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# POC CONNECT

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# Corporate News Round Up

## RBI cuts repo rate by 25 bps to 6.25%

A change of guard at the Reserve Bank of India (RBI) has brought with it a softer stance. The RBI on 4<sup>th</sup> October, 2016 cut the key repo rate by 25 basis points to 6.25%, the lowest level in six years, despite pointing out upward risks to inflation. While banks are unlikely to lower their base rates immediately, the MCLR (marginal cost of funds lending rate — is expected to come down.

## Lenders cannot publish defaulters' photographs randomly, says RBI

To prevent publishing of the photographs of defaulting borrowers/ guarantors in an indiscriminate manner, the RBI said a lending institution can do so only in the case of those borrowers, who have been declared as wilful defaulters. The central bank issued the directive “in view of the sensitivity involved and the need to prevent the publishing of photographs of defaulting borrower/ guarantor in an indiscriminate manner.

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## Sebi issues Investor Protection Fund norms for commodity bourses

To further strengthen the commodity market, Sebi issued a detailed framework on Investor Protection Fund (IPF), which can be used for investor education and awareness programmes. Spelling out detailed guidelines of constitution and management of IPF, contribution to the Fund and eligibility of claims, Sebi asked exchanges to ensure that the funds in the IPF are well segregated from that of the bourse and that the IPF is immune from any liability of the exchange.

## Sebi eases norms for REITs, InvITs

Securities and Exchange Board of India (Sebi) approved amendments in the regulations to facilitate growth of Infrastructure Investment Trusts (InvIT) and Real Estate investment Trust (REIT). Among the top amendments approved — REITs are allowed to invest up to 20% in under-construction assets. Sebi allowed REIT to invest in two level SPV structure through holding company (Holdco), subject to sufficient shareholding in the Holdco and the underlying SPV and other safeguards.

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## **Simplified Proforma for Incorporating Company Electronically (SPICE)**

MCA has notified the Companies (Incorporation) fourth Amendment Rules, 2016 to introduce 'Simplified Proforma for Incorporating Company Electronically (SPICE), i.e. Form No. INC-32 alongwith e-Memorandum of Association in Form No. INC-33 and e-Articles of Association in Form No. INC-34, besides few other changes in forms relating to incorporation.

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

[http://www.mca.gov.in/Ministry/pdf/CompaniesIncorporationFourthAmendmentRules\\_01102016.pdf](http://www.mca.gov.in/Ministry/pdf/CompaniesIncorporationFourthAmendmentRules_01102016.pdf)

## **Companies (Management and Administration) Amendment Rules, 2016**

The Ministry of Corporate Affairs (MCA) has notified the 'Companies (Management and Administration) Amendment Rules, 2016' effective from 23rd Sept. 2016 and has amended Form MGT-6. MCA has amended the said proviso and provided that the particulars of the register of members maintained under the Companies Act, 1956 shall be transferred to the new register of members to be maintained in Form No.MGT-1.

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

<http://www.mca.gov.in/Ministry/pdf/CompaniesMgtAdminAmendmentRules2016.pdf>

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## **CBDT Committed to Strict Confidentiality Under Income Declaration Scheme 2016**

While announcing the results of the Income Declaration Scheme 2016 on 1st October, 2016 at a press conference in Delhi, the Honourable Finance Minister Shri Arun Jaitley stressed that no break-up of these declarations on the basis of trades / cities / states shall be released in order to ensure absolute secrecy with respect to the identity of the declarants.

## **Rs 65,250 crore of black money recovered under Income Declaration Scheme: Arun Jaitley**

Union Finance Minister Arun Jaitley on 1<sup>st</sup> October 2016 announced that the Central Board of Direct Taxes (CBDT) had received total disclosures of Rs. 65,250 crore by 64,275 declarants under the Income Disclosure Scheme, 2016.

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

<http://pib.nic.in/newsite/PrintRelease.aspx?relid=151330>

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## **CBDT Ask Assesseees to Call CBI in Case of Any Demand for Bribe.**

CBDT vide order dated 19-09-2016 ask all the Pr. CCITs to ensure that a display board is placed along with details of the concerned Anti corruption Branch of the CBI in each of the offices under their jurisdiction within a period of 30 days from the date of receipt of this communication. A compliance report indicating the number of offices where such display boards have been installed may be submitted to the respective.

## **CBI arrests an income tax officer in a bribery case**

CBI has arrested an Income Tax officer for allegedly accepting a bribe . A case was registered U/s 7 of the PC Act, 1988 against the ITO 30(1)(3)BKC, Mumbai for demanding an a amount of Rs 3 lakh for himself and Rs 5,000 for his staff from the complainant for passing a favourable Assessment Order and not imposing penalty in scrutiny of ITR of the complainant for the AY 2014-15



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## **CBDT launches online 'nivaran' to resolve I-T grievances**

CBDT has launched the ambitious 'e-nivaran' facility for online redressal of taxpayers' grievances related to refunds, ITRs and PAN among others as part of its initiative to reduce instances of harassment of the public when it comes to complaints related to the I-T department.

## **CBDT to honour honest taxpayers**

In a novel initiative revived after decades, the CBDT will soon honour lakhs of "honest and compliant" taxpayers from across the country who have paid their Income Tax dues diligently over the years. Such people will be issued commendation certificates by the policy-making body of the I-T department under the signature of the CBDT Chairperson.

# Tax News Round Up

## Tax dept not to take action on cash deposits made after declaring income under IDS

The government has said no adverse action will be taken by Financial Intelligence Unit or the income-tax department solely on the basis of the information regarding cash deposit made consequent to the declaration under the black money scheme. Credit for unclaimed tax deducted at source made on declared income shall be allowed and no capital gains tax or TDS (tax deducted at source) shall be levied on transfer of declared benami property from benamidar to the declarant without consideration.

**For more detail refer-** <http://www.financialexpress.com/markets/indian-markets/income-declaration-scheme-2016-you-can-make-tax-payment-in-cash-rbi-to-issue-instructions-to-banks/351618/>

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# Notifications, Circulars & Press Releases

## CBDT'S REVISED INCOME COMPUTATION & DISCLOSURE STANDARDS (ICDS) APPLICABLE FROM THE AY 2017-18

CBDT vide Notification No. 87/2016 dated 29<sup>th</sup> September, 2016 has notified revised ICDS (I to X), which are applicable from AY 2017-18. All Individuals and HUF who are not subject to Tax audit are kept outside the ambit of ICDS. Further CBDT vide Notification No. 88/2016 dated 29<sup>th</sup> September, 2016 has revised Form 3CD for reporting of ICDS adjustments and Income-tax ( 23rd Amendment) Rules, 2016 have been notified for the purpose.

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

<http://www.incometaxindia.gov.in/communications/notification/notification872016.pdf>

<http://www.incometaxindia.gov.in/communications/notification/notification882016.pdf>

# Notifications, Circulars & Press Releases

## CBEC GUIDELINES FOR ARREST IN SERVICE TAX AND CENTRAL EXCISE

CBEC vide Circular No 201/11/2016 dated 30<sup>th</sup> September, 2016 has issued guidelines for arrest in relation to the offences punishable under the Finance Act, 1994 and Central Excise Act, 1944. As a consequence of these amendments, the power of arrest in Service Tax is available only if a person collects any amount as service tax but fails to paid the amount so collected to the credit of the Central Government beyond the period of six months from the date on which such payment becomes due and the amount exceeds Rs. 2 Crore.

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

<http://www.cbec.gov.in/resources//htdocs-servicetax/st-circulars/st-circulars-2016/st-circ-201-2016.pdf>

# Notifications, Circulars & Press Releases

## NEW SERVICE TAX RETURN FORM ST-3 ISSUED BY CBEC

CBEC vide Notification No. 43/2016-ST dated 28-09-2016 has released New Service Tax return Form ST-3 for the upcoming returns of Service Tax to be Filed for the period April, 2016 to September, 2016 on due date 25-10-2016. The new service tax return format has incorporate new levy Krishi Kalyan Cess and other changes made by Finance Act 2016.

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

<http://www.cbec.gov.in/resources//htdocs-servicetax/st-notifications/st-notifications-2016/st43-2016.pdf>

# Notifications, Circulars & Press Releases

## REVISED ADJUDICATION LIMIT FOR PASSING ORDER IN SERVICE TAX

CBEC vide its Notification No. 44 /2016- Service Tax dated 28th September 2016 has revised Adjudication Limit for Passing Order in Service Tax Law as under:

Sr. No.	Rank of the Central Excise Officer	Amount of service tax or CENVAT credit specified in a notice issued under the Finance Act 1994.
1	Superintendent	Not exceeding rupees ten lakh (excluding the cases relating to taxability of services or valuation of services and cases involving extended period of limitation).
2	Assistant Commissioner Or Deputy Commissioner	Not exceeding rupees fifty lakh (except cases where Superintendents are empowered to adjudicate).
3	Joint Commissioner or Additional Commissioner	Rupees fifty lakh and above but not exceeding rupees two crore.
4	Commissioner	Without limit.

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

<http://www.cbec.gov.in/resources//htdocs-servicetax/st-notifications/st-notifications-2016/st44-2016.pdf>

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**Commissioner of Income-tax, Panji v. V.S. Dempo Company Ltd.  
[2016] 74 taxmann.com 15 (SC), Dated- SEPTEMBER 5, 2016**

Assessee is entitled to exemption under section 54E in respect of capital gains arising on transfer of a capital asset on which depreciation has been allowed.

**Issue:**

- Assessee claimed that it was entitled for exemption under section 54E on said capital gains.
- Assessing Officer rejected claim for exemption under section 54E on ground that assessee had claimed depreciation on this asset and, therefore, provisions of section 50 were applicable.
- Commissioner (Appeals) upheld this view, however Tribunal allowed appeal of assessee holding that assessee shall be entitled for exemption under section 54E.
- High Court by impugned order dismissed appeal of revenue holding that section 50 creates a deeming fiction only for mode of computation of capital gains under sections 48 and 49 and not for other provisions. Further, it held that section 54E does not make any distinction between depreciable asset and non-depreciable asset and, therefore, exemption available to depreciable asset under section 54E cannot be denied by referring to fiction created under section 50 -

**SC Held that:**

High Court was right in holding that exemption under section 54E could not be denied to assessee on account of fiction created in section 50. [In favour of assessee]

## Principal Commissioner of Income-tax 4, Chennai v. Mansi Finance Chennai Ltd.

[2016] 73 taxmann.com 312 (Madras), Dated- SEPTEMBER 1, 2016

### Issue:

- During relevant year, assessee filed its return claiming that profit arising from sale of agricultural land was not liable to tax.
- The Assessing Officer on the basis of report of the Tahsildar, opined that land in question was a capital asset and, thus, profit arising on its sale was liable to tax as long-term capital gain.
- The Commissioner (Appeals) as well as the Tribunal noted that land was classified as agricultural land in the revenue records. Further, the assessee had given the land on lease for agricultural purposes. There was also no dispute that the impugned lands was not converted into non-agricultural land prior to the sale and therefore it retained its character as agricultural land till the time of the sale. Accordingly, the Assessing Officer was directed to treat the sale of impugned land as sale of agricultural land, exempt from tax.
- On revenue's appeal .

### High Court held that:

The orders of the appellate authority and the tribunal, are in accordance with the principles of law. All the contentions now raised before this Court, have been considered in detail. There is no rebuttal of the evidences produced before the appellate authority. No contra material is produced by the revenue before the final fact finding authority, the Tribunal. In the result, revenue's appeal is dismissed.

**Dinamalar v. Income Tax Officer, Income Tax Department, Ward 11(1), Tirunelveli**  
**[2016] 74 taxmann.com 14 (Madras), Dated- SEPTEMBER 2, 2016**

**Issue:**

- Assessee was a firm engaged in business of publication of daily newspaper. For relevant year it claimed depreciation on 'cannon lide, scanner, computerized counting and stacking machines, transportation charges, CTP machine, scanner, sisco router, modem etc. at rate of 60 per cent treating them as computers and computer peripherals.
- Lower authorities disallowed same and held that such equipments were eligible at 15 per cent. They held that any machinery using computer as one of components could not be classified as 'computers' for depreciation purposes because computer in machine could not be used for any other purpose. Further they held that assessee could not have invented its own nomenclature and added word computer which was not there in invoice and then proceeded to claim depreciation at 60 per cent with argument that they were computers.
- It was also observed that upon functionality test, machinery represented plant and machinery eligible for 15 per cent depreciation, as they helped in easier typesetting and faster printing of newspaper and automated stacking of newspaper in correct numbers.
- On appeal to the High Court:-

**High Court held that:**

Going through the material on record, it is viewed that the concurrent findings of fact, rendered by the Commissioner(Appeals) and the Tribunal, do not call for any interference, as no substantial question of law, is involved. In the result, the Tax Case Appeal is dismissed. [In favour of revenue]

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Judgment of Delhi High Court quashing rule 5A(2) of Service Tax Rules, 1994 and holding service tax audits as invalid, has been stayed by Supreme Court; hence, for time being, service tax audits may continue.

**Facts:**

- Rule 5A(2) was amended w.e.f. 5-12-2014 authorising officers of Service Tax Department or audit party to seek production of documents on demand and Circulars 181/7/2014-ST and Circular 995/2/2015-CX were issued power of audit and audit norms
- Assessee challenged said rule and Circulars on ground that there is no power of audit with service tax authorities and only audit under Section 72A can be conducted by Chartered/Cost Accountants.
- High Court held that Audit is a special function which has to be carried out by duly qualified persons like a Cost Accountant or a CA. It cannot possibly be undertaken by any officer of the Service Tax Department. There is a distinction between auditing the accounts of an Assessee and verifying the records of an Assessee. Therefore, without assigning any reasons and giving opportunity of being heard, conducting special audit by departmental officers is ultra-vires.
- On Revenue's Special Leave Petition before Supreme Court .

**Supreme Court held that:**

Notice be issued in petition - In meanwhile, there shall be a stay of operation of judgment of High Court. [Para 3] [Partly in favour of Revenue]

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**Facts:**

- The petitioner company granted unsecured inter-corporate loan to its subsidiary 'N' and further made investment in equity shares of N.
- In course of auditing, the fact of non-compliance of provision of section 179(3) of Companies Act, 2013 were noticed, with regard to the above transactions with subsidiary companies. As petitioner company did not obtain prior approval of the Board members, by means of resolutions passed at the meeting by the board.
- The petitioners filed petition under section 621A of Companies Act, 1956, read with section 179(3) and section 185 of Companies Act, 2013 with a prayer to record compounding of the offence.
- The petitioner stated that the company could not comply provisions of section 179(3) due to paucity of time and due to urgency of releasing of funds. Thus, default had occurred unintentionally and without any mala fide intention. Therefore, instant application was filed for compounding the offence taking a lenient view.

**NCLT held that:**

- Petitioner company had granted inter-corporate loan to its subsidiary companies but there was a delay of 96 days in approving transactions by board of directors, petitioner's had not complied with section 179 but same occurred without any mala fide intention and, therefore, its prayer for compounding of offence was to be allowed.



*Thank You*



## Contact us

For further details please contact:

Punkaj Jain - +91 9810286606  
Gaurav Gupta - +91 9811393764

### *Punkaj Oswal & Company*

7A LGF, NRI Complex, Mandakini Greater Kailash - IV, New Delhi - 110 019.

**Tel:** 91-11-26277030; 41631242 **Fax:** 011 - 26272011