

# NEWSLETTER SEP'19

*“Strive not to be a success but rather to be of value”*

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# DIRECT TAX

## INCOME TAX

### E-ASSESSMENT SCHEME, 2019

*NOTIFICATION NO. S.O. 3264(E) [NO. 61/2019 (F.NO. 370149/154/2019-TPL)], DATED 12-9-2019*

The Central Government in exercise of its powers laid out in u/s 143(3A) of the Act makes an scheme called as E – Assessment Scheme, 2019 which will come into force on the date of its publication in the Official Gazette. Scope of the Scheme The Scheme will be applicable to such territorial area, or persons or class of persons, or incomes or class of incomes, or cases or class of cases, as may be specified by the Board

### E-assessment Centres

Unit	Functions
National E-assessment Centre	Facilitate the conduct of e-assessment proceedings in a centralised manner
Regional e-assessment Centre	Facilitate the conduct of e-assessment proceedings in the cadre controlling region of a Principal Chief Commissioner
Assessment units	<ul style="list-style-type: none"> <li>✓ Determination of any liability (including refund)</li> <li>✓ Seeking information or clarification on points or issues so identified</li> <li>✓ Analysis of the material furnished by the assessee or any other person</li> <li>✓ Other Functions as necessary</li> </ul>
Verification units	Perform the function of verification, which includes enquiry, cross verification, examination of books of accounts, examination of witnesses and recording of statements, and such other functions
Technical units	Providing technical assistance which includes any assistance or advice on legal, accounting, forensic, information technology, valuation, transfer pricing, data analytics, management or any other technical matter
Review units	Review of draft assessment order which includes whether – <ul style="list-style-type: none"> <li>✓ relevant and material evidence has been brought on record</li> <li>✓ relevant points of fact and law have been duly incorporated</li> <li>✓ addition or disallowance made has been discussed</li> <li>✓ applicable judicial decisions have been considered and dealt with</li> <li>✓ checking for arithmetical correctness of modifications proposed</li> <li>✓ such other functions as necessary</li> </ul>

All the communication among the assessment unit, review unit, verification unit or technical unit or with the assessee or any other person, for the purpose of assessment shall be made through the National e-assessment Centre.

### Procedure for E-assessment

- 1) National e-Assessment Centre shall serve a notice upon an assessee u/s 143(2) specifying the issues for selection of his case.
- 2) The assessee may within 15 days file his response in respect of the notice received above.
- 3) National e-Assessment Centre through automated allocation system will assign the case of the assessee to a specific assessment unit in any one Regional e-assessment Centre
- 4) Assessment unit may make a request to National e-Assessment Centre for the following – a. Assessee or any other person – to obtain further information, documents or evidence b. Verification unit – to conduct of certain inquiry or verification c. Technical Unit – for seeking technical assistance
- 5) On receipt of the request at point 4 above, National e-assessment centre shall –
  - a. Issue appropriate notice or requisition to the assessee asking for the required information as required by the assessment unit
  - b. Assign a request to a verification unit verification unit through an automated allocation system
  - c. Assign a request to a technical unit in any one Regional e-assessment Centres through an automated allocation system
- 6) Assessment unit after taking into account all the relevant material on record prepare a draft assessment order in writing by either accepting or modifying the returned income of the assessee and send such copy of order to National e-assessment centre alongwith details of penalty proceedings to be initiated therein
- 7) National e-assessment centre shall examine the said order based on risk management strategy specified by the Board, where it may decide to –
  - a. Finalise the draft assessment order and serve a copy and notice of penalty proceedings to the assessee alongwith demand notice
  - b. Providing an opportunity to the assessee as to why the why the assessment should not be completed as per the draft assessment order
  - c. Assigning to Review unit in any one Regional e-assessment Centre for review of such order
- 8) Review unit may decide the following – a. concur with the draft assessment order and intimate to National e-assessment centre b. Sends its suggestion for modification to National e-assessment centre
- 9) National e-assessment unit upon receiving the concurrence of review unit follow the procedure laid down in (a) or (b) in 7 above
- 10) National e-assessment unit upon receiving the suggestions for modifications from review unit intimate the same to the Assessment Unit
- 11) After considering the modifications as suggested, the Assessment Unit shall send a final draft assessment order to the National e-assessment Centre
- 12) National e-assessment unit upon receiving the final draft assessment order follow the procedure laid down in (a) or (b) in 7 above
- 13) Where the assessee was show caused as above may submit the response on or before the due date as mentioned in the said notice
- 14) The National E-assessment centre shall where no response is received, finalise the draft assessment order or where response is

received forward the same to the Assessment Unit

15) Assessment Unit after taking into consideration the said response finalise the draft assessment order and forward the same to National e-assessment centre

16) National e-assessment centre upon receiving the final draft assessment order –

- a. Finalise the draft assessment order where no modification prejudicial to the interest of the assessee is proposed
- b. provide an opportunity to the assessee where modification prejudicial to the interest of the assessee is proposed

17) After completion of the assessment, National e-assessment unit shall forward the electronic records to the Assessing Officer having jurisdiction over such case for imposition of penalty, collection and recovery of demand, rectification of mistake, giving effect to appellate orders, submission of remand report, or any other report, to be furnished, or any representation to be made, or any record to be produced before the Commissioner (Appeals), Appellate Tribunal or Courts, as the case may be, proposal seeking sanction for launch of prosecution and filing of complaint before the Court

18) Notwithstanding anything contained in point 17, National e-assessment centre transfer the case to the Assessing Officer having jurisdiction over such case, at any stage of the assessment.

### **Penalty proceedings for non-compliance**

- 1) During the course of proceedings, any unit may send recommendation for initiation of any penalty proceedings to the National e-assessment Centre, for non-compliance of any notice, direction or order issued under this Scheme.
- 2) The National e-assessment Centre shall issue a notice to the assessee calling upon him to show cause as to why penalty

should not be imposed.

- 4) The response received shall be the send by National e-assessment centre to the concerned unit
- 5) The said unit shall after taking into consideration the response, make a draft penalty order and forward the same to National e-assessment centre or drop the penalty proceedings and intimate the same to National e-assessment centre. 5) The National e-assessment Centre shall levy the penalty as per the said draft order of penalty and serve a copy of the same on the assessee.

### **Appellate Proceedings**

An appeal against the order passed by the National e-assessment centre under this scheme shall lie before the CIT (A) having jurisdiction over the Jurisdictional AO.

### **Exchange of communication exclusively by electronic mode**

All the communications between the National e-assessment Centre and Assessee or his AR, among the units internally shall be exchanged exclusively by electronic mode.

### **Delivery of electronic record**

Every notice or order or any other electronic communication shall be delivered to the assessee on his registered account or registered email address (incl AR's email ID) or Mobile App followed by real time alert.

### **Hearings**

Where modification is proposed in the draft assessment order, the assessee or his AR is entitled to make his oral submission or present his case before the income-tax authority under this scheme and such hearing shall be conducted exclusively through video conferencing



Any examination or recording of the statement of the assessee or any other person (other than 133A of the Act) shall be conducted by an income-tax authority in any unit under this

Scheme, exclusively through video conferencing.

**For definitions of various phrases mentioned in the above paragraphs one may refer to the Notification issued in this regard.**

## COST INFLATION INDEX

Notification No SO 3266(E) [NO. 63/2019 (F.NO. 370142/11/2019-TPL)], DATED 12-9-2019

The Central Government notifies Cost Inflation Index for FY 2019-20 as 289. This shall come into force with effect from the 1st day of April, 2020 and shall accordingly apply to the Assessment Year 2020-2021 and subsequent years.

## CONSOLIDATED CIRCULARS ON START UPS

Circular No. 22/2019 [F.NO. 173/149/2019-ITA-I], DATED 30-8-2019 This circular consolidates all these circulars and further clarifies as under:—

**1. Assessment of Startups** Procedure for pending assessments of Startups was provided in circular No. 16/2019 dated 7th of August, 2019. The same has been listed below –

Criteria	Impact	Completion
Startup – <ul style="list-style-type: none"> <li>Recognised by Department for Promotion of Industry and Internal Trade (DPIIT)</li> <li>Filed Form No. 2</li> <li>Limited Scrutiny – issue on applicability of 56(2)(viib)</li> </ul>	Contention of the assessee will be summarily accepted	30th September, 2019
Startup – <ul style="list-style-type: none"> <li>Recognised by Department for Promotion of Industry and Internal Trade (DPIIT)</li> <li>Filed Form No. 2</li> <li>Complete Scrutiny</li> </ul>	Issue of 56(2)(viib) will not be pressed and other issues will be inquired only after obtaining approval of the supervisory authority	31st October, 2019
Startup – <ul style="list-style-type: none"> <li>Recognised by Department for Promotion of Industry and Internal Trade (DPIIT)</li> <li>Not Filed Form No. 2</li> <li>Complete Scrutiny</li> </ul>	Inquiry can be done only after obtaining approval of the supervisory authority	31st October, 2019

## 2. Procedure for addition made u/s 56(2)(viib) in the past assessment

The following procedure is laid down with regard to addition made under section 56(2)(viib) of the Act in assessment order passed before 19th February, 2019:—

- 1) Where the appeal is pending before CIT (A), CIT (A) shall pass an order before 31.12.2019 after considering that the assessee have filed form no. 2 and provisions for section 56(2)(viib) is not applicable before Feb 2019. The department shall not file further appeal against the issue of section 56(2)(viib).
- 2) Where the appeal is pending before ITAT, the department shall not press the ground on issue of addition under section 56(2)(viib).

## 3. Income-tax demand

No Outstanding Demand shall be pursued and no communication shall be made with the assessee in respect of additions made under section 56(2)(viib). With respect to other demands, the same shall be pursued after the demand has been confirmed by ITAT.

## INTERCHANGEABILITY OF PAN WITH AADHAR - AMENDMENT IN RULE 114

**Notification G.S.R. NO 614(E) [NO. 59/2019 (F.NO. 370142/13/2019-TPL)], DATED 30-8-2019**

With effect from 1st day of September, 2019 the following shall be applicable –

Insertion of New sub rule (1A) which states that, any person who has not been allotted PAN but possesses Aadhar number and has furnished such number in lieu of PAN as per section 139A (5E) shall be deemed to be applied for allotment of PAN and not further application or submission of documents are required to be submitted under this rule.

Insertion of New sub rule (1B) which states that, any person who has not been allotted PAN but possesses Aadhaar number may apply for

PAN u/s 139A (1) or 139A (1A) or 139A (3) to authorities mentioned in sub rule 2 of this rule by intimating his Aadhar number and no further application or submission is required Insertion of New sub rule (1C) which states that, On receipt of information under sub rule (1A) or (1B), The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems) shall authenticate his Aadhar number.

## TAXATION LAWS (AMENDMENT) ORDINANCE, 2019

### **Sec 115BAA – Tax Applicable for certain domestic companies**

Any domestic company has an option to pay tax @ 22% on the total income provided that the company will not claim any deduction or set off loss as prescribed. The option needs to be exercised before the due date of filing of Return of Income for AY 2020-21 or subsequent AY. Option once exercised cannot be withdrawn for that AY or subsequent AY. Surcharge rate, for the purpose of advance tax will be 10%.

### **Sec 115BAB – Tax Applicable for certain domestic manufacturing companies**

Any domestic manufacturing company has an option to pay tax @ 15% on the total income provided that the company will not claim any deduction or set off loss as prescribed. Further, the said company should be incorporated on or after 01.10.2019 and should have started manufacturing operation on or before 31.03.2023. The said company shall be engaged in the manufacturing or production of an article or thing and research in distribution of such article or thing. The option needs to be exercised before the due date of filing of Return of Income for AY 2020-21 or subsequent AY. Option once exercised cannot be withdrawn for that AY or subsequent AY. Surcharge rate, for the purpose of advance tax will be 10%.

### **Amendment in section 115JB – MAT**

Companies exercising the option referred u/s 115BAA or 115BAB have been excluded from the applicability of MAT Tax rate u/s 115JB have been reduced to 15% from 18.5% with effect from 01.04.2020.

### Section 115QA – Buy Back Tax

Where the public announcement has been made before 05.07.2019, no buy back tax will be applicable on shares listed on recognised stock exchange.

### Applicability of enhanced Surcharge rate of 27% / 35%

Capital gains arising on sale of equity shares or unit of equity oriented fund referred to in section 111A or 112A shall be excluded from the applicability of enhanced surcharge rate of 27% / 35%.

Incomes derived by Foreign Institutional Investors from securities are also excluded from the applicability of enhanced surcharge rate of 27% / 35%.

## INTERNATIONAL TAXATION

### **DCIT, Circle 2, Pune Vs Kumar Kondiba Shingare [ITAT Pune] (AY 2003-04 to AY 2007-08) [TS-562-ITAT-2019(PUN)]**

*“Charges paid by the Assessee to Taiwan’s vendors towards T&D charges failed to pass the “twin tests” (services should be rendered in India and services should be utilized in India). Considering the facts that no human intervention was demonstrated for receiving any technical services supplied by the testing parties, the payments made by the Assessee couldn’t be categorized as FTS”*

#### **Facts:**

- The Assessee, proprietor of Kumar Enterprises (“the Assessee”) was engaged into the trading business of engineering goods, which were mainly imported.

One of the major customers of the Assessee was M/s TATA Motors

- During the year, the Assessee imported customized engineered goods as per the specifications supplied by the TATA Motors. Also, an Agreement was executed between TATA Motors and the Assessee in this relation
- As per the said agreement, Tata Motors required the Assessee to get certain products developed as per Drawings provided by them and also instructed the Assessee to certify that the products were made as per the specifications and were compatible to the designs of cars manufactured by the TATA Motors
- The Assessee in turn entered into agreement with vendors (M/s Photon Electronic located in Taiwan) for developing, manufacturing and testing of the customized products ordered by M/s Tata Motors
- As per the said agreement, the Vendor was expected to supply the products to the Assessee as per the drawings of Tata Motors and was also expected to test these products before supplying the same to the Assessee. Development and testing were carried out by a different party and the vendor (M/s Photon Electronic) was to claim the related development and testing charges as reimbursements from the Assessee. Accordingly, vendors made the payments to the developers and tester parties and Assessee was to reimburse the same to “Photon” on raising the separate invoice
- The Assessing Officer (AO) took a view that the reimbursements of Testing & Development charges (T & D charges) was income which is deemed to accrue or arise in India and covered within the meaning of Fees for Technical Services (FTS) as per section 9(1)(vii) of Income-tax Act, 1961 (“the Act”). Thus, the AO disallowed a sum of Rs.1,09,33,329/- for the AY 2007-08 invoking the provisions of section 40(a)(ia) of the Act.



- Aggrieved, the Assessee filed the appeal before the CIT(A).
  - Before the CIT(A), Assessee submitted that there was no requirement of making TDS u/s 195 of the Act considering that T&D Charges was in the nature of “reimbursement”. Relying on various decisions on this issue, the Assessee argued by saying that testing charges goes subsumed in the product charges paid by the Assessee.
  - According to the Assessee, reimbursement of expenditure of the non-resident was not taxable in India as it didn't have a Permanent Establishment (“PE”) in India. He also mentioned that there were no DTAA provisions between India and Taiwan and therefore the provisions of section 9(1)(vii)(b) of the Act become relevant. Under the said provisions of section 9(1)(vii)(b), payments made against the “services rendered outside India” are not chargeable to tax.
  - The Assessee referred to the invoices and submitted that the payment was made to non-resident in Taiwan, a vendor who rendered the services of testing activity outside India. Since the event of rendering of services took place in Taiwan only, the Assessee argued that the provisions of section 9(1)(vii)(b) of the Act were not applicable.
  - The Assessee relied on various binding judgements including the judgement of the Hon'ble Supreme Court in the case of Ishikawa JMA-Harima Heavy Industries Ltd. vs. DIT, 288 ITR 408.
  - Further, Assessee argued that the services availed by the Taiwan vendor on a product for delivery in India, did not constitute FTS. Referring to the agreements between the Assessee and Taiwan vendor, the Assessee submitted that TATA Motors provided the specification of the goods to be supplied to the Assessee and the Taiwan vendors were under obligation to supply the said products after the process of testing of quality.
  - In view of the submissions of the assessee, CIT(A) gave the decision in assessee's favour and directed the AO to delete the additions.
  - Aggrieved, the Revenue raised the appeal before the ITAT.
- Held:**
- As per the judgement of the Hon'ble Supreme Court in the case of Ishikawa JMA-Harima Heavy Industries Ltd. vs. DIT, the Services to be covered in the meaning of FTS u/s 9(1)(vii) of the Act, should satisfy the twin test i.e. - That the services should be rendered in India - That the services should be utilized in India Thus, the twin tests in present case were not met (i) the testing services were rendered in Taiwan and (ii) same were used by the Taiwan's vendor in Taiwan only. The provisions of section 9(1)(vii)(b) of the Act becomes active if the India is the 'sites' for both the above.
  - Further, TDS u/s 195 can't be effected on the basis of retrospective amendment. As per the decision of the Hon'ble Bombay High Court in the case of CIT vs NGC Network (India) Pvt Ltd (ITA No 397 of 2015), irrespective of the retrospective amendment of section 9(1)(vi), TDS liability can't be fastened on a retrospective basis considering the principle of Lex Non Cogit Ad impossibilia (law does not compel a man to do what he cannot perform). In the present case, all the transactions with Vendors of Taiwan were already over (much before the retrospective amendment), and as such, the ratio laid down by the Honorable Bombay High Court in the NGC case (supra) applied aptly to the present situation.
  - In the opinion of the ITAT, the charges paid by the Assessee to Taiwan's vendors towards T&D charges failed to pass the “twin tests”. Considering the facts that no human intervention was demonstrated for receiving any technical services supplied by the testing parties, the payments made by the Assessee



couldn't be categorized as FTS. Therefore, the decision given by CIT(A) was affirmed by the ITAT.

## REVIEW OF FDI POLICY ON VARIOUS SECTORS

DIPP has vide Press Note No. 4 (2019 Series) amended Foreign Direct Investment ('FDI') policy for various sectors as follows:

- Contract Manufacturing permitted:

The extent FDI policy provides for 100% FDI under automatic route in manufacturing sector. There is no specific provision for Contract Manufacturing in the Policy.

Subject to the provisions of the FDI policy, foreign investment in 'manufacturing' sector is under automatic route. Manufacturing activities may be either self-manufacturing by the investee entity or contract manufacturing in India through a legally tenable contract, whether on Principal to Principal or Principal to Agent basis. Further, a manufacturer is permitted to sell its products manufactured in India through wholesale and/ or retail, including through e-commerce, without Government approval.

- Single Brand Retail Trading ('SBRT')- 100% under Automatic Route

All other conditions laid down for this sector are the same. Further one new condition has been added as follows:-

- For the purpose of meeting local sourcing requirement, (i.e. 30% of the value of goods procured, will be done from India in respect of proposals involving foreign investment beyond 51%), all procurements made from India by the SBRT entity for that single brand shall be counted towards local sourcing, irrespective of whether the goods procured are sold in India or exported.

Further, the current cap of considering exports for 5 years only is proposed to be removed, to give an impetus to exports.

- The extant policy provided that only that part of the global sourcing shall be counted towards local sourcing requirement which is over and above the previous year's value. It has been now decided that entire sourcing from India for global operations shall be considered towards local sourcing requirement. (And no incremental value)
- For this purpose, 'sourcing of goods from India for global operations' shall mean value of goods sourced from India for global operations for that single brand (in INR terms) in a particular financial year directly by the entity undertaking SBRT or its group companies (resident or non-resident), or indirectly by them through a third party under a legally tenable agreement.
- An SBRT entity operating through brick and mortar stores can also undertake retail trading through e-commerce. However, retail trading through e-commerce can also be undertaken prior to opening of brick and mortar stores, subject to the condition that the entity opens brick and mortar stores within 2 years from date of start of online retail.
- Uploading/ Streaming of News & Current Affairs through Digital Media - 26% under Government Route

# INDIRECT TAX

- **Circular No. 1072/05/2019 dated 25th September 2019**

Circular on Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019. This circular provides the taxpayer with more clarity about the overall structure of the scheme.

- **Notification no. 42/2019- Central Tax dated 24th September 2019**

The Provisions of clause 10, 11,12 and 26 of the CGST (Fourth Amendment) Rules, 2019 [notification no. 31/2019- Central Tax dated 28th June 2019] come into force w.e.f 24.09.2019

- **Notification no. 43/2019- Central Tax dated 24th September 2019**

New insertion in the Notification No.14/2019-Central Tax, dated the 7th March 2019 after serial no. 2 is as follows:

"2A	2202 10 10	Aerated Water"
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- **Notification no. 14/2019, 15/2019- Central Tax dated 30th September 2019**

Goods	Old Rate	New Rate
Slide Fasteners	18%	12%
Marine Fuel 0.5% (FO)	18%	5%
Wet Grinders	12%	5%
Dried tamarind	5%	Nil
Plates and Cups made up of leaves/ flowers/ bark	5%	Nil
Cut and polished semi-precious stone	3%	0.25%
Railway wagons, coaches, rolling stock (Chapter 86)	5%	12%
Caffeinated Beverages	18%	28%+12%Cess
Polypropylene/ polyethylene Woven and Non-Woven Bags and sacks	5% ,12%, 18%	12%,

• **Notification no. 20/2019- Central Tax (Rate) dated 30th September 2019**

**Changes in GST rate:**

Service Sector	Condition or Transaction Value per Unit (Rs) per day	Old Rate	New Rate
Hotel Accommodation Services	Rs 1000 and less	12%	Nil
	Rs 1001 to Rs 7500	18%	12%
	Rs 7501 and more	28%	18%
Outdoor Catering in premises having daily tariff	Less than Rs. 7501	18%	5% without ITC
	Rs 7501 and more	18%	18%
Job work services	In relation to diamonds	5%	1.5%
	Machine job work except in relation to bus body building	18%	12%

• **Notification no. 21/2019- Central Tax (Rate) dated 30th September 2019**

Sector	Exempt Service/ Goods
Warehousing	Services by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, rice, coffee and tea.

• **Notification no. 23/2019- Central Tax (Rate) dated 30th September 2019**

Clarification on the applicability of provisions related to supply of development rights.

• **Notification no. 24/2019- Central Tax (Rate) dated 30th September 2019**

Amends notification no.7/2019- Central Tax(Rate) dated 29th March, 2019 by amending the entry related to cement.

• **Notification no. 25/2019- Central Tax (Rate) dated 30th September 2019**

Grant of liquor license by State Governments against payment of license fee to be considered as 'No Supply'.



## LEGAL UPDATES

**Case of Bridge Hygiene Services Vs State Tax Officer reported in 2019-TIOL-2230-HC-Kerala GST; WP. No.25066 of 2019 (G) dt:23-09-2019**

### **Facts:**

Petitioner defaulted in filing of returns from July 2018 onwards. The case of the petitioner is that although there is a provision under the Act for an automatic setting aside of the best judgment assessment in circumstances where the registered dealer furnishes a valid return within 30 days of service of the assessment order, the petitioner sees this provision as futile in his case inasmuch as even if the petitioner were to file the returns within the extended time of 30 days from the date of receipt of the best judgment assessment orders, he would not be in a position to pay the admitted tax liability as reflected from the returns.

### **Observation:**

Statutory provisions are clear with regard to the time frame within which the assessee has to file his return and pay tax based on the said returns if he wants the assessment done on best judgment basis to be cancelled. Statutory provisions enable the assessee, who is aggrieved by the assessment order passed on best judgment basis, to furnish his returns within a further period of 30 days and pay tax thereon on the basis of the return filed by him, and in that event, the order of the proper officer passed on best judgment basis will stand automatically withdrawn. Petitioner informs that he would not be able to pay the admitted tax liability on account of paucity of funds. Statutory prescription of 30 days from the date of receipt of the assessment order passed under sub section (1) of Section 62 has to be strictly construed against an assessee and in favour of the revenue, since this is a provision in a taxing statute that enables an assessee to get an order passed against him on best judgment basis set aside.

### **Held:**

The provision must be interpreted in the same manner as an exemption provision in a taxing statute. Court may not be justified in granting an extension of the period contemplated under sub section (2) of Section 62, so as to enable the assessee to file a return beyond the said period for the purposes of getting the benefit of withdrawal of an assessment order passed on best judgment basis under Section 62(1) of the GST Act. Under such circumstances, prayer sought for in the writ petition cannot be granted. Writ petition fails and is, accordingly dismissed.

# MCA UPDATES

## NATIONAL FINANCIAL REPORTING AUTHORITY (AMENDMENT) RULES, 2019:

- In exercise of the powers conferred by sub-sections (2) and (4) of section 132, sub-section (1) of section 139 and sub-section (1) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules, to amend the National Financial Reporting Authority Rules, 2018.
- These rules may be called the National Financial Reporting Authority (Amendment) Rules, 2019.
- In the said rules, in rule 5, for the figures, letters and words "30th April every year in such form as may be specified by the Central Government", the figures, letters and words "30th November every year in Form NFRA-2" shall be substituted.
- They shall come into force on the date of their publication in the Official Gazette.

## COMPANIES (APPOINTMENT AND QUALIFICATION OF DIRECTORS) FOURTH AMENDMENT RULES, 2019:

- In exercise of the powers conferred by the second proviso to sub-section (1), sub-section (4) and clause (f) of sub-section (6) of section 149, sub-sections (3) and (4) of section 150, section 151, sub-section (5) of section 152, section 153, section 154, section 157, section 160, sub-section (1) of section 168 and section 170 read with

section 459 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Appointment and Qualification of Directors) Rules, 2014.

- These rules may be called the Companies (Appointment and Qualification of Directors) Fourth Amendment Rules, 2019.

- In the Companies (Appointment and Qualification of Directors) Rules, 2014, - in rule 12A, after the fourth proviso, the following Note shall be inserted, namely:-

For the financial year ending on 31<sup>st</sup> March, 2019, the individual shall submit e-form DIR-3 KYC or web form DIR-3 KYC-WEB, as the case may be, on or before the 14th October, 2019."

- They shall come into force on the date of their publication in the Official Gazette

## COMPANIES (REGISTRATION OFFICES AND FEES) FIFTH AMENDMENT RULES, 2019:

- In exercise of the powers conferred by sections 396, 398, 399, 403 and 404 read with sub-sections (11 and (2) of section 469 of the Companies Act, 2013 [18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Registration Offices and Fees) Rules, 2014.

- These rules may be called the Companies (Registration Offices and Fees) Fifth Amendment Rules, 2019

- In the Companies (Registration Offices and Fees) Rules, 2014, in the Annexure, in item VII relating to FEE FOR FILING e- Form DIR-3 KYC or DIR-3 KYC-WEB under rule 12A of the Companies (Appointment and Qualification of Directors) Rules, 2014, after sub- item no.(i), the following Note shall be inserted, namely:- \*Note: For the financial year ended on 31st March, 2019, no fee shall be payable in respect of e-form DIR-3 KYC or DIR-3 KYC-WEB through web service till 14th October, 2019."
- They shall come into force on the date of their publication in the Official Gazette.

### **EXTENSION FOR FILING FORM BEN-2 & BEN- 1:**

- The Ministry of Corporate Affairs has received representations regarding extension of the last date {or filing of e-Form BEN-2 without additional fees on account of certain new aspects which require further examination and clarification. The matter has been examined and it is hereby informed that the time limit for filing e-form No. BEN-2 is extended upto 31.12.2019 without payment of additional fee and thereafter fee and additional fee shall be payable. Consequent to the extension in the date of filing of e-Form BEN-2, the date of filing of Form BEN-1 may be construed accordingly.



# SEBI UPDATES

## **SECURITIES AND EXCHANGE BOARD OF INDIA (FOREIGN PORTFOLIO INVESTORS) REGULATIONS, 2019;**

- In exercise of the powers conferred by sub-section (1) of Section 30 read with sub section (1) of Section 11, clause (ba) of sub-section (2) of Section 11 and sub-sections (1) and (1A) of Section 12 of the Securities and Exchange Board of India Act, 1992, and under Section 25 of the Depositories Act, 1996, the Securities and Exchange Board of India hereby, makes the following regulations, to provide the framework for registration and procedures with regard to foreign investors who propose to make portfolio investment in India.
- This Regulation was issued on 23rd September, 2019.
- These regulations may be called the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019.
- They shall come into force on the date of their publication in the Official Gazette.

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