court has decided on an identical matter and the decision has been accepted by the Department. However, following cases would not be covered therein:

- Wherever there are more than one issue involved in an appeal and the SC's decision pertains to only one of them
- Wherever there are substantial questions of law and the SC decision has not been passed on them.

Principal Chief Commissioners/Chief Commissioners will submit a monthly report with regard to number to cases reviewed and number of appeals withdrawn.

[Instruction F.No.390/Misc./67/2014-JC Dated: December 18, 2015]

3. Certificate issued by Appraiser of Customs regarded as valid document for CENVAT credit in case of goods imported through Authorised courier.

CBEC vide Notification No. 27/2015- CX (N.T), Dated: December 31, 2015 has amended Rule 9 of CENVAT Credit Rules, 2004 to provide that CENVAT credit can also be taken by the manufacturer or the provider of output service or input service distributor, on the basis of a certificate issued by an appraiser of customs in respect of goods imported through an Authorised Courier, registered with the Principal Commissioner of Customs or the Commissioner of Customs in-charge of the customs airport.

[Notification No. 27/2015- CX (N.T), Dated: December 31, 2015]

B. CUSTOMS

4. Powarkheda, District Madhya Pradesh & Pantnagar, Uttarakhand notified for import and export of goods.

CBEC vide Notification Nos. 145/2015-CUSTOMS (N.T.), Dated: December 18, 2015 & 148/2015-CUSTOMS (N.T.), Dated: December 29, 2015 has declared the following as Customs ports in States of Madhya Pradesh & Uttarakhand for the purpose mentioned against them:

S. No.	Place	Purpose
1.	(viii) Powarkheda, District Hoshangabad, Madhya Pradesh	Unloading of imported goods and loading of export goods
2.	(i) Pantnagar, District Udham Singh Nagar, Uttarakhand	Unloading of imported goods and loading of export goods

[Notification Nos. 145/2015-CUSTOMS (N.T.), Dated: December 18, 2015 & 148/2015-CUSTOMS (N.T.), Dated: December 29, 2015]

5. 24x7 Custom Clearance facility made available at Krishnapatnam Sea port in Nellore, Andhra Pradesh.

CBEC vide Circular No. 01/2016-Customs, Dated: January 06, 2016 has as a trade facilitation measure extended the facility of 24x7 Customs clearance for specified imports viz. goods covered by 'facilitated' Bills of Entry and specified exports viz. factory stuffed containers and goods exported under free Shipping Bills to Krishnapatnam Sea port in Nellore, Andhra Pradesh.

[Circular No. 01/2016-Customs, Dated: January 06, 2016]

6. List of volatile goods specified for allowances u/s Section 70(2)

CBEC vide Notification No. 03/2016-Customs (N.T.),

Dated: January 11, 2016 has specified the following goods to which the provisions of Section 70(2) of Customs Act, 1962 dealing with ***Allowance in case of volatile goods*** would apply when they are deposited in a warehouse:

- a) aviation fuel, motor spirit, mineral turpentine, acetone, methanol, raw naptha, vaporising oil, kerosene, high speed diesel oil, batching oil, diesel oil, furnace oil and ethylene dichloride, kept in tanks;
- b) wine, spirit and beer, kept in casks;
- c) liquid helium gas kept in containers; and
- d) crude stored in caverns.

[Notification No. 03/2016 - Customs (N.T.), Dated: January 11, 2016]

7. Guidelines for implementation of e-payment of refund/rebate

With a view to speed up the transfer of the funds directly to the beneficiary's bank account after sanction of the refund/rebate claim and thereby promote ease of doing business, CBEC *vide Circular No. 1013/1/2016-CX.*, *Dated: January 12, 2016* has

prescribed the following procedure for e-payment of refund/rebates:

I. E-payment through Authorised Banks

- a) The payment under the system of electronic payment of refund/rebate amounts through RTGS/NEFT facility shall be made through authorized banks
- b) The e-payment procedure may be implemented through nearest Govt. business enabled branch of the State Bank of India. In case account is maintained with another bank(s) e-payment may be made through such bank(s) as more than one bank may also be authorised for e-payment.
- c) The Commissioner concerned shall authorise the refund sanctioning authorities within their jurisdiction to make e-payment of refund/rebate through such authorised banks only.
- d) The banks may charge the refund claimant fee for remitting refund amount through RTGS/NEFT as per RBI guidelines and the claimant would get only the net amount.

II. Procedure for E-payment

- a) While filing refund/ rebate claim for the first time, the claimants shall provide one-time authorisation in duplicate, duly certified by the beneficiary bank in a prescribed format of which one copy shall be retained by the department and one copy shall be sent to the bank with the first refund sanction order of the applicant.
- b) The refund sanctioning authority would forward to the authorised bank at periodic intervals (in a given month):
 - i) a signed statement of sanctioned orders which *inter alia* contains details of the beneficiaries and the amounts sanctioned
 - ii) a cheque in favour of the bank for the consolidated refund/rebate amount
 - iii) a soft copy of the above statement to the banks through e-mail.
- c) Upon receipt of the statement signed by the refund sanctioning authority and the cheque for the consolidated refund amount, the bank would credit the refund amounts to the respective accounts of the claimants through NEFT/RTGS after deducting the applicable charges as per RBI guidelines.

III. Procedure for Reconciliation

- a) A UTR (Unique Transaction Reference) is generated for each transfer of funds to the beneficiary's account by the bank. This UTR is a bank's acknowledgment evidencing the transfer of the fund to the claimant's bank account and should be collected from the bank at periodical intervals along with a periodic report to be prescribed by the Commissioner.
- b) After transfer of the sanctioned rebate amount to the beneficiary's account, UTR's report received from the bank should be sent by the refund sanctioning authority to the PAO concerned at the end of each month enclosing the details of cheques issued with date and amount.
- c) After transfer of the amounts to the claimants, the bank shall generate 'periodic scroll' containing the details of refund amount sanctioned to various claimants along with other details as necessary and send the same to the PAO concerned giving

details of receipt of consolidated cheques and payments made by the bank.

- d) The PAO may be requested to reconcile the cheques issued in respect of the rebate/ refund with the periodic scroll sent to them by the bank and report discrepancy, if any.

The requisite forms/annexures are available at www.cbec.gov.in and these facilities are expected to be operational in all zones by 10.02.2016.

[Circular No. 1013/1/2016-CX., Dated: January 12, 2016]

C. VALUE ADDED TAX

BIHAR VAT:

8. Substitution of Form RT-I/ III/ V shall come into force from 04.11.2015

With effect from 04.11.2015 following changes were made functional on department website:

- Revised Form RT-I i.e. Quarterly Return,
- Form RT-III i.e. Annual Return
- RT-V i.e. Revised Quarterly Return
- Disabling of generation of electronic transaction identification number in case of default of payment of tax, interest or furnishing of return or Tax audit report

Now, Bihar Government notified date of 4th November 2015 to give effect of Notification No. 189 dated 3rd August, 2015 for the aforesaid changes made.

[Notification No. S.O. 359 dated 14th December, 2015]

9. Extension of date of Annual Return from 31.12.2015 to 15.02.2016.

Date of filing Annual Return for the financial year 2014-15 has been extended from 31.12.2015 to 15.01.2016, which has been further extended to 15.02.2016.

[Order No. Sales-tax/Misc-43/2011-212 dated 14th January, 2016]

DELHI VAT:

10. Only the persons providing e-portals/ websites to other dealers for passing on the orders from customers are required to enrol & file e-return.

Delhi Government has clarified that only the persons who are providing e-portals/websites to other dealers for passing on the orders from customers to the dealers/other vendors are required to enrol

through Form EC-I and file the returns in Form EC-II & EC-III.

[Circular No.33 of 2015-16 No.F.3(515)/Policy/VAT/15/1195-1201 dated 29th December, 2015]

11. Effective date for Form Delhi Sugam-2 (DS2) is 08.01.2016.

Delhi Government has provided that 08.01.2016 will be effective date from which form Delhi Sugam-2 (DS2) needs to be one of the documents to be carried by the owner, driver or person in-charge of the goods vehicle who is bringing the goods into Delhi and produce the same as hard copy or in electronic form before any officer in-charge of a check-post or barrier or any other officer empowered by the Commissioner.

[Notification No. F.7(433)/Policy-II/VAT/2012/PF/1259-70-dated 8th January, 2016]

12. Condition for auto-downloading of Central Statutory form online.

Delhi Government vide Notification No. F.3(556)/Policy/VAT/2015/1271-82 dated 8th January, 2016 has specified with immediate effect that auto-

downloading of forms shall not be available to the dealer for the tax period in which the ratio of sale to purchase, including stock transfer and local transactions, falls below 45% i.e. ratio shall be worked out for both the quarters cumulatively. If the ratio still falls below 45%, then forms shall be allowed to be downloaded on the basis of ratio of third quarter and so on. The purchase of capital goods shall be available only to eligible dealers. The download of forms shall also be further subject to the following conditions:

- Items should be allowed on the Registration Certificate
- The dealer for whom forms are obtained should not be cancelled dealer.
- There is no adverse material on record.

[Notification No. F.3(556)/Policy/VAT/2015/1271-82 dated 8th January, 2016]

13. Form GE-I & II for furnishing online quarterly return of purchase made by Government entity for the purpose of consumption or use by them.

Delhi Government has provided that with effect from 12.01.2016, all Government Entities including

Corporation or Board having their offices in Delhi are required to furnish an online quarterly return of purchases made by them for the consumption or use by them from the dealers registered and having a valid TIN/Registration Number in the format 'Form GE-II'. Following conditions should also be considered:-

- a) Government Entities shall have to enroll themselves on www.dvat.gov.in & file Form GE-I leading to generation of unique ID (GEID). This ID shall be used as Login ID & password for filing GE-II for the first time will be communicated on e-mail provided by the entity.
- b) Separate GEID will be required for each Drawing and Disbursing Officer (DDO)/person responsible for release of payment of purchases.
- c) Government Entity shall convey the GEID to the dealers for mentioning the same on the sale invoices.
- d) The return to be filed in Form GE-II by 28th day of the month following the quarter to which the return pertains. **The return for first 3 quarters of the FY 2015-16 to be filed by 15th February, 2016.**
- e) Government Entities are required to furnish details of all purchases, date of issuing invoice or bill by the supplying dealer, irrespective of whether or not the payment has been made during the said quarter.
- f) The person authorised to file GE-II shall obtain a certificate from the seller that due VAT has been deposited & enclose it with the bill submitted to the authority competent to release the payment.
- g) Form GE-I shall be required to be updated within 30 days in case of any change in details furnished.

[Notification No. F.3(619)/Policy/VAT/2016/1291-1304 dated 12th January, 2016]

GOA VAT:

14. Exemption to *inter-se* dealers from levy & payment of output tax for sale of goods specified in the Schedule 'G' within the State.

Goa Government has exempted inter-state sale of goods by dealer specified in Schedule G (List of Goods on which No Input Tax Credit is admissible) from levy & payment of output tax, subject to following conditions:

- a) Selling and purchasing dealer holds valid registration certificates.
- b) Purchasing dealer shall issue to the selling dealer a declaration in 'Form B'.
- c) Sales effected shall not attract Section 6(2) (i.e. Reimbursement and Exemption of Tax) and the goods purchased against 'Form B' shall be liable to pay tax.
- d) Sales should be affected through 'Tax Invoices' only.
- e) 'Form B' should be issued independently for each transaction.
- f) Goods purchased are exclusively for resale and not for consumption.

[Notification No. 4/5/2005-Fin(R&C)(129) dated 22nd December, 2015]

15. Compulsory e-return to be filed by registered dealers.

Goa Government has specified that the registered dealers having turnover **exceeding ₹25 lakh** for the previous FY 2014-15, shall file online quarterly returns, commencing from 1-10-2015 to 31-12-2015 within a period of 30 days from the end of the quarter. The first compulsory e-return shall be filed on or before 30.01.2016.

Further the registered dealers having turnover of **₹25 lakh and below** during previous FY, **except** those opted for composition scheme, shall file a single annual online return of their sales in Form VAT III. The first compulsory annual e-return for the FY 2015-16 shall be filed on or before 30.04.2016.

[Notification No. 4/5/2005-Fin (R&C)(130) & (131) dated 29th December, 2015]

KARNATAKA VAT:

16. Exemption from tax payment on the sale of Application Forms, Prospectus & Brochures by the Educational Institutions.

Karnataka Government *vide* Notification No. FD 125 CSL 2014 dated 17th December, 2015 with immediate effect, has exempted the tax payable on sale of Application Forms, Prospectus and Brochures by Educational Institutions funded by the State or Central Government with funding not less than 50% of their annual income.

[Notification No. FD 125 CSL 2014 dated 17th December, 2015]

17. TDS return to be filed electronically by tax deducting authorities

The Karnataka Government *vide Notification No. EG1.CR-30/2014-15 dated 6th January, 2016* specified that tax deducting authorities registered as dealers as per Annexure- I and those not registered as dealers as per Annexure-II of the said notification are required to submit a monthly statement. This statement has to be submitted in Form VAT-125 containing particulars of tax deducted during preceding month electronically, to the jurisdictional Local VAT Officer (LVO) or VAT Sub Officer (VSO) w.e.f. the tax period of December 2015 and to pay full amount of tax so deducted by it electronically.

Procedure for filing of the statement is as under:-

- a. Every tax deducting authority who is registered dealer has been assigned with a TIN and for other authority, Deducting Authority Identification Number (DAIN) has been assigned and all such authorities have been provided with the 'username' and 'password' by the jurisdictional LVO or VSO.

- b. If not registered as dealers, 'username' and 'password' have been received by any authority having DAIN, such authority may collect the same from the concerned LVO or VSO.
- c. Such tax deducting authority shall log on to the website <http://vat.kar.nic.in> and proceed to prepare and submit the statement in Form VAT 125 as per the instructions contained in the user manual available on website under "Reports and Help".

[Notification No. EG1.CR-30/2014-15 dated 6th January, 2016]

MAHARASHTRA VAT:

18. Insertion of new Rule 52B: Set-off in respect of certain goods covered under Schedule D in Maharashtra Value Added Tax Rules, 2005.

Maharashtra Government *vide Notification No. VAT. 1515/CR-158/Taxation-1.-Dated 30th December, 2015* has inserted Rule 52B under Maharashtra Value Added Tax Rules, 2005 which states that:

- i) If claimant dealer has purchased goods covered under entries 13 and 14 of Schedule

'D' (i.e. Aerated and Carbonated non-alcoholic beverage whether or not containing sugar or other sweetening matter or flavour or any other additives & Cigar and cigarettes), then he may claim set-off only up to extent of aggregate of-

- taxes paid or payable on inter-state resale of corresponding goods, and
- taxes paid on the purchases of said goods, if resold locally.

- The set-off shall be claimed only in the month in which corresponding sales of such goods is effected by the claimant dealer.

Nothing in this rule shall apply to the purchases of goods which are exported out of the territory of India.

[Notification No. VAT. 1515/CR-158/Taxation-1.-
Dated 30th December, 2015]

19. Availability to download digitally signed (TIN) registration certificate from www.mahavat.gov.in

The Maharashtra Government has provided a facility to download the digitally signed (TIN) registration certificate from www.mahavat.gov.in for the registration certificates granted on or after 22.12.2015 and the registration officer shall continue to send the physical copy of the same through India Post.

The details regarding downloading (TIN) registration certificate has been given in Annexure-A of the Circular issued in this regard.

[Trade Circular No. 19T of 2015 dated 21st December, 2015]

ODISHA VAT:

20. Exemption from levy of tax on goods for carrying operations within processing area of SEZ by a Developer, Co-Developer & Units of SEZ.

The Odisha Government *vide* Notification No. 33082-FIN-CT1-TAX-0025-2015 dated 26th December, 2015 has exempted the payment of tax on goods sold for execution of works contract to a Developer, Co-Developer and Units of a SEZ for carrying out authorised operations within the processing area of a SEZ duly established in the State, subject to following conditions :

- Exemption shall also be applicable to a contractor and sub-contractor.
- Exemption is applicable from the date of issue of eligibility certificate by Industrial Promotion and Investment Corporation of Odisha Limited (IPICOL).

- The Developer, Co-Developer and Units including contractors and sub-contractors shall submit a monthly information duly signed by the authorised officer regarding purchase of goods within 21 days from the end of the relevant month.

[Notification No. 33082-FIN-CT1-TAX-0025-2015
dated 26th December, 2015]

TAMIL NADU VAT:

21. Authorising various officers for making particular assessments.

The Tamil Nadu Government *vide* Notification No. G.O. Ms.No. 122, Commercial Taxes and Registration (B1), No. SRO A-20(a)/2015 dated 20th December, 2015, has authorised the following officers to make assessment as indicated below:

Concerned Officers	Make assessment in respect of dealers-
Assistant Commissioner (AC)	- Under his jurisdiction. - Transferred by the Deputy Commissioner (DC)
Commercial Tax Officer (CTO)	- Under his jurisdiction. - Cases transferred to him by the AC.
Additional Commercial Tax Officer (Add. CTO)	Cases transferred to him by CTO or AC having jurisdiction.
Deputy CTO or Add. CTO	Whose total turnover does not exceed ₹ 1,00,00,000/- per annum [including exempted items and turnover under the CST Act, 1956].
DC of Large Tax Payers Unit or Fast Track Assessment Circle Or Territorial Deputy Commissioner	Cases transferred to him by the Territorial Joint Commissioner concerned.
Any officer of the Enforcement Wing or Audit Wing or the Business Intelligence Unit or the Inter-State Investigation Cell	Cases detected by the officers of the Enforcement Wing or the Audit Wing or the Business Intelligence Unit or the Inter-State Investigation Cell, provided that the final assessment for the relevant year or years has been completed by the assessing authority concerned.

Provided that,

Where dealer carrying business-	Concerned Officer
Under more than one jurisdiction	AC or CTO having jurisdiction over area in which the Head Office or the principal place of business is situated.
Without permanent place of business	AC or CTO having jurisdiction over the place where dealer ordinarily resides.
Under jurisdiction of more than one AC or CTO without HO or permanent place of business	AC or CTO specified by Commissioner of Commercial Taxes.
Shifted his principal place from a jurisdiction to the jurisdiction of another Assessing authority & the assessment requires revision	Assessing authority who originally made the assessment.

Where dealer carrying business-	Concerned Officer
Casual dealer who resides outside the State	AC, CTO or Deputy CTO having jurisdiction where the sale or purchase takes place.
Has any escaped turnover for which pre-assessment notice has been issued by any assessing authority	Final assessment be made by such authority only.

[Notification No. G.O. Ms.No. 122, Commercial Taxes and Registration (B1), No. SRO A-20(a)/2015 dated 20th December, 2015]

ANDHRA PRADESH VAT:

22. Instructions for cancellation & blocking of e-way bills & other statutory forms.

Andhra Pradesh Government has provided following instructions for cancellation and

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blocking of e-way bills and other statutory } forms:

No. of e-ways bills taken in last 30 days	Cancellation allowed
Up to 200	8
Above 200 & up to 500	15
Above 500	3% of e-way bills taken with a maximum 200

If cancellation is more than the limits, then approval of CTO/AC(CT) LTU is required with reasons and supporting documents.

[Circular No. CCTs Ref No.CCW/CS(1)92/2015, dated 2nd January, 2016]

RAJASTHAN VAT:

23. Form EL-1, EL-2 and EL-3 to be filed within 15 days from the end of the relevant month.

The Rajasthan Government specified that w.e.f. 01.02.2016 the following persons affecting transactions with in the State of Rajasthan through electronic media, shall furnish the information for every month or part thereof in Form EL-1, EL-2 and EL-3 to the Assistant Commissioner/CTO, within 15 days from the end of the relevant month through rajtax.gov.in:

- Person effecting sale or purchase; or
- transports, receives for transportation or delivers goods; or
- receives any amount for the goods sold or purchased

[Notification No. F.16(708)TAX/CCT/2015/7307 dated 31st December, 2015]

24. Amendment in Rule 12, 13, 14, 16, 22A, 25 & 33 of Rajasthan Value Added Tax Rules, 2006

Rule 12: Application for registration

Following has been inserted:

- An application for grant of voluntary registration u/s 12 of the Act shall be submitted by a dealer at any time.
- Application in Form VAT-01 shall be digitally signed by the-

Persons-	In case of-
Proprietor	Proprietorship concern
Managing Partner	Partnership firm or Limited Liability Partnership firm
Managing Director/ Director or authorized signatory	Company
Karta	Hindu Undivided Family
Authorized signatory	Other cases

If applicant dealer fails to sign digitally then he shall attest the acknowledgement generated by affixing his signature on it, and submit the duly signed acknowledgement within fifteen days of submission of online application to the authority competent to grant registration.

- Self-attested copy of specified documents shall be submitted along with form VAT-01.

Rule 13 (Declaration of Business Manager) shall be substituted with following:

- Any dealer who wants to authorise any person to act as business manager, shall declare the same in Form VAT-02 electronically. Earlier, it was mandatory to declare business manager. In case of authorising more than one business manager, a separate declaration is required.
- Now each declaration is to be digitally signed by the concerned person & the business manager declared.
- Dealer other than those submitting digitally signed registration application, may submit the hard copy of Form VAT-02 if he and/or the business manager has failed to digitally sign the same.

Rule 14: Issue of Registration Certificate

Following shall be substituted in the said rule:

- Digitally signed registration certificate will be issued in Form VAT-03 within 24 hours of the receipt of the digitally signed application in Form VAT-01 (along with the required document) also.
- Sub-rule 1A provides for an enquiry to verify the facts and statements made in registration application within 45 days of such issuance. Now, this enquiry shall be made within 48 hours having reasons to believe that early enquiry is necessary in the interest of revenue. In such cases the enquiry report shall also be submitted online within 48 hours from the issuance of registration certificate.

Rule 16: Amendment & cancellation in registration certificate

In sub rule (1), the competent authority after due enquiry shall amend the registration certificate and now also issue him an amended certificate of registration in Form VAT-03.

Rule 22A: Determination of taxable turnover in case of transfer of property in goods involved in the execution of a works contract

Sub rule (7) has been inserted which provides that where the developer/builder awards any works contract to any person, has opted for payment in lump sum in lieu of tax, then he shall obtain Awarder Identification Certificate and shall at the time of payment to such person deduct an amount as may be notified by the State Government. While determining the taxable turnover of developer/builder, the turnover of the works contract awarded by him shall be deducted.

Rule 25: Application for Stay of recovery of demand

Now, an application for stay of recovery of demand shall be made electronically in Form VAT-18 through the official website of the Department.

Rule 33: Dismissal in default

Sub rule (1A) has been inserted which states that an application for restoration of appeal shall be submitted electronically to the Appellate Authority in Form VAT-32.

[Notification No. F. 12(79)/FD/TAX/2014-111 dated 8th January, 2016]

GUJARAT VAT:

25. Amendment in Rule 19 & 20 of Gujarat Value Added Tax Rules, 2006.

Rule 19: Submission of monthly and quarterly returns

Sub-rule (4AA) has been inserted to provide that every registered dealer holding a certificate of entitlement under any incentive scheme shall also furnish a monthly return of tax incentives availed in Form 203A. It contains the description of the goods sold & purchased against tax invoice and such return shall be filed within 30 days from the end of the month to which such return relates.

Such a dealer shall be required to furnish return on completion of the availment of tax incentives referred to above.

Rule 20: Submission of annual returns u/s 33 (self-assessment)

Sub-rule (4A) has been inserted to provide that every registered dealer referred in sub-rule (4AA) of rule 19 shall furnish annual return in Form 203 and also

furnish annual return in Form 203B or Form 204, as the case may be.

[Notification No. (GHN-5)VAR-2016-(37)/TH dated 8th January, 2016]

UTTARAKHAND VAT:

26. Date extension for submitting Annual Return for financial year 2014-15 upto 31.03.2016.

Uttarakhand Government has extended the date for submitting Annual Return for the financial year 2014-15 from 31.12.2015 to 31.03.2016.

[Notification No. 10/2016/19(120)/XXVII(8)/2012 dated 02nd January, 2016]

HARYANA VAT:

27. Period to grant Amnesty- extended under Haryana VAT.

The benefit for amnesty scheme in the Haryana VAT Act with amendment to Section 59A has now extended for recovery of dues upto 01-April-2015.

However, the notification granting benefit of the same to a certain class of dealers and the corresponding rules & conditions is still awaited.

[Notification No. Leg. 1/2016.Dated 13th January, 2016]



(Matter on FEMA has been contributed by CA Manoj Shah, Mumbai and CA. Hinesh Doshi, Mumbai)

A. Guidelines on trading of Currency Futures and Exchange Traded Currency Options in Recognised Stock Exchange—Introduction of Cross Currency Futures and Exchange Traded Options Contracts

A.P. (DIR Series) Circular No. 35 dated December 10, 2015

In order to enable direct hedging of exposures in foreign currencies and facilitate execution of cross-currency strategies by market participants, it has been decided, as announced in the Fourth Bi-monthly Monetary Policy Statement 2015-16 (Para 38), to permit the recognised stock exchanges to offer cross-currency futures contracts and exchange traded option contracts in the currency pairs of EUR-USD, GBP-USD and USD-JPY. Recognised stock exchanges are also permitted to offer exchange traded currency

option contracts in EUR-INR, GBP-INR and JPY-INR in addition to the existing USD-INR option contract, with immediate effect.

Accordingly, the Notifications No.FMRD.1/ED (CS)-2015 dated December 10, 2015 and No. FMRD. 2/ ED (CS)-2015 dated December 10, 2015 viz. Currency Futures (Reserve Bank) (Amendment) Directions, 2015 and Exchange Traded Currency Options (Reserve Bank) (Amendment) Directions, 2015 amending the Directions notified vide Notification No.FED.1/DG (SG)-2008 dated August 6, 2008 and Notification No. FED.1/ED (HRK)-2010 dated July 30, 2010 respectively have been issued.

Market Participants, i.e., residents and FPIs, are allowed to take positions in the cross-currency futures and exchange traded cross-currency option contracts without having to establish underlying exposure subject to the position limits as prescribed by the exchanges.

The existing position limits of USD 15 million for USD-INR contracts and USD 5 million for non USD-INR contracts, all put together, per exchange, for residents and FPIs, without having to establish underlying exposure, shall remain unchanged. The hedging procedure for residents as laid down in A.P. (DIR Series) Circular No. 147 dated June 20, 2014 and for FPIs as laid down in A.P. (DIR Series) Circular No. 148 dated June 20, 2014 shall also remain unchanged.

B. Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) (Amendment) Regulations, 2015

Notification No.FEMA.358/2015-RB dated December 02, 2015

The Reserve Bank of India made following amendments in the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000 (Notification No.FEMA.3/2000-RB dated 3rd May 2000) namely:-

Amendment of the Schedule I

Schedule I, after paragraph 3, the following shall be inserted, namely:-

4. Provided that under these Regulations, the Reserve Bank may, in consultation with the Government of India, prescribe for the automatic route, any provision or proviso regarding various parameters listed in paragraphs 1 to 3 above of this Schedule or any other parameter as prescribed by the Reserve Bank and also prescribe the date from

which any or all of the existing proviso will cease to exist, in respect of borrowings from overseas, whether in foreign currency or Indian Rupees, such as addition/deletion of borrowers eligible to raise such borrowings, overseas lenders/investors, purposes of such borrowings, change in amount, maturity and all-in-cost, norms regarding security, pre-payment, parking of ECB proceeds, reporting and drawal of loan, refinancing, debt servicing, etc.

Amendment to the Schedule II

Schedule I, after paragraph 5, the following shall be inserted, namely:-

6. Provided that under these Regulations, the Reserve Bank may, in consultation with the Government of India, prescribe for the approval route, any provision or proviso regarding various parameters listed in paragraphs 1 to 5 above of this Schedule or any other parameter as prescribed by the Reserve Bank and also prescribe the date from which any or all of the existing provisions will cease to exist, in respect of borrowings from overseas, whether in foreign currency or Indian Rupees, such as addition/deletion of borrowers eligible to raise such borrowings, overseas lenders/investors, purposes of such borrowings, change in amount, maturity and all-in-cost, norms regarding security, pre-payment, parking of ECB proceeds, reporting and drawal of loan, refinancing, debt servicing, etc.

C. Foreign Exchange Management (Manner of Receipt and Payment) (Amendment) Regulations, 2015

Notification No.FEMA.357/2015-RB dated December 07, 2015

In partial modification of its Notification No.FEMA.14/2000-RB dated May 3, 2000, Reserve Bank of India made following amendments in the Foreign Exchange Management (Manner of receipt and Payment) Regulations, 2000 namely:-

Amendment to the Regulations

In the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2000, in the Regulation 5, after sub-regulation (2) (b) following shall be added at (c), namely:

'Any other mode of payment in accordance with the directions issued by the Reserve Bank of India to authorised dealers from time to time.'

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CORPORATE LAWS



(Matter on Corporate Laws has been contributed by CA. Rahul Joglekar)

**MCA (www.mca.gov.in)
MCA notification no. GSR 972 (E)
dated 14th December 2015- Companies**

(Audit and Auditors) Amendment Rules, 2015.

MCA has amended the Companies (Audit and Auditors) Rules, 2014 *vide* this notification. In the original rules for the Rule 13 dealing with Reporting of frauds by auditor and other matters, new Rule has been substituted. For a complete text of the notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/Amendment_Rules_14122015.pdf

MCA notification no. GSR (E) dated 14th December 2015-Companies (Meetings of Board and its Powers) Second Amendment Rules, 2015.

MCA has amended the Companies (Meetings of Board and its Powers) Rules, 2014 to facilitate Omnibus approval for related party transactions on an annual basis. The Rules further specify various conditions which must be complied with in case of such Omnibus approvals. They also specify certain transactions which cannot be approved through Omnibus resolutions. For a complete text of the notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/Amendment_Rules_14122015_1.pdf

MCA notification no. S.O. 3388(E) dated 14th December 2016–Commencement of Sec.13 and 14 of Companies (Amendment) Act 2015

MCA has notified the 14th day of December, 2015 as the date on which the provisions of Section 13 and 14 of the Companies (Amendment) Act 2015 shall come into force.

MCA notification no. S.O. 125(E) dated 13th January 2016–Commencement of Sec.125(5), (6) and (7) of Companies Act 2013

MCA has notified 13th January, 2016 as the date on which the provisions of sub-Section (5), sub-Section (6) [except with respect to the manner of administration of the Investor Education and Protection Fund] and sub-Section (7) of Section 125 of the said Act shall come into force.

MCA Circular no. 01/2016 dated 12th January 2016–FAQ's with regard to Corporate Social Responsibility under Section 135 of Companies Act 2013

MCA had been receiving numerous queries seeking further clarifications with regard to various issues on Corporate Social Responsibility under Section 135 of Companies Act 2013. In this regard, MCA has released a set of Frequently Asked Questions (FAQ) for implementation of Corporate Social Responsibility. For a complete set of the FAQs please refer the link: http://www.mca.gov.in/Ministry/pdf/FAQ_CSR.pdf

RBI(www.rbi.org.in)

RBI circular no.DBR.Dir.BC.No.70/13.03.00/2015-16 dated 7th January 2016 - Non-Fund Based Facility to Non-constituent Borrowers of Bank

RBI had earlier advised Banks not to extend any non-fund based facilities to non-constituents borrowers. However, this had led to difficulties to those customers, who require Non-Fund based facilities like Letter of Credits (LCs), Bank Guarantees, but do not avail of any Fund based facility from any bank. Therefore, RBI has directed that Scheduled Commercial Banks can grant non-fund based facilities including Partial Credit Enhancement (PCE) to those customers, who do not avail any fund based facility from any bank in India. However, various conditions have been laid down for granting such facilities which include a comprehensive Board approved loan policy for grant of non-fund based facility to such borrowers, Verification of Customer credentials, credit Appraisal and due-diligence, Compliance with Know Your Customer KYC / AML norms, Submission of Credit Information to CICs and Exposure Norms. For a complete text of the circular, please refer the link: <https://rbi.org.in/Scripts/NotificationUser.aspx?Id=10212&Mode=0>

RBI circular no. DBR.No.Dir.BC.67/13.03.00/2015-16 dated 17th December 2015 - Interest Rates on Advances

RBI has revised the guidelines on pricing of advances by Banks. Effective 1st April, 2016 advances will be priced with reference to the Marginal Cost of Funds based Lending Rate (MCLR) which will be the internal benchmark for such purposes. The MCLR will comprise of Marginal cost of funds, Negative carry on account of CRR, Operating costs and Tenor premium. The circular also contains norms for determination of spread, exemptions from MCLR, review of MCLR, treatment of interest rates linked to Base Rate charged to existing borrowers *etc.* For a complete text of the circular, please refer the link: <https://rbi.org.in/Scripts/NotificationUser.aspx?Id=10179&Mode=0> ■