



WHITESPAN
A d v i s o r y

WINS

(WHITESPAN INFORMATION AND NEWS SERVICES)

A GATEWAY TO KNOWLEDGE

Monthly Newsletter

FROM THE CHIEF EDITOR'S PEN

Life is less than 10 percent, what happens to us, and more than 90 percent of how we react to it. – Charles Swindoll

It gives us immense satisfaction to share the 51th Edition of “WINS – e-newsletter” for July 2021, covering legal updates released during the month of June 2021, articles shared by respected professionals, Case Laws and compliance calendar for the month of July 2021.

In this issue, we have covered the following:

1. Corporate Updates from MCA, RBI, SEBI, CBDT, CBEC and other miscellaneous laws
2. Articles on:
 - i. Valuation under Insolvency and Bankruptcy Code, 2016
 - ii. Valuation in Slump Sale
 - iii. Applicability of Tax Deducted at Source (TDS) u/s 194Q on Purchase of Goods
3. Case Laws
4. Compliance checklist for the month of July **2021**.

Trust, WINS not only helps you to keep yourself updated, but also saves your time with crisp summary, in the form of Editor's Quick Take. My sincere gratitude to each one of you for sparing your precious time in reading this newsletter and sharing your valuable feedback. Your suggestions and ideas have been a source of inspiration for us and have motivated and guided us to scout for better contents, every month, in timely manner.

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.

Last but not least, in this testing time of global pandemic, keeping oneself safe, secure and motivated, is a real success and, I am more than sure, you will achieve these by following simple discipline of staying at home, performing yogic exercise as recommended, and staying happy. We pray to the Almighty to keep all our readers, patrons, team members and their families happy, healthy, and safe. Amen!

You may reach to us at vinayshukla@whitespan.in or +91 9810 624 262

With warm regards,

TEAM WINS (Whitespan Information and News Services)
June 30, 2021

OUR EDITORIAL BOARD COMPRISES THE FOLLOWING PROFESSIONALS

1. **Mr. Vinay Shukla**, a fellow member of The Institute of Company Secretaries of India (ICSI), a graduate in Law, Commerce and Management and the co-founder of WsA having more than thirty years' experience in wide spectrum of corporate functions.
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Ministry of Corporate Affairs (MCA)

1. The Companies (Incorporation) Fourth Amendment Rules, 2021.

Date of Notification- June 07, 2021

Effective Date – Date of publication in the Official Gazette

Link:

<https://www.mca.gov.in/bin/dms/getdocument?mds=sbRk0dlavtQVQZrw%252BKS2GA%253D%253D&type=open>

MCA vide its notification dated June 07, 2021, amended the Companies (Incorporation) Rules, 2014 by amending rule 38A of the said Rules.

The revised rule reads as under:

Application for registration of Goods and Service Tax Identification Number (GSTIN), Employee State Insurance Corporation (ESIC) registration, Employees' Provident Fund Organisation (EPFO) Registration and Professional Tax Registration [Opening of Bank Account and Shops and Establishment Registration]]

The application for incorporation of a company under rule 38 shall be accompanied by e-form [AGILE-PRO-S] (INC-35) containing an application for registration of the following numbers, namely:-

- a) GSTIN with effect from 31st March, 2019
- b) EPFO with effect from 8th April, 2019
- c) ESIC with effect from 15th April, 2019
- d) Profession Tax Registration with effect from the 23rd February, 2020;
- e) Opening Bank Account with effect from the 23rd February, 2020;
- f) Shops and Establishment Registration

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

Date of Notification- June 09, 2021

Effective Date – Date of publication in the Official Gazette

Link : http://www.iepf.gov.in/IEPF/pdf/IEPFAmndtRules2021_11062021.pdf

MCA vide its notification dated June 09, 2021, notified the Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Amendment Rules, 2021.

The amended rules lay down the manner of transfer of shares under sub-section (9) of section 90 of the Act to the Fund.

Section 90(9) of the Act - Register of significant beneficial owners in a company

The company or the person aggrieved by the order of the Tribunal may make an application to the Tribunal for relaxation or lifting of the restrictions placed under sub-section (8).

In addition to the above, form IEPF 4 (Statement of shares transferred to the Investor Education and Protection Fund) and form IEPF 7 (Statement of amounts credited to IEPF on account of shares transferred to the fund).

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

Date of Notification- June 15, 2021

Effective Date – Date of publication in the Official Gazette

Link: <https://www.mca.gov.in/bin/dms/getdocument?mds=zwpAcIfQhKOgB8vwf%252FztbA%253D%253D&type=open>

MCA vide its notification dated June 15, 2021, amended the Companies (Meetings of Board and its Powers) Rules, 2014, by omitting Rule 4 of the said rules.

Rule 4 dealt with the matters “Not to be Dealt With in a Meeting Through Video Conferencing or Other Audio Visual Means”.

4. The Companies (Creation and Maintenance of databank of Independent Directors) Amendment Rules, 2021

Date of Notification- June 18, 2021

Effective Date – Date of publication in the Official Gazette

Link :

<https://www.mca.gov.in/bin/dms/getdocument?mds=WKw7cnmeWvFV%252BpCpYpqgrg%253D%253D&type=open>

MCA vide its notification dated June 18, 2021, has amended Rule 3 of the Companies (Creation and Maintenance of databank of Independent Directors) Rules, 2019. Rule 3 relates to the creation and maintenance of data bank.

Key highlights of the amendment are:

The institute i.e. the Indian Institute of Corporate Affairs, shall with the prior approval of the Central Government, fix a reasonable fee to be charged from:

- (a) individuals for inclusion or renewal of their names in the data bank of independent director and
- (b) companies for providing the information on independent directors available on the data bank.

In case of delay on the part of an individual in applying to the institute under sub-rule (7) for inclusion of his name in the data bank or in case of delay in filing an application for renewal thereof, the institute shall allow such inclusion or renewal, as the case may be, under rule 6 of the Companies (Appointment and Qualification of Directors) Rules, 2014 after charging a further fees of one thousand rupees on account of such delay.

5. The Companies (Indian Accounting Standards) Amendment Rules, 2021

Date of Notification- June 18, 2021

Effective Date – Date of publication in the Official Gazette

Link : <https://www.mca.gov.in/bin/dms/getdocument?mds=ItGlPzL9Zdszuby4p%252Bvmbw%253D%253D&type=open>

MCA vide its notification dated June 18, 2021 notified the Companies (Indian Accounting Standards) Amendment Rules, 2021 by amending the Companies (Indian Accounting Standards) Rules, 2015.

6. Clarification on passing of ordinary and special resolutions by Companies under the Companies Act, 2013 read with rules made thereunder on account of COVID-19 extension of time

Date of General Circular - June 23, 2021

Effective Date – Date of publication in the Official Gazette

Link : <https://www.mca.gov.in/bin/dms/getdocument?mds=fYGpVQRhK8ssM3lRSs7fsg%253D%253D&type=open>

MCA vide its General Circular dated June 23, 2021 in continuation to its General Circulars 14/ 202 dated April 08, 2020, no. 17/ 2020 dated April 13, 2020, no. 22/ 2020 dated June 15, 2020, no. 33/ 2020 dated September 28, 2020 and no. 39/ 2020 dated December 31, 2020 allowed Companies to conduct their EGM's through VC or OAVM or transact items through postal ballot in accordance with the framework provided in the aforementioned circulars upto December 31, 2020 in this regard.

7. Relaxation on levy of additional fees in filing of certain forms under the Companies Act, 2013 and LLP Act 2008

Date of General Circular - June 30, 2021

Effective Date – June 30, 2021

Link:

<https://www.mca.gov.in/bin/dms/getdocument?mds=oNl%252BU4n7x%252FntbDPEaxYULQ%253D%253D&type=open>

MCA vide its General Circular dated June 30, 2021 in continuation to its General Circular no. 06/ 2021, has granted additional time upto August 31, 2021 to companies/LLP to file forms under the Companies Act, 2013 and LLP Act 2008 (other than a CHG-1 form, CHG-4 Form and CHG-9 Form) which were/are due for filing during April 01, 2021 to July 31, 2021 without any additional fees.

8. Relaxation of time for filing forms related to creation or modification of charges under the companies Act, 2013

Date of General Circular - June 30, 2021

Effective Date – June 30, 2021

Link :

<https://www.mca.gov.in/bin/dms/getdocument?mds=vqTLu4GNC8MKujYEiUpIEg%253D%253D&type=open>

MCA vide its General Circular dated June 30, 2021 in continuation to its general circular no. 07/ 2021, has granted additional time upto July 31, 2021 for the purpose of filling of form CHG 1 and CHG 9 by a Company or a charge holder where the date of creation or modification of charge falls between April 01, 2021 and July 31, 2021 without any additional fee.



Securities Exchange Board of India (SEBI)

1. Streamlining the process of IPOs with UPI in ASBA and redressal of investor grievances

Circular dated: June 02, 2021

Effective Date : June 02, 2021

Link: https://www.sebi.gov.in/legal/circulars/jun-2021/streamlining-the-process-of-ipos-with-upi-in-asba-and-redressal-of-investors-grievances_50401.html

SEBI vide its circular dated June 02, 2021 has laid down the implementation guidelines for its Circular No. SEBI/HO/CFD/DIL2/CIR/P/2021/2480/1/M dated March 16, 2021(hereinafter referred to as “the circular”), which came into effect from May 01, 2021 in order to streamline the processing of ASBA applications through UPI process among intermediaries/SCSBs and to provide a mechanism of compensation to investors.

The implementation timelines for the provisions of the above circular are:

- SMS Alerts – For public issues opening on or after January 01, 2022
- Web Portal for CUG - For public issues opening on or after October 01, 2021
- Completion of Unblocks by T+4 – As per the timelines given in the above mentioned circular.

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

Date of Circular- June 15, 2021

Effective Date – April 01, 2020

Link: https://www.sebi.gov.in/legal/circulars/jun-2021/relaxation-from-the-requirement-of-minimum-vesting-period-in-case-of-death-of-employee-s-under-sebi-share-based-employee-benefit-regulations-2014_50545.html

SEBI vide its circular dated June 15, 2021, has provided relaxation from the requirement of minimum vesting period in case of death of employee(s) under SEBI (Share Based Employee Benefit) Regulations, 2014.

Key highlights of the circular are:

The provisions under the SEBI (Share Based Employee Benefit) Regulations, 2014 (SBEB Regulations) relating to minimum vesting period of one year shall not apply in case of death (for any reason) of an employee and in such instances all the options, Stock Appreciation Rights or any other benefit granted to such employee(s) shall vest with his/her legal heir or nominee on the date of death of the employee. Prior to this circular, the regulation provided that there shall be a minimum vesting period of one year in case of employee stock options and Stock Appreciation Rights; and this relaxation shall be available to all such employees who have deceased on or after April 01, 2020.

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

Date of Circular - June 16, 2021

Effective Date – July 01, 2021

Link: https://www.sebi.gov.in/legal/circulars/jun-2021/automation-of-continual-disclosures-under-regulation-7-2-of-sebi-prohibition-of-insider-trading-regulations-2015-system-driven-disclosures-for-inclusion-of-listed-debt-securities_50572.html

SEBI vide its circular dated June 16, 2021, has included the listed debt securities of equity listed companies under the purview of the System Driven Disclosures made in its circular no. SEBI/HO/ISD/ISD/CIR/P/2020/168 dated September 09, 2020.

The above mentioned circular dated September 09, 2020 implemented the System Driven Disclosures in phases, under SEBI (Prohibition of Insider Trading) Regulations, 2015 for member(s) of promoter group and designated person(s) in addition to the promoter(s) and director(s) of company (hereinafter collectively referred to as “entities”) under Regulation 7(2) of PIT Regulations pertaining to trading in equity shares and equity derivative instruments i.e. Futures and Options of the listed company (wherever applicable) by the entities.

4. Amendment to SEBI (Alternative Investment Funds) Regulations, 2012

Date of Circular - June 25, 2021

Effective Date – June 25, 2021

Link: https://www.sebi.gov.in/legal/circulars/jun-2021/circular-on-amendment-to-sebi-alternative-investment-funds-regulations-2012_50694.html

SEBI vide its circular dated June 25, 2021 amended the SEBI (Alternative Investment Funds) Regulations, 2012.

Key highlights of the amendment are:

- **Framework for AIFs to invest simultaneously in units of other AIFs and directly in securities of investee companies**
- **Applicability of Code of Conduct on key management personnel :** in terms of Regulation 20(1), the key management personnel of the AIF and the Manager shall abide by the Code of Conduct as specified in the Fourth Schedule of the AIF Regulations
- **Clarifications with respect to Investment Committee :** In terms of proviso to Regulation 20(8) of AIF Regulations , There is a requirement to furnish a waiver to AIF in respect of compliance with the said Regulation. The format for waiver to be furnished by the investors in this regard is specified in Annexure I attached with this circular.

5. FAQ's - LODR amendments dated May 05, 2021

Date of Faq's - June 28, 2021

Link: [https://static.nseindia.com//s3fs-public/inline-files/NSE Circular 28062021.pdf](https://static.nseindia.com//s3fs-public/inline-files/NSE_Circular_28062021.pdf)

NSE vide its Circular dated June 28, 2021 has in view of the queries received from listed companies on the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Second Amendment) Regulations, 2021, issued Faq's on the said amendment. Same are available at the link above.

Reserve Bank of India (RBI)

1. Resolution Framework - 2.0: Resolution of Covid-19 related stress of Individuals and Small Businesses – Revision in the threshold for aggregate exposure

Date of Circular- June 04, 2021

Effective Date – June 04, 2021

Link: https://rbi.org.in/Scripts/BS_CircularIndexDisplay.aspx?Id=12104

RBI vide its circular dated June 04, 2021 has with reference to its [circular no. DOR.STR.REC.11/21.04.048/2021-22](#) on “Resolution Framework – 2.0: Resolution of Covid-19 related stress of Individuals and Small Businesses” dated May 5, 2021 specifying the eligible borrowers who may be considered for resolution under the framework and including the following sub-clauses:

(b) Individuals who have availed of loans and advances for business purposes and to whom the lending institutions have aggregate exposure of not more than ₹25 crore as on March 31, 2021.

(c) Small businesses, including those engaged in retail and wholesale trade, other than those classified as MSME as on March 31, 2021, and to whom the lending institutions have aggregate exposure of not more than ₹25 crore as on March 31, 2021.

Enhanced the above limits from ₹25 crore to ₹50 crore.

2. Declaration of Dividends by NBFCs

Date of Circular- June 24, 2021

Effective Date – F.Y ended March 31, 2022

Link: https://www.rbi.org.in/Scripts/BS_CircularIndexDisplay.aspx?Id=12118

RBI vide its circular dated June 24, 2021, has prescribed guidelines on distribution of dividend by NBFCs.

These guidelines shall be applicable to all NBFCs regulated by RBI as below:

Applicability :

- (a) Applicable NBFCs as defined in Paragraph 2(2) of Non-Banking Financial Company - Systemically Important Non-Deposit taking Company and Deposit taking Company (Reserve Bank) Directions, 2016; and
- (b) Applicable NBFCs as defined in Paragraph 2(2) of Non-Banking Financial Company – Non-Systemically Important Non-Deposit taking Company (Reserve Bank) Directions, 2016.

Board Oversight:

4. The Board of Directors shall, while considering the proposals for dividend, take into account the following aspects:

- (a) Supervisory findings of the Reserve Bank (National Housing Bank (NHB) for HFCs) on divergence in classification and provisioning for Non-Performing Assets (NPAs).
- (b) Qualifications in the Auditors' Report to the financial statements; and

(c) Long term growth plans of the NBFC.

The Board shall ensure that the total dividend proposed for the financial year does not exceed the ceilings specified in these guidelines.

The ceilings on dividend payout ratios for NBFCs eligible to declare dividend are as under:

Ceilings on Dividend Payout Ratio		
SI. No.	Type of NBFC	Maximum Dividend Payout Ratio (percentage)
1	NBFCs that do not accept public funds and do not have any customer interface	No ceiling specified
2	Core Investment Company	60
3	Standalone Primary Dealers	60
4	Other NBFCs	50

Reporting System

NBFC-D, NBFC-ND-SI, HFC & CIC declaring dividend shall report details of dividend declared during the financial year as per the format prescribed in Annex 2. The report shall be furnished within a fortnight after declaration of dividend to the Regional Office of the Department of Supervision of the Reserve Bank/ Department of Supervision of NHB, under whose jurisdiction it is registered.

3. New Definition of Micro, Small and Medium Enterprises

Date of Circular- June 25, 2021

Effective Date – June 25, 2021

Link: https://www.rbi.org.in/Scripts/BS_CircularIndexDisplay.aspx?Id=12122

RBI vide its circular dated June 25, 2021, has amended its notification no. RBI/2020-2021/26 FIDD.MSME & NFS.BC.No.4/06.02.31/2020-21 dated August 21, 2020.

As per the amendment, the existing Entrepreneurs Memorandum (EM) Part II and Udyog Aadhaar Memorandum (UAMs) of the MSMEs obtained till June 30, 2020 shall remain valid till December 31, 2021. prior to this amendment, same was valid till March 31, 2021.



Central Board of Excise and Customs (CBEC)

1. Extension of Due Date for Filling of Good and Service Tax

Date of Notification- June 01, 2021

Effective Date: June 01, 2021

Link : <http://www.gstcouncil.gov.in/cgst-tax-notifications>

Central Board of Indirect Taxes and Customs vide its notifications dated June 01, 2021, in view of the severe COVID-19 pandemic has extended the due dates to file the following returns and has also provided waiver on late fees as follows:

S. No	Particulars	Extended date	Notification Number
1.	Extension of due date for furnishing of FORM ITC-04 for QE March, 2021 to 30.06.2021	30.06.2021	26/2021
2.	Extension of due date for filing FORM GSTR-4 for financial year 2020-21 to 31.07.2021.	31.07.2021	25/2021
3.	Rationalization of late fee for delay in filing of return in FORM GSTR-7.	*For the Month of June, 2021.	22/2021
4.	Rationalization of late fee for delay in filing of return in FORM GSTR-4.	F.Y 2021-22	21/2021
5.	Rationalization of late fee for delay in furnishing of the statement of outward supplies in FORM GSTR-1.	*For the Month of June, 2021.	20/2021
6.	Extension of due date for FORM GSTR-1 for May, 2021 by 15 days.	May 15, 2021	17/2021

2. Central Tax to exclude Government departments and local authorities from the requirement of issuance of e-invoice

Date of Notification- June 01,2021

Effective Date : June 01,2021

Link : <http://www.gstcouncil.gov.in/sites/default/files/Notifications-dynamic/notfctn-23-central-tax-english-2021.pdf>

Central Board of Indirect Taxes and Customs vide its notification dated June 01,2021 amended its notification no. 13/2020-Central Tax dated March 21, 2020 has excluded the Government departments and local authorities from the requirement of issuance of e-invoice.

In the said notification dated March 21, 2020, in the first paragraph, after the words “notifies registered person, other than”, the words “a government department, a local authority,” shall be inserted



Central Board of Direct Taxes (CBDT)

1. Clarification for the use of functionality under section 206AB and 206CCA of the Income-tax Act, 1961

Date of Press Release : June 22, 2021

Effective Date: June 22, 2021

Link: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1729476>

CBDT vide its press release dated June 22, 2021 has issued a new functionality "Compliance Check for Sections 206AB & 206CCA". This functionality is already functioning through reporting portal of the Income-tax Department (<https://report.insight.gov.in>).

The tax deductor/collector can feed the single PAN (PAN search) or multiple PANs (bulk search) of the deductee/ collectee and can get a response from the functionality if such deductee/collectee is a specified person. For PAN Search, response will be visible on the screen which can be downloaded in the PDF format. For Bulk Search, response would be in the form of downloadable file which can be kept for record.

2. Amendment in Direct Tax Vivad se Vishwas Act, 2020

Date of Notification: June 25, 2021

Effective Date: Date of its publication in the Official Gazette

Link: https://www.incometaxindia.gov.in/communications/notification/notification_75_2021.pdf

CBDT vide its notification dated June 25, 2021 has granted following extensions in the ongoing Vivad se Vishwas:

1. Date of payment of amount under Vivad se Vishwas (without additional amount) which was earlier extended to June 30, 2021 is further extended to August 31, 2021.
2. Last date of payment of amount under Vivad se Vishwas (with additional amount) is extended to October 31, 2021.

3. Extension of time limits of certain compliances to provide relief to taxpayers in view of the severe pandemic

Date of Notification: June 25, 2021

Effective Date: June 25, 2021

Link: https://www.incometaxindia.gov.in/communications/circular/circular_no_12_2021.pdf

CBDT vide its notification dated June 25, 2021 has extended the due dates for following compliances:

S. No	Particulars	Extended due date
1	Objections to Dispute Resolution Panel (DRP) and Assessing Officer under section 144C of the Act. for which the last date of filing under that Section is 1st June. 2021 or thereafter, may be filed within the time provided in that Section	August 31, 2021
2	The Statement of Deduction of Tax for the last quarter of the Financial Year 2020-21, required to be furnished on or before May 31, 2021 as extended to June 30, 2021 vide Circular NO.9 of 2021.	July 15, 2021
3	The Certificate of Tax Deducted at Source in Form No.16, required to be furnished to the employee by June 15, 2021 extended to July 15, 2021 vide Circular NO.9 of 2021	July 31, 2021
4	The Statement of Income paid or credited by an investment fund to its unit holder in Form No. 64D for the Previous Year 2020-21 , required to be furnished on or before June 15, 2021 as extended to June 30, 2021 vide Circular NO.9 of 2021	July 15, 2021
5	The Statement of Income paid or credited by an investment fund to its unit holder in Form No. 64C for the Previous Year 2020-21, required to be furnished on or before June 30, 2021, as extended to July 15, 2021 vide Circular NO.9 of 2021	July 31, 2021

S.No	Particulars	Extended due date
6	The application under Section 10(23C), 12AB, 35(1)(ii)/(iia)/(iii) and 80G of the Act in Form No. 10Af Form No.10AB. for registration/ provisional Registration/intimation/approval/provisional approval of Trusts/ Institutions/ Research Associations etc. required to be made on or before June 30, 2021 .	August 31, 2021
7	The compliances to be made by the taxpayers such as investment, deposit, payment, acquisition, purchase, construction or such other action, by whatever name called, for the purpose of claiming any exemption under the provisions contained in Section 54 to 54GB of the Act, for which the last date of such compliance falls between April 01, 2021 to September 29, 2021 (both days inclusive).	September 30, 2021
8	The Quarterly Statement in Form No. 15CC to be furnished by authorized dealer in respect of remittances made for the quarter ending on June 30, 2021, required to be furnished on or before July 15, 2021.	July 31, 2021
9	The Equalization Levy Statement in Form No.1 for the Financial Year 2020-21, which is required to be filed on or before June 30, 2021.	July 31, 2021
10	The Annual Statement required to be furnished under sub-section (5) of section 9A of the Act by the eligible investment fund in Form No. 3CEK for the Financial Year 2020-21 , which is required to be filed on or before June 29, 2021.	July 31, 2021
11	Uploading of the declarations received from recipients in Form No. 15G/15H during the quarter ending on June 30, 2021 , which is required to be uploaded on or before July 15, 2021.	August 31, 2021
12	Exercising of option under sub-section (1) of Section 245M of the Act in Form No. 34BB which is required to be exercised on or before June 27, 2021.	July 31, 2021

Miscellaneous Laws

2. Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) Guidelines, 2021

Guideline Date: June 01, 2021

Effective Date : July 01, 2021

Link: <https://ibbi.gov.in/uploads/legalframwork/57df52b9084e184d7dd15a6f4c3e314b.pdf>

IBBI on June 01, 2021 released guidelines namely Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) Guidelines, 2021.

As every IP is equally qualified to be appointed as the IRP, Liquidator, RP or BT of any corporate or individual insolvency resolution, liquidation or bankruptcy process, as the case may be, if otherwise not disqualified, and in the interest of avoiding administrative delays, the Board released these guidelines.

Procedure to be followed:

1. The Board will prepare a common Panel of IPs for appointment as IRP, Liquidator, RP and BT and share the same with the Adjudicating Authority ('AA') (NCLT and DRT) in accordance with these Guidelines.
2. The Panel will have Zone wise list of IPs based on the registered office (address as registered with the Board) of the IP.
3. The Panel will have validity of six months and a new Panel will replace the earlier Panel every six months. For example, the first Panel under these Guidelines will be valid for appointments during July – December 2021, and the next Panel will be valid for appointments during January – June 2022, and so on.

4. The NCLT may pick up any name from the Panel for appointment of IRP, Liquidator, RP or BT, for a CIRP, Liquidation Process, Insolvency Resolution or Bankruptcy Process relating to a corporate debtors and personal guarantors to corporate debtors, as the case may be. 7.5 The DRT may pick up any name from the Panel for appointment as RP or BT, for an Insolvency Resolution or Bankruptcy Process for personal guarantors to corporate debtors, as the case may be.

Inclusion of IP's in the panel

1. An IP will be eligible to be in the Panel of IPs, if –

- there is no disciplinary proceeding, whether initiated by the Board or the IPA of which he is a member, pending against him;
- he has not been convicted at any time in the last three years by a court of competent jurisdiction;
- he expresses his interest to be included in the Panel for the relevant period;
- he undertakes to discharge the responsibility as IRP, Liquidator, RP or BT, as he may be appointed by the AA;
- he holds an Authorisation for Assignment (AFA), which is valid till the validity of Panel. For example, the IP included in the Panel for appointments during July – December 31, 2021 should have AFA valid up to December 31, 2021

2. An IP will be included in the Panel against the Zone where his registered office (his address as registered with the Board) is located. For example, an IP located in the city of Surat (Gujarat) will be included in Ahmedabad Zone, which covers the State of Gujarat. He shall be eligible for appointment by any bench of NCLT or DRT located in the State of Gujarat, Union Territory of Dadra and Nagar Haveli, and Union Territory of Daman and Diu

1. Regular hearing in NCLT Benches w. e .f. July 01, 2021 through Video Conference

Order Date: June 25, 2021

Effective Date: July 01,2021

Link: <https://www.ibbi.gov.in/uploads/legalframework/ac543006840abd6a5bc2a21849507cc5.pdf>

NCLT vide its order dated June 25, 2021 announced the start of regular hearing in NCLT Benches w.e.f. July 01, 2021 through Video Conference on all working days or as mentioned in the Circular.

Article 1

Valuation under Insolvency and Bankruptcy Code, 2016

Introduction

Section 247 of the Companies Act, 2013 provides that where a valuation is required to be made in respect of an property, stock, shares, debentures, securities or goodwill or any other assets (herein referred to as the assets) or net worth of a company or its liabilities under the provision of this Act, it shall be valued by a person having such qualification and experience and registered as a valuer. The Registration Authority shall, either on its own or through a designated agency, conduct a Valuation Examination. *The Insolvency and Bankruptcy Board of India vide its No. IBBI/PR/2021/05 dated 25 February, 2021*, in exercise of the powers conferred under section 196(1)(a) has increased the fees for Limited Insolvency and Valuation Examination from 1st April, 2018 Rs.1500+ Applicable GST, i.e. Rs.1700. Rule 12 of the Companies (Registered Valuers And Valuation) Rule, 2017 prescribes eligibility for valuation professionals. The Insolvency and Bankruptcy Board of India issued Circular vide No. IBBI/RVO.026/2019 dated 16th September, 2019 for valuation under the provisions of the Companies Act, 2013 and the Insolvency and Bankruptcy Code, 2016. The IBBI in its order vide its No. IBBI /Valuation/Disc/4/2021 dated 12 March, 2021, passed order in exercising its power conferred Notification of Central Government No. GSR 1316 (E) dated 18.10.2017 under section 458 of the Companies Act, 2013 and in pursuance of rule 15 and rule 17 of the Companies (Registered Valuer and Valuation) Rules, 2017 he should take reasonable care and due diligence while performing his functions under the Insolvency and Bankruptcy Code, 2016 and the Companies (Registered Values and Valuation) Rule, 2017.

Appointment of Registered Valuers

Pursuant to Regulation 27 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulation 2016, the Resolution Professional shall within seven days of the his appointment, but not later than forty-seventh days from the insolvency commencement date, appoint two Registered Valuers to determine the fair value and the liquidation value of the corporate debtor read with Section 247 of the Companies Act, 2013. Registered valuers shall make valuation of three classes of assets, i.e. Plant & Machinery, Land & Building and Securities or Financial assets. Valuation shall be done by the registered valuers commensurate with Rule 5 of the Companies (Registered Valuers and Valuation) Rules, 2017. The Registered valuers shall make valuation as per Rule 16.

The Registered valuers shall furnish details in the valuation Report as per Rule 18. If the valuers violates any of the provisions, he is liable for disciplinary proceedings under Rule 20. *In the matter of Sagar Dattatray Goge, Registered Valuer, IBBI vide its No. IBBI/Valuation/Disc/3/2021 Dated 9 February, 2021.* A charge sheet is filed against Mr. Gorge by CBI ACB, Pune in the year 2015, in the Hon'ble Court of Special Judge for CBI cases at Aurangabad. However, in his application seeking registration as valuer, Mr. Goge had made a false declaration that no criminal proceedings is pending against him. In view of the above, the Authority, in exercise of powers conferred vide Notification of Central Government No. GSR 1316(E) dated 18.10.2017 under section 458 of the Companies Act, 2013 and in pursuance of rule 15 and rule 17 of the Companies (Registered Valuers and Valuation) Rules, 2017, cancels the registration of *Mr. Sagar Dattatray Goge as Registered Valuer.*

Sale of the assets below the liquidation value.

As per Regulation 35, the Registered valuers shall determine the fair value and the liquidation value of the corporate debtor. The term 'Fair value' and 'Liquidation value' have been defined in Clause 2(hb) and 2(k) respectively of the CIRP Regulations. The Fair value as per IFRS 13 means the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. As against, Liquidation value is the amount that will be realised on sale of an asset or a group of assets when an actual/hypothetical termination of the business is contemplated/assumed. The Fair value and Liquidation Value shall be determined on the insolvency commencement date. As per Regulation 35 of CIRP Regulations, the Fair Value and Liquidation value shall be determined as follows-(a) the two Registered valuers shall submit to the Resolution Professional an estimate of the Fair Value and Liquidation value computed in accordance with internally accepted valuation standards (IVS 104 Based on value), after physical verification of the inventory and fixed assets of the corporate debtor; (b) if there is significant difference in the two estimates, the Resolution Professional may appoint another registered valuer, who shall submit an estimate of the value computed in the same manner; (c) the average of the two closest estimates of a value shall be considered the fair value or the liquidation value as the case may be.

In Maharashtra Seamless Limited vs. Padmanabhan Venkatesh & Ors., Civil Appeal No.4242 of 2019 with Civil Appeal No.4967-4968 of 2019 (Civil Appellate Jurisdiction), Supreme Court of India Date of Decision 22nd January, 2020. The Supreme Court affirmed the order of NCLT of accepting the Resolution Plan below the liquidation value on the ground that accepting the Resolution Plan is the commercial wisdom of the Creditors. Reliance is placed in the case of Essar Steels Ltd.

In Kalpraj Dharamshi & Anr. Vs. Kotak Investment Advisors Ltd & Anr., Civil Appeal Nos. 2943-2944 of 2020 with Civil Appeal Nos.3138-3139/2020, 2949-2950/2020, 847-848/2021 , Supreme Court of India Date of Decision 10 March, 2021. The commercial wisdom of CoC has limited judicial review.

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Please feel free to contact the undersigned in case you require any further information/ clarification on the above article. A book title, “Adjudication of Companies Act matters under NCLT” has published of the Author. The book is available at https://www.amazon.in/dp/9353619084/ref=cm_sw_em_r_mt_dp_KXX67601KJSBGXWESMFM

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Article 2

VALUATION IN SLUMP SALE

Slump sale is defined under Section 2(42C) of Income-tax Act, 1961, as transfer of one or more undertakings as a result of the sale for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales. Income Tax Appellate Tribunal, Mumbai, in Avaya Global Connect Limited Vs. ACIT reported as (26 SOT 397) has held that the definition of Slump Sale provided under Income-tax Act, 1961, makes it clear that transfer by way of sale is what would constitute a slump sale and not transfer by any other mode.

Lump Sum Consideration in exchange of an undertaking is the main essential of any slump sale transaction. The core issue regarding the lump sum consideration has always been the right method of valuation which is required to be followed. Income-tax Rules, 1962, provides various methods to compute the fair market value of the business which can be considered as the lump sum consideration, but there has never been any defined rules specifically for the slump sale transactions under Income-tax Rules, 1962, because of which there has been lot of ambiguity.

Recently, Ministry of Finance, Government of India, has notified Income-tax (16th Amendment) Rules, 2021, which has brought a new rule i.e. Rule 11UAE which provides for the computation of fair market value of capital assets for the purpose of slump sale transaction.

Section 50B of the Income-tax Act, 1961, provides that any profits arising from the slump sale effected in the previous year shall be chargeable to income-tax as capital gains arising from the transfer of long-term capital assets and shall be deemed to be the income of the previous year in which the transfer took place. If any profits or gains arising from the transfer under the slump sale of any capital asset is of one or more undertakings owned and held by an assessee for not more than 36 (thirty-six) months immediately preceding the date of its transfer than it shall be deemed to be the capital gains arising from the transfer of short-term capital assets.

Section 50B also provides that in relation to capital assets being an undertaking transferred by way of such sale, the "net worth" of the undertaking shall be deemed to be the cost of acquisition and the cost of improvement for the purposes of sections 48 and 49 and no regard shall be given to the provisions contained in the second proviso to section 48. Rule 11UAE of Income-tax Rules, 1962, which has been recently notified provides two rules for computation of fair market value of the capital assets which are as follows:

1. FMV1:

Formula provided under this rule is $(A+B+C+D-L)$ where,

A = book value of all the assets (other than jewellery, artistic work, shares, securities and immovable property) as appearing in the books of accounts of the undertaking by way of slump sale as reduced by the following amount which relate to such undertaking— (

- i) any amount of income-tax paid, if any, less the amount of income-tax refund claimed, if any; and
- ii) any amount shown as asset including the unamortised amount of deferred expenditure which does not represent the value of any asset;

B = the price which the jewellery and artistic work would fetch if sold in the open market on the basis of the valuation report obtained from a registered valuer;

C = fair market value of shares and securities as determined in the manner provided in Rule 11UA;

D = the value adopted or assessed or assessable by any authority of the Government for the purpose of payment of stamp duty in respect of the immovable property; L = book value of liabilities as appearing in the books of accounts of the undertaking or the division transferred by way of slump sale, but not including the following amounts which relates to such undertaking, namely: —

- (i) the paid-up capital in respect of equity shares;
- (ii) the amount set apart for payment of dividends on preference shares and equity shares where such dividends have not been declared before the date of transfer at a general body meeting of the company

- (iii) reserves and surplus, by whatever name called, even if the resulting figure is negative, other than those set apart towards depreciation;
- (iv) any amount representing provision for taxation, other than amount of income-tax paid, if any, less the amount of income-tax claimed as refund, if any, to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;
- (v) any amount representing provisions made for meeting liabilities, other than ascertained liabilities; (vi) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares

2. FMV2:

Formula provided under this rule is $(E+F+G+H)$ where,

E = value of the monetary consideration received or accruing as a result of the transfer;

F = fair market value of non-monetary consideration received or accruing as a result of the transfer represented by property referred to in Rule 11UA determined in the manner provided in Rule 11UA for the property covered in that rule;

G = the price which the non-monetary consideration received or accruing as a result of the transfer represented by property, other than immovable property, which is not referred to in Rule 11UA would fetch if sold in the open market on the basis of the valuation report obtained from a registered valuer, in respect of property;

H = the value adopted or assessed or assessable by any authority of the Government for the purpose of payment of stamp duty in respect of the immovable property in case the non-monetary consideration received or accruing as a result of the transfer is represented by the immovable property

CONCLUSION

The rules notified by the Department of Finance under the 16th Amendment, 2021, is a very welcome move by the Government of India as the same have provided much need clarity while computing the “net worth” of an undertaking under the slump sale transaction. During this time, when lot of companies are looking to restructure their business, this notification will only promote them to explore the slump sale transaction as compared to demerger or amalgamation.

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Article 3

Applicability of Tax Deducted at Source (TDS) u/s 194Q on Purchase of Goods

In the Budget 2021-22, a new section 194Q introduced which will be effected from 1st July 2021.

Contents

- a) What is section 194Q
- b) Time of Deduction of TDS under Section 194Q
- c) Exception to TDS Deduction under Section 194Q:
- d) TDS Rate under Section 194Q of Income Tax Act, 1961
- e) Non-compliance of section 194Q
- f) How to ensure compliance of section 194Q:
- g) Pros and Cons of this new section 194Q
- h) Applicability of section 194Q with Examples:
- i) Section 206C (1H) Vs Section 194Q W.e.f. 01.07.2021

What is section 194Q

A new section 194Q introduced in **Budget 2021-22** which is related to payment of certain sum for purchase of goods. As per this section, Any person, being a buyer who is responsible for paying any sum to any resident (hereafter in this section referred to as the seller) for purchase of any goods of the value or aggregate of such value exceeding INR 50 lakhs(fifty lakh Rupees) in any previous year, shall, at the time of credit of such sum to the account of the seller or at the time of payment thereof by any mode, whichever is earlier, deduct an amount equal to 0.1 percent of such sum exceeding fifty lakhs rupees as income-tax.

Exception to TDS Deduction under Section 194Q:

The provisions of this section shall not apply to a transaction on which:

- (a) tax is deductible under any of the provisions of this Act; and
- (b) tax is collectible under the provisions of section 206C other than a transaction to which sub-section (1H) of section 206C applies.

TDS Rate under Section 194Q of Income Tax Act, 1961

- i. 0.1% on sum exceeding Rs. 50 lakhs in any previous year
- ii. 5% in case PAN number of Seller is not available (section 206AA).

It implies that if on a transaction a TDS or tax collection at source (TCS) is required to be deducted under any other provision, then it would not be subjected to TDS under this section. However, there is one exception to this general rule is that if on a transaction TCS is required under sub-section (1H) of section 206C as well as TDS under this section, then on that transaction only TDS u/s194Q shall be deducted.

Non-compliance of section 194Q

As per section 40a(ia) of Income Tax Act 1961, dis-allowance to the extent of 30% of the value of transaction. It means that if the buyer fails to deduct and deposit TDS as applicable then **dis-allowance shall be restricted to 30% of the amount of expenditure on which TDS is not deducted** and deposited.

How to ensure compliance of section 194Q:

In any business, purchase is an ongoing process and it is difficult to keep tab to identify as and when purchase from any vendor is exceeded INR 50 lakhs especially in a big organisation. Hence, automisation is the only solution for compliance of section 194Q. Hence, following steps are required to automisation:

- i. On the basis of previous year, identify the vendors from whom purchases for more than INR 50 lakhs have been made in previous year and arrange alteration in the master of these vendor with activation of TDS deduction option in your accounting software.
- ii. Arrange changes in your accounting software so that software can automatically identify and deduct TDS or provide you alert to deduct TDS as and when purchase of any vendor exceed from Rs. 50 lakhs during the current accounting year.

Pros and Cons of this new section 194Q

Pros:

Though the rate of tax is 0.1% but Government will get income tax in advance every month otherwise this portion of tax will be available to Government on 15th June, 15th September, 15th December and 15th March (at the time of payment of advance tax installments).

Cons:

Another compliance burden to staff of organization/professionals without increase of time limit for deposit and filing of TDS return. This will also increase the cost of organization.

Applicability of section 194Q with Examples:

Seller's Turover : INR 9 Crores

Buyer's Turover : INR 15 Crores

Receipt or Payment for sale or purchase of Goods in previous year : INR 55 lakhs

Taxability:

Buyer's Turnover is more than INR 10 Crores

Taxable amount : Rs. 5 lakhs (INR 55 lakhs-INR50 lakhs)

TDS u/s194Q : 0.1% on Rs. 5* lakhs

TCS u/s 206C(1H): not applicable as Seller's turnover is less than INR 10 Crores.

Seller's Turover : INR 15 Crores

Buyer's Turover : INR 9 Crores

Receipt or Payment for sale or purchase of Goods in previous year : Rs. 55 lakhs

Taxability:

Buyer's Turnover is less than INR 10 Crores

Seller's Turover is more than INR 10 Crores

Taxable amount : INR 5 lakhs (Rs. 55 lakhs-Rs.50 lakhs)

TDS u/s194Q : Not applicable

TCS u/s 206C(1H): 0.1% on INR 5 lakhs**.

Seller's Turover : Rs. 15 Crores

Buyer's Turover : Rs. 15 Crores

Receipt or Payment for sale or purchase of Goods in previous year : INR 55 lakhs

Taxability:

Buyer's Turnover is more than INR 10 Crores

Seller's Turover is more than INR 10 Crores

Taxable amount : INR 5 lakhs (INR 55 lakhs-INR 50 lakhs)

TDS u/s194Q : 0.1% on INR 5 lakhs*

TCS u/s 206C(1H): Not applicable (see exception)

Note:

*in case seller's **PAN** number is not available, then the rate of TDS shall be 5%

**in case buyer's PAN number is not available, then the rate of TDS shall be 1%

Section 206C (1H) Vs Section 194Q w.e.f. 01.07.2021

People generally refer hassle as an irritating inconvenience. And the taxpayers are facing a similar inconvenience to apprehend the applicability of the provisions of TDS on Purchase or TCS on Sale on a single transaction.

Last year in Finance Act 2020, Government has introduced Sub-Section (1H) in Section 206C which provide for the collection of Tax (TCS) by seller from the amount received as consideration for sale of goods exceeding INR 50 Lacs in any previous year. Also, this section is applicable if the Turnover of seller exceeds INR 10 crore in the financial year previous to the financial year in the transaction took place.

Similarly in Finance Act 2021, Section 194Q is introduced which provides for deduction of Tax (TDS) by purchaser on purchase of goods exceeding INR 50 Lacs in any previous year. Section 194Q is applicable if the turnover of buyer exceeds INR 10 crore in the financial year previous to the financial year in the transaction took place. This Section is applicable with effect from 1st of July 2021.

Now the predicament arises when the turnover of both the buyer and seller exceeds INR 10 crores and both are liable to comply under their respective provisions; as the sale and purchase are flipside of a transaction.

Section 194Q(5) clearly mentions that no tax is required to be deducted if tax has already been deductible under any other provision of this act or tax is collectible under Section 206C [other than a transaction on which tax is collectible under 206c(1H)]. Also, second proviso to Section 206C(1H) states that no tax is collectible under this sub section if the buyer is liable to deduct tax under any other provision of this act on the goods purchased by him from the seller and has deducted such amount.

Now if we explicate the two provisions mentioned in the above paragraph simultaneously, In Section 194Q(5) buyer is not excluded from deducting tax on a transaction on which seller is liable to collect tax under Section 206c(1H) but Section 206c(1H) clearly excludes a transaction on which tax has already been deducted under Section 194Q.

Thus, we can assuredly say that Buyer has the first and foremost liability to deduct tax on such transactions and no tax is required to be collected by the seller. But if in case the buyer defaults, the seller will be liable to collect tax on the such transaction.

If the buyer defaults in deducting the TDS and even if the seller comply in collecting the TCS, the buyer will certainly have to face disallowance under section 40(a)(ia) and penal consequences for non-deduction of TDS.

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Please feel free to contact the undersigned in case you require any further information/ clarification on the above article

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Case Laws

CASE LAWS

1. **Applicability of Limitation in an Arbitration Proceedings referred under MSMED Act:** Hon'ble Supreme Court in the matter of **M/s. Silpi Industries Etc. Vs. Kerala State Road Transport Corporation & Anr., etc.** held that the Limitation Act, 1963 is applicable to the arbitrations covered by Section 18(3) of the 2006 Act. While referring to the provisions of Section 43 of the Arbitration and Conciliation Act, 1996, Hon'ble Court made it clear that the provisions squarely covers applicability of the Limitation Act, 1963 to the arbitrations, as it applies to proceedings in court. When the settlement with regard to a dispute between the parties is not arrived at under Section 18 of the 2006 Act, necessarily, the Micro and Small Enterprises Facilitation Council shall take up the dispute for arbitration under Section 18(3) of the 2006 Act or it may refer to institution or centre to provide alternate dispute resolution services and provisions of Arbitration and Conciliation Act 1996 are made applicable as if there was an agreement between the parties under sub-section (1) of Section 7 of the 1996 Act.
2. **Commercial wisdom of the COC is not subject to the judicial review:** Hon'ble Supreme Court in the matter of **India Resurgence ARC Private Ltd. Vs. M/s. Amit Metaliks Ltd. & Anr.** while refusing to interfere with the decision of Ld. NCLT, NCLAT who upheld the decision of CO, further held that priority in scheme of distribution and the value of security are matters falling within the realm of Committee of Creditors. Such considerations, being relevant only for purposes for arriving at a business decision in exercise of commercial wisdom of the Committee of Creditors, cannot be the subject of judicial review in appeal within the parameters of Section 61(3) of I&B Code. While it is true that prior to amendment of Section 30(4) the Committee of Creditors was not required to consider the value of security interest obtaining in favour of a Secured Creditor while arriving at a decision in regard to feasibility and viability of a Resolution Plan, legislature brought in the amendment to amplify the scope of considerations which may be taken into consideration by the Committee of Creditors while exercising their commercial wisdom in taking the business decision to approve or reject the Resolution Plan. Such consideration is only aimed at arming the Committee of Creditors with more teeth so as to take an informed decision in regard to viability and feasibility of a Resolution Plan, fairness of distribution amongst similarly situated creditors being the bottom-line. However, such business decision taken in exercise of commercial wisdom of Committee of creditors would not warrant judicial intervention unless creditors belonging to a class being similarly situated are not given a fair and equitable treatment.

3. No limitation on deduction admissible under Section 80-IA of the Act to income under the head 'business' only: Hon'ble Supreme Court in the matter of **Commissioner of Income Tax-I Vs. M/s. Reliance Energy Ltd. (Formerly BSES Ltd.) through its M.D. declined to interfere with the impugned order, and refuse to accept the plea of the Revenue that held that** the intention of the legislature was to give the narrowest possible construction to deduction admissible under this sub-section, further held that the scope of sub-section (5) of Section 80- IA of the Act is limited to determination of quantum of deduction under sub-section (1) of Section 80-IA of the Act by treating 'eligible business' as the 'only source of income'. Sub-section (5) cannot be pressed into service for reading a limitation of the deduction under sub-section (1) only to 'business income'. It was further held that the import of Section 80-IA is that the 'total income' of an assessee is computed by taking into account the allowable deduction of the profits and gains derived from the 'eligible business'.
4. **Companies incorporated in India can choose an arbitral tribunal outside India: Hon'ble Supreme Court in the matter of PASL Wind Solutions Private Ltd. Vs. GE Power Conversion India Private Ltd. Explaining the** legal position held that the parties to an arbitration agreement have the autonomy to decide not only on the procedural law to be followed but also the substantive law. The choice of jurisdiction is left to the contracting parties. It was held that in the present case, the parties have agreed on a two-tier arbitration system through Clause 14 of the agreement and Clause 16 of the agreement provides for the construction of the contract as a contract made in accordance with the laws of India. It observed that all modern arbitration laws recognise party autonomy, that is, parties are free to determine the substantive law or rules applicable to the merits of the dispute to be resolved by arbitration. Party autonomy provides contracting parties with a mechanism of avoiding the application of an unfavourable or inappropriate law to an international dispute. This choice is and should be binding on the Arbitration Tribunal. This is also confirmed in most arbitration rules.

- 5. Instrumentality of the State has to be fair and reasonable: Hon'ble Supreme Court in the matter of Jharkhand State Electricity Board and Ors. Vs. M/s. Ramkrishna Forging Ltd., while refusing to interfere the impugned order passed by the Jharkhand HC, observed that .** It is noteworthy that the Jharkhand State Electricity Board ('the Board') is a monopoly supplier of electricity which has laid down its own terms and conditions, regarding which the consumer has no say or choice but to sign on the dotted lines, if it wants to get electricity load varied for running its industry. *The Board is an instrumentality of the State. It has to be fair and reasonable.* If the Regulations provide for contract load to be varied even through a written communication, then in our considered view, in all fairness, though fresh agreements may have been executed at the stage of enhancement of load of the same electricity connection, the same cannot be treated as anything but an extension/amendment or modification of the initial agreement granting the electricity connection, which in the present case would be the agreement dated 14.04.2004. On the dictates of the Board, the consumer may have been required to sign fresh agreements for each enhancement of load, but the enhancement being for the same electricity connection which still continues, it would merely be amendment of the initial agreement. This would also be in consonance with the provisions of the Regulations of 2005, which have to be liberally interpreted in favour of the consumer.
- 6. Deficiency of goods/services as per terms of the contract has to be established by the Consumer to claim its insurance: Supreme court in the matter of IFFCO Tokio General Insurance Company Ltd. Vs. Pearl Beverages Ltd., held that** in cases, where there is no scientific material, in the form of test results available, as in the case before us, it may not disable the insurer from establishing a case for exclusion. The totality of the circumstances obtaining in a case, must be considered. The scope of the enquiry, in a case under the Consumer Protection Act, which is a summary proceeding, cannot be lost sight of. A consumer, under the Act, can succeed, only on the basis of proved deficiency of service. The deficiency of service would arise only with reference to the terms of the contract and, no doubt, the law which surrounds it. If the deficiency is not established, having regard to the explicit terms of the contract, the consumer must fail.

Compliance Checklist

Compliance Calendar for July 2021

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

Income Tax Related Compliances

	<ul style="list-style-type: none"> Due date for deposit of Tax deducted/collected for the month of June 2021. 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 Due date for deposit of TDS for the period April 2021 to June 2021 when Assessing Officer has permitted quarterly deposit of TDS under section 192, 194A, 194D or 194H
	<ul style="list-style-type: none"> Due date for issue of certificate for tax deducted under section 194-IA , Section 194-IB , Section 194 M for the month of May, 2021 Quarterly statement of TCS deposited for the quarter ending 30 June, 2021 Certificate of tax deducted at source to employees in respect of salary paid and tax deducted during Financial Year 2020-21 (extended timeline July 15, 2021 vide Circular no. 9/2021, dated 20-05-2021)
	<ul style="list-style-type: none"> Due date for claiming foreign tax credit, upload statement of foreign income offered for tax for the previous year 2020-21 and of foreign tax deducted or paid on such income in Form no. 67. (If the assessee is required to submit return of income on or before July 31, 2021.)
	<ul style="list-style-type: none"> Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194M in the month of June, 2021 Quarterly statement of TDS deposited for the quarter ending June 30, 2021

FEMA Related Compliances

	Reporting of actual transactions of External Commercial Borrowings (ECB) through AD Bank under FEMA
	Due date for filing Foreign Liabilities and Asset Return

RBI Related Compliances

	<ul style="list-style-type: none"> • Monthly return (NBS-6) on exposure to capital market • Monthly Return on Important Financial Parameters
	<ul style="list-style-type: none"> • Monthly statement of short term dynamic liquidity in Form ALM-I

Economic, Industrial & Labour Law Related Compliance

	<ul style="list-style-type: none"> • 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))
	<ul style="list-style-type: none"> • Monthly return of PF for the previous month • Monthly return of PF for the previous month with respect to international workers
	<ul style="list-style-type: none"> • Payment of ESI Contribution for the month of June

GST Related Compliance

	<ul style="list-style-type: none"> • GSTR 1(Monthly) for June 2021
	<ul style="list-style-type: none"> • GSTR 3B (Monthly) for June 2021

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