

# *POC CONNECT*

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# Corporate News Round Up

## No negative balances in savings accounts: RBI

Negative balances in savings accounts due to penalty charges are now history following a directive from the central bank. The RBI has asked banks to stop imposing charges for non-maintenance of minimum balance once the balance in a savings account touches zero.



## Housing Finance Companies are exempted from XBRL Filing.

Companies in Banking, Insurance, Power Sector and NBFC are already exempted from XBRL filing under Proviso to Rule 3 of the Companies (Filing of Documents and Forms in Extensible Business Reporting Language) Rules, 2015. MCA has amended the XBRL Rules and has added Housing Finance Companies to the list of companies which are exempted from XBRL Filing.

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

[http://www.mca.gov.in/Ministry/pdf/Rules\\_06042016.pdf](http://www.mca.gov.in/Ministry/pdf/Rules_06042016.pdf)

# Corporate News Round Up

## Several firms fail to fulfil Sebi rule for at least one woman director on their boards

Some of India's largest public sector units, including Oil & Natural Gas Corp, GAIL (India) Ltd, Indian Oil Corp and MMTC are among the companies that have failed to meet the requirement of at least one woman director on their boards, more than a year after the rule came into force.

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

<http://economictimes.indiatimes.com/jobs/several-firms-fail-to-fulfil-sebi-rule-for-at-least-one-woman-director-on-their-boards/articleshow/51870537.cms>

## Make Proprietary Trading Disclosure to Client

To increase transparency in the markets, regulator Sebi asked commodity brokers to make disclosures about proprietary trading to clients. The move is aimed at increasing transparency in dealings between broker and clients in commodity derivatives market. In a circular, Securities and Exchange Board of India (Sebi) said every commodity broker will have to disclose to its client whether such broker does client based business or proprietary trading as well.

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## Salary disclosure requirement 'non-negotiable': Sebi to MFs

Refusing to budge on its directive for mandatory disclosure of top-management salary by mutual funds, Sebi told them it is a 'non-negotiable' requirement and investors must be provided date without any 'extra filters'. Some fund houses, including HDFC, Reliance and ICICI Prudential Mutual Funds, began publishing the salary details for unit holders on their respective websites as per the directive, but many others did not do so and wanted the regulator to relax the rules or at least extend the deadline.

## India gets \$42-bn FDI during Apr-Feb: RBI

Foreign direct investment (FDI) in the country increased to \$42 billion during April-February in 2015-16, up 27.45 per cent from the inflows in the corresponding period of the previous financial year. The inflows were \$32.96 billion during April-February 2014-15. The data further revealed that FDI in February was \$3.2 billion, down from \$5.14 billion in January. The foreign direct inflows were \$3.48 billion in February 2015.

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## RBI issues master direction on merger of private sector banks

The RBI issue master direction for merger of private sector banks and also between NBFCs and banks. In another master direction, a compilation which consolidates instructions on rules and regulations framed by the RBI under various Acts, including banking issues and foreign exchange transactions, the central bank provided direction for issue and pricing of shares by private sector banks. The scope of master direction on merger will cover "an amalgamation of two banking companies and amalgamation of an NBFC with a banking company."

## Reserve Bank of India plans to regulate peer-to-peer lending

The Reserve Bank of India (RBI) has released a consultation paper on peer-to-peer (P2P) lending and proposed to bring such platforms under its purview by defining them as non-banking finance companies (NBFCs). "Although nascent in India and not significant in value yet, the potential benefits that P2P lending promises to various stakeholders and its associated risks to the financial system are too important to be ignored."

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## RBI to amend forex management rules

In a move aimed at contributing to the ease of doing business, the Reserve Bank of India said it proposes to amend the Foreign Exchange Management Regulations to mandate that foreign investment by non-residents on repatriation basis can be made in equity, debt and any other approved securities only in dematerialised form. Consequently, the depositories, namely, the National Securities Depository (NSDL) and the Central Depository Services (India) (CDSL) would act as the single-point source of data and information on the extent and nature of foreign investments in securities issued by Indian companies, investment vehicles, etc.

## RBI to issue Rs 1,000 banknotes with inset letter 'R'

The Reserve Bank will shortly issue banknotes of Rs 1,000 denominations with inset letter 'R' in both the number panels. The banknotes will also have on the obverse, all the other security features, including ascending size of numerals, bleed lines and enlarged identification mark, RBI said in a release. The banknotes bearing signature of RBI Governor Raghuram G Rajan, will also have the year of printing '2016' printed on the reverse, it added.



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# TAX NEWS

## Income Tax Officers get new APARs; Stress On Natural Justice

Acting on Prime Minister Narendra Modi's directions, the Income Tax department has issued new appraisal forms to its assessing officers where their "judiciousness and consistency" will be under test so that they issue good orders that act to end taxpayers harassment. The 15-page Annual Performance Appraisal Report along with annexures has been tweaked and circulated to all assessing officers.

## Ind-AS to raise June quarter tax liabilities by 20%

Indian companies that have moved to the new accounting standards for the June quarter could be staring at an increased tax liability of about 20% under minimum alternate tax, or MAT. Due to the way accounting is done under the new standards, Ind-AS, many transactions involving foreign exchange, securities and equity apart from certain demergers could start attracting MAT, industry trackers said.

# TAX NEWS

## NRI with offshore bank accounts cannot escape investigation by tax authorities

Even NRIs with offshore bank accounts cannot keep the taxman at bay by obtaining quick relief from the court of law. In order to prove their innocence, such persons will have to instruct the overseas banks to share information on the accounts with the Indian tax office.

## APA tax applications at four-year low in 2015-16

Although the conclusion of ahead-of-time transfer pricing agreements gained momentum in FY16, applications for advance pricing agreements (APAs) with the tax authorities fell to the lowest in four years at 130. This could be attributed to companies, especially those in the information technology (IT) and IT-enabled services (ITeS) sector, waiting for the government to come out with revised safe-harbour provisions.

# TAX NEWS

## **CBDT proposes foreign tax credit rules, to help corporates**

To provide relief to corporates having income abroad, the tax department proposed simplified 'Foreign Tax Credit' rules allowing companies to claim credit for taxes paid overseas. The Central Board of Direct Taxes (CBDT) in its draft FTC rules said tax credit will be available to entities paying taxes in any country, including those with which India has Double Taxation Avoidance Agreement (DTAA).

## **Income-tax authorities conduct raids on pulses brokers to check undue price rise**

The Modi government is cracking the whip on pulses traders as the common man bleeds from high prices of urad, tur and chana dals. Income-tax (I-T) authorities have reportedly conducted raids on unnamed pulses brokers across Delhi, Mumbai and Madhya Pradesh for allegedly jacking up prices and unduly profiteering from the same.

# TAX NEWS

## Govt plans to cut scrutiny time of tax returns to 1 year

In an effort to make life simpler for income tax payers, the government is looking to reduce the time under which an assessment of an individual's tax returns picked up for random scrutiny is completed to one year. Currently, assessment of tax returns picked up through a system of computer-driven scrutiny can be completed in two years after the close of the assessment year.

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

<http://economictimes.indiatimes.com/wealth/personal-finance-news/government-plans-to-cut-scrutiny-time-of-tax-returns-to-1-year/articleshow/51975625.cms>

## Over 450 tax cases withdrawn

In a significant step towards reducing litigation over indirect tax, the government has withdrawn more than 450 cases in high courts and the appellate tribunal. Based on a new criteria laid down by the government, field officials of the Central Board of Excise and Customs ( CBEC) filed applications for withdrawal of 980 cases in high courts and 2,174 in the Customs, Excise and Service Tax Appellate Tribunal (CESTAT).



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## Notifications, Circulars & Press Releases

### **CBDT clarifies that interest can't be denied on refund of excess TDS deposited under section 195**

The Hon'ble Supreme Court in the case of Tata Chemical Limited, Civil Appeal No. 6301 of 2011 vide order dated 26-2-2014, held that, if a resident deductor is entitled for the refund of tax deposited under section 195 of the Act, then it has to be refunded with interest under section 244A of the Act, from the date of payment of such tax. The CBDT followed the aforesaid judgment and issue circular no. 11/2016 dtd. 26-04-2016 to clarify that interest can't be denied on refund of excess TDS deposited under section 195. Further, it has directed its officials not to file appeals on this ground and to drop already filed appeals.

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

[http://www.incometaxindia.gov.in/communications/circular/circular11\\_2016.pdf](http://www.incometaxindia.gov.in/communications/circular/circular11_2016.pdf)

## Notifications, Circulars & Press Releases

**CBDT clarifies the provisions related to jurisdiction and time- limit for passing penalty order under section 271D or 271E (Circular no.9 & 10 Dated- 26-04-2016)**

CBDT has clarified that only the Range Head, i.e., the Joint Commissioner of Income Tax(JCIT) and Addl. Commissioner of Income Tax(ACIT) can initiate penalty proceedings u/s 271D or 271E. Hence, AO below the rank of JCIT have been advised to make a reference to the Range Head, regarding any violation of the provisions of section 269SS and 269T of the Act, as the case may be. Thereafter, the Range Head will issue the penalty notice under section 271D or 271E, as the case may be, and dispose of the case accordingly.

Further, it has been clarified by the CBDT that time limit for passing penalty order under section 271D or 271E is governed by clause (c) of section 275(1) and not by clause (a) thereof.

**For more detail refer-**

[http://www.incometaxindia.gov.in/communications/circular/circular9\\_2016.pdf](http://www.incometaxindia.gov.in/communications/circular/circular9_2016.pdf)

[http://www.incometaxindia.gov.in/communications/circular/circular10\\_2016.pdf](http://www.incometaxindia.gov.in/communications/circular/circular10_2016.pdf)

# Notifications, Circulars & Press Releases

## Amended Accounting Standards to be used for preparing accounts from FY 2016-17 onwards

Stakeholders have sought clarifications with regard to the accounting period for which the accounts would need to be prepared using the Accounting Standards, as amended through the Companies (Accounting Standards) Amendment Rules, 2016. In this regard MCA vide general circular no. 4/2016 dated 27-4-2016 has clarified that the companies should mandatorily follow the new Accounting Standards that are converged with international norms from FY 2016-17 onwards.

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

[http://www.mca.gov.in/Ministry/pdf/General\\_Circular\\_27042016.pdf](http://www.mca.gov.in/Ministry/pdf/General_Circular_27042016.pdf)



## Notifications, Circulars & Press Releases

### Employees have to furnish evidence of claims in form 12BB for salary TDS

Salaried Employees furnish a declaration to their employer in respect of Income Tax Deduction they are eligible under various provisions of Income Tax alongwith Supporting. Employers consider these declaration and supporting while calculating TDS to be deducted on Salary of their employees. Although practice of taking such deceleration is in existence from long time but there was no standard format for the same. But now CBDT has vide notification No. 30/2016 dated 29-04-2016 prescribed Form No.12BB for the purpose of estimating his income or computing the tax deduction at source wef 01.06.2016.

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

[http://www.incometaxindia.gov.in/communications/notification/notification30\\_2016.pdf](http://www.incometaxindia.gov.in/communications/notification/notification30_2016.pdf)

# Notifications, Circulars & Press Releases

## Procedure for online submission of statement for salary TDS and TCS

CBDT vide its Notification 06/2016 dated 04-05-2016 has prescribed the procedure for Online Submission of Statement of TDS and TCS. Now, the deductors/collectors will have the option of online filing of e-TDS/TCS returns through e-filing portal or submission at TIN Facilitation Centres. The facility to upload online quarterly TDS/TCS statements in the e-Filing portal shall be available with effect from 1st May, 2016.

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

[http://www.incometaxindia.gov.in/communications/notification/notification6\\_2016n.pdf](http://www.incometaxindia.gov.in/communications/notification/notification6_2016n.pdf)

## Notifications, Circulars & Press Releases

### **Income from transfer of unlisted shares would be considered capital gain**

CBDT vide its Instruction No. 225/12/2016/ITA.II dated 02-05-2016 has clarified that the income arising from transfer of unlisted shares would be considered under the head 'Capital Gain', irrespective of period of holding, with a view to avoid disputes/litigation and to maintain uniform approach. However this would not be necessarily applied in the situations where:

- (i) the genuineness of transactions in unlisted shares itself is questionable; or
- (ii) the transfer of unlisted shares is related to an issue pertaining to lifting of corporate veil; or
- (iii) the transfer of unlisted shares is made along with the control and management of underlying business

and the Assessing Officer would take appropriate view in such situations.



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## **Indian Aluminium Company Limited Vs. CIT**

I.T.A. No. 278 of 2007, Date of Judgment: 18.03.16, High Court of Calcutta

The expenditure incurred on the development of software can't be said to be of capital nature, hence not disallowed u/s 32 merely on the basis of its enduring nature.

### **Brief Facts:-**

The assessee is engaged in manufacture and production of aluminum. It incurred an expenditure of Rs. 41,08,556/- on software development. AO disallowed this expenditure holding it to be of capital nature, while CIT (A) allowed the expenditure. ITAT upheld the order of AO disallowing the expenditure. Therefore, the assessee appealed before the High Court of Calcutta u/s 260A of the Income Tax Act.

### **HELD THAT-**

- Hon'ble High Court of Calcutta held that test of enduring nature of expenditure cannot be applied without taking into account the facts and circumstances of the case as there may be cases where expenditure, even if incurred for obtaining advantage of enduring benefit, may, nonetheless, be on revenue account and the test of enduring benefit may break down. Moreover the software developed by the company is the application software used for lithography and study of vermiculture of bio-degradable wastes and is subject to advancements and changes at a lightning pace. Further, the developed software neither adds to the capital of the company nor leads to the creation of new asset. Hence, the debated expenditure will be allowed as revenue expenditure for the AY 1997-98 as per section 32 of the Income Tax Act.
- The appeal of the assessee is allowed.

## **M/s. Foxconn India Developer (P) Ltd. & others Vs. ITO**

Appeal no. 801 of 2013, Date of Decision: 04.04.2016, High Court of Madras

Upfront payment made for the acquisition of leasehold rights over an immovable property for 99 years is not rental income , hence not liable for TDS u/s 194I.

### **Issue:-**

Whether the upfront payment made for the acquisition of leasehold rights over an immovable property for a long duration, say 99 years, constitute rental income in the hands of lessor, thereby attracting provisions of Section 194-I of the Act?

### **HELD THAT-**

- The hon'ble High Court held that the substance of the transaction is of importance and the requirement to deduct tax u/s 194-I of the Act would depend upon the agreement between the parties. The purpose of the acquisition was to develop the area into an industrial park and it is clear that the lessor as well as the lessee intended to treat the transaction as "deemed sale". The payments were not only made under the agreement of lease but for a variety of purposes such as becoming a co-developer, developing a Product Specific SEZ, for putting up an industry in the land, etc. Also, the payments were not merely made for the use of land.
- Thus, the upfront payment made by the assessee for acquisition of leasehold rights over an immovable property for a long duration of time say 99 years could not be taken to constitute rental income at the hands of the lessor, obliging the lessor to deduct tax at source u/s 194-I of the Act.
- The appeal of assessee is allowed.



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## **Berco Undercarriages (India) (P.) Ltd., In re**

[2016] 68 taxmann.com 380 (AAR - New Delhi) APRIL 1, 2016

Service tax may be levied on imported service, even if customs duty was already paid thereon by inclusion in customs value

### **FACTS-**

- Assessee-importer appointed foreign C&F (Clearing and Forwarding) agent for import handling, arranging shipping liners, ocean freight, material clearance, local transport etc.
- Foreign C&F agent would incur expenses on behalf of assessee on freight, insurance, loading, unloading and handling of goods, etc. and said expenses would form part 'customs value'.
- Assessee sought advance ruling 'whether said charges billed by C&F agent would be liable to service tax under reverse charge', despite fact that same are already included in customs value, as that would be 'double taxation'.

### **HELD THAT-**

- There is no law that 'if customs duty is chargeable, Service Tax is not leviable on same component'; hence, assessee's argument against double taxation was rejected.
- Further, import freight upto customs station of clearance in India is covered in negative list under section 66D(p)(ii).
- However, expenditure or costs incurred by C&F Agent i.e., freight, insurance, loading, unloading, handling charges etc. would be excluded from value, only if conditions enumerated in rule 5(2) ibid are satisfied [Partly in favour of assessee]





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## **Union of India v. Financial Technologies (India) Ltd.**

[2016] 69 taxmann.com 107 (CLB - New Delhi) APRIL 5, 2016

Merger proceedings and proceedings under section 388B of Companies Act, 1956 are independent proceedings holding separate fields with distinct purposes and, hence, section 388B proceedings could not be stayed pending disposal of merger proceedings; bar of section 10 of CPC does not apply in such case.

### **Brief Facts-**

- Petitioner (UOI) filed petition under section 397, read with section 388B, seeking removal of directors of R-1 company as they, through respondent company, perpetrated fraud in its wholly owned subsidiary company 'NSEL'(R29) in complete violation of principles of corporate governance which had led to payment crisis of approx Rs. 5,600 crores in NSEL.
- Respondents sought stay of proceedings on ground of pendency of merger proceedings and civil suit filed by other parties earlier.

### **Held That-**

- Merger proceedings and sections 397 and 388B proceedings are independent proceedings holding separate fields with distinct purposes and, hence, 388B proceeding could not be stayed till disposal of merger proceedings.
- Though fact of not making payment to investors was same in civil suits filed by investors and instant petition, since issues were entirely different in these two proceedings, parties were different, remedies were different, objects were different, nature of claim was different, bar of section 10 of CPC would not be applicable to instant proceedings.



Thank You!



For any suggestions & Queries

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