

WHITESPAN

WINS

NEWSLETTER

WHITESPAN INFORMATION AND NEWS SERVICES) A GATEWAY TO KNOWLEDGE MONTHLY NEWSLETTER April 01, 2020 – April 30, 2020 Issue No. – 037/ 2020 WHITESPAN





FROM THE CHIEF EDITOR'S PEN

"Unless you try to do something beyond what you have already mastered, you will never grow."

- Ronald E. Osborn

It gives us an immense pleasure to share the 37th edition of "WINS – e-newsletter" for April 2020. My sincere gratitude to each one of you for sparing your valuable time in reading this newsletter and sharing your feedback. Your suggestions and ideas have been a source of inspiration for us and have motivated and guided us to scout for better contents in timely manner, month after month. Hope we not only help you to keep yourself updated but will also save your time by bringing a brief summary of the updates in the form of Editor's Quick Take.

In this issue we have covered the following:

- 1. Corporate Updates from MCA, RBI, SEBI, CBDT, CBEC and other miscellaneous laws
- 2. Articles on:
 - A Valuers' view on the Draft Valuation Bill
 - ii. Striking off and Revival of Struck off company
 - iii. Reverberation of COVID-19 on Worldwide Insolvency Regime.
- 3. Compliance checklist for the month of May 2020.

We hope all these would be of your interest and use.

We take this opportunity to invite articles on topics of professional interest. Please ensure that the article is original, written in good style and adds value for the readers.

Your candid feedback are valuable: appreciation will encourage us; criticism will help us to improve!

Feedbacks can be sent at vinayshukla@whitespan.in

With warm regards

WINS (Whitespan Information and News Services)

April 30, 2020



NEWSLETTER

Our Editorial Board comprises the following professionals:

- 1. **Mr. Vinay Shukla** Mr. Vinay Shukla, a Fellow Member of The Institute of Company Secretaries of India (ICSI), a graduate in Law, Commerce and Management is Co-founder of WsA having more than thirty years' experience in wide spectrum of corporate functions.
- 2. Mr. Mayank Rai LL.M, M.Phil, is a practicing advocate having more than 26 years of experience also an Asst. Professor in Dept. of Law, V.S.S.D.College, Kanpur.
- **3. Ms. Jaya Yadav** Ms. Jaya Yadav, a practicing company secretary based at Gurgaon is an associate member of The Institute of Company Secretaries of India (ICSI) and a graduate in law and Commerce from Delhi University.
- **4. Mr. Himanshu Gupta** Mr. Himanshu Gupta is an associate member of The Institute of Company Secretaries of India (ICSI) and a graduate in law and Commerce.
- **5. Ms. Trishna Choudhary -** Ms. Trishna Choudhary is an associate member of The Institute of Company Secretaries of India (ICSI) and a graduate in commerce from Delhi University.
- **6. Ms. Ankita Pandey** Ms. Ankita Pandey is a commerce graduate from Kanpur University and an associate member of The Institute of Company Secretaries of India (ICSI).
- 7. Ms. Divya Shukla- Ms Divya Shukla is graduate in Law and Commerce from Christ University, Bengaluru.





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MCA Ministry of CorporateAffairs





Relaxation provided by Ministry of Corporate Affairs

S. No	Particulars	Due date	Extended time Period	Link
1	PERIOD/DAYS OF EXTENSION FOR NAMES	RESERVED AND RESUBM	ISSION OF FORMS	http://www.mca .gov.in/Ministry/
A	Names reserved for 20 days for new company incorporation. SPICe+ Part B needs to be filed within 20 days of name reservation.	Name expiring any day between 15 th March 2020 to 3 rd May	20 days beyond 3 rd May 2020. (i.e. 23 rd May 2020)	pdf/Extension 2 2042020.pdf
В	Names reserved for 60 days for change of name of company. INC-24 needs to be filed within 60 days of name reservation.	Names expiring any day between 15 th March 2020 to 3 rd May	20 days beyond 3 rd May 2020.(i.e. 23 rd May 2020)	
С	Extension of RSUB validity for companies.	where last date of Resubmission (RSUB) falls between 15 th March 2020 to 3 rd May 2020	additional 15 days beyond 3rd May 2020 (i.e.18 th May 2020)	
D	Names reserved for 90 days for new LLP incorporation/change of name.	Names expiring any day between 15 th March 2020 to 3 rd May	20 days beyond 3 rd May 2020. (i.e. 23 rd May 2020)	
E	RSUB validity extension for LLPs.	Where resubmission (RSUB) falls between 15th March 2020 to 3rd May 2020	additional 15 days beyond 3rd May 2020 (i.e.18th May 2020)	



S. No	Particulars	Extended time Period	
2	Relaxation on holding of Annual General Meetings by Coended on 31st December, 2019.	ompanies whose financial year has	http://www.mca.gov.in /Ministry/pdf/Circular1 8 21042020.pdf
A	Companies due date of holding of Annual General Meeting for companies whose financial year (other than first financial year) has ended on 31st December, 2019	30 th September	
3	Filing under section 124 and 125 of companies Act Transfer and Refund) Rules 2016,	2013 r/w IEPFA (Accounting, Audit,	http://www.mca.gov.in /Ministry/pdf/Circular1 6 13042020.pdf
A	File e-form under section 124 and 125 without any Additional Fees till 30th September 2020. That is (IEPF-1, IEPF-1A, IEPF-2, IEPF-3, IEPF-4, IEPF-7) and everification of claims filed in e-form IEPF-5	30 th September	





1. Clarification on passing of ordinary Resolution and special resolutions by companies under the Companies Act, 2013 and rules made thereunder on account of the threat posed by COVID-19

Date of Circular: 8th April 2020

Above circular is available at the following link:

http://www.mca.gov.in/Ministry/pdf/Circular14 08042020.pdf

Editor's Quick Take:

MCA vide its circular dated 8th April, 2020 allowed Companies till June 30, 2020 to hold Extraordinary General Meetings (EGMs) through Video Conferencing or Other Audio Visual Mode. The circular also prescribes procedure to be adopted for conducting such EGMs.

For more understanding of the complete circular, please check the articles published on the below link.

- 1. http://whitespanadvisory.com/resource/article.aspx
- 2. https://taxguru.in/company-law/passing-ordinary-special-resolutions-due-covid-19-faqs.html





2. <u>Clarification on passing of ordinary Resolution and special resolutions by companies</u> under the Companies Act, 2013 and rules made thereunder on account of the threat posed by COVID-19

Date of Circular: 13th April 2020

Above circular is available at the following link:

http://www.mca.gov.in/Ministry/pdf/Circular17 13042020.pdf

Editor's Quick Take:

MCA vide its circular dated 13th April 2020 has issued a further clarification in continuation to circular issued by Ministry of Corporate Affairs dated 8th April, 2020 allowing Companies to hold Extraordinary General Meetings (EGMs) through Video Conferencing (VC) other audio-visual means (OAVM) for providing clarification to stakeholders the on following points:

- 1. Manner and mode of issue of notice to members before convening the general meeting
- 2. Requirement for voting by show of hands
- 3. Passing of certain in items only through postal ballot without convening a general meeting
- 4. Sending of emails by members, where a poll on any item is required for companies covered under para 3-B of Circular No 14/2020 dated 8th April, 2020.





3. The Companies (Appointment and Qualification of Directors) Rules, 2014

Date of Notification : 29th April 2020 Effective Date : 29th April 2020

Above notification is available at the following link:

http://www.mca.gov.in/Ministry/pdf/Rules 29042020.pdf

Editor's Quick Take:

MCA Vide its notification dated 29th April 2020 notified the Companies (Appointment and Qualification of Directors) second Amendment Rules, 2020.

As per the rule 6, in sub-rule (1), in clause (a) of the Companies (Appointment and Qualification of Directors) Rules, 2014 Compliances required by a person eligible and willing to be appointed as an independent director.

- (1) Every individual -
- (a) who has been appointed as an independent director in a company, on the date of commencement of the Companies (Appointment and Qualification of Directors) Fifth Amendment Rules, 2019, shall within a period of **five months*** from such commencement;
- * By above Amendment, the words "five months" substituted by "Seven Months". In other words, last date for registration of an individual in the data bank prescribed by MCA has been extended till June 30, 2020.





4. COVID-19 related Frequently Asked Questions (FAQs) on Corporate Social Responsibility (CSR)

Date of General Circular: 10th April 2020

Above circular is available at the following link:

http://www.mca.gov.in/Ministry/pdf/Notification 10042020.pdf

Editor's Quick Take:

MCA vide its General Circular dated 10th April, 2020 has provided FAQs on Corporate Social Responsibility along with clarifications w.r.t eligibility of CSR expenditure related to COVID-19 activities.

For complete clarification and FAQs, please click on the link below.

- 1. http://whitespanadvisory.com/resource/article.aspx
- 2. https://taxguru.in/company-law/clarification-spending-csr-fund-covid-19.html



NEWSLETTER

SEBI

Securities
Exchange
Board of India



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BSE Comprehensive list of Revised Timelines for submission of compliance filing under various regulations

S. No	Regulation	Due Date	Extended Date	Link
1	LODR Regulation 7 (3) - Share Transfer Agent	April 30,2020	May 31,2020	https://www.b
2	LODR Regulation 13 (3) - Statement of Grievance Redressal Mechanism	April 21,2020	May 15,2020	seindia.com/do wnloads/whtsn ew/file/Covid%
3	LODR Regulation 24A - relating to filing of Secretarial Compliance Report	May 30,2020	June 30, 2020	20Relaxations %20Relaxation
4	LODR Regulation 27(2) – filing of Corporate Governance Report	April 15, 2020	May 15, 2020	s%20Circ%20-%20Annexure.
5	LODR Regulation 29 (2) - Prior intimation to stock exchanges about meetings of the board	 at least 5 days before the meeting if financial results are to be considered 2 working days in other cases. 	Board meetings in all cases – 2 working days in respect of Board Meetings held till July 31, 2020.	<u>pdf</u>
6	LODR Regulation 31 relating to Shareholding Pattern	April 21, 2020	May 15, 2020	
7	LODR Regulation 33 relating to Financial Results (Quarterly)	May 15, 2020	June 30, 2020	
8	LODR Regulation 33 relating to Financial Results (Annually)	May 30, 2020	June 30, 2020	
9	LODR Regulation 39 (3) relating to Intimation to Stock Exchanges regarding loss of share certificates and issue of the duplicate certificates	2 days from getting information	No penalty for delay in intimation made between March 1 to May 31, 2020	



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BSE Comprehensive list of Revised Timelines for submission of compliance filing under various regulations

S. No	Regulation	Due Date	Extended Date
10	LODR Regulation 52 relating to Financial Results (half yearly) for Debt Listed Companies	May 15, 2020	June 30, 2020
11	LODR Regulation 52 relating to Financial Results (Annually) for Debt Listed Companies	May 30, 2020	June 30, 2020
12	LODR Regulation 40(9) - Certificate from Practicing Company Secretary on timely issue of share certificates	April 30, 2020	May 31, 2020
13	LODR Regulation 44(5) relating to holding of AGM by top 100 listed entities by market capitalization for FY 19-20		
Α	LOD- having financial year end as March 31, 2020	August 31, 2020	September 30, 2020
В	having financial year end as December 31, 2019	May 31, 2020	September 30, 2020
14	SAST Disclosure filings for the financial year ending March 31, 2020 under Regulations 30(1), 30(2) and 31(4) of the SEBI (SAST Regulations).	Extended to June 01	, 2020.
15	SEBI (D & P) Regulations, 2018 - Regulation 74(5)	Equivalent period of lock down declared by Government of India i.e. 21 days, over and above the prescribed time limits	
16	SEBI (D & P) Regulations, 2018 - Regulation 76 regarding Reconciliation of share capital audit report	Equivalent period of lock down declared by Government of India i.e. 21 days, over and above the prescribed time limits	
17	SEBI (Buy-back of Securities) Regulations, 2018 - Regulation 24(i)(f) relating to minimum time between buy back and raising of funds	·	in Regulation 24(i)(f) from onths" Applicable up to



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S. No	Regulation	Due Date	Extended Date	Link
18.	One-time relaxation with respect	to validity of SEBI Observations		https://www.sebi.go v.in/legal/circulars/a
A.	A public issue/rights issue may be opened within 12 months from the date of issuance of observations by SEBI.	where the observations have expired/ will expire between March 1, 2020 and September 30, 2020	extended by 6 months from the date of expiry of such observation, subject to an undertaking from lead manager	pr-2020/one-time-relaxation-with-respect-to-validity-of-sebi-observations 46536. html
В.	Any increase or decrease in estimated fresh issue size by more than 20% of the estimated fresh issue size shall require fresh filing of the draft offer document along with fees.	issues (IPO/ Rights Issues/ FPO) opening before December 31, 2020	An issuer shall be permitted to increase or decrease the fresh issue size by up to 50% of the estimated issue size without requiring to file fresh draft offer document with the Board subject to the conditions prescribed under the Circular.	
19.	SEBI reduces Broker turnover fee	s and filing fees for issuers		https://www.sebi.go v.in/media/press-
Α.	The broker turnover fee will be rect to 50% of the existing fee structur		Effective for the period between June 2020 to March 2021.	releases/apr- 2020/sebi-reduces- broker-turnover- fees-and-filing-fees-
В.	Filing fees on offer document Public issue, Rights issue and Bu of shares will be reduced to 50% existing fee structure	yback	This will be effective for documents filed from June 1, 2020 to December 31, 2020.	for- issuers 46571.html



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Relaxa	Relaxations from certain provisions of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018			
Reg.	Before Relaxation	After Relaxation	Link	
A.	Relaxations with respect to the eligibility condition	ons related to Fast Track Rights Issues:	https://www.sebi.	
99(a)	The equity shares of the issuer have been listed on any stock exchange for a period of at least three years immediately preceding the reference date	In regulation 99 (a) the words 'three years' shall be read as 'eighteen months	gov.in/legal/circul ars/apr- 2020/relaxations- from-certain- provisions-of-the-	
99(c)	The average market capitalisation of public shareholding of the issuer is at least two hundred and fifty crore rupees;	the words' two hundred and fifty crores' shall be read as 'one hundred crores	sebi-issue-of- capital-and- disclosure- requirements-	
99(h)	no show-cause notices have been issued or prosecution proceedings have been initiated by the Board and pending against the issuer or its promoters or whole-time directors as on the reference date;	"no show-cause notices, excluding under adjudication proceedings, have been issued by the Board and pending against the issuer or its promoters or whole- time directors as on the reference date; In cases where against the issuer or its promoters/ directors/ group companies, a show cause notice(s)has been issued by the Board in an adjudication proceeding or prosecution proceedings have been initiated by the Board; necessary disclosures in respect of such action (s) along-with its potential adverse impact on the issuer shall be made in the letter of offer.	regulations-2018- in-respect-of- rights- issue 46537.html	





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Relaxat	ions from certain provisions of the SEBI (Issu —	e of Capital and Disclosure Requirements) Regulations, 2018		
Reg.	Before Relaxation	After Relaxation	Link	
99(i)	The issuer or promoter or promoter group or director of the issuer has not settled any alleged violation of securities laws through the consent or settlement mechanism with the Board during three years immediately preceding the reference date	The issuer or promoter or promoter group or director of the issuer has fulfilled the settlement terms or adhered to directions of the settlement order(s) in cases where it has settled any alleged violation of securities laws through the consent or settlement mechanism with the Board"	https://www.sebi. gov.in/legal/circul ars/apr- 2020/relaxations- from-certain- provisions-of-the- sebi-issue-of- capital-and- disclosure- requirements- regulations-2018- in-respect-of-	
99(j)	TThe equity shares of the issuer have not been suspended from trading as a disciplinary measure during last three years immediately preceding the reference date;	the words 'three years' shall be read as 'eighteen months'		
99(m)	There are no audit qualifications on the audited accounts of the issuer in respect of those financial years for which such accounts are disclosed in the letter of offer.	For audit qualifications, if any, in respect of any of the financial years for which accounts are disclosed in the letter of offer, the issuer shall provide the restated financial statements adjusting for the impact of the audit qualifications. Further, that for the qualifications wherein impact on the financials cannot be ascertained the same shall be disclosed appropriately in the letter of offer."	rights- issue 46537.html	
В	Relaxation with respect to Minimum Subscri	ption		
86(1)	The minimum subscription to be received in the issue shall be at least ninety percent. of the offer through the offer document.	The minimum subscription to be received in the issue shall be at least seventy-five percent of the offer through the offer document. Provided that if the issue is subscribed between 75% to 90%, issue will be considered successful subject to the condition that out of the funds raisedatleast75% of the issue size shall be utilized for the objects of the issue other than		



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	tions from certain provisions of the ements) Regulations, 2018	e SEBI (Issue of Capital and Disclosure	
Reg.	Before Relaxation	After Relaxation	Link
С	Relaxation with respect to the minim with SEBI:	um threshold required for not filing draft letter of offer	https://www.se bi.gov.in/legal/ci
3(b)	a rights issue by a listed issuer; where the aggregate value of the issue is ten crore rupees or more;	The words 'ten crores' shall be read as 'twenty-five crores'.	rculars/apr- 2020/relaxation s-from-certain- provisions-of- the-sebi-issue- of-capital-and- disclosure- requirements- regulations-
60	Unless otherwise provided in this Chapter, an issuer offering specified securities of aggregate value of ten crore rupees or more, through a rights issue shall satisfy the conditions of this Chapter at the time of filing the draft letter of offer with the Board and also at the time of filing the final letter of offer with the stock exchanges, as the case may be		2018-in-respect- of-rights- issue 46537.ht ml



NEWSLETTER



Reserve Bank of India





1. Electronic Cards for Overdraft Accounts

Date of Circular: Date of Circular: 23rd April, 2020 **Above circular is available at the following link:**

https://www.rbi.org.in/scripts/BS CircularIndexDisplay.aspx?Id=11878

Editor's Quick Take:

RBI vide its circular dated April 23, 2020 it has been decided to permit banks to issue electronic cards to natural persons having Overdraft Accounts that are only in the nature of personal loan without any specific end-use restrictions. The card shall be issued for a period not exceeding the validity of the facility and shall also be subject to the usual rights of the banks as lenders.

The electronic card for Overdraft Accounts in the nature of personal loans shall be allowed to be used for domestic transactions only. Further, adequate checks and balances shall be put in place to ensure that the usage of such cards is restricted to facilitate online/ non-cash transactions. The restriction on cash transaction will not apply to overdraft facility provided along with Pradhan Mantri Jan Dhan Yojana (PMJDY) accounts.

Prior to launching the product, the banks shall frame a Board approved policy on issuance of electronic cards to above mentioned Overdraft Accounts, encompassing appropriate risk management, periodic review procedures, grievance redressal mechanism, etc., which will be subject to supervisory review.

The card shall be issued subject to instructions on terms and conditions, security, grievance redressal, confidentiality of customer information as applicable for debit cards and all other relevant instructions on card operations issued by the Reserve Bank.



NEWSLETTER



Central Board of Excise & Customs



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Relaxation Under GST due COVID-19				Circular Dated 3 rd April 2020			
S. No	Category of taxpayer	Period	Due Date	Extended Date	Link		
1.					https://www.cb		
A.	Taxpayer having an aggregate Turnover of upto Ruppes 1.5 crores in the preceding financial year	February	22 nd or 24 th of Next Month	30 th June 2020	ic.gov.in/resour ces//htdocs- cbec/gst/notfct n-32-central-		
		March		3 rd July 2020	tax-english-		
		April		6 th July 2020	<u>2020.pdf</u>		
В.	Taxpayer having an February aggregate turnover of more than rupees 1.5 crores and upto 5 crores in the preceding financial year.					29 th June, 2020	
			29 th June 2020				
		April		30 th June 2020			
C.	Taxpayer having an	February	20 th March 2020	24 th June 2020			
	aggregate turnover of more than rupees 5 crores	March	20 th April 2020	24 th June 2020			
	in the preceding financial year.	April	20 th May 2020	24 th June 2020			



Relaxation Under GST due COVID-19					Circular Dated 3 rd April 2020	
S. No	Category of taxpayer	Period	Due Date	Extended Date	Link	
2.	RELIEF TO TAXPAYER W.R.T. DUE D	ATE OF FILLING OF	GSTR -1		https://www.cbic.gov.in/re	
A.	Taxpayer having an aggregate Turnover of more than 5 crores	March	11 th April 2020	30th June 2020	sources//htdocs- cbec/gst/notfctn-33- central-tax-english-	
		April	11 th May 2020		<u>2020.pdf</u>	
		May	11 th June 2020			
В.	Taxpayer having an aggregate turnover of more than rupees 1.5 crores and upto 5 crores in the preceding financial year.	January- March	30 th April 2020	30 th June 2020		
3.	RELIEFS TO TAXPAYERS REGISTERE	D UNDER COMPOS	SITION SCHEM			
S. No	Categor	y of Taxpayer		Extended Date	Link	
Α.	Intimation with respect of opt to pay ta in form o	ox under composition sof GST CMP-02	cheme for F.Y 2021-22	30 th June 2020	https://www.cbic.gov.in/re sources//htdocs-	
В.	Furnishing of statement in form GST ITC-03 in relation of reversal of input Tax Credit under composition scheme			31 st July 2020	cbec/gst/notfctn-30- central-tax-english- 2020.pdf	
C.	Statement containing details of payment the quarter end	t of self Assessed tax i ding 31 st March 2020	n form GST CMP-08 for	7 th July 2020	https://www.cbic.gov.in/re sources//htdocs-	
D.	Due date of filing of GSTR-4 for f	inancial year ending 3	1 st March ,2020	15 th July 2020	cbec/gst/notfctn-34- central-tax-english- 2020.pdf	





1. <u>Clarification in respect of certain challenges faced by the registered persons in implementation of provisions of GST Laws-reg.</u>

Date of Circular: 13th April, 2020

Above circular is available at the following link:

http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular Refund 137 7 2020.pdf

Editor's Quick Take:

CBIC vide its circular dated 13th April 2020 issued clarification in respect to Certain challenges faced by the registered taxpayer. CBIC clarifies the following challenges faced by the taxpayers

- i. Clarification w.r.t GST refund if GST has been paid by the registered taxpayer where service contract cancelled or goods supplied been returned
- ii. Clarification w.r.t submission date of LUT for the financial year 2020-2021
- iii. Clarification w.r.t date of TCS Payment
- iv. Clarification w.r.t application of refund for which two years were expiring on 31-03-2020

For complete clarification, please refer circular.



NEWSLETTER

CBDT

Central Board of Direct Taxes





	Relaxation provided by the Income Tax Act					
S. No	Particulars	Extended Date	Link			
1.	The last date for the belated/revised filing of the income tax returns for the FY 2018-19 (AY 2019-20) is extended from 31st March 2020 to 30th June 2020.	30th June 2020.	https://pib.gov.in/ PressReleseDetail. aspx?PRID=160794			
2.	The last date for Aadhaar-PAN linking is extended from 31st March 2020 to 30th June 2020.	30th June 2020	2			
3.	Time limit to avail the Vivad Se Vishwas scheme is extended.	30th June 2020				
4.	The assessees and/or the tax authorities have got an extended time limit where the time limit for the following compliance matter expires between 20th March 2020 to 29th June 2020:	30 th June 2020				
	Issue of notice/intimation/notification/approval order/sanction order					
	Filing of an appeal/furnishing of a return/statements/reports or any other documents					
	The time limit for the completion of proceedings by the tax authority					
	Investment in saving instruments or investments for rollover benefit of capital gains under the Income Tax Act, Wealth Tax Act, Prohibition of Benami Property Transaction Act, Black Money Act, STT law, CTT Law, Equalisation Levy law, and the Vivad Se Vishwas law					
5.	Note that there is no extension in the deadlines Advance Tax, Tax Deduction at Source (TDS), Tax Collection at Source (TCS), Self-assessment tax Equalisation levy Security Transaction Tax (STT Commodity Transaction Tax (CTT)	No late fee/penalty shall be charged for any delay relating to this period.				





1. Clarification in respect of option under section 115BAC of the Income-tax Act, 1961

Date of Circular: 13th April, 2020

Above circular is available at the following link:

https://www.incometaxindia.gov.in/communications/circular/circular c1 2020.pdf

Editor's Quick Take:

MCA vide its circular dated April 13, 2020 clarified in respect of new section 115BAC of the Income-tax Act, 1961that a person, being an individual or a Hindu undivided family having income other than income from business or profession", may exercise option in respect of a previous year to be taxed under the said section 115BAC along with his return of income to be furnished under sub-section (I) of section 139 of the Act for each year. The concessional rate under section 115BAC are without specified exemption or deduction, setoff of loss and additional depreciation.

It is clarified that an employee, having income other than the income under the head "profit and gains of business or profession" and intending to opt for the concessional rate under section 115BAC of the Act, may intimate his employer, of exercise of such option, for the employer to deduct TDS on the concessional rate. Option once exercised is irreversible. However, option at the time of filing of return of income under subsection (J) of section 139 of the Act could be different from the intimation made by such employee to the employer for that previous year.

Further, in case of a person who has income under the head "profit and gains of business or profession" also, the option for taxation under section 115BAC of the Act once exercised for a previous year at the time of filing of return of income under sub-section (1) of section 139 of the Act cannot be changed for subsequent previous years except in certain circumstances. Accordingly, the above clarification would apply to such person with a modification that the intimation to the employer in his case for subsequent previous years must not deviate from the option under section 115BAC of the Act once exercised in a previous year.





2. <u>Clarification regarding short deduction of TDS/TCS due to increase in rates of surcharge by Finance (No.2) Act, 2019-reg.</u>

Date of Circular: 13th April, 2020

Above circular is available at the following link:

https://www.incometaxindia.gov.in/communications/circular/circular 8 2020.pdf

Editor's Quick Take:

CBDT vide its circular dated April 13, 2020 provides a clarification regarding to short deduction of TDS/TCS due to increase in rate of surcharges by finance (no.2) Act, 2019. The enhanced rates of surcharge were applicable from the 1st day of April, 2019 for previous year 2019-20 relevant to assessment year 2020-21. Thus, every person as referred to below was required to compute his tax liability after taking into account the enhanced rates of surcharge.

S. No	Income slab	Surcharges before the Act	Enhanced surcharges as provided by the Act
1	Less than 50 lakh rupees	Nil	Nil
2	50 lakh rupees but less than 1 crore rupees	10%	10%
3	1 crore rupees but less than 2 crore rupees	15%	15%
4	2 crore rupees but less than 5 crore rupees	15%	25%
5	5 crore rupees and above	15%	37%





It is clarified a person responsible for deduction/collection of tax under any provision of the Income-tax Act will not be considered to be an assessee in default in respect of transactions where:-

- a) such transaction has been completed and entire payment has been made to the deductee/payee on or before 5th July, 2019 and there is no subsequent transaction between the deductor/collector and the deductee/payee in the financial year 2019-20 from which the shortfall of tax could have been deducted/collected by the deductor/collector;
- b) TDS has been deducted or TCS has been collected by such deductor/collector on such sum as per the rates in force as per the provisions prior to the enactment of the Act;
- c) such tax deducted or collected has been deposited in the account of Central Government by the deductor/collector on or before the due date of depositing the same;
- d) TDS/TCS statement has been furnished by such person on before the due date of filing of the said statement.

if the person fails to fulfill any of the conditions as laid down above, such a person will, with respect to short deduction/collection, not be eligible for benefit provided under this circular.

if the deductor/collector has deducted/collected shortfall of tax after 5th of July, 2019 from the transaction(s) made subsequently after the said date, interest, if any, for delay in deduction/collection of such tax shall not be levied.

The above relaxation does not absolve the deductee/payee to pay proper tax including enhanced surcharge by advance tax or self-assessment tax and file return of income after paying such tax





3. Over 10.2 lakh Refunds worth Rs 4,250 crore issued in a week by CBDT to help taxpayers in COVID-19 pandemic situation

Date of press release: 15th April, 2020

Above press release is available at the following link:

https://pib.gov.in/newsite/PrintRelease.aspx?relid=202274

Editor's Quick Take:

CBDT vide its press note on 15th April 2020 said that it has already issued over 10.2 lakh refunds totalling to around Rs. 4,250 crore as on 14th April 2020. These refunds are over and above the 2.50 crore refunds already issued in FY 19-20 till 31st March 2020 totalling Rs 1.84 lakh crore.

The CBDT further said that about 1.75 lakh more refunds are in the process of issuance in this week. These refunds would get credited directly to the taxpayer bank account in 5-7 business days from issuance. However, in around 1.74 lakh cases, email responses are awaited from taxpayers regarding reconciliation with their outstanding tax demand for which a reminder email has been sent asking them to respond within 7 days so that the refund can be processed accordingly.

It may be noted that these reminder emails from I-T department are in fact for the benefit of taxpayers as it seeks them to confirm their outstanding demand, their bank accounts and reconciliation of defect/mismatch prior to issue of refund.

The CBDT appealed that it is in the interest of taxpayers to provide a response to such emails at the earliest so that refunds could be processed and issued at the earliest. CBDT has requested taxpayers to check their email and login to their e-filing account to respond to the I-T Department immediately.

The CBDT clarified that the necessary routine process related communications to the taxpayers to seek response on defective ITRs, prima facie adjustments and where confirmation is sought about certain claims made by them. In all such cases, a quick response from the taxpayer would enable the I-T Department to process their refunds expeditiously.





4. <u>CBDT Revising Income Tax Return forms to enable taxpayers to avail benefits of timeline</u> extension due to COVID-19

Date of press release: 19th April, 2020

Above circular is available at the following link:

https://pib.gov.in/newsite/PrintRelease.aspx?relid=202388

Editor's Quick Take:

CBDT vide its press release on 19th April 2020 announce that in order to enable income taxpayers to avail full benefits of various timeline extensions granted by the Government of India due to Covid-19 pandemic situations, the CBDT is revising the return forms for FY 2019-20 (Assessment Year 2020-21) which shall be notified by the end of this month.

CBDT said that due to outbreak of Covid-19, the Government has extended various time lines under the Income-tax Act,1961 vide Taxation and Other Laws (Relaxation of certain provisions) Ordinance, 2020. Accordingly, the time for making investment/ payments for claiming deduction under Chapter-VIA-B of IT Act which includes Section 80C (LIC, PPF, NSC etc.), 80D (Mediclaim),80G (Donations), etc. for FY 2019-20 has also been extended to 30thJune 2020. Also, the dates for making investment/construction/purchase for claiming roll over benefit in respect of capital gains under sections 54 to section 54GB has also been extended to 30th June 2020. Therefore return forms are being revised to facilitate reporting of the transactions of the relief period.

It may be noted that generally the income-tax return forms are notified in the first week of April. This year also the e-filing utility for filing of return for Assessment Year 2020-21 was made available as on 1st April, 2020, and the Income-tax Return (ITR) Forms ITR-1 (Sahaj) and ITR-4 (Sugam) for the FY 2019-20 (Assessment Year 2020-21),too, were already notified vide notification dated 3rd January, 2020. However, to ensure that the taxpayer is enabled to avail all benefits of the timeline extension due to Covid -19 pandemic, the Return Forms revision is being carried out.



NEWSLETTER

Misc.Laws





Relaxation provided under Labour law's

S. No	Authority	Particulars	Due Date	Extended Date	Link
1.	ESI	ESI contribution for the Month of February , can be filed	For the Month of February	15 th May	https://www.esic.nic. in/attachments/circul arfile/c5ffbad53f7e3 b7134a72d9b2cf9d1 3c.pdf
2.	Directorate General of Mines Safety	Relaxation from the submission of returns, notice and other forms required under the provisions of different rules and regulations frame under the Mines Act, 1952.	For the Month of March and April 2020	For a period of 1 month from the due date.	https://labour.gov.in/ sites/default/files/ret urn_notices.pdf
3.	Labour Law	Extending the last date of filing Unified Annual Return under 8 labour Laws for the year 2019 upto 30 th April 2020.	1 st January to 1 st February 2020	30 th April 2020	https://clc.gov.in/clc/ sites/default/files/my gov 15846889651.p df
4.	Employee provident Fund	EPFO gives grace period of 30 days for filing of Electronic challan cum Return (ECR) to the employers of those establishments which have disbursed the wages for March 2020	16 th March 2020	15 th May 2020	https://www.epfindia .gov.in/site_docs/PDF s/Circulars/Y2020- 2021/GraceperiodMa rch2020.pdf





1. Review of Foreign Direct Investment (FDI) policy for curbing opportunistic takeovers / acquisitions of Indian companies due to the current COVID-19 pandemic

Date of press note: 17th April, 2020

Above press note is available at the following link:

https://pib.gov.in/PressReleasePage.aspx?PRID=1615711

Editor's Quick Take:

The Department for Promotion of Industry and Internal Trade (DPIIT) vide its Press Note No. 3 (2020 Series) dated 17th April, 2020 has announced the revision of Para 3.1.1 of Consolidated FDI Policy, 2017 made by the Government. The purpose is to expand the area of restrictions w.r.t. Foreign Investments to all the neighbouring countries including China, Afghanistan, Bhutan amongst others. So once the revision becomes effective after notification of the same, no person from the neighboring Countries can invest through Automatic Route rather only Government Route will be accessible.

Present Position

Para 3.1.1: A non-resident entity can invest in India, subject to the FDI Policy except in those sectors/activities which are prohibited. However, a citizen of Bangladesh or an entity incorporated in Bangladesh can invest only under the Government route. Further, a citizen of Pakistan or an entity incorporated in Pakistan can invest, only under the Government route, in sectors/activities other than defence, space, atomic energy and sectors/activities prohibited for foreign investment.

Revised Position

Para 3.1.1: 3.1.1(a) A non-resident entity can invest in India, subject to the FDI Policy except in those sectors/activities which are prohibited. However, an entity of a country, which shares land border with India or where the beneficial owner of an investment into India is situated in or is a citizen of any such country, can invest only under the Government route. Further, a citizen of Pakistan or an entity incorporated in Pakistan can invest, only under the Government route, in sectors/activities other than defence, space, atomic energy and sectors/activities prohibited for foreign investment.

3.1.1(b) In the event of the transfer of ownership of any existing or future FDI in an entity in India, directly or indirectly, resulting in the beneficial ownership falling within the restriction/purview of the para 3.1.1(a), such subsequent change in beneficial ownership will also require Government approval.





2. Grace Period till 30th June 2020 for applying for renewal of License /registration expired /expiring during the period from 22nd March 2020 to 31st May 2020 due to COVID-19 pandemic

Date of order: 13th April, 2020

Above order is available at the following link:

https://foodlicensing.fssai.gov.in/PDF/renewal extension order updated.pdf

Editor's Quick Take:

FSSAI vide its order dated 13th April 2020 has issued order for providing a grace period to Food Business Operators (FBOs) till 30.06.2020 without any additional fee for applying for renewal of license/ registration expired/ expiring during the period from 22nd March 2020 till 31st May, 2020.

Further for Union territory of Jammu and Kashmir & Ladakh a grace period till 30.06.2020 is provided to Food Business Operators (FBOs) without any additional fee for applying for renewal of license/ registration expired/ expiring during the period from 01.08.2019 till 31.05.2020.





3. <u>Freezing of Dearness Allowance to Central Government employees and Dearness Relief to Central Government pensioners at current rates till July 2021</u>

Date of office Memorandum: 23rd April, 2020

Above office Memorandum is available at the following link:

https://doe.gov.in/sites/default/files/Freezing%20of%20DA DR%20%2823.04.2020%29 0.pdf

Editor's Quick Take:

Ministry of Finance, Department of Expenditure has issued an official memorandum dated 23rd April, 2020 for non-payment of additional instalment of Dearness allowance payable to Central Government employees and Dearness relief to Central Government Pensioners, due from 1st January, 2020.

In addition to above additional instalment of DA/DR due from July 1, 2020 and January 1, 2021 will also not be paid

However, Dearness Allowance and Dearness relief continue to pay at current rate.

Also, for payment of future instalment of Dearness Allowance and Dearness Relief due from July 2021, the rates effective from 1st January, 2020, 1st July, 2020 and 1st January, 2021 will be restored prospectively, and will be subsumed in in cumulative rate effective from 1st July, 2021.





4. <u>Insolvency and Bankruptcy Board of India (Liquidation Process) (Second Amendment)</u> <u>Regulations, 2020</u>

Date of press note: 17th April, 2020 Effective Date: 17th April, 2020

Above Notification is available at the following link:

https://www.ibbi.gov.in/uploads/whatsnew/4697af9d01b6c12c0816f4be28ea6835.pdf

Editor's Quick Take:

IBBI vide its notification dated 17th April, 2020 notified the Insolvency and Bankruptcy Board of India (Liquidation Process) (Second Amendment) Regulations, 2020.

Amendment

In Regulation 47 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, the following regulation shall be inserted:-

"Exclusion of period of lockdown.

47A. Subject to the provisions of the Code, the period of lockdown imposed by the Central Government in the wake of COVID-19 outbreak shall not be counted for the purposes of computation of the time-line for any task that could not be completed due to such lockdown, in relation to any liquidation process."





5. Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulations, 2020.

Date of press note: 20th April, 2020 Effective Date: 25th March, 2020

Above Notification is available at the following link:

https://www.ibbi.gov.in/uploads/legalframwork/ba2702f58a4ed1841e0e7a9a71ba40ec.pdf

Editor's Quick Take:

IBBI vide its notification dated 20th April, 2020 notified the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Second Amendment) (Regulations), 2020 to amend Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

Amendment: -

Regulation 40B, for sub regulation (2) has been substituted as follows: -

"The filing of a Form under this regulation after due date of submission, whether by correction, updation or otherwise, shall be accompanied by a fee of five hundred rupees per Form for each calendar month of delay after 1st October, 2020"





6. Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2020

Date of notification: 20th April, 2020 Effective Date: 29th March, 2020

Above Notification is available at the following link:

https://www.ibbi.gov.in/uploads/legalframwork/3d8c8efd906d320e296833445c91a0a4.pdf

Editor's Quick Take:

IBBI vide its notification dated 20th April, 2020 Notified Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2020 for amending Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

Amendment: -

After Regulation 40B of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 new regulation 40C has been inserted for exclusion of time period of Lockdown as follows: -

"40C Special Provision relating to time to time

Notwithstanding the time-lines contained in these regulations, but subject to the provisions in the Code, the period of lockdown imposed by the Central Government in the wake of Covid-19 outbreak shall not be counted for the purposes of the time-line for any activity that could not be completed due to such lockdown, in relation to a corporate insolvency resolution process."





7. Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment)

Regulations, 2020

Date of notification: 20th April, 2020 : 29th March. 2020 **Effective Date**

Above Notification is available at the following link:

https://www.ibbi.gov.in/uploads/legalframwork/ac467ecac3ad7a0f66433d3cbedfa03d.pdf

Editor's Quick Take:
IBBI vide its notification dated 20th April, 2020 notified Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) (Regulations), 2020 for amending Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016.

Amendment: -

- (i) In regulation 7(2)(ca) the following has been inserted: -
- "Provided that for the financial year 2019-2020, an insolvency professional shall pay the fee under this clause on or before the 30th June, 2020."; and
- (ii) In the principal regulations, in regulation 13(b) and (c) the following has been inserted respectively: -
- "Provided that when an individual ceases to be its director or partner, as the case may be, on and from the date of commencement of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2020 and ending on the 31st December 2020, the insolvency professional entity shall inform the Board, within thirty days of such cessation;"; and
- "Provided that when an individual joins as its director or partner, as the case may be, on and from the date of commencement of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2020 and ending on the 31st December 2020, the insolvency professional entity shall inform the Board, within thirty days of such joining;"





8. <u>Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) (Amendment) Regulations, 2020.</u>

Date of notification: 20th April, 2020 Effective Date: 28th March, 2020

Above Notification is available at the following link:

https://www.ibbi.gov.in/uploads/legalframwork/685f38c7444a9a6b8ddad11ac23c90cf.pdf

Editor's Quick Take:

IBBI vide its notification dated 20th April, 2020 amended Insolvency and Bankruptcy Board of India (Model Bye-Law and Governing Board of Insolvency Professional Agencies) Regulations, 2016by making following amendments in Schedule 12A:

(i) in sub clause (5)

"Provided that, for an application received on and from the date of commencement of the Insolvency and Bankruptcy Board of India (Model Bye- Laws and Governing Board of Insolvency Professional Agencies) (Amendment) Regulations, 2020 and ending on the 30th September 2020, if the authorisation for assignment is not issued, renewed or rejected by the Agency within thirty days of the date of receipt of application, the authorisation shall be deemed to have been issued or renewed, as the case may be, by the Agency."; and

(ii) in sub clause (7)

"Provided that, where an application for issue of authorisation for assignment has been rejected by an insolvency professional agency, on and from the date of commencement of the Insolvency and Bankruptcy Board of India (Model Bye- Laws and Governing Board of Insolvency Professional Agencies) (Amendment) Regulations, 2020 and ending on the 30th September, 2020, the applicant aggrieved of an order of rejection may appeal to the Membership Committee within thirty days from the date of receipt of order."



Articles on:

- 1. Striking off and Revival of Struck off company
- 2. A Valuer's view on Draft Valuation Bill
- 3. Reverberation of COVID-19 on Worldwide Insolvency Regime.





Striking off and Revival of Struck off company

If a company does not comply with the provisions of Section 248(1) of the Companies Act, 2013 and the Registrar has reasonable cause to believe, then he shall send a notice to the company and all the directors of the company, of his intention to remove the name of the company from the register of companies and requiring them to send their representations along with copies of the relevant documents, if any, within a period of **thirty days** from the date of the notice. The Notice will also be published in the Official Gazette.

On expiry of notice period, the Registrar may, unless cause to the contrary is shown by the company, strike off its name from the register of companies, and shall publish notice thereof in the Official Gazette, and on the publication in the Official Gazette of this notice, the company shall stand dissolved.

Before striking off the name from the register, Registrar shall satisfy himself that there is no liabilities or obligation against the company and sufficient provisions have been made for realization of the amount due to the company. If, even after striking off the name of the company, there are dues against the company, the dues or liabilities shall be discharged from the assets of the company. The liability, if any, of every director, manager or other officer who was exercising any power of management, and of every member of the company dissolved under sub-section (5), shall continue and may be enforced as if the company had not been dissolved. The company may be wound up by the Tribunal even after striking off the name of the company from the register of Registrar.

If a company stands dissolved. It shall on and from the date mentioned in the notice under sub-section (5) of that section, cease to operate as a company and the Certificate of Incorporation issued to it shall be deemed to have been cancelled from such date except for the purpose of realizing the amount due to the company and for the payment or discharge of the liabilities or obligations of the company.



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2. Revival of the struck off company

The application for revival of struck off company may be filed before Tribunal under section 252 of the Companies Act, 2013. The application may be filed by the company, or any member or creditor or workman with in twenty years from the date of order of Registrar. An application may be filed by aggrieved person from the order of Registrar within three years from the order. As well, if the Registrar is satisfied, that the name of the company has been struck off from the register of companies either inadvertently or on the basis of incorrect information furnished by the company or its directors, which requires restoration in the register of companies, he may file an application within a period of three years from the date of order. The object of the provision is to restore the company, if it is satisfied by the Tribunal. The provision is corresponding to Section 560(6) of the Companies Act, 1956. Further, the Act, 2013 confers powers on workman and any other person and the Registrar to apply before the Tribunal for restoration of the name of the company in the register of Registrar.

3. Procedure for filing an application before the NCLT:

The application may be filed before Tribunal along with following documents.

(i) Petition in Form No. NCLT-9; (ii) General Affidavit verifying petition in Form No. NCLT-6; (iii) Master Data of the Company; (iv) Copy of Notice STK-1, STK-5 and STK-7; (v) Bank Draft evidencing payment of fees Rs.1000/-; (vi) List of dates (Date of Strike-off, date of Notices, Date of Incorporation etc.; (vii) Notice of Admission in Form No. NCLT-2; (viii) Memorandum of Appearance; (ix) Copy of Certificate of Incorporation, Memorandum and Article of Association; (x) Copy of Audited Accounts with Directors Report of the last 3 Financial Years; (xi) Copy of PAN card and Income Tax Return Acknowledgement (if any); (xii) Copy of Bank Statement of the company, and (xiii) Any other document





4. Filing application by any other person or Registrar [Sub- section

The Companies Act, 2013 confers right to file application to any other person as well for restoration of struck off name of the company. In the matter of Principal Commissioner of Income Tax V/s The Registrar of Companies, Mumbai in the matter of Arjun Comtrade Pvt Ltd, CP No.329/252/(MB)/2019, NCLT Mumbai Date of Decision: 11.11.2019. The company petition was filed by the Principal Commissioner of Income Tax-6, Mumbai u/s 252 of the Companies Act, 2013 to restore the name of the company. The petitioner seeks to challenge the order passed by the Registrar of Companies, Mumbai in striking the name of the company under section 248 of the Companies Act, 2013 as there are pending proceedings/outstanding demands under the Income Tax Act, 1961. The Authorised Representative of the ROC is present and submits that they do not have any objection to restoration of the name of the company on the Registrar of Companies. Thus, the NCLT directed the Registrar to restore the name of the company. Similarly in Principal Commissioner of Income Tax-12 v/s The Registrar of Companies, Mumbai in the matter of CAMOS Consultants Pvt. Ltd. NCLT Mumbai Date of Decision 11.11.2019.

Filing the application by the member, creditor or workman [Sub-section

If a company, or any member or creditor or workman thereof feels aggrieved by the company having its name struck off from the register of companies, may apply to the Tribunal before the expiry of twenty years from the publication in the Official Gazette.





The Tribunal, if satisfied that the company at the time of its name being struck off, was carrying on business or in operation or otherwise it is just that the name of the company be restores to the register of companies, may pass order for restoration to the register of companies., in Ranasons Private Limited Represented through its Shareholder Mr. Shailendra S.Rana V/s Registrar of Companies, Mumbai, CP No.2313/252/(MB)2019, NCLT Mumbai Date of Decision 15.11.2019.

The petition is filed u/s 252 to restore the name of the companies. The grievance of the petitioner is the Respondent Registrar has struck off the name of the company for not carrying on any business or operation for a period of two immediately preceding financial years, for not making Application for obtaining the status of Dormant company within the period of sec.455 of the Act, and due to defaults in statutory compliances, namely failure to file Financial Statements and Annual Returns since financial year 2015-16. Consequently, the Respondent initiated proceedings u/s 248(5) and issued a Public Note in Form STK-7 and the company has been dissolved. The petitioner submits default in compliance of statutory documents is only due to inadvertence and lack of guidance from professional. The company has been regular in operation and recorded revenue. The Respondent ROC filed its Affidavit explaining sequence leading to the striking the name of the company. The NCLT, noted the facts and circumstances and directed to restore the name of the company subject to payment of a sum of Rs.1 lakh and direction to file pending financial statements. In the matter of M/s Shan Holidays Inn Private Limited Vs. Registrar of Companies, In MA/311/2019 in CA/287/(252)/2019, NCLT (Division Bench) Chennai Date of order 2.4.2019. The company was restored u/s 252(3) of the Act.





Effect of restoration

The Registrar of Companies register the name of the company in his register after filing of certified copy of the order of the court. In M/S. Bhavani Boards Pvt. Ltd.V/S The Registrar Of Companies (Karnataka). Dated This The 1st Day Of March, 2013. Before The Hon'ble Mr.Justice Aravind Kumar, Company Petition No.156/2012.(i).Order of striking out the name of the petitioner-company as published in the Official Gazette of India dated 23.02.2008-Part III-Section 1, insofar as it relates to the petitioner-company is hereby set aside, subject to observation made hereinabove. Same is ordered to be restored and it shall be continued in the Register of the Registrar of Companies.(ii). It is also made clear that deposit of costs of Rs.10,000/- as ordered herein above, shall be a condition precedent for examining and scrutiny of annual returns, balance sheet and profit and loss account by the Official Liquidator.



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A VALUERS'S SIDE OF DRAFT VALUATION BILL

Ministry of Corporate Affairs has placed on its website a Report of the Committee of Experts which examined the Need for an Institutional Framework for Regulation and Development of Valuation Professionals. Stakeholders may send their comments till 14th May 2020. Usually, Indian stakeholders took no interest in such draft as law making process is considered slow. However, stakeholders are equally responsible for plight create by half hearted laws be it the Companies Act, 2013 or the Insolvency and Bankruptcy Code, 2016.

The Draft Valuers Bill does neither create new profession nor a new regulation for profession. It just creates a new regulator — National Institute for Valuers. This is a proposed law to provide for the establishment of an Institute to promote the development of, and to regulate the profession of valuers and market for valuation services and to protect the interests of users of valuation services in India.

VALUATION SERVICES

Proposed law tries to consolidate valuation services required in various laws. "Valuation services" under proposed law means the services relating to valuation of any asset or liability-

- (a) which is required under the provisions of-
- (i) the Banking Regulation Act, 1949 (10 of 1949),
- (ii) the Securities Contacts (Regulation) Act, 1956 (42 of 1956),
- (iii) the Wealth Tax Act, 1957 (27 of 1957),
- (iv) the Income Tax Act, 1961 (43 of 1961),
- (v) the Securities Exchange Board of India Act, 1992 (15 of 1992),
- (vi) the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999),



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- (vii) the Foreign Exchange Management Act, 1999 (42 of 1999),
- (viii) the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (54 of 2002),
- (ix) the Prevention of Money Laundering Act, 2002 (15 of 2003),
- (x) the Limited Liability Partnership Act, 2008 (6 of 2009),
- (xi) the Companies Act, 2013 (18 of 2013),
- (xii) the Pension Funds Regulatory and Development Authority Act, 2013 (23 of 2013),
- (xiii) the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015,
- (xiv) the Insolvency and Bankruptcy Code, 2016 (31 of 2016), or
- (xv) any other law, as may be prescribed.
- (b) which arises from needs of the market, as may be specified.

VALUER

The "Valuer" means a valuer who is registered as such under section 50 and includes a 'valuation entity', 'associate valuer, 'fellow valuer' and 'honorary valuer. Section 48 classifies valuers in four classes of valuers, namely:

(a) valuation entities; (b) associate valuers; (c) fellow valuer; and (d) honorary valuer.

ASSETS CLASSES

The draft retain present 3 assets classes however has a flexible provision. Based on its assessment of the needs of the market for valuation services, the Institute, by notification specify a asset classes; add or delete any asset class; and expand or limit the scope of an asset class, for the purpose of educational courses, examinations and registration of valuers.







REGISTRATION OF VALUERS

The registration of the valuers shall be asset class wise.

A valuer, who is registered under the Companies (Registered Valuers and Valuation) Rules, 2017 made under the Companies Act, 2013 (18 of 2013), as on the date of commencement of provisions of this Chapter, shall be deemed to be an associate valuer registered under this Act.

A person, who is eligible under the law and enrolled with a valuation professional organization as a member, may make an application to the Institute for a certificate of registration as a valuer.

However, registration as valuer will not permit a person to start his practice as valuer.

No person shall act as a valuer or hold out as a valuer except under, and in accordance with, a certificate of registration granted under this Act. A valuer shall not render valuation services except under, and in accordance with, the conditions of a certificate of practice granted under this Act.

CONDUCT OF VALUATION

A valuer shall, while conducting a valuation or rendering valuation services, comply with the valuation standards as notified or modified by the Institute.

Until the valuation standards are notified or modified by the Institute, a valuer shall make valuations or render valuation services in accordance with -

- (a) internationally accepted valuation standards and guidelines; or
- (b) valuation standards and guidelines adopted by the valuation professional organization of which he is a member.

A valuer shall conduct valuation, render valuation services and prepare valuation reports in such form and manner as may be specified.



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There are restriction on outsourcing valuation services. The services which are generally expected to be carried out by a valuer shall not be outsourced. The services which are generally not expected to be carried out by a valuer may be outsourced.

A valuer may seek opinion or get valuation conducted by another valuer of an asset class, where the scope of valuation services includes valuation of any asset or liability belonging to an asset class in respect of which he is not registered subject to disclosure. However he will be jointly and severally responsible for such valuation. A valuer may seek expert's opinion in relation to the rendition of valuation services, subject to making disclosures. An "expert" includes an engineer, a chartered accountant, a company secretary, a cost accountant and any other person who is authorised to issue a certificate under any law, except a valuer registered under the provisions of this Act.

The valuer shall be deemed to be responsible for the opinion or valuation so received. However, the valuer shall not be deemed to be responsible if he proves that he had exercised due diligence.

A valuation report shall not carry a disclaimer or condition, which has potential to dilute the responsibility of the valuer under this Act or makes the valuation unsuitable for the purpose for which the valuation was conducted and the valuation report shall be admissible as expert evidence within the meaning of section 45 of the Evidence Act, 1872 (1 of 1872).

A valuer shall not conduct a valuation where he has any conflict of interest. Where a valuer comes to know of or discovers any conflict of interest while conducting a valuation, he shall immediately apprise the same to the stakeholders.

A valuer shall not charge a fee which is linked to the value of assets under valuation or success of the relevant transaction.





STRUCTURE OF REGULATORY MECHANISM

NATIONAL INSTITUTE OF VALUERS, a bureaucratic organization having duty of the Institute to promote the development of, and to regulate the profession of valuers and market for valuation services, and to protect the interests of users of valuation services, by such measures as it thinks fit.

COMMITTEE OF VALUERS, a committee of NIV, consists of 20 valuer members to advie on any issue relating to the profession of valuers and market for valuation services. Valuation Standards Committee, a committee of NIV, shall recommend (a) valuation standards; and (b) valuation guidelines, to be used by valuers for valuation services.

VALUATION PROFESSIONAL ORGANIZATION shall –

- (a) promote the professional development of its members;
- (b) promote professional and ethical conduct amongst its members;
- (c) monitor the activities of its members to ensure compliance with this Act, rules and regulations made there under and its bye-laws;
- (d) redress of grievances of users against its members;
- (e) safeguard the rights, privileges and interests of its members; and
- (f) any other function as may be specified by the Institute.





VALUER INSTITUTE shall-

- (a) deliver educational courses in accordance with the syllabus and in the manner of delivery, as may be specified;
- (b) levy such fee from students undergoing educational courses as may be commensurate with its cost of delivery in a competitive market environment; and
- (c) endeavor to arrange financial support for deserving students who cannot afford the full cost of the educational course.

CS Aishwarya Mohan Gahrana

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NEWSLETTER

Reverberation of COVID-19 on Worldwide Insolvency Regime

Pandemic COVID-19 is a like a giant octopus widely spreading its tentacles in multiple directions making sure nothing goes remains untouched from it. The deadly virus in the form of invisible dynamite has taken a toll on global political, social and economic environment. With near around thirty-three lakhs confirmed cases and more than two lakhs thirty thousand deaths worldwide across 195 countries, the global epidemic has enkindle and is continuing to enkindle unprecedented disruptions across the globe. With more than half of the world under lockdown, few countries under emergency, economies on grinding halt and endless intercontinental efforts to control the rampant planetary situation, the ubiquitous virus seems to have yet not reached its final destination.

The world that never cease to stop even for a microsecond, today has forced governments across the globe to impose restrictions in the form of controlling measures on trade, work, travel, business and human to mitigate the impact of COVID-19 to utmost extent. The severity of the prevalent scenario requires swift and decisive foreplay by all the segments of the economy to prevent further deepening of the crisis. Since utmost priority across the globe is business survival therefore many countries have taken pragmatic move in order to provide immunity to the business during this ground-breaking disturbance by ensuring certain amendments in their insolvency laws with an objective to keep business intact and to prevent them from further drowning.

INDIA

The crisis have made Indian government to implement certain legislative and judicial measures on insolvency law front to handle the challenges posed by them on existing business. The course of action taken in India to provide financial rescue to the business during this outbreak are as follows:



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- 1. With effect from 24 March 2020, the threshold limit for filing of an insolvency application under the Insolvency and Bankruptcy Code, 2016 ("IBC, 2016") has been increased from Rs 1 Lakh to Rs 1 Crore. This amendment will provide maximum relief to Micro, Small and Medium Enterprises.
- 2. Insolvency and Bankruptcy Board of India ("IBBI") has amended Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 on 29 March 2020 by inserting Section 40C (Special Provision Relating to Time-Line) which provides that "Notwithstanding the time-lines contained in these regulations, but subject to the provisions in the Code, the period of lockdown imposed by the Central Government in the wake of COVID19 outbreak shall not be counted for the purposes of the time-line for any activity that could not be completed due to such lockdown, in relation to a corporate insolvency resolution process."
- 3. Honourable Supreme Court of India has *suo moto* passed an order extending limitation period for all matters with effect from 15 March 2020 till further orders.
- 4. National Company Law Appellate Tribuanl ("NCLAT") has *suo moto* taken the cognizance of the following pertaining to the matters under IBC,2016:
 - Period of lockdown in the area where the registered office of the Corporate Debtor may be located, shall be excluded for the purpose of counting of the period for resolution process under Section 12 of IBC, 2016 in respect of pending corporate insolvency resolution process.
 - Any interim order/ stay order passed by the Appellate Tribunal in any one or the other Appeal under IBC,2016 shall continue till the next date of hearing, which may be notified later.



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• In the event of expiry of the period of Fixed Deposits, the concerned bank shall renew the same for a further period of six months.

The Indian Government has also indicated that if this precarious pandemic situation continues beyond 30th April 2020 then India will consider suspending of Section 7, 9 and 10 of IBC, 2016 that enables a financial creditor, operational creditor and corporate debtor respectively to file an insolvency application under IBC, 2016.

UNITED KINGDOM

On 28 March 2020, the Secretary of State for Business, Energy and Industrial Strategy (BEIS) has announced key measures to protect the companies and businesses facing major funding and operational difficulties in the ongoing pandemic situation. Government of United Kingdom proposes to amend existing insolvency law to provide business an extra time and space to handle the current storm while ensuring that creditors can get the best return possible in the circumstances. Considering the infectivity rate and potential high transmission of COVID-19, the government proposes to provide for the following at the earliest:

- 1. Financial rescue plan and sound restructuring process in place to keep business unblemished and to prevent them from landing into insolvency.
- 2. Uninterrupted supply of energy, broadband and raw material to the business.
- 3. Temporary suspension of the Wrongful Trading Liability provisions under Insolvency Act,1986 pursuant to which directors can face liability if they allow their companies to continue to trade at a time when there was no reasonable prospect that the company would avoid going into insolvent liquidation, retrospectively from 1 March, 2020.



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4. A new moratorium period to be introduced to protect companies while they explore options for a financial rescue or restructuring in addition to the existing moratoria provided by the Insolvency Act, 1986.

AUSTRALIA

Australian Federal Government has announced temporary amendments to its Insolvency Laws in order to provide interim relief to the financially distressed business and individuals.

- 1. On 22 March, 2020, Government in its Coronavirus Economic Response Package Omnibus Act 2020 provides for:
 - Directors and businesses to help them operate during a temporary period of illiquidity rather than enter voluntary administration or liquidation; and
 - Individuals to assist them with managing debt and avoiding bankruptcy.

The temporary relief will operate for a six month period starting from 25 March, 2020.

- 2. The minimum threshold at which creditors can issue a statutory demand has been increased from \$2,000 to \$20,000 for a period of six months and the threshold for a creditor to initiate bankruptcy proceedings against an individual has been increased from \$5,000 to \$20,000.
- 3. The time period for companies and debtors to respond to a statutory demand notice has been increased from current 21 days to six months.

GERMANY

German Bundestag (Parliament) on 25 March, 2020 introduced numerous changes in its insolvency laws to avert existential consequences and hardships caused by the pandemic on companies and individuals, in particular by suspending the obligation to file for insolvency until 30 September, 2020 in order to enable the companies concerned as well as their directors to get sufficient time to make financing and restructuring arrangements with creditors and capital providers and to further limit their liability risk.



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SPAIN

Spanish Government has announced following legal measures in its insolvency and bankruptcy law to protect its business from falling into insolvency:

- Two months grace period for the debtor to submit the insolvency petition to the court.
- Temporary immunity to the directors from the liability in the event of non-fulfilment of the obligation to apply for the insolvency statement for a period of two months.
- The suspension of procedural judicial and administrative terms.
- The suspension of any limitation period before filing a claim.
- The suspension of judicial proceedings which are not considered urgent.

Conclusion:

Considering the succour stratagem implemented by governments across the globe averting the crisis and giving some breath to businesses on one hand but on the other hand it is creating difficulties for suppliers and other creditors to recover overdue payments, which could have the ultimate effect of increasing credit risk and shifting liquidity pressure from debtors to suppliers and creditors. At this time suppliers need to be more vigilant with their trading counterparts. Above all, this is an unprecedented and tough period for businesses across the world and the insolvency regime needs to show flexibility and resilience to sustain.



CS Anchal Jindal M.Com,CS, DIPR Monitoring and Compliance Officer at Insolvency Professionals Agency of ICAI



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WINS

Compliance Checklist



WS WHITESPAN Advisory



NEWSLETTER

Compliance Calendar for May 2020											
Sun	Mon	Tue	Wed	Thu	Fri	Sat					
					1	2					
3	4	5	6	7	8	9					
10	11	12	13	14	15	16					
17	18	19	20	21	22	23					
24	25	26	27	28	29	30					
31											





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t.	Tax dadus	tod/colloctod	for the month	h of April	2020	Howard	_

- Due date for deposit of Tax deducted/collected for the month of April, 2020. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan*
- Issue of TDS certificate for tax deducted under section 194-IA ,194-IB and 194M in the month of March, 2020*
- Quarterly statement of TCS deposited for the quarter ending March 31, 2020
- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of April, 2020 has been paid without the production of a challan*
- Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of April, 2020*
- File challan-cum-statement for TDS u/s 194-IA ,194-IB and 194M in the month of April, 2020*
- Quarterly statement of TDS deposited for the quarter ending March 31, 2020
- Due date for e-filing of annual statement of reportable accounts as required to be furnished under section 285BA(1)(k) (in Form No. 61B) for calendar year 2019 by reporting financial institutions*
- Application for allotment of PAN in case of non-individual resident person, which enters into a financial transaction of Rs. 2,50,000 or more during FY 2019-20 and hasn't been allotted any PAN.

Note: The CBDT vide the <u>Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance</u>, <u>2020</u> dated 31-03-2020 has extended all respective due dates, falling during the period from 20-03-2020 to 29-06-2020, till June 30, 2020.

The benefit of extended due date shall not be available in respect of payment of tax. However, any delay in payment of tax which is due for payment from 20-03-2020 to 29-06-2020 shall attract interest at the lower rate of 0.75% for every month or part thereof if same is paid after the due date but on or before 30-06-2020.





FEMA Related Compliances

Reporting of actual transactions of External Commercial Borrowings (ECB) through AD Bank under FEMA

RBI Related Compliances

- Monthly return (NBS-6) on exposure to capital market
- Monthly Return on Important Financial Parameters
- Monthly statement of short term dynamic liquidity in Form ALM-I

Economic, Industrial & Labour Law Related Compliance

- Monthly payment of PF (Non-Corporate)
- File monthly return (Form No.5) for employees leaving /joining during the previous month
- File monthly Return of employees entitled for membership of Insurance Fund (Form No.2(IF))
- File monthly Return for members of Insurance Fund leaving service during the previous month (Form no. 3(IF))
- File monthly return of members joining service during the previous month (Form no.F4(PS)
- Monthly return of PF for the previous month
- Monthly return of PF for the previous month with respect to international workers
- Payment of ESI Contribution for the month of February





For further information please contact:

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