

BRIEF UPDATE ON SEBI AND CORPORATE LAW



CA IP Neha Rajen Gada



CA IP Rajen Hemchand Gada

SEBI

A. REGULATIONS

1. Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2021

[Issued by the Securities and Exchange Board of India vide Notification No. SEBI/LAD-NRO/GN/2021-25 dated June 10, 2021]

SEBI has repealed the SEBI (Delisting of Equity Shares) Regulations, 2009 and has introduced the updated SEBI (Delisting of Equity Shares) Regulations, 2021. The main emphasis is on timeliness and transparency in dissemination of information, completion of delisting procedures and investor protection.

B. CIRCULARS

1. Enhancement of overall limit for overseas investment by Alternative Investment Funds (AIFs)/Venture Capital Funds (VCFs)

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/IMD/DF6/CIR/P/2021/565 dated May 21, 2021]

The overall overseas investment limit of USD 750 million utilized by SEBI registered AIFs and VCFs has been increased to USD 1500 million.

2. Format of compliance report on Corporate Governance by Listed Entities

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/CFD/CMD-2/P/CIR/2021/567 dated May 31, 2021]

Companies to which Corporate Governance provisions are applicable are supposed to file

compliance reports in specific formats on quarterly basis, at the end of each year and at the end of 6 months from the end of each financial year.

SEBI has now introduced an additional disclosure format to be filed at the end of every half year of a financial year commencing from FY 2021-22 the first of which has to be filed for half year ended September 30, 2021. This disclosure related to the loans/ guarantees/comfort letters/ security provided by the listed entity, directly or indirectly to promoter/ promoter group entities or any other entity controlled by them.

3. Disclosure of the following only w.r.t schemes which are subscribed by the investor: a. risk-o-meter of the scheme and the benchmark along with the performance disclosure of the scheme vis-a-vis benchmark and b. Details of the portfolio

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/IMD/IMD-II DOF3/P/CIR/2021/566 dated May 31, 2021]

SEBI had mandated all Mutual Funds/ Asset Management Companies (AMCs)/Trustee Companies/Boards of Trustees of Mutual Funds to provide, w.e.f. June 01, 2021, disclosures regarding:

- (a) risk-o-meter of the scheme and the benchmark along with the performance disclosure of the scheme vis-à-vis benchmark; and
- (b) details of portfolio.

This disclosure requirement shall now be effective from September 01, 2021.

4. Circular on Relaxation in compliance with requirements pertaining to AIFs and VCFs.

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/IMD/IMD-I/DOF6/CIR/2021/568 dated May 31, 2021]

The due dates for regulatory filings by AIFs and VCFs which are due between the period ending March 2021 to July 2021 as prescribed under SEBI (Alternative Investment Funds) Regulations, 2012 and circulars issued there under are extended till September 30, 2021.

5. 'Off-market' transfer of securities by FPI

[Issued by the Securities and Exchange Board of India vide Circulars No. SEBI/HO/FPI&C/P/CIR/2021/0569 dated June 01, 2021]

The Finance Act, 2021 provides tax incentives for relocating foreign funds to International Financial Services Centre (IFSC) in order to make the IFSC in GIFT City a global financial hub. In order to facilitate such 'relocation' FPIs are requested to approach SEBI through their 'Domestic Depository Participants' (DDPs) for approval. This will also involve transfer of securities from existing DDPs to participant for special purpose vehicle in Gift city. The 'off-market' transfer shall be allowed without prejudice to any provisions of tax laws and FEMA.

6. Streamlining the process of IPOs with UPI in ASBA and redressal of investors grievances

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/CFD/DIL2/P/CIR/2021/570 dated June 02, 2021]

SEBI had put in place measures to have a uniform policy to further streamline the processing of ASBA applications through UPI process among intermediaries/SCSBs (Self-Certified Syndicate Banks) and also provided a mechanism of compensation to investors.

In this regard it has relaxed compliance with certain provisions such as:

- (a) information on SMS regarding the details of total number of shares applied/allotted/non-allotted etc.;
- (b) Uploading information on closed user group; and
- (c) Completion of unblocks of ASBA on T + 4 day.

7. Centralized Database for Corporate Bonds/ Debentures

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/DDHS/DDHS1/P/CIR/2021/572 dated June 04, 2021]

In order to further streamline the Centralized Database for Corporate Bonds/ Debentures and to provide further ease of access to investors, SEBI has updated the list of data fields to be maintained in the database along with the manner of filing the same. As such Depositories, Bond / Debenture Issuers, Stock Exchanges, Credit Rating Agencies and Debenture Trustees are required to undertake necessary filings as per the updated data field list so prescribed.

8. Circular on Potential Risk Class Matrix for debt schemes based on Interest Rate Risk and Credit Risk

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/IMD/IMD-II/DOF3/P/CIR/2021/573 dated June 07, 2021]

With effect from December 01, 2021, Mutual funds will have to categorize debt scheme based on the Potential Risk Class Matrix for debt schemes which is turn based on Interest Rate Risk and Credit Risk. The parameters are based on maximum interest rate risk (measured by Macaulay Duration (MD) of the scheme) and maximum credit risk (measured by Credit Risk Value (CRV) of the scheme). SEBI has laid down the detailed process and procedures in this Circular.

9. Revised Framework for Regulatory Sandbox

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/ITD/ITD/CIR/P/2021/575 dated June 14, 2021]

The Objective of the Regulatory Sandbox is, "To grant certain facilities and flexibilities to the entities regulated by SEBI so that they can experiment with FinTech solutions in a live environment and on limited set of real users for a limited time frame."

10. Revised Framework for Regulatory Sandbox

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/IMD/IMD-I/DOF1/P/CIR/2021/564 dated May 12, 2021]

On April 26, 2021, SEBI has amended the provision for change in control of SEBI Registered Portfolio Managers making it mandatory for seeking prior approval for change in control. SEBI has, vide this circular, laid down the procedure for seeking such prior approval. SEBI has, in order to enhance the reach and achieve the desired aim, revised the eligibility criteria of the Regulatory Sandbox.

11. Relaxation from the requirement of minimum vesting period in case of death of employee(s) under SEBI (Share Based Employee Benefit) Regulations, 2014

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/CFD/DCR2/CIR/P/2021/576 dated June 15, 2021]

In case of employee stock options and special appreciation rights, there is a minimum vesting period of 1(one) year as per the SEBI (Share Based Employee Benefit) Regulations, 2014. Further, in case of death of an employee while in employment, normally the benefits accrue to the deceased person's family only on completion of the vesting period.

However, in view of the Covid-19 pandemic and the hardships faced by the families of the deceased persons, SEBI has relaxed this requirement of 1(one) year. Now the benefits will accrue on immediate basis to the families of the persons who have deceased on or after April 01, 2020.

12. Settlement of Running Account of Client's Funds lying with Trading Member (TM)

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/MIRSD/DOP/P/CIR/2021/577 dated June 16, 2021]

SEBI has prescribed the revised procedure for the manner in which Brokers are supposed to undertake client's fund settlement after considering factors like pay-in obligations and margin obligations.

13. Automation of Continual Disclosures under Regulation 7(2) of SEBI (Prohibition of Insider Trading) Regulations, 2015 - System Driven Disclosures for inclusion of listed Debt Securities

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/ISD/ISD/CIR/P/2021/578 dated June 16, 2021]

Pursuant to this Circular, now with effect from July 01, 2021, even debt securities of equity listed Companies will be covered and disclosed under the System Driven Disclosures mechanism implemented by SEBI.

14. Framework for administration and supervision of Investment Advisers under the SEBI (Investment Advisers) Regulations, 2013

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/IMD/IMD-I/DOF1/P/CIR/2021/579 dated June 18, 2021]

Through the powers entrusted under Regulation 14 of SEBI (Investment Advisers) Regulations, 2013, SEBI has authorised BSE subsidiary BSE

'Administration & Supervision Limited' (BASL) as the "Investment Adviser Administration and Supervisory Body" ("IAASB"). As such, BASL has been entrusted with the administration and supervision of Investment Advisers. SEBI has also released an FAQ in this regard.

As such, all existing IAs have to become membership of IAASB with 3 months of recognition and also undertake all reporting to such supervising IAASB.

All new applications for registration will now be routed to the recognised IAASB.

CORPORATE LAW

A. NOTIFICATIONS

1. Companies (Incorporation) Fourth Amendment Rules, 2021

[Issued by Ministry of Corporate Affairs vide Notification No. G.S.R. ... (E) dated June 07, 2021]

MCA has amended the AGILE-PRO form to AGILE-PRO-S by adding a field for Shops and Establishment Registration.

2. Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Amendment Rules, 2021

[Issued by Ministry of Corporate Affairs vide Notification No. G.S.R. 396 (E) dated June 09, 2021]

The Central Government has inserted new rule 6A after Rule 6. This rule deals with the manner in which the shares have to be transferred to the Investor Education and Protection Fund Authority and the manner of dealing with the benefits accruing to such transferred shares.

3. Companies (Meetings of Board and its Powers) Amendment Rules, 2021

[Issued by Ministry of Corporate Affairs vide Notification No. G.S.R. 409 (E) dated June 15, 2021]

MCA has deleted Rule 4 of Companies (Meetings of Board and its Powers) Rules, 2014 relating to "Matters Not to be Dealt with in a Meeting Through Video Conferencing or Other Audio-Visual Means". As a result, now the following items are permitted to be dealt with through in a meeting held through Video Conferencing or Other Audio-Visual Means:

- (i) the approval of the annual financial statements;
- (ii) the approval of the Board's report;
- (iii) the approval of the prospectus;
- (iv) the Audit Committee Meetings for 2[consideration of financial statement including consolidated financial statement if any, to be approved by the board under sub-section (1) of section 134 of the Act]; and
- (v) the approval of the matter relating to amalgamation, merger, demerger, acquisition and takeover.



FEMA UPDATES

Compiled by:



CA Manoj Chunilal Shah CA Viral Vinod Satra

A.P. (DIR Series) Circular No. 04 dated May 12, 2021

Sponsor Contribution to an AIF set up in overseas jurisdiction including IFSCs:

It has been decided that any sponsor contribution from a sponsor Indian Party (IP) to an Alternative Investment Fund (AIF) set up in an overseas jurisdiction, including International Financial Services Centre (IFSC) in India, as per the laws of host jurisdiction, will be treated as Overseas Direct Investment (ODI).

Accordingly, IP as defined in Regulation 2(k) of Notification FEMA 120 can set up AIF in overseas jurisdictions including IFSCs under the automatic route provided it complies with Regulation 7 of Notification FEMA 120.

A.P. (DIR Series) Circular No. 05 dated May 31, 2021

Investment by Foreign Portfolio Investors (FPI) in Government Securities: Medium Term Framework (MTF):

Investment Limits for FY 2021-22:

- a. The limits of FPI investment in Government Securities (G-Secs) and State Development Loans (SLIs) shall remain unchanged at 6% and 2% respectively of outstanding stocks of securities for FY 2021-22.
- b. All investments by eligible investors in "specified securities" shall be reckoned under the Fully Accessible Route.
- c. The allocation of incremental changes in the G-sec limit (in absolute terms) over the two sub-categories – 'General' and 'Long-term' – shall be retained at 50:50 for FY 2021-22.
- d. The entire increase in limits for SDLs (in absolute terms) has been added to the 'General' sub-category of SDLs.

The revised limits for all categories shall be as under:

Table I – Investment Limits for FY 2021-22						
All figures in Rs. Crore						
	G-Sec Gener al	G-Sec Long Term	SDL Gener al	SDL Long Term	Corporat e Bonds	Total Debt
Current FPI Limits ^	2,34,5 31	1,03,531	67,630	7,100	5,41,488	9,54,280
Revised Limit for HY Apr 2021-Sept 2021	2,43,9 14	1,12,914	76,766	7,100	5,74,263	10,14,957
Revised Limit for HY Oct 2021-Mar 2022	2,53,9 28	1,22,298	85,902	7,100	6,07,039	10,75,637

A.P. (DIR Series) Circular No. 07 dated June 17, 2021

Liberalized Remittance Scheme for Resident Individuals – Reporting:

AD bank were required to upload the data in respect of number of applications received and total amount remitted under LRS on Online Return Filing Scheme (ORFS).

It has now been decided to collect this information in XBRL system instead of the ORFS. AD Bank shall upload the requisite information on XBRL system on or before 5th of succeeding month from Jul 01, 2021 onwards.



RERA

UPDATES

Compiled by:



CA Ashwin Bhawanji Shah

Owing to covid situation and close down of government offices with restriction imposed from time to time, there has been lots of complaint in queue waiting for even 1st hearing since last 9-12 months. In spite of online video conferencing facility for appearances, it is observed that the main objective behind enactment of RERA i.e. Speedy Dispute Resolution of grievances with in 60 days of filing complaint could not be achieved.

To streamline the process of hearing and to achieve target of speedy dispute resolution Maharashtra has recently vide its Circular No. 30,31,34 notified certain guidelines and clarification.

Guidelines for determining the seniority of complaints filed before the MahaRERA

Maharashtra Real Estate regulatory Authority issued a **Circular No 30/2021 dated 18.05.2021** where guideline for determining the seniority of complaints whereby it is clarified that based on date of filing complaint, the seniority shall be decided for fixing the hearing of the matter. However, this shall not apply to matters referred to conciliation forum.

It is clarified that, if a complaint is referred to the MahaRERA Conciliation Forum for availing the possibility of amicable settlement and if the conciliation between the parties fails, in that event, the complaint will then be referred back to the MahaRERA for hearing the same on merits and on receipt thereof, such complaints would be scheduled for hearing before the MahaRERA as per the original seniority of the said complaint and the seniority of the complaint would be decided as per the date of registration/filing of the complaint before the MahaRERA.

Therefore, even if a complaint is referred to the conciliation forum, the seniority of the said complaint will remain intact and the hearing/decision of such complaints shall be taken up strictly as per their seniority i.e. date of filing.

Further, the MahaRERA has issued another **Circular no. 34 dated 21.06.2021** wherein it is clarified that in following exceptional situation the seniority of the complaints will be changed and the hearing will be conducted accordingly:

1. Where Application along with the Certificate of doctor received from the complainant stating that complainant is suffering from with serious life-threatening illness.
2. Where direction is received from the superior Forum / Tribunal / Court that complaint is to be disposed of in a fixed time.
3. Where complaints in respect of same project are clubbed together for hearing.
4. Where disputes have been settled between the parties before the Conciliation Bench.
5. In addition to the above situation the seniority of the complaint can be changed with the approval of the Hon'ble Chairperson, MahaRERA after the submission of proper reason / justification.

Guidelines for functioning of MahaRERA Conciliation and Dispute Resolution Forum

The MahaRERA has established the MahaRERA Conciliation and Disputes Resolution Forum' vide Circular No. 15/2018 dated 29-01-2018 to ensure speedy disposal of the complaints and also to promote and popularize amicable and effective settlement of disputes arising between the allottees/promoter/ real estate agents.

To streamline the process of hearing /disposal of the complaints referred to MahaRERA Conciliation and Disputes Resolution Forum, MahaRERA has issued a **Circular No. 31 dated 18.05.2021** wherein is has prescribed the procedure for hearing to be conducted by the MahaRERA Conciliation and Disputes Resolution Forum in referred conciliation matters (online complaints) transferred by MahaRERA:

The following procedures have been notified :

1. The seniority of the complaint will be first scrutinized and accordingly the complaint will be assigned/ distributed to the concerned functional Conciliation Benches.
2. The assignment of not more than 10 complaints can be done at the initial stage.
3. Notice of the hearing will be issued to the parties with in one week from the date of receipt of assignment by Conciliation Benches.
4. The first hearing on such complaints should be conducted at least within 15 days.
5. After disposal of the assigned complaints, next lot of 10 complaints can be assigned to the conciliation bench.
6. The parties can be represented through advocates/Authorised representatives.
7. If the parties arrive at any mutual agreement, in that event, the concerned Bench should record the said proceeding in the Roznama and should refer such complaints to MahaRERA within a period of one week together duly with signed conciliation terms.
8. The said complaint will be treated as closed/finally disposed of only after the order is passed by the MahaRERA.
9. If the conciliation between the parties fails, in that event, such complaints be transferred back to MahaRERA within a period of one week for taking appropriate decision on merits.

Conclusion:-

The efforts put forth by Maharera are not enough and there is urgent need to speed up the resolution process by appointment of more Members of the Authority and Adjudication Officer. The time bound program should be set up to ensure the timely disposal of the complaints.

Further, Execution proceedings of the already concluded matters should be taken up on war footing. There are many orders pronounced by maharera but owing to non-execution , there is frustration amongst the complainants for the non-fulfilment of relief sought by them.



DIRECT TAXES

Compiled by:



CA Haresh Padamshi Kenia

LAW UPDATE

□ **INCOME- TAX (SIXTEENTH AMENDMENT) RULES, 2021 - INSERTION OF RULE 11UAE
NOTIFICATION G.S.R. 338 (E) [NO.68/2021/F. NO.370142/16/2021-TPL], DATED 24-5-2021**

In the Income-tax Rules, 1962, after rule 11UAD, the following rule shall be inserted, namely: —

11UAE.Computation of Fair Market Value of Capital Assets for the purposes of section 50B of the Income-tax Act.—

- (1) For the purpose of clause (ii) of sub-section (2) of section 50B, the fair market value of the capital assets shall be the FMV1 determined under sub-rule (2) or FMV2 determined under sub-rule (3), whichever is higher.
- (2) The FMV1 shall be the fair market value of the capital assets transferred by way of slump sale determined in accordance with the formula -
A+B+C+D - L, where,
 - A= book value of all the assets (other than jewellery, artistic work, shares, securities and immovable property) as appearing in the books of accounts of the undertaking or the division transferred by way of slump sale as reduced by the following amount which relate to such undertaking or the division, —
 - (i) any amount of income-tax paid, if any, less the amount of income-tax refund claimed, if any; and
 - (ii) any amount shown as asset including the unamortised amount of deferred expenditure which does not represent the value of any asset;
 - B = the price which the jewellery and artistic work would fetch if sold in the open market on the basis of the valuation report obtained from a registered valuer;
 - C = fair market value of shares and securities as determined in the manner provided in sub-rule (1) of rule 11UA;
 - D = the value adopted or assessed or assessable by any authority of the Government for the purpose of payment of stamp duty in respect of the immovable property;
 - L= book value of liabilities as appearing in the books of accounts of the undertaking or the division transferred by way of slump sale, but not including the following amounts which relates to such undertaking or division, namely: —
 - (i) the paid-up capital in respect of equity shares;
 - (ii) the amount set apart for payment of dividends on preference shares and equity shares where such dividends have not been declared before the date of transfer at a general body meeting of the company;
 - (iii) reserves and surplus, by whatever name called, even if the resulting figure is negative, other than those set apart towards depreciation;
 - (iv) any amount representing provision for taxation, other than amount of income-tax paid, if any, less the amount of income-tax claimed as refund, if any, to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;

- (v) any amount representing provisions made for meeting liabilities, other than ascertained liabilities;
- (vi) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares.
- (3) FMV2 shall be the fair market value of the consideration received or accruing as a result of transfer by way of slump sale determined in accordance with the formula- $E+F+G+H$, where,
- E = value of the monetary consideration received or accruing as a result of the transfer;
- F= fair market value of non-monetary consideration received or accruing as a result of the transfer represented by property referred to in sub-rule (1) of rule 11UA determined in the manner provided in sub-rule (1) of rule 11UA for the property covered in that sub-rule;
- G= the price which the non-monetary consideration received or accruing as a result of the transfer represented by property, other than immovable property, which is not referred to in sub-rule (1) of rule 11UA would fetch if sold in the open market on the basis of the valuation report obtained from a registered valuer, in respect of property;
- H= the value adopted or assessed or assessable by any authority of the Government for the purpose of payment of stamp duty in respect of the immovable property in case the non-monetary consideration received or accruing as a result of the transfer is represented by the immovable property.
- (4) The fair market value of the capital assets under sub-rule (2) and sub-rule (3) shall be determined on the date of slump sale and for this purpose valuation date referred to in rule 11UA shall also mean the date of slump sale.

Explanation.—For the purposes of this rule, the expression "registered valuer" and "securities" shall have the same meanings as respectively assigned to them in rule 11U.

❑ **SECTION 249 OF THE INCOME-TAX ACT, 1961 - COMMISSIONER (APPEALS) - CLARIFICATION REGARDING LIMITATION TIME FOR FILING OF APPEALS BEFORE CIT(APPEALS)**

CIRCULAR NO. 10 OF 2021 [F.NO.225/49/2021/ITA-II], DATED 25-5-2021

The Central Board of Direct Taxes has issued Circular No. 8 of 2021 on 30th April 2021 providing various relaxations till 31st May 2021 including extending time for filing the appeals before CIT(Appeals). At the same time, the Hon'ble Supreme Court vide order dated 27th April 2021 in *Suo motu Writ Petition (Civil) No. 3 of 2020* restored the order dated 23rd March, 2020 and in continuation of the order dated 8th March, 2021 directed that the period(s) of limitation, as prescribed under any General or Special Laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders.

The Central Board of Direct Taxes, clarifies that if different relaxations are available to the taxpayers for a particular compliance, the taxpayer is entitled to the relaxation which is more beneficial to him. Thus, for the purpose of counting the period(s) of limitation for filing of appeals before the CIT(Appeals) under the Act, the taxpayer is entitled to a relaxation which is more beneficial to him and hence the said limitation stands extended till further orders as ordered by the Hon'ble Supreme Court in *Suo motu Writ Petition (Civil) No. 3 of 2020* vide order dated 27th April 2021.

❑ **INCOME-TAX (SEVENTEENTH AMENDMENT) RULES, 2021 - AMENDMENT IN RULE 31A, FORM 26A, FORM 26Q, FORM 27EQ AND FORM 27Q**

NOTIFICATION G.S.R. 395(E) [NO. 71/2021/F. NO. 370142/19/2021-TPL], DATED 8-6-2021

As per the above notification, the deductor at the time of preparing statements of tax deducted shall

furnish particulars of amount paid or credited on which tax was not deducted or deducted at lower rate in view of notification issued under sub-section (5) of section 194A or in view of exemption provided under clause (x) of sub-section (3) of section 194A

The deductor at the time of preparing statements of tax deducted shall furnish particulars of amount paid or credited on which tax was not deducted in view of clause (d) of the second proviso to section 194 or in view of the notification issued under clause (e) of the second proviso to section 194.

The notification mandates the deductor at the time of preparing statements of tax deducted to furnish particular amounts paid or credited on which tax was not deducted in view of proviso to subsection (1A) or in view of sub-section (2) of section 196D.

Lastly, the deductor at the time of preparing statements of tax deducted to furnish particulars of amount paid or credited on which tax was not deducted in view of sub-section (5) of section 194Q with effect from 1st day of July, 2021.

The CBDT has amended the Rule 31A of Income Tax Rules, 1962 in respect of TCS, Form 26A, form 26Q and annexures to Form 26Q namely Deductee/Payee Wise Break Up Of TDS, Form 27EQ, annexures to Form 27EQ Party Wise Break Up Of TCS, Form 27Q and annexures to Form 27Q-Deductee Wise Break Up of TDS.

□ **SECTION 143 OF THE INCOME-TAX ACT, 1961 - ASSESSMENT - GENERAL - SCRUTINY ASSESSMENT - GUIDELINES FOR COMPULSORY SELECTION OF RETURNS FOR COMPLETE SCRUTINY DURING FINANCIAL YEAR 2021-22 - CONDUCT OF ASSESSMENT PROCEEDINGS IN SUCH CASES**

CIRCULAR F.NO.225/61/2021/ITA-II, DATED 10-6-2021

Kindly refer to the above.

The parameters for compulsory selection of returns for Complete Scrutiny during Financial Year 2021-22 and conduct of assessment proceedings in such cases are prescribed as under:

S. No.	The Parameter	Assessment Proceedings to be conducted by
1	Cases pertaining to survey u/s 133A of the Income-tax Act, 1961(Act)	
	<p>Cases pertaining to Survey under section 133A of the Act subject to exclusion below:</p> <p>Exclusion:</p> <p>Cases where books of accounts, documents, etc. were not impounded and returned income (excluding any disclosure made during the Survey) is not less than returned income of preceding assessment year are not required to be considered for compulsory scrutiny.</p> <p>However, the said exclusion is not applicable where assessee has retracted from disclosure made during the Survey and such cases have to be considered for compulsory scrutiny.</p>	<p>(i) After the issue of notice u/s 143(2) of the Act by the Jurisdictional Assessing Officer for compulsory selection, cases selected for compulsory scrutiny which have impounded material, shall have to be transferred to Central Charges u/s 127 of the Act within 15 days of issue of notice u/s 143(2) of the Act.</p> <p>(ii) After the issue of notice u/s 143(2) of the Act by the Jurisdictional Assessing Officer for compulsory selection, assessment proceedings in respect of cases selected for compulsory scrutiny and where there is no impounded material will be conducted by National Faceless Assessment Centre(NaFAC). The Assessing Officer shall upload the Survey Report in the ITBA at the time of issue of notice u/s 143(2) of the Act.</p>

S. No.	The Parameter	Assessment Proceedings to be conducted by
2	Cases pertaining to Search and Seizure	
	Assessments in Search and Seizure cases to be made under section(s) 153A, 153C read with section 143(3) of the Act and also for return filed for assessment year relevant to previous year in which the Search was conducted under section 132 or requisition was made under section 132A of the Act.	The case's falling u/s 153C, if lying outside Central Charges, the Jurisdictional Assessing Officer is required to issue notice u/s 143(2) in cases where return is furnished u/s 153C or 142(1) calling for information in cases where no return is furnished u/s 153C. Such cases shall be transferred to Central Charges u/s 127 of the Act within 15 days of issue of notice u/s 143(2)/142(1) of the Act.
3	Cases in which notices u/s 142(1) of the Act, calling for return, have been issued	
	<p>(i) Cases where no return has been furnished in response to a notice u/s 142(1) of the Act.</p> <p>(ii) Cases where return has been furnished in response to notice u/s 142(1) of the Act and where notice u/s 142(1) of the Act was issued due to the information contained in NMS Cycle/AIR information/information received from Directorate of I&CI.</p> <p>(iii) Cases where return has been furnished in response to notice u/s 142(1) of the Act and where notice u/s 142(1) of the Act was issued due to the specific information received from Law Enforcement Agencies, including the Investigation Wing; Intelligence/Regulatory Authority/Agency; Audit Objection; etc.</p>	<p>These cases will be taken up for compulsory scrutiny by NaFAC.</p> <p>These cases will not be taken up for compulsory scrutiny and the selection of such cases for scrutiny will be through CASS cycle.</p> <p>After the issue of notice u/s 143(2) of the Act by the Jurisdictional Assessing Officer for compulsory selection, assessment proceedings in such cases will be conducted by NaFAC.</p>
4	Cases in which notices u/s 148 of the Act have been issued	
	<p>(i) Cases where no return has been furnished in response to notice u/s 148 of the Act.</p> <p>(ii) Cases where return is furnished in response to notice u/s 148 of the Act</p>	<p>In such cases, Jurisdictional Assessing shall issue notice u/s 142(1) of the Act, calling for information regarding the issues on the basis of which notice u/s 148 was issued, subsequent to which, assessment proceedings in such cases will be conducted by NaFAC.</p> <p>After the issue of notice u/s 143(2) of the Act by the Jurisdictional Assessing Officer for compulsory selection, assessment proceedings in such cases will be conducted by NaFAC.</p>

S. No.	The Parameter	Assessment Proceedings to be conducted by
5	Cases related to registration/approval under various sections of the Act, such as 12A, 35(1)(ii)/(iaa)/(iii), 10(23C), etc.	
	Cases where registration/approval under various sections of the Act, such as section 12A, 35(1)(ii)/(iaa)/(iii), 10(23C), etc. have not been granted or have been cancelled/withdrawn by the Competent Authority, yet the assessee has been found to be claiming tax-exemption/deduction in the return. However, where such orders of withdrawal of registration/approval have been reversed/set-aside in appellate proceedings, those cases will not be selected under this clause.	After the issue of notice u/s 143(2) of the Act by the Jurisdictional Assessing Officer for compulsory selection, assessment proceedings in such cases will be conducted by NaFAC.

Without prejudice to the above, the cases which are selected for compulsory scrutiny by the International Taxation and Central Circle charges following the above prescribed guidelines, shall, as earlier, continue to be handled by these charges.

The exercise of selection of cases for compulsory scrutiny on the basis of the above parameters and service of notice u/s 143(2) of the Act will have to be completed by 30-6-2021. As per the amendments brought vide Finance Act, 2021, the time limit for service of notice u/s 143(2) of the Act has been reduced to three months from the month of end of the Financial Year in which the return is filed.

❑ **RELAXATION IN ELECTRONIC FILING OF INCOME TAX FORMS 15CA/15CB**

PRESS RELEASE, DATED 14-6-2021

As per the Income-tax Act, 1961, there is a requirement to furnish Form 15CA/15CB electronically. Presently, taxpayers upload the Form 15CA, along with the Chartered Accountant Certificate in Form 15CB, wherever applicable, on the e-filing portal, before submitting the copy to the authorized dealer for any foreign remittance.

In view of the difficulties reported by taxpayers in electronic filing of Income-tax Forms 15CA/15CB on the portal www.incometax.gov.in, it has been decided that taxpayers can submit the aforesaid Forms in manual format to the authorized dealers till June 30th, 2021. Authorized dealers are advised to accept such Forms till June 30th, 2021 for the purpose of foreign remittances. A facility will be provided on the new e-filing portal to upload these forms at a later date for the purpose of generation of the Document Identification Number.

❑ **SECTION 48 OF THE INCOME-TAX ACT, 1961 - CAPITAL GAINS - COMPUTATION OF - NOTIFIED COST INFLATION INDEX UNDER SECTION 48, EXPLANATION (V) - FINANCIAL YEAR 2021-22 - AMENDMENT IN NOTIFICATION NO. S.O. 1790(E), DATED 5-6-2017**

NOTIFICATION S.O. 2336(E) [NO. 73/2021/F.NO.370142/10/2021-TPL], DATED 15-6-2021

The Cost Inflation Index for the Financial Year 2021-22 has been notified as 317

❑ **CBDT INTRODUCES NEW FUNCTIONALITY 'COMPLIANCE CHECK FOR SECTION 206AB & 206CCA CIRCULAR 11 OF 2021 DATED 22-06-2021**

To ease the compliance burden on tax deductor and tax collector in complying with provisions of section 206AB and 206CCA, the CBDT has introduced a new functionality "Compliance Check for Sections 206AB & 206CCA". This functionality is made available through reporting portal of the Income-tax Department to check whether deductee or collectee is a specified person for sections 206AB & 206CCA.

GST UPDATES

Compiled by:



CA Nitin Dhanji Kenia CA Bharat Kalyanji Gosar

NOTIFICATIONS - CENTRAL TAX:

- **Notification No. 16/2021 - Central Tax dated 1st June, 2021.**

Vide this Notification, Section 112 of the Finance Act, 2021 (13 of 2021) is made operational with effect from 01/06/2021 by substituting proviso in Section 50 of The CGST Act. By this substituted proviso with retrospective effect from 01/07/2017, interest on late filing of return will be payable only on that portion of the tax which is paid by debiting the electronic cash ledger.

- **Notification No. 17/2021 - Central Tax dated 1st June, 2021.**

The Notification seeks to extend the due date of furnishing of return in Form GSTR-1 for May, 2021 till 26/06/2021.

- **Notification No. 18/2021 - Central Tax dated 1st June, 2021.**

- **Notification No. 02/2021 - Integrated Tax dated 1st June, 2021.**

The Notification seeks to provide relief by lowering the interest rate for a prescribed time for delay in payment of tax for month March, 2021, April, 2021, May 2021 and the for quarter ending on March, 2021.

- **Notification No. 19/2021 - Central Tax dated 1st June, 2021.**

- **Notification No. 20/2021 - Central Tax dated 1st June, 2021.**

Late fee is waived for fifteen days from the due date of furnishing return of the return in Form GSTR 3B for the month March, 2021, April,

2021 and May 2021 for taxpayers having an aggregate turnover of more than rupees 5 crores in the preceding financial year. However, for taxpayers having an aggregate turnover upto rupees 5 crores in the preceding financial year, late fee is waived for 60 days from the due date of furnishing return for March 2021, for 45 days from the due date of furnishing return for April 2021, for 30 days from the due date of furnishing return for May 2021. Similarly, for quarterly return filer also late fee is waived for 60 days from the due date of furnishing such quarterly return

The registered persons who has defaulted in furnishing the returns in FORM GSTR-3B for the months/quarter of July, 2017 to April, 2021 but furnishes the said return between the period from the 01/06/2021 to the 31/08/ 2021, the total amount of CGST late fee will be restricted to maximum of Rs. 500/-. However, where CGST payable is Nil in such returns the total amount of CGST late fee will be restricted to maximum of Rs. 250/-.

For return in GSTR 3B for month June 2021 onwards or for quarterly return June 2021 ending onwards CGST late fee is restricted to Rs. 1000/- for Registered persons having an aggregate turnover of up to rupees 1.5 crores in the preceding financial year, it is restricted to Rs. 2500/- for Registered persons having an aggregate turnover of more than rupees 1.5 crores but upto 5 crores in the preceding financial year but it is restricted to Rs. 250/- if CGST payable is NIL in the return. (CGST Late fee for GSTR-1 is rationalized in line with late fee for GSTR 3B for month/ quarter June 2021 onwards).

- **Notification No. 21/2021 - Central Tax dated 1st June, 2021.**

Composition dealer defaulting in furnishing return for financial year in GSTR 4 for financial year 2021-22 year onwards, CGST late fee is now restricted to Rs. 250/- where CGST payable is NIL in the return and for other composition dealer it is restricted to Rs. 1000/-

- **Notification No. 22/2021 - Central Tax dated 1st June, 2021.**

Registered person who is required to deduct tax at source but fails to furnish the return in Form 7 for the month of June 2021 onwards by due date then CGST late fee payable will be Rs. 25 per day but restricted to maximum of Rs. 1000/-

- **Notification No. 23/2021 - Central Tax dated 1st June, 2021.**

The Notification Seeks to amend Notification no. 13/2020-Central Tax to exclude government departments and local authorities from the requirement of issuance of e-invoice.

- **Notification No. 24/2021 - Central Tax dated 1st June, 2021.**

The Notification seeks to extend specified compliances falling between 15.04.2021 to 29.06.2021 where completion or compliance of such action has not been made within such time, then the time limit for completion or compliance of such action is upto 30/06/2021.

- **Notification No. 25/2021 - Central Tax dated 1st June, 2021.**

The Notification seeks to extend the due date for filing FORM GSTR-4 by composition dealer for financial year 2020-21 to 31.07.2021.

- **Notification No. 26/2021 - Central Tax dated 1st June, 2021.**

The Notification seeks to extend the due date for furnishing of FORM ITC-04 for quarter ending March, 2021 to 30.06.2021.

- **Notification No. 27/2021 - Central Tax dated 1st June, 2021.**

Following Rule is amended in The Central Goods and Service Tax Rules, 2017. Rule is effective from 01/06/2021.

Rule 26(1): By substituting forth proviso, all registered Companies which were allowed to furnish return in Form GSTR-3B and the details of outward supplies in Form GSTR-1 using IFF through electronic verification code (EVC) for the period from 27/04/2021 to 31/05/2021 is now extended for the periods upto 31/08/2021.

Rule 36(4): As per this Rule, maximum cap of 5 % of eligible ITC as per GSTR 2A has been put on a registered tax payers for claiming ITC for which suppliers have not uploaded invoices/debit notes. Now, it is provided that the said condition shall apply cumulatively for the period April, 2021, May, 2021 and June 2021 the return in Form GSTR 3B for the tax period June, 2021 shall be furnished with the cumulative adjustment of input tax credit for the said month or quarter ending in accordance with the condition stated above.

Rule 59(2): Facility of furnishing details of outward supply using Invoice furnishing facility for the month of May 2021 will be available from 01/06/2021 till 28/06/2021.

NOTIFICATIONS – INTEGRATED TAX:

- **Notification No. 03/2021 – Integrated Tax dated 2nd June, 2021.**

The Notification seeks to amend Notification No. 4/2019-Integrated Tax dated 30.09.2019 to change the place of supply for B2B maintenance, repair or overhaul services in case of Shipping industry, to the location of the recipient.

CIRCULARS - CGST:

- **Circular No. 149/05/2021 - GST- dated 17th June, 2021**

It is clarified that services provided to an educat-

ional institution by way of serving of food (catering including mid- day meals) is exempt from levy of GST irrespective of its funding from government grants or corporate donations [under said entry 66 (b)(ii)]. Educational institutions as defined in the notification include aganwadi. Hence, serving of food to anganwadi shall also be covered by said exemption.

- **Circular No. 150/06/2021 - GST- dated 17th June, 2021**

It is clarified in the circular that Entry 23A of Notification No. 12/2017-CT(R) does not exempt GST on the annuity (deferred payments) paid for construction of roads. The Said entry 23A does not apply to services falling under heading 9954 but it specifically covers heading 9967 which covers services by way of access to a road or a bridge on payment of annuity.

- **Circular No. 151/07/2021 - GST- dated 17th June, 2021**

The Circular in details gives clarification on applicability of GST on supply of various services by Central and State Board such as National Board of Examination.

- **Circular No. 152/08/2021 - GST- dated 17th June, 2021**

After detail discussion in circular it is clarified that works contract service provided by way of construction such as of rope way will fall under entry at sl. No. 3(xii) of notification 11/2017-(CTR) and attract GST at the rate of 18%.

- **Circular No. 153/09/2021 - GST- dated 17th June, 2021**

GST on Composite supply of service by way of milling of wheat into flour along with

fortification, or paddy into rice for distribution by State Governments under PDS is eligible for exemption subject to condition that the value of supply of goods constitutes not more than 25 per cent of the value of the said composite supply. Where it exceeds 25% then GST rate applicable will be 5 %.

- **Circular No. 154/10/2021 - GST- dated 17th June, 2021**

It is clarified that guaranteeing of loans by Central or State Government for their undertaking or PSU is specifically exempt under entry No. 34A of Notification no. 12/2017-Central Tax (Rate) dated 28.06.2017.

- **Circular No. 155/11/2021 - GST- dated 17th June, 2021**

Laterals/parts to be used solely or principally with sprinklers or drip irrigation system, which are classifiable under heading 8424, would attract a GST of 12%, even if supplied separately. However, any part of general use, which gets classified in a heading other than 8424, in terms of Section Note and Chapter Notes to HSN, shall attract GST as applicable to the respective heading.

- **Circular No. 156/12/2021 - GST- dated 21st June, 2021**

The circular in details give clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of Notification 14/2020- Central Tax dated 21st March, 2020.



Disclaimer: The views / opinions expressed in the articles are purely of the writers. The readers are requested to take proper professional guidance before abiding the views expressed in the articles. The publisher, the editor and the association disclaim any liability in connection with the use of the information mentioned in the articles.

PRINTED AND PUBLISHED BY MANOJ SHAH ON BEHALF OF C.V.O. CHARTERED AND COST ACCOUNTANTS' ASSOCIATION - 304, JASMINE APARTMENT, DADA SAHEB PHALKE ROAD, DADAR (EAST), MUMBAI - 400014. TEL: 022-24105987. **EDITOR:** RAMESH CHHEDA