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Chartered Accountants

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AKGVG Weekly Insight-Vol II

24th January, 2018

Coverage:

- Income Tax Updates
- GST Updates
- MCA News
- IBBI Updates

Regulatory Updates

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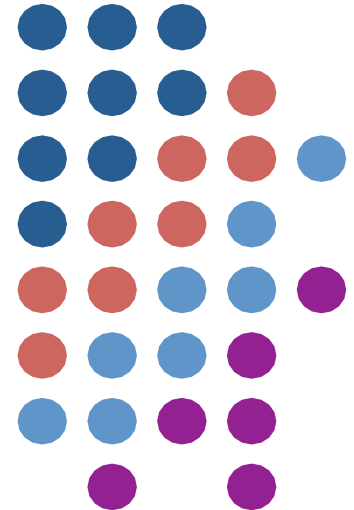
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Cement Bharat Limited and NTPC Limited from Rs. 29,89,52,250 to Rs. 39,39,52,250).

CBDT introduced “Electoral Bond Scheme, 2018”

CBDT vide [Notification dated 02.01.2018](#) has introduced the scheme which may be called as “Electoral Bond Scheme, 2018” which shall come into force on the date of its publication in the Official Gazette. The Bond under this Scheme may be purchased by a person, who is a citizen of India or incorporated or established in India. A person being an individual can buy bonds, either singly or jointly with other individuals. Life of these bonds shall be fifteen days from date of issuance. Only the political parties registered under section 29A of the Representation of the People Act, 1951 (43 of 1951) and securing not less than one per cent of the votes polled in the last general election to the House of the People or the Legislative Assembly, as the case may be, shall be eligible to receive the bond.

Budget 2018-19 to be presented on February 1, session to commence on January 29

The government had last year advanced the budget date by one month. Until then, country's annual budget was presented on the last working day of February. However, the Modi government departed from the tradition, saying that presenting the budget a month earlier would help in ensuring that proposals take effect from April 1. [Click here to read more](#)

Tax Return Preparer Scheme, 2006 amended

CBDT vide [Notification no. 04/2018 dated 19.01.2018](#) has amended Tax Return Preparer Scheme, 2006, thereby naming the scheme as the Tax Return Preparer (Amendment) Scheme, 2018. The said amended scheme includes eligibility criteria, required educational qualifications, enrollment procedure, earnings as percentage of declared income for such TRP and several other provisions.

Processing of income-tax returns under section 143(1) of the Income-tax Act which were filed in Forms ITR-I to 6 & applicability of section 143(1)(a)(vi)

CBDT Via [Circular No.01/2018 dated 10.01.2018](#) clarifies that while processing the return of income, an intimation proposing adjustments in identified returns under section 143(1)(a)(vi) of the Act would be shortly issued by the CPC-ITR, Bengaluru along with the process to be followed by the taxpayers for filing the response. Since section 143(1)(a)(vi) of the Act is being applied for the first time while processing the returns, it has been decided that before issuing an intimation of the proposed adjustment, initially an awareness campaign would be carried out to draw the attention of the taxpayer to such differences.

Revised limits for income arising from the receipt from National supporters

CBDT vide [Notification No. 02/2018 dated 18.01.2018](#) has amended [Notification No.85/2017 dated 26.09.2017](#), there by revising the limit for income arising from the receipt from National supporters namely Hero Motocorp Ltd., Bank of Baroda, Coal India Ltd., Think and Learn Private Limited, Dalmia

CBDT has entered into three Advance pricing Agreements (APA) with United Kingdom

CBDT vide [Press release dated 29.12.2017](#) entered into three more Advance Pricing Agreements (APAs) during the month of December, 2017. While two of the Agreements are Unilateral, one is a Bilateral with the United Kingdom.

Companies facing corporate insolvency resolution process allowed loss set-off under MAT

Government [Press release dated 06.01.2018](#) provides for relaxation in the provisions relating to levy of Minimum Alternate Tax (MAT) in case of companies against whom an application for corporate insolvency resolution process has been admitted under the Insolvency and Bankruptcy Code, 2016 (IBC) with a view to minimize the genuine hardship faced by such companies. Company against whom an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under Sec 7 or 9 or 10 of the IBC, the amount of total loss brought forward (including unabsorbed depreciation) shall be allowed to be reduced from the book profit for the purposes of levy of MAT under section 115JB of the Act. The clarification will apply with effect from Assessment Year 2018-19 (i.e. Financial Year 2017-18) and an appropriate legislative amendment in this regard will be made in due course.

CBDT notifies that communication address to be taken into consideration in the absence of non-delivery or non-transmission of communication

CBDT vide [Notification dated 20.12.2017](#) makes 25th Amendment Rules, 2017 regarding communication address to be taken into consideration in the absence of non-delivery or non-transmission of communication.

CBDT extend the due date of deposit of TDS/TCS during the month of October, 2017 from 7th November 2017 to 8th November 2017

CBDT vide [order dated 13.12.2017](#) extends the due date of deposit of TDS/TCS for the month of October, 2017 from 7th November 2017 to 8th November 2017 due to certain technical difficulties faced by NSDL's gateway for e-payment of Tax on 7th November, 2017.

Kerala HC reverses ITAT order and rules that accrued FD interest is not hypothetical income. Non-Deduction of TDS u/s 194A is not relevant for determination of total income.

Plantation Corporation of Kerala Ltd [TS-611-HC-2017(KER)]

Conclusion: Kerala HC reverses ITAT order for AY 2009-10, rules that interest income from bank deposits accrued but not due and hence not credited to assessee's (a Public sector undertaking) account is taxable. Assessee had disclosed Rs. 3.23 cr accrued in the balance sheet as interest receivable on fixed deposits but excluded the same in its tax return claiming that it was only a hypothetical income and the right to receive had not accrued. Kerala HC rejects assessee's stand that since the bank neither credited/paid the interest nor deducted TDS u/s. 194A, the question of accrual did not arise. HC observes that assessee follows mercantile system of accounting, further observes that assessee had exercised the option to let the interest accumulate to the deposit and thereby earned compound interest by the end of the deposit term. HC clarifies that the Bank's liability to deduct tax at source arises only when it pays the interest and not on periodical accrual of interest, remarks that "the interest income that accrued cannot, by any stretch of imagination, be termed as hypothetical income", relies on SC rulings in Tuticorin Alkali Chemicals and Fertilizers, Keshav Mills Ltd., distinguishes assessee's reliance on SC ruling in Excel Industries Ltd.

Bombay HC directs CBDT to formulate 'fair' policy on return/refund processing. AO's manual intervention permissible in case of glitches in the system.

Tata Projects Limited [TS-1-HC-2018(BOM)]

Conclusion: Bombay HC holds that manual processing of return is legally permissible in case of glitches in the system, further directs CBDT to formulate a 'rational' policy for processing of returns without any arbitrariness within 2 months. Pursuant to writ petitions filed by Tata group of companies ('assessee'), HC further directs expeditious processing of assessee's returns for AYs 2014-15 to 2016-17 within two weeks' time and issue of

refunds (if any) within 3 weeks' time. E-returns filed by assessee were forwarded by CPC to AO for processing, but were not processed within the time-frame prescribed u/s. 143(1) second proviso as proper ITBA software was not available, consequently timely refunds could not be issued to assessee. HC deprecates AO's approach of waiting till last date for completion of scrutiny assessment, also rejects stand of Department that there is no discretion left with AO whether to process return or not, in those cases where the notice u/s 143(2) is issued, relies upon Delhi HC ruling in Group M Media India Ltd, also directs CBDT/Govt to issue necessary clarification for the benefit of officers of IT Department. Though HC appreciates Revenue's stand that for the sake of transparency and for expeditious processing of returns, manual processing should not be allowed, but considering large number of returns remained pending for processing owing to proper software not being available for considerably long time, HC holds manual processing may be allowed in such cases. HC directs Government/CBDT to issue necessary directions to IT Department permitting manual processing in such cases within one month of the judgment.

SC allows Trusts double-dip depreciation claim and further clarifies that Finance Act 2014 amendment shall not be applicable retrospectively

Rajasthan and Gujarati Charitable Foundation Poona [TS-596-SC-2017]

Conclusion: SC dismisses Revenue's appeal in batch of over 50 cases, allows assessee's (charitable institutions/trusts) depreciation claim on fixed assets rejects Revenue's stand that once the capital expenditure on account of cost of asset was treated as application of income for charitable purposes, the grant of depreciation would amount to giving double benefit to assessee's. SC approves Bombay HC ruling in Institute of Banking Personnel Selection ('IBPS') wherein it was held that the income of the Trust is required to be computed u/s. 11 on commercial principles after providing for allowance for normal depreciation from Trust's gross income, despite full expenditure allowed in the year of acquisition of assets. Also takes note of Sec. 11(6) which was inserted by Finance (No. 2) Act, 2014 w.e.f. April 1, 2015, and which provides that the income to be determined for the purposes of application or accumulation shall not include a deduction or allowance by way of depreciation or otherwise in respect of any asset, the acquisition of which has been claimed as an application of an income u/s 11 in the same or any other previous year. SC approves Delhi HC's view that Sec. 11(6) cannot be applied retrospectively to AYs prior to AY 2015-16. Lastly, SC clarifies that "once assessee is allowed depreciation, he shall be entitled to carry forward the depreciation as well."



Recommendations made by the GST Council in its 25th Meeting

The 25th GST council meeting held in New Delhi on 18th January, 2018, provided recommendations on a big agenda thereby announcing measures to improve ease of doing business, relaxation in GST rules and regulations, reduction in GST rates of various goods and services. **It is proposed to issue notifications giving effect to recommendations of the Council as presented under point A and B on 25th January, 2018.**

The recommendations made are summed up hereunder:

A. Exemptions / Changes in GST Rates / ITC Eligibility Criteria

i. GST rates on certain services to be reduced.

GST rate on following services is likely to be reduced:

1. Construction of metro and monorail projects from 18% to 12%.
2. GST on the small housekeeping service providers, notified under section 9 (5) of GST Act, who provide housekeeping service through ECO, @ 5% without ITC.
3. Tailoring service from 18% to 5%.
4. Admission to theme parks, water parks, joy rides, merry-go-rounds, go-carting and ballet, reduced from 28% to 18%.
5. Works Contract Services (WCS) provided by sub-contractor to the main contractor providing WCS to Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity, has been reduced from 18% to 12%.
6. Transportation of petroleum crude and petroleum products (MS, HSD, ATF) from 18% to 5% without ITC and 12% with ITC.

7. Job work services for manufacture of leather goods and footwear reduced to 5%.
8. Common Effluent Treatment Plants services of treatment of effluents, reduced from 18% to 12%.
9. GST rate is reduced to 12% in respect of mining or exploration services of petroleum crude and natural gas and for drilling services in respect of the said goods.
10. Concessional GST will be levied @12% on the services provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of building used for providing (for instance, centralized cooking or distributing) mid-day meal scheme by an entity registered under section 12AA of IT Act.

ii. Certain exemptions given

1. Supply of services by way of providing information under RTI Act, 2005 from GST is exempted.
2. Legal services provided to Government, Local Authority, Governmental Authority and Government Entity has been exempted.
3. Service by way of transportation of goods from India to a place outside India by air and service by way of transportation of goods from India to a place outside India by sea and provide that value of such service may be excluded from the value of exempted services for purpose of reversal of ITC. This exemption may be granted with a sunset clause up to 30th September 2018.
4. Services provided by the Naval Insurance Group Fund by way of Life Insurance to personnel of Coast Guard under the Group Insurance Scheme of the Central Government retrospectively w.e.f. 1.7.2017.
5. To exempt dollar denominated services provided by financial intermediaries located in IFSC SEZ, which have been deemed to be outside India under the various regulations by RBI, IRDAI, SEBI or any financial regulatory authority, to a person outside India.
6. Services relating to admission to, or conduct of examination provided to all educational institutions and services by educational institution by way of conduct of entrance examination against consideration in the form of entrance fee is also exempted.
7. To exempt reinsurance services in respect of insurance schemes exempted under S.Nos. 35 and 36 of notification No. 12/2017-CT (Rate).

8. Services by way of fumigation of agricultural produce in a warehouse is also exempted.
9. To provide in CGST Rules that value of exempt supply u/s 17(2), shall not include the value of deposits, loans or advances on which interest or discount is earned (This will not apply to a banking company and a financial institution including a NBFC engaged in providing services by way of extending deposits, loans or advances).
10. To defer the liability to pay GST in case of TDR against consideration in the form of construction service, and on construction service against consideration in the form of TDR, to the time when the possession or right in the property is transferred to the land owner by entering into a conveyance deed or similar instrument (eg. allotment letter); However, there is no deferment in point of taxation in respect of cash component.
11. To tax renting of immovable property by Govt. / local authority to a registered person under reverse charge, while such renting to unregistered person shall continue under forward charge.

iii. Council has also decided to

1. Allow ITC of input services in the same line of business at a rate of 5% in case of tour operator service,
 2. Enhance the exemption limit of Rs 5000/- per month per member to Rs 7500/- in respect of services provided by Resident Welfare Association (unincorporated or non-profit entity) to its members against their individual contribution,
 3. Amend Entry 3 of Notification No. 12/2017-Central Tax (Rate) so as to exempt pure services provided to Govt. entity, and expand pure services exemption to include composite supply involving predominantly supply of services i.e. upto 25% of supply of goods
 4. Enhance the limit to Rs 2 lakh against Sl. No. 36 of exemption Notification No. 12/2017- Central Tax (Rate) which exempts services of life insurance business provided under life micro insurance product approved by IRDAI upto maximum amount of cover of Rs. 50,000,
5. Increase threshold limit for exemption under Entry 80 of Notification No. 12/2017-Central Tax (Rate) for all theatrical performances like Music, Dance, Drama, Orchestra, Folk or Classical Arts and all other such activities in any Indian language in theatre from Rs. 250 to Rs. 500 per person and to also extend the threshold exemption to services by way of admission to a planetarium, [Click here to read more](#)
- B. **Certain changes have also been made in GST rate of goods and compensation cess has also been reduced.** [Click here to read more](#)
 - C. **Policy changes as recommended by the GST Council:**
 1. The late fee payable by any registered person for failure to furnish **FORM GSTR-1 (supply details), FORM GSTR-5 (Non-resident taxable person) or FORM GSTR-5A (OIDAR)** is being reduced to fifty rupees per day and shall be twenty rupees per day for NIL filers. The late fee payable for failure to furnish FORM GSTR-6 (Input Service Distributor) shall be fifty rupees per day.
 2. Taxable persons who have obtained voluntary registration will now be permitted to apply for cancellation of registration even before the expiry of one year from the effective date of registration.
 3. For migrated taxpayers, the last date for filing FORM GST REG-29 for cancellation of registration is being extended by further three months till 31st March, 2018.
 4. The facility for generation, modification and cancellation of e-way bills is being provided on trial basis on the portal ewaybill.nic.in. Once fully operational, the e-way bill system will start functioning on the portal ewaybillgst.gov.in
 5. Certain modifications are being made to the e-way bill rules which are to be notified nationwide for inter-State movement with effect from 01.02.2018 and for intra-State movement with effect from a date to be announced separately by each State but not later than 01.06.2018.
 6. The report and recommendations submitted by the Committee on Handicrafts were also accepted by the GST Council. [Click here to read more](#)



MCA notified commencement of Companies Amendment Act, 2017

MCA has issued notification regarding commencement of Companies Amendment Act, 2017. In exercise of the powers conferred by sub-section (2) of section 1 of the Companies (Amendment) Act, 2017, the Central Government hereby appoints the 26th January, 2018 as the date on which the provisions of section 1 and section 4 of the said Act shall come into force. Section 1 deals with powers of the Central Government to appoint different dates for different provisions of this Act. Section 4 deals with reservation of name, and upon receipt of an application, the Registrar may, reserve the name for a period of **twenty days** from the date of approval or such other period as may be prescribed. Further, in case of an application for reservation of name or for change of its name by an existing company, the Registrar may reserve the name for a period of **sixty days** from the date of approval.

Aside, MCA is proactively designing a Front Office service (replacing INC-1 eform with Web-Form) for Name Reservation and Change of Name for companies capturing only absolutely essential information from the applicants. The said service is likely to be rolled out on 26th January, 2018. [Click here to read more](#)

Issuance of allotment of DIN temporarily suspended

To facilitate corresponding changes in LLP eforms due to deprecation of DIR-3, it is proposed to temporarily suspend issuance of allotment of new DINs for Designated Partners/Partners of LLPs w.e.f 26th January 2018 till 31st March 2018.



President assented Insolvency and Bankruptcy Code (Amendment) Act, 2017 on 18.01.2018

IBBI has notified the Insolvency and Bankruptcy Code (Amendment) Act, 2017 after it has received the assent of the President on the **18th January, 2018**. This Act may be called the Insolvency and Bankruptcy Code (Amendment) Act, 2018 and shall be deemed to have come into force on the 23rd day of November, 2017. It prohibits certain persons from submitting resolution plan in case of defaults. These include: (i) wilful defaulters, (ii) promoters or management of the company if it has outstanding non-performing debt for over year and (iii) disqualified directors, among others. The Act bars the sale of property of a defaulter to such persons who is ineligible to be a resolution applicant during liquidation. It inserts provision to specify that person contravening any provisions of IBC, for which no penalty has been specified, will be punishable with fine ranging between Rs. 1 lakh to Rs. 2 crore.

Disclosure requirement by Insolvency Professionals and other Professionals appointed by Insolvency Professionals conducting Resolution Processes

The IBC regulations authorize the Insolvency Professional to appoint registered valuers, accountants, legal and other professionals to assist him in discharge of his duties in resolution process. In the interest of transparency, it has been decided that an insolvency professional and every other professional appointed by the insolvency professional for a resolution process shall make disclosures as prescribed. An insolvency professional shall disclose his relationship, if any, and of the other professional(s) engaged by him with all concerned entities & professionals. Further, an Insolvency Professional Agency shall facilitate receipt of disclosures and shall disseminate such disclosures on its web site within three working days of receipt of the disclosure. The Insolvency Professional shall provide a confirmation to the Insolvency Professional Agency to the effect that the appointment of every other professional has been made at arms' length relationship.

Feedback/Queries can be sent to info@akvg.com

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