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# POC CONNECT

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# Corporate News Round Up

Tax News Round Up

Notifications,  
Circulars &  
Press Releases

Direct Tax  
Case Laws

Indirect Tax  
Case Laws

Corporate  
Case Laws

# Corporate News Round Up

## Sebi set to block P-Note route for NRIs to prevent laundering of black money

The regulator plans to put in place a clear bar on NRIs and entities owned by them and resident Indians subscribing to participatory notes, a move aimed at preventing possible round-tripping or laundering of black money. The Sebi is set to tweak its regulations to this effect at its upcoming board meeting on April 26 after the finance ministry recently wrote to the regulator.

## Sebi provides clarity on insider trading norms

Sebi has said that insider trading regulations would be applicable on all "connected persons" and not just on persons designated by the board of a company. The clarifications have been given as part of an informal guidance sought by brokerage firm Prabhudas Lilladher regarding certain aspects of Prohibition of Insider Trading (PIT) regulations. Employees and connected persons are designated on the basis of functional role and not only on seniority, the regulator said.

# Corporate News Round Up

## Sebi gets back discretionary powers on penalties

The Finance Bill 2017 has inserted an explanation that does away with the ambiguity regarding the discretionary powers of the Sebi in deciding the quantum of penalty levied against companies. This will provide relief to several companies reeling under heavy penalties post the Supreme Court's Roofit judgment in 2015. The SC had, in its ruling in the matter of Roofit Industries in November 2015, said that Sebi had no discretionary power under Section 15J of the SEBI Act, 1992 to reduce penalties imposed on companies.

## RBI recasts norms on currency hedging for MNCs

The RBI changed norms to provide operational flexibility to multinational entities and their Indian subsidiaries exposed to currency risks arising out of current account transactions in the country. The extant hedging guidelines have been amended to provide operational flexibility for booking derivative contracts to hedge the currency risk arising out of current account transactions of Indian subsidiaries of multi-national companies.

# Corporate News Round Up

## RBI hikes capital requirement for ARCs to Rs 100 crore

Reserve Bank of India has hiked the capital requirement for asset reconstruction companies to Rs 100 crore from Rs 2 crore now. In a note accompanying the monetary policy statement the central bank said that the enhanced capital requirements were necessary because of the higher amount of cash required to buy bad loans from the current fiscal. The change in the capital requirements comes after new norms notified by Reserve Bank of India (RBI) in September said if security receipts (SRs) make more than 50% of the value of the asset under consideration, banks have to continue to provide for these loans as if the loans continue in the books of the bank. These norms were aimed at forcing banks to sell more NPAs at cash.



# Corporate News Round Up

## **CBDT allots PAN and TAN in a day for ease of doing business**

In another move to improve ease of doing business in India, the Income Tax Department has tied up with the Corporate Affairs Ministry (MCA) to issue Permanent Account Numbers (PAN) and Tax Deduction Account Numbers (TAN) within a day. “The Central Board of Direct Taxes has tied up with MCA to issue Permanent Account Number (PAN) and Tax Deduction Account Number (TAN) in one day,” a Finance Ministry statement said here. “Applicant companies submit a common application form SPICe (INC 32) on the MCA portal and once the data of incorporation is sent to the Central Board of Direct Taxes by MCA, the PAN and TAN are issued immediately without any further intervention from the applicant”..



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Direct Tax  
Case Laws

Indirect Tax  
Case Laws

Corporate  
Case Laws



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## Operation Clean Money : I-T to probe deposits of Rs 5-10 lakh now

Following a poor response to the Pradhan Mantri Garib Kalyan Yojana (PMGKY), an income declaration scheme, the Income Tax (I-T) department is set to launch another drive to catch hold of tax evaders who could have deposited large sums during the demonetisation drive. While the first phase of the so-called Operation Clean Money scrutinised cash deposits of over ~10 lakh, the second phase will examine deposits between Rs 5 lakh and Rs 10 lakh.

## Aadhaar for PAN and tax return filing

Aadhaar is a unique identification number issued by the Indian government to every individual resident of India. Proposal to make Aadhaar mandatory for PAN and tax return filing As a part of efforts to make the financial system more transparent and to curb the menace of black money, the Finance Minister has proposed changes to the Finance Bill, 2017, whereby Aadhaar (Aadhaar number / Enrolment ID) would be mandatory, effective July 1 2017, for filing income tax returns and for application for PAN.



# Tax News Round Up

## Loans, card payments above Rs 2 Lakh in cash to be shown in ITR

All cash payments of over Rs 2 lakh for paying loans and credit card bills during the 50-day period post demonetisation will have to be disclosed in the new one-page Income Tax return form. The tax department a few days back notified new Income Tax Return (ITR) forms for filing of returns for the Assessment Year 2017-18 (financial year 2016-17). Besides providing for declaring income, exemption claimed and tax paid, the forms have a new column providing for declaration for any deposit of over Rs 2 lakh in bank accounts made during November 9 and December 30, 2016 after the old 500 and 1,000 rupee notes were demonetised.





# Tax News Round Up

## Centralized Processing Centre (CPC) gets unique Pincode

A unique PINCODE 560500 has been allotted to Centralized Processing Centre (CPC), Income Tax Department located in Bengaluru by the Department of Post. Taxpayers can henceforth address their mails to “Centralized Processing Center, Income Tax Department, Bengaluru 560500” for the purpose of submission of ITR-V forms and other documents which require physical mode of transmission.

## Direct Tax Collections up to February, 2017 show Growth of 10.7%

The Direct tax collections up to February, 2017 continues to show a steady growth trend. The collection net of refunds stands at Rs. 6.17 lakh crore which is 10.7 % more than the net collections for the corresponding period last year. This collection is 72.9 % of the total Budget Estimates for Direct Taxes for Financial Year 2016-17.

### For more detail refer-

[https://incometaxindiaefiling.gov.in/eFiling/Portal/StaticPDF\\_News/Direct-Tax-Collections-February-2017-show-Growth-10-3-2017.pdf](https://incometaxindiaefiling.gov.in/eFiling/Portal/StaticPDF_News/Direct-Tax-Collections-February-2017-show-Growth-10-3-2017.pdf)

## Corporate News Round Up

## Tax News Round Up

Notifications,  
Circulars &  
Press Releases

Direct Tax  
Case Laws

Indirect Tax  
Case Laws

Corporate  
Case Laws

# Notifications, Circulars & Press Releases

Govt. extends due date for deposit under PMGKY to April 30, 2017

Ministry of Finance vide Notification No. S.O.4061 E dated 19-04-2017 has extended the last date to make deposits under the Pradhan Mantri Garib Kalyan Yojna (PMGKY) to April 30 for those availing the scheme and have already paid tax, surcharge and penalties.

Under the scheme, a person will have to pay 30% tax on undisclosed income, a penalty of 10% on the income and a surcharge of 33% on the tax paid --- which amounts to roughly 50% of the wealth.

Besides, another 25% of the remaining undisclosed amount will have to be deposited in a bank for four years without interest. “This deposit can be made till April end”.

**For more detail refer-**

<http://pib.nic.in/newsite/erelease.aspx>

# Notifications, Circulars & Press Releases

## CBDT Clarification on Taxability of Salary to a Non Resident seafarer

CBDT vide Circular No. 13/2017 dated 11-04-2017 has clarified that salary to a Non Resident seafarer for services rendered outside India on a foreign ship shall not be included in the total income merely because the said salary has been credited in the NRE account maintained with an Indian bank by the seafarer.

**For more detail refer-**

<http://www.incometaxindia.gov.in/communications/circular/circular132017.pdf>

# Notifications, Circulars & Press Releases

## Rs 2 lakh cash transaction limit not applicable to bank withdrawal: CBDT

CBDT vide Notification No.5<sup>th</sup> April, 2017 clarify that Ban on cash transaction in excess of Rs2 lakh will not be applicable to withdrawals from banks and post office savings accounts.

Through the Finance Act 2017, the government has banned cash transactions of over Rs2 lakh and said a penalty of an equal amount would be levied on the receiver.

In a clarification on the newly inserted Section— 269ST—in the I-T Act, the Central Board of Direct Taxes (CBDT) said the restriction shall not apply to withdrawal from banks and post offices.

For more detail refer-

[http://www.incometaxindia.gov.in/communications/notification/notification28\\_2017.pdf](http://www.incometaxindia.gov.in/communications/notification/notification28_2017.pdf)

# Notifications, Circulars & Press Releases

## Govt. partially withdraws service-tax exemption for Educational Institutions

GOVERNMENT OF INDIA, MINISTRY OF FINANCE (DEPARTMENT OF REVENUE) through NOTIFICATION No. 10/2017-Service Tax, dated 8th March, 2017 has withdrawn exemption of service tax on certain services w.e.f. 1st April , 2017, provided to educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.

### **For more detail refer:-**

<http://www.cbec.gov.in/resources/htdocs-servicetax/st-notifications/st-notifications-2017/st10-2017.pdf;jsessionid=FBAF31B074195E6D4A94ABD268988FC6>

# Notifications, Circulars & Press Releases

MCA Notifies Amendments in Schedule III to the Companies Act (CA) 2013 regarding disclosure requirements for companies on holding and dealings of Specified Bank Notes during Demonetization

The MCA has notified certain amendments in Schedule III to the Companies Act 2013, applicable w.e.f. 30 Mar. 2017, requiring the companies to disclose the details of Specified Bank Notes (SBN) held and transacted during the period 8 Nov. 2016 to 30 Dec. 2016 (i.e. during demonetization).

**For more detail refer:-**

<http://egazette.nic.in/WriteReadData/2017/175074.pdf>



# Corporate News Round Up

Tax News Round Up

Notifications,  
Circulars &  
Press Releases

Direct Tax  
Case Laws

Indirect Tax  
Case Laws

Corporate  
Case Laws

**Takshashila Realities (P.) Ltd. v. Deputy Commissioner of Income-tax, Circle-4(1)(2)**  
**[2017] 80 taxmann.com 176 (Gujarat), Dated- MARCH 21, 2017**

AO can issue direction for special audit even if he doesn't possess books of account

**Facts of the case-**

- There were five partnership firms which were converted into companies. Subsequently, those companies came to be amalgamated in order to form assessee-company.
- For the relevant year, notices under section 148 were issued in the case of transferee companies. The writ petitions filed to challenge said notices were dismissed.
- Thereafter, the Assessing Officer finding that there was a complex web of transactions in the group of firms namely introduction of land by some of the partners; revaluation of lands and crediting of amounts in the current accounts of all partners; conversion of firms into companies which merged with existing company; valuation of share by discounted cash flow method and allotment of shares against the amounts outstanding as unsecured loans at unreasonable premium clubbed with multiple revaluation or properties over the years, passed an order in exercise of power under section 142(2A) directing the assessee-company to get its accounts audited for relevant year as a successor of erstwhile firms.
- The assessee filed instant petition challenging the validity of aforesaid order.

**On appeal to the High Court: Held that :-**

- While forming an opinion to get accounts audited by special auditor considering specialized nature of business activities of assessee, there need not be any books of account before Assessing Officer. Therefore, where Assessing Officer after taking into consideration multiplicity of transactions in accounts and specialized nature of business activities of assessee, passed an order for special audit, same did not require any interference - Held, yes [Paras 17 and 18] [In favour of revenue]

**Commissioner of Income-tax-7 v. Odeon Builders (P.) Ltd.**  
**[2017] 80 taxmann.com 180 (Delhi), Dated- MARCH 24, 2017**

Time-limit for filing appeal before HC would commence on receipt of ITAT's order by Commissioner (judicial)

**Brief of the Case-**

- The question came up for consideration in instant appeal was whether the words "the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner" in section 260A(2)(a) mean not only the 'jurisdictional' Principal or Chief Commissioner or could it include any Commissioner including the Commissioner (Judicial)?
- The aforesaid question assumed significance in light of the stand of the revenue that unless the 'jurisdictional' Commissioner received a certified copy of the order of the Tribunal, the limitation of 120 days within which an appeal had to be filed would not commence.

**High Court Held that :-**

- The words 'Principal Chief Commissioner or Chief Commissioner or Principal Commissioner' in section 260A(2)(a) mean not only 'jurisdictional' Principal or Chief Commissioner but it would also include any Commissioner including Commissioner (Judicial). Therefore, revenue's plea that unless 'jurisdictional' Commissioner received a certified copy of order of Tribunal, limitation of 120 days within which an appeal had to be filed would not commence, deserved to be rejected - Held, yes [Para 51] [In favour of assessee]

Mohit Suresh Harchandrai v. ACIT, Circle 14 (1), Mumbai

[2017] 80 taxmann.com 174 (Mumbai - Trib.), Dated- MARCH 24, 2017

Exemption on sale of agricultural land couldn't be denied if buyer converted itto non-agriculture land after sale

### **Brief of the Case-**

- The appellant assessee being the owners-in-possession of a land, sold their shares in the land for Rs. 4.21 crore. The assessee's case was that the land sold was an agricultural land and, therefore, did not fall within the purview of capital asset under section 2(14). The assessee's did not offer capital gain on the sale of the property in their income tax returns.
- The Assessing Officer reopened the assessment and made an addition to the total income as long term capital gain on sale of land.
- On appeal, the Commissioner (Appeals) upheld the order of the Assessing Officer on the ground that the land sold was a capital asset and it was not being used for agricultural purposes and, therefore, the gain on transfer of such capital asset was liable to be taxed under section 45.
- On appeal to the Tribunal:

### **ITAT Held that :-**

Where documentary evidences were produced to show that land sold was recorded as agricultural land in revenue records and seeds, fertilizers, etc., were purchased for carrying out agricultural activities and agricultural products were cultivated, mere conversion of land by its purchasers into non-agricultural and its uncultivation for long time would not make said land non-agricultural at time it was sold. [In favour of assessee].

# Corporate News Round Up

Tax News Round Up

Notifications,  
Circulars &  
Press Releases

Direct Tax  
Case Laws

**Indirect Tax  
Case Laws**

Corporate  
Case Laws

## Signode India Ltd. v. Commissioner of Central Excise & Customs-II [2017] 79 taxmann.com 279 (SC), Dated- MARCH 8, 2017

Prior to amendment made by Finance Act of 2005 with effect from 16-6-2005, packaging activity undertaken by appellant-assessee cannot be taxed as cargo handling services

### Brief of the Case-

- The liability of the appellant to service tax on the basis that the service rendered by the appellant amounted to 'cargo handling service' within the meaning of section 65(23) [as amended by Finance (No.2) Act, 2004] was the core issue that arose for determination in instant cases before the Supreme Court.
- The appellant sought to disclaim such liability by contending that the service rendered by it amounted to a 'packaging activity' which had made exigible to service tax by amendment to the Finance Act, 1994 and by insertion of section 65(76b) and section 65(105)(zzzf) with effect from 16-6-2005. The appellant had been paying service tax on the aforesaid basis, i.e., service rendered by it amounted to a packaging activity and no dispute on this score had been raised by the revenue.
- The Tribunal found the appellant to be liable to pay service tax on its activity for the period prior to 2005.

### SC Held that :-

Where all activities undertaken by appellant though related to packing activity was at a stage when goods were yet to clear factory gate as manufactured goods for onwards transportation, prior to amendment made by Finance Act of 2005 with effect from 16-6-2005, appellant would not be liable to pay service tax on service rendered by it in terms of section 65(23), read with section 65(105zr) - Held, yes [Paras 8, 9, 11, 13, 14 & 15][In favour of assessee]

# Corporate News Round Up

## Tax News Round Up

Notifications,  
Circulars &  
Press Releases

Direct Tax  
Case Laws

Indirect Tax  
Case Laws

Corporate  
Case Laws

Where company appointed petitioner-CA firm as its Statutory Auditor for period of five years but did not ratify their appointment in its subsequent AGM and appointed another CA firm as its statutory auditor, since company did not obtain prior approval of central Government, removal of petitioner was to be held illegal  
AGM

### **Brief of the Case:-**

- R2 company in its AGM appointed petitioner-CA firm for a block of 5 years as its Statutory Auditor. Since, their appointment was to be ratified by members at every AGM, company did not ratify same and appointed R1 as its statutory auditors.
- Reason for non-ratification/removal of petitioner firm was apparently due to fact that petitioner sought for an increase of 10 per cent of audit fee. Principle of natural justice demands that petitioner should be provided sufficient opportunity before his non-ratification.
- Further, as required under section 140(5)(1), prior approval of Central Government was not obtained for removal of petitioner.
- Therefore, removal/non-ratification of auditor would not be proper and R1 firm was not eligible to be appointed as Auditor of company - Held, yes [Para 15].





*Thank You*

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