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## RBI/FEMA

### 1. STATE CO-OPERATIVE BANKS: CRITERIA, PROCEDURE REVISED, FOR OPENING OF BRANCHES/EXTENSION COUNTERS

The policy for opening of branches/extension counters/specialized branches within the area of operation of the State Co-operative Banks (StCBs) has been reviewed by RBI. And the revised criteria are as follows:

- a. CRAR not less than 9 per cent
- b. No default in maintenance of CRR/SLR during the preceding financial year
- c. Net NPA being less than 5 per cent
- d. The bank should have a track record of regulatory compliance and no monetary penalty should have been imposed on the bank for violation of RBI directives/guidelines during last two financial years

*[DCBR.CO.RCB.No.BC.34/19.51.008/2014-15, dated 7th May, 2015]*

### 2. SECURITISATION COMPANIES AND RECONSTRUCTION COMPANIES: MAXIMUM RESOLUTION PERIOD FOR

### REALISATION OF ACQUIRED STRESSED ASSETS MODIFIED

RBI after reviewing the factors which jeopardize restructuring efforts of the majority lenders found that, while the maximum resolution period permitted to SCs/RCs for realisation of stressed assets acquired by them is 8 years. However, in most cases of restructuring proposals of stressed assets, as approved by BIFR / CDR / JLF, the repayment period goes beyond a time frame of 8 years. This mismatch makes the SCs/RCs, who are holding a part of the stressed assets, to express their inability to go along with the other lenders beyond 8 years due to the regulatory constraints mentioned above and insist on an exit at the end of 5 or 8 years.

Therefore it has decided to make certain modifications to the existing Directions as follows:

- i. For the purpose of the restructuring proposals approved / to be approved by BIFR/CDR/JLF, SC/RCs shall be permitted to accept a resolution period co-terminus with other secured lenders.
- ii. In all such cases, the redemption period of Security Receipts (SRs) held against these assets may be extended to be in congruence with the resolution period approved by BIFR/CDR/JLF, subject to the Independent Credit Rating Agencies continuing to positively rate these SRs, i.e. as long as the Net Asset Value of the SRs continue to be positive-  
*[DNBR(PD)CC.No. 02/SCRC/26.03.001/2014-2015, dated 7th May, 2015]*

### 3. DEBIT/CREDIT CARDS: ONLY EMV CHIP AND PIN BASED CARDS INSTEAD OF MAGNETIC STRIPE CARDS FROM SEPTEMBER

As part of its security and risk mitigation measures for present Card and Electronic Payment Transactions,

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RBI has advised all banks that with effect from September 01, 2015 all new cards issued – debit and credit, domestic and international – by banks shall be EMV chip and pin based cards instead of Magnetic stripe cards. - **[DPSS (CO) PD No.2112/02.14.003/2014-15, dated 7th May, 2015]**

#### **4. NEW MECHANISM FOR DEALING WITH LOAN FRAUDS: 'RED FLAGGED ACCOUNT' INTRODUCED**

Noting the increased incidence of loan frauds, RBI has issued a framework for banks to help them in the prevention, early detection and reporting of such frauds. As part of the framework, RBI has introduced a concept called Red Flagged Account (RFA), which are accounts where the suspicion of fraudulent activity is thrown up by the presence of one or more early warning signals(EWS). These signals in a loan account should immediately put the bank on alert regarding a weakness or wrong doing which may ultimately turn out to be fraudulent. No restructuring or grant of additional facilities may be made in the case of RFA or fraud accounts. Complete framework for fraud risk management in banks can be read as part of this circular. -

**[DBS.CO.CFMC.BC.No.007/23.04.001/2014-15, dated 7th May, 2015]**

#### **5. MULTI-STATE URBAN COOPERATIVE BANKS: PERMITTED TO REVERSE TO P&L ACCOUNT THE EXCESS PROVISION WHEN THE SALE IS FOR A VALUE HIGHER THAN THE NBV ON SALE OF NPAS**

Earlier the stipulation was that, if the sale is for a value higher than the Net Book Value (NBV), the excess provision will not be reversed, but it would be utilised to meet the shortfall/loss on account of sale of other financial assets. But now it has been decided by RBI to permit Multi-State Urban Cooperative Banks to reverse to P&L account the excess provision when the sale is for a value higher than the NBV on sale of NPAs to their profit and loss account, only when the cash received (by way of

initial consideration and/or redemption of security receipt /pass through certificates) is higher than the NBV of the NPAs sold to SCs/RCs. Further, the quantum of excess provision reversed to profit and loss account will be limited to the extent of which cash exceeds the NBV of the NPAs sold. The quantum of excess provision reversed to the Profit and Loss account on account of sale of NPAs shall be disclosed in the financial statements of the bank under "Notes to Account". - **[DCBR.BPD.(MSCB).Cir No.1/13.05.000/2014-15, dated 14th May, 2015]**

#### **6. FCNR (B) SCHEME: CLARIFICATIONS ISSUED**

Banks' insistence on physical presence of the account holder for Submission of A2 form at the time of closure of FCNR (B) deposits and subsequent remittance of funds, has now been done away with by RBI. It has been now clarified that A2 form is to be filed at the time of purchase of foreign exchange using rupee funds and hence will not be required while remitting FCNR (B) funds. Further, banks, with the help of technology, will have to devise better alternatives/ methods for ensuring bonafides of the transaction rather than insisting on physical presence of the account holder, in order to ensure hassle free remittance of funds to the account holder.

- **[A.P. (DIR Series) Circular No. 98, dated 14th May, 2015]**

#### **7. RBI DISPENSES REQUIREMENT OF DECLARING EXPORT OF GOODS /SOFTWARE IN SDF**

Earlier every exporter of goods or software had to declare the same in one of the forms stated therein. But now, RBI, in order to further liberalise and simplify the procedure, it has decided to dispense with the requirement of declaring the export of Goods /Software in the SDF in case of exports

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taking place through the EDI ports, as the mandatory statutory requirements contained in the SDF have been subsumed in the Shipping Bill format. - **[A.P. (DIR Series) Circular No.101, dated 14th May, 2015]**

## 8. RBI EASES NORMS FOR INFRASTRUCTURE DEBT FUNDS

RBI has amended the 2011 guidelines which allowed NBFCs to sponsor IDFs which are to be set up as NBFCs. On a review it has been decided to allow entry of IDF-NBFCs into sectors where there is no presence of a Project Authority. consequently, the directions in 2011 guidelines have also been amended. - **[DNBR (PD) CC.No.035/03.10.001/2014-15, dated 14th May, 2015]**

## 9. REQUIREMENT OF PIN FOR CONTACTLESS CARD PAYMENTS UP TO RS. 2,000, RELAXED

RBI has decided to relax the extant instructions relating to the need for additional factor of authentication (AFA) requirements for small value card present transactions only using contact-less cards for transactions for a maximum value of Rs. 2,000 per transaction. The limit of Rs. 2,000 per transaction will be the limit set across all categories of merchants where contactless payments will be accepted. Further, beyond this transaction limit, the card has to be processed as a contact payment and authentication with PIN (AFA) will be mandatory. - **[DPSS.CO.PD.No.2163/02.14.003/2014-2015, dated 14th May, 2015]**

## 10. TRADE RELATED REMITTANCE LIMIT INCREASED, UNDER RUPEE DRAWING ARRANGEMENT

RBI after a review of the permitted transactions under the Rupee Drawing Arrangements (RDAs), has decided to increase the limit of trade transactions from the existing Rs. 5,00,000/- per transaction to Rs. 15,00,000/- per transaction, with immediate effect. Further, it has been decided to permit AD banks to regularise payments exceeding the prescribed limit

under RDA provided that they are satisfied with the bonafide of the transaction. Banks have further been asked to ensure the remittances received under RDA are from FATF compliant countries and KYC/AML/CFT and other due diligence concerns should be taken care of. - **[A. P. (DIR Series) Circular No. 102, dated 21st May 2015]**

## 11. NBFCs CAN REFER TO PRICE ON BOURSES FOR LENDING AGAINST GOLD

RBI has allowed NBFCs to use the historical spot gold price data publicly disseminated by a commodity exchange regulated by the Forward Markets Commission to determine the value of the metal for purpose of advancing loans against it. Currently, the valuation of gold jewellery for arriving at the loan-to-value (LTV) is be done at the average of the closing price of 22 carat gold for the preceding 30 days as quoted by the Bombay Bullion Association (BBA). - **[DNBR.CC.PD.No.036/03.10.01/2014-15, dated 21st May, 2015]**

## 12. SECURITISATION COMPANIES/ASSET RECONSTRUCTION COMPANIES: EXTENSION OF TIME-FRAME TO SPREAD OVER THE SHORTFALL ARISING OUT OF SALE OF BAD ASSETS TO AT A PRICE BELOW THE NET BOOK VALUE

As an incentive for early sale of NPAs, RBI has allowed the banks to spread over any shortfall, if the sale value is lower than the net book value (NBV), over a period of two years. It has been decided to extend this dispensation for assets sold on or after March 31, 2015 and up to March 31, 2016. - **[DBR.No.BP.BC.94/21.04.048/2014-15, dated 21st May, 2015]**

## 13. HEDGING OF AGRI-COMMODITIES: BANKS TO DIRECTED TO CREATE AWARENESS

RBI has advised that banks should encourage hedging by the agri-borrowers by creating awareness amongst them regarding the utility and benefits of hedging



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through agri-commodity derivatives. This would help to develop strong risk management capabilities to manage agri-commodity price risk. At the same time, banks to keep the sophistication, understanding, scale of operation and requirements of their agri-borrowers in mind while advising on the availability and use of these instruments. To begin with, banks were asked to encourage large agricultural borrowers such as agricultural commodity processors, traders, millers and aggregators to hedge their commodity price risk. The hedging can be through agri-commodity derivative products available on recognised exchanges in India. - **[DBR.No.BP.BC.96 /21.04.157/2014-15, dated 28th May, 2015]**

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## FOREIGN TRADE

### 1) WITHDRAWAL OF DUTY FREE IMPORT AUTHORIZATION (DFIA) SCHEME FOR IMPORT OF RAW SUGAR

Import of “raw sugar” under Duty Free Import Authorisation (DFIA) scheme is withdrawn with immediate effect. **[Notification No 05/ 2015-2020, dated 1<sup>st</sup> May, 2015, (DGFT)]**

### 2) AMENDMENT IN PARA 2.7 (A)(IV) OF HANDBOOK OF PROCEDURES

For border trade between India and China, the CIF value per consignment has now been increased from Rs.1,00,000/- to Rs.2,00,000/- in case of Nathula, while for Gunji and NamgayaShipkila, the existing CIF value limit of Rs.25,000/- has been enhanced to Rs.1,00,000. **[Public Notice No. 07/2015-2020, dated 1<sup>st</sup> may, 2015, (DGFT)]**

### 3) EXPORT OBLIGATION PERIOD UNDER ADVANCE AUTHORIZATION, AMENDED

Pre-import condition shall be mandatory for import of “raw sugar” under Advance Authorisation scheme. Export obligation period for “raw sugar” imported under Advance Authorisation has been reduced to six months from the date of clearance of each consignment by customs authority. **[PublicNotice No. 08/2015-2020, dated 1<sup>st</sup> May, 2015, (DGFT)]**

### 4) ALLOCATION OF QUANTITY FOR EXPORT OF SUGAR TO EU UNDER CXL QUOTA AND TO USA UNDER TARIFF RATE QUOTA: NOTIFIED

The quantity of sugar to be exported to EU under CXL Quota and to USA under TRQ upto 30.09.2015 has been notified. **[Public Notice No. 09/2015-2020, dated 1<sup>st</sup> May, 2015 (DGFT)]**

PROCEDURE FOR EXPORT OF CERTIFIED ORGANIC PRODUCTS: NOTIFIED VIDE PUBLIC NOTICE NO. 73 (RE-2013)/2009-14 DATED 18.11.2014 it has been notified that:

- (i) a product will be allowed to be exported as “Organic Product” only when accompanied by a Transaction Certificate issued by a Certification Body accredited by National Accreditation Body (NAB) for Organic Products under the National Programme for Organic Production of the Department of Commerce
- (ii) “Organic Products” for export will be so certified only if Produced, Processed and Packed as per the standards laid down in the document “National Programme for Organic Production (NPOP)”, available on the website of APEDA. **[Public Notice No. 10/2015-2020, dated 5<sup>th</sup> May, 2015, (DGFT)]**

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5) **AMENDMENT IN PUBLIC NOTICE NO.42 (RE-2013)/2009-2014 DATED 03.12.2013 RELATING TO EXPORT OF VALUE ADDED PRODUCTS OF RED SANDERS WOOD BY GOVERNMENT OF ANDHRA PRADESH**

With this amendment time upto 30.04.2016 has been prescribed for export of 1998.5917 MT's value added products of Red Sanders wood by Government of Andhra Pradesh, permitted vide Public Notice No. 42 (RE-2013)/2009-2014 dated 03.12.2013. **[Public Notice No. 11/2015-2020, dated 6<sup>th</sup> May, 2015, (DGFT)]**

6) **HANDBOOK OF PROCEDURES OF FTP 2015-20: AMENDMENT TO PARA 2.55 AND 2.56 REGARDING ISSUE OF PRE SHIPMENT INSPECTION CERTIFICATES**

With these amendments now the revised procedure will have to be followed by Pre-shipment Inspection Agencies (PSIAs) for issue of Pre-Shipment Inspection Certificates (PSICs), with effect from 01.07.2015, has been notified; (ii) To facilitate transitional arrangements, till 30.06.2015, the PSIAs have been allowed to issue Pre-Shipment Inspection certificates (PSICs) as per procedure laid down in para 2.32.2A and 2.32.2B of Handbook of Procedure Vol. I 2009-14, in the format prescribed in Appendix 5-B of Handbook of Procedures Vol. I, 2009-14; (iii) Procedure for application by the existing PSIAs as well as new applicants for recognition/extension of area of operation etc. has been notified. **[Public Notice No. 12/2015-2020, dated 18<sup>th</sup> May, 2015]**

**FUEL IMPORT POLICY FOR SHIP BREAKING : AMENDED** Import of High Speed Diesel (HSD) and Light diesel oil (LDO), brought on board in the old ships / vessels for purpose of breaking, and which are incidental to such ships / vessels, is "free".

**[Notification No 07/ 2015-2020, dated 20<sup>th</sup> May, 2015, (DGFT)]**

7) **MODIFICATION OF TRACK AND TRACE SYSTEM FOR EXPORT OF DRUG FORMULATIONS**

The procedure for implementation of the Track and Trace system for export of drug formulations has been modified. **[Public Notice No. 13/2015-2020, dated 22<sup>nd</sup> May, 2015, (DGFT)]**

8) **UPDATION OF IMPORTER EXPORTER PROFILE**

Now a facility has been provided to importer/exporter to upload his basic details and documents in the Importer-Exporter Profile. Once uploaded on the Importer-Exporter Profile, the importer/exporter will not be required to submit these documents each time he/she/it applies for authorisations/scripts under different schemes of the FTP. Importers/Exporters may update their Importer Exporter Profile by 15<sup>th</sup> June, 2015 by logging into the DGFT website (<http://dgft.gov.in/>) and clicking on the icon "IEC Profile Updation" and updating the requisite information with their digital signature. **[Trade Notice No.02/2015, dated 26<sup>th</sup> May, 2015, (DGFT)]**

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## CORPORATE

1) **COMPANIES (AMENDMENT) ACT 2015 PASSED BY PARLIAMENT**

Companies (Amendment) Bill recently passed by Parliament is notified. It introduces amendments in relation to Related Party Transactions, fraud reporting by auditors, making common seal optional,

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and jurisdiction of special courts to try certain offences etc. *[Ministry of Corporate Affairs, dated 25<sup>th</sup> May, 2015]*

## 2) COMPANIES (SHARE CAPITAL AND DEBENTURES) SECOND AMENDMENT RULE 2015

Amendment has been made to rule 5 in sub-rule (3) which deals with company's common seal. It provides that in case the company does not have common seal, the share certificate shall be signed by two directors or by a director and company secretary, wherever he is appointed. And in case of one person company every share certificate shall be issued under the seal which shall be affixed in the presence of and signed by one director or person authorized by Board of Directors and Company Secretary. Where the one person company does not have common seal, the share certificate shall be signed by the person in the presence of whom the seal is required to be affixed. *[Ministry of Corporate Affairs, dated 29<sup>th</sup> May]*

## 3) COMPANIES (DECLARATION AND PAYMENT OF DIVIDEND) RULES, 2014

Rule 3, sub-rule (5) which deals with declaration of dividend out of reserves and reads as follows has been omitted:

“No company shall declare dividend unless carried over previous losses and depreciation not provided in previous year are set off against profit of the company of the current year the loss or depreciation, whichever is less, in previous years is set off against the profit of the company for the year for which dividend is declared or paid”. *[Ministry of Corporate Affairs, dated 29<sup>th</sup> May, 2015]*

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## COMPETITION

### 1) CCI FOUND DLF GUILTY OF INDULGING IN UNFIAR AND ABUSIVE BUSINESS PRACTICE IN SALE OF APARTMENTS IN A Gurgaon HOUSING PROJECT

CCI has ordered DLF Gurgaon Home Developers Private Limited and its group companies to cease and desist from such unfair trade practices, but did not impose any fresh monetary penalty as Rs 630 crore fine has already been slapped on DLF for similar violation during the same period in a separate case. Commission held that a cursory glance at the terms and conditions of the Buyer's Agreement showed how heavily loaded the Buyers' Agreement is in favour of the Builder (DLF) and against the buyer. The impunity with which these clauses have been imposed, the total disregard to consumer right that has been displayed in its action of cancelling allotments and forfeiting deposits and the deliberate strategy of obfuscating the terms and keeping buyers in the dark about the eventual shape, size, location etc. of the apartment cannot be termed as fair.

*[Pankaj Aggarwal & Ors. v. DLF Gurgaon Home Developers Private Limited., dated 12<sup>th</sup> May, 2015, (CCI)]*

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## SECURITIES

### 1) SEBI (PROHIBITION OF INSIDER TRADING) REGULATIONS 2015: FURTHER DISCLOSURES MANDATED

Companies have now been mandated under regulation 8 (code of fair disclosure) and 9 (code of conduct) of SEBI regulation, to ensure:

(i) Formulated and published (on its official website), code of practices and procedures for fair disclosure of



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Unpublished Price Sensitive Information (UPSI), is confirmed to the stock exchanges, immediately;

(ii) Formulated code of conduct is confirmed to the stock exchanges, immediately;

(iii) a company deals with only such market intermediary / every other person, who is required to handle UPSI, who have formulated a code of conduct as per the requirements of the Regulations. *[CIR/ISD/01/2015, dated 11<sup>th</sup> May, 2015, (SEBI)]*

## 2) STOCK EXCHANGES OFFER CO-LOCATION/PROXIMITY HOSTING FACILITY

Stock Exchanges have offered the facility of co-location or proximity hosting whereby trading or data-vending systems are allowed to be located within or at close proximity to the premises of the stock exchanges, and are allowed to connect to the trading platform of stock exchanges through direct and private network. *[CIR/MRD/DP/07/2015, dated 13<sup>th</sup> May, 2015, (SEBI)]*

## 3) ACTIVITY SCHEDULE OF SETTLEMENT OF AUCTION SESSION BY T+2 DAYS AND FOR PAY-IN/PAY-OUT OF AUCTION AND CLOSE OUT BY T+3 DAYS.

As per extant practice in Equity Cash segment in case of default by the selling broker in a normal settlement, the security delivered short is bought in the auction session (conducted on T+2 day) and is delivered to the buying broker on T+3 day. In order to facilitate the reduction of time involved in delivering the shares to the buying broker, in case of default by selling broker, it has been decided to provide flexibility to Clearing Corporations to decide the time for conducting the settlement of Auction session on or before T+3 day. *[CIR/MRD/DRMNP/8/2015, dated 14<sup>th</sup> May, 2015, (SEBI)]*

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## INDIRECT TAXES

### a. CUSTOMS

#### 1. EXEMPTION FOR IMPORT OF NATURAL GAS BY GAIL

Exemption Notification No. 12/2012 – Customs, dated 17th March, 2012 amended so as to include a new item 139B. This covers liquefied natural gas (LNG) and natural gas (NG) imported by GAIL for supply to a generating company for generation of electrical energy. -*[Notification No. 31/2015 - Customs, dated 7th May, 2015]*

#### 2. AMENDMENT IN POST-IMPORT CONDITIONS FOR EOU

Notification No. 52/2003-Customs, dated the 31st March, 2003 which exempts import duties on goods imported for use in an EOU, subject to various end-use conditions, have now been amended in the following respects:

- i. The condition relating to time-limit for installation / use has been modified to provide that capital goods must be installed, or other goods used, within the validity period of the Letter of Permission of the EOU;
- ii. The presence of an officer of the department to supervise destruction of rejects, waste or scrap has been dispensed with and now destruction can be done in the unit with intimation to the customs authorities, and outside the unit with the permission of the customs authorities. -*[Notification No. 34/2015 - Customs, dated 25th May, 2015]*

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### 3. DECLARATION ON SHIPPING BILL SUBSTITUTED FOR SDF FORM

The requirement of attaching SDF form with shipping bill in case of export taking place through the EDI ports has now been dispensed with. Provided a specified declaration (as provided in the notification) for receipt of export proceeds is made in the shipping bill itself. The change takes place with immediate effect. - **[Notification No. 46/2015 - Customs (N.T.), dated 18th May, 2015 & Circular No. 15/2015 - Customs, dated 18th May, 2015]**

### 4. IMPORT, TRADING & RE-EXPORT OF ROUGH DIAMONDS: PROCEDURE LAID DOWN

Procedure has been laid down by which rough diamonds can now be imported for viewing. And potential sale, and customs duty will be payable only on the sold lots. Unsold lots will have to be re-exported within 75 days of import. The list of companies allowed to send diamonds to India in this manner is as per Circular no. 116 dated 1 April 2014, and the eligibility to enter the controlled area for viewing will be defined by the Gems & Jewellery Export Promotion Council. The custodian of the goods under the Customs Act will be Bharat Diamond Bourse. - **[Circular No. 17/2015 - Customs, dated 26th May, 2015]**

### 5. ADD ON IMPORT OF MORPHOLINE: LEVY EXTENDED

Levy of anti-dumping duty on imports of Morpholine, has been extended which falls under the CTH 2933 39 17 of CTA, originating in or exported from the People's Republic of China, European Union and the United States of America, up to 19 September, 2016. - **[Notification No. 18/2015 - Customs (ADD), dated 18th May, 2015]**

### 6. ADD ON IMPORT OF SODIUM CITRATE: LEVY EXTENDED

Levy of anti-dumping duty on imports of Sodium Citrate, falling under the CTH 2918 15 20 of CTA, originating in or exported from the People's Republic of China has been extended for a period of five years from 20 May, 2015. - **[Notification No. 19/2015 - Customs (ADD), dated 20th May, 2015]**

### 7. ADD ON IMPORT OF PENTAERYTHRITOL: LEVY EXTENDED

Levy of anti-dumping duty on imports of Pentaerythritol', falling under Chapter 29 of the First Schedule to CTA, originating in, or exported from Russia has been extended for a period of five years. - **[Notification No. 20/2015 - Customs (ADD), dated 22nd May, 2015]**

### 8. ADD ON IMPORT OF CAST ALUMINIUM ALLOY WHEELS OR ALLOY ROAD WHEELS: LEVY EXTENDED

Levy of anti-dumping duty on imports of Cast Aluminium Alloy Wheels or Alloy Road Wheels used in Motor Vehicles, whether or not attached with their accessories, of sizes in diameters ranging from 12 inches to 24 inches, falling under chapter 87 of CTA, originating in or exported from the People's Republic of China, Korea RP and Thailand has been extended for a period of five years from 11 April, 2014. - **[Notification No. 21/2015 - Customs (ADD), dated 22nd May, 2015]**

### 9. ADD ON IMPORT OF USB FLASH DRIVES: LEVY EXTENDED

Levy of anti-dumping duty on imports of USB Flash Drives, falling under chapter 84 and 85 of CTA, originating in or exported from the People's Republic of China and Chinese Taipei has been extended for a period of five years from



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22 May, 2015. - *[Notification No. 22/2015 - Customs (ADD), dated 22nd May, 2015]*

## 10. ADD ON IMPORT OF PURIFIED TEREPHTHALIC ACID: LEVY EXTENDED

Levy of anti-dumping duty on imports of Purified Terephthalic Acid, originating in or exported from Korea RP and Thailand has been extended for a period of five years from 25th July, 2014. - *[Notification No. 23/2015 - Customs (ADD), dated 27th May, 2015]*

## 11. ADD ON IMPORT OF ELECTRONIC CALCULATORS: LEVY EXTENDED

Levy of anti-dumping duty on imports of 'Electronic Calculators of all types [excluding calculators with attached printers, commonly referred to as printing calculators; calculators with ability to plot charts and graphs, commonly referred to as graphing calculators; programmable calculators]', originating in, or exported from, People's Republic of China has been extended for a period of five years. - *[Notification No. 24/2015 - Customs (ADD), dated 29th May, 2015]*

### b. CENTRAL EXCISE

#### PRINCIPAL NOTIFICATION NO. 22/2003 & 23/2003-CENTRAL EXCISE: AMENDED IN LINE WITH NEW FOREIGN TRADE POLICY

In line with changes in the Foreign Trade Policy, principal Notification No. 22/2003 & 23/2003-Central Excise have been further amended. Now-

- i. goods supplied by an EOU to another EOU may be rejected and returned without payment of duty;
- ii. a group of EOUs may source goods centrally and be permitted to transfer the goods within the group; infrastructural

facilities may be permitted for sharing among EOUs; and

- iii. fast-track debonding is allowed in cases where no duty-free procurement or import has taken place. - *[Notification No.28/2015 - Central Excise, dated 15th May, 2015]*

## 1. WITHDRAWAL OF EXEMPTION FROM ADDITIONAL DUTY FOR SWEETENED MINERAL OR AERATED WATERS

Serial no. 1A which was inserted into notification 6/2005-CE with effect from 1 March 2015 to exempt additional duty of excise on "waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, has been omitted. - *[Notification No.29/2015 - Central Excise, dated 22nd May, 2015]*

## 2. AMENDMENT IN EXEMPTION CONDITIONS FOR DOMESTIC SOURCING BY EOU

Notification 22/2003-CE which exempts excise duty on specified categories of goods when supplied to an EOU, has been amended in the following respects:

- i. The condition relating to time-limit for installation / use has been modified to provide that capital goods must be installed, or other goods used, within the validity period of the Letter of Permission of the EOU;
- ii. The presence of an officer of the department to supervise destruction of rejects, waste or scrap has been dispensed with: now destruction can be done in the unit with intimation to the customs authorities, and outside the unit with the permission of the customs authorities. - *[Notification No.30/2015 - Central Excise, dated 25th May, 2015]*

## 3. CENVAT CREDIT RULES, 2004 AMENDED

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Rule 6 of the CENVAT Credit Rules 2004 has been amended in order to increase the amount of reversal of credit required under Rule 6(3)(i) in the case of common inputs / input services used for exempted and dutiable / taxable supply, from 6% to 7%. The change comes into effect from 1 June 2014. - **[Notification No.14/2015 - Central Excise (N.T.), dated 19th May, 2015]**

#### 4. PRODUCT IN QUESTION CLASSIFIABLE UNDER CHAPTER 49 AND EXCLUDED FROM CHAPTER 48 WHEN NOT LIABLE TO DUTY: CESTAT

CESTAT observing that as products manufactured by appellant in their printing press are mostly of various printed forms and not registers, books and pads therefore looking to the nature of the product being manufactured by the appellant it is found that same are not classifiable under chapter 48, all the forms are printed with very detailed information and only some blank column are printed for filling up by manuscript or typescript therefore the product of appellant is classifiable under chapter 49. Thus it has held that goods being printed with name and details of Central Railway are not capable of being bought and sold for consideration hence the same are not marketable goods. Product in question are not dutiable on both counts of classification as well as marketability. - **[Deputy Chief Manager, (Printing & Stationery), Central Railway v. CCE, Mumbai, dated 6th May, 2015 (CESTAT)]**

#### 5. RECOVERY PROCEEDINGS CANNOT BE INITIATED WITHOUT SHOW-CAUSE NOTICE UNDER SECTION 11A OF THE EXCISE ACT: SUPREME COURT

In this case the issue before Hon'ble SC was: Whether recovery proceedings can be initiated without show-cause notice under Section 11A of the Excise Act, which is mandatory?

Answering this question in negative Hon'ble court has observed that no doubt, the

Department was seeking to recover the amount paid by virtue of Section 154 of the Act of 2003 which was enacted retrospectively. Further, no doubt, the effect of the said amendment retrospectively was to take away the benefit which was granted earlier. However, the question is whether before passing such an order of recovery, whether it was necessary to comply with the requirement of show-cause notice? Thus it is held that Section 11A of the Excise Act was applicable, which requires this procedure to be followed. Even if that provision is not applicable, it is fundamental that before taking any adverse action against a person, requirement of principles of natural justice is to be fulfilled. It is also trite that when a statute is silent, with no positive words in the Act or Rules spelling out need to hear the party whose rights or interests are likely to be affected, requirement to follow fair procedure before taking a decision must be read into statute, unless the statute provides otherwise. - **[M/s DharampalSatyapal Ltd v. Deputy Commissioner Of Central Excise, Gauhati And Ors, dated 14th May, 2015 (Supreme Court of India)]**

#### c. SERVICE TAX

##### 1. DEFINITION OF 'CHIT' OMITTED FROM ABATEMENT NOTIFICATION

The definition of 'chit', which had remained in the notification 26/2012-ST even after the removal of 'chit' from the abatement scheme, has now been deleted. - **[Notification No.13/2015 - Service Tax, dated 19th May, 2015]**

##### 2. CHANGES IN FINANCE ACT TO BE EFFECTIVE FROM 1 JUNE 2015

Certain changes proposed in the Finance Bill 2015 were to be effective from a date to be notified after its enactment and assent of the President. 1st June 2015 has now been notified as

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the date from which these changes will be effective. This includes increase in service tax rate to 14%, some changes in the negative list, and in the definitions clause in the Finance Act 1994. - **[Notification No.14/2015 - Service Tax, dated 19th May, 2015]**

is making information available for retrieval. Service rendered falls under the category of Online information & Database access or retrieval service and hence rejected the appeal. - **[Photolibrary India Pvt Ltd v. CST, Mumbai, dated 1st May, 2015 (CESTAT)]**

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3. **“ACTIVITY OF CONVERSION OF BLACK BARS INTO BRIGHT BARS & CLEARANCE OF SAME AS MANUFACTURED PRODUCT CANNOT BECOME NON-MANUFACTURED WHEN APPELLANT UNDERTAKES JOBWORKING FOR SOME OTHER CLIENTS”: CESTAT**

CESTAT has held that the activity of conversion of black bars into bright bars on own account and clearance of the same on payment of CE duty by treating as manufactured product cannot become a non-manufactured product when the appellant undertakes jobworking for some other clients so as to be held as liable to ST under BAS. - **[Vidarbha Grinders (P) Ltd v. CCE, Nagpur, dated 5th May, 2015 (CESTAT)]**

4. **“IF CLIENT CAN DOWNLOAD IMAGES FROM THE WEBSITE OF THE APPELLANT FOR THE PURPOSE OF PLACING IN AN ADVERTISEMENT THEN SERVICE RENDERED FALLS UNDER THE CATEGORY OF ONLINE INFORMATION & DATABASE ACCESS OR RETRIEVAL SERVICE”: CESTAT**

In this case the appellants had website where a number of photographs are available for a viewer to see and choose from the same after browsing. The viewer was being allowed to view photographs free of cost. However, he can download the data only after he enters into an agreement with the appellant and pay the amount as quoted by the appellant. Therefore under the facts it was held that issue of copyright on the said images is merely incidental and main activity

## INTELLECTUAL PROPERTY RIGHTS

1. **USE OF MARK 'GENTAC' AMOUNTS TO PASSING OFF AND INFRINGEMENT OF THE PLAINTIFFS' TRADEMARKS 'ZANTAC' AND 'ZINETAC': Delhi HC**

In this case permanent injunction was sought against infringement of the trademarks 'ZANTAC' and 'ZINETAC' and their passing-off by the defendants. Plaintiff No.1 who was the owner of the trademarks 'ZINETAC' and 'ZANTAC', associated with medicinal preparation, and it contains 'Ranitidine Hydrochloride' which are used in the treatment of gastric ailments. On such factual matrix Hon'ble Court held that the defendants' action to use the mark 'GENTAC' would amount to passing off and infringement of the plaintiffs' trademarks. Apart from the packaging of GENTAC being similar to that of the plaintiffs' medicinal products, 'GENTAC' is phonetically similar to that of the plaintiffs' medicinal products. - **[Glaxo Group Ltd. & Anr. vs S.D. Garg & Ors., dated 12th May, 2015 (Delhi HC)]**

2. **MARKS 'KVS' AND 'KYS' ARE DECEPTIVELY SIMILAR**

In the instant case the Plaintiff and Defendant engaged in the same business. The plaintiff had a reputed reputation and had generated a large goodwill in his business under the trade name and label 'KVS' and 'KVS (Label)'. The defendant had adopted the trademark/label 'KYS' and 'KYS (Label)' in respect of the same category goods. In view of



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such factual position the Hon'ble Court passed a decree of permanent injunction in favour of the plaintiff and against the defendant restraining the defendant, its directors, proprietors, partners, agents, servants, assigns, representatives, successors and distributors from using, selling, exporting, offering for sale, advertising or displaying directly or indirectly or dealing in any other manner under the impugned trademark 'KYS' and 'KYS (Label)' or any other mark which is identically or deceptively similar to the trademark/label of the plaintiff. - **[Kashi Vishwanath Steels Ltd v. M/S Kys Manufacturer and Exporter, dated 20th May, 2015 (Delhi HC)]**

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## CONSUMER

### 1) NCDRC ASKS INSURANCE FIRM TO PAY RS.50 LAKH TO PILOT

In this case NCDRC has held that insurer has a duty to disclose and similarly, it is the duty of the insurance company and its agents to disclose material facts in their knowledge since obligation of 'good faith' applies to both, equally. According to complainant he had applied for an insurance policy from the firm and paid premium in favour of the firm which was encashed by it. He submitted that that policy was never furnished to him and the Exclusion Clauses were never disclosed to him. Exclusion Clause was neither disclosed by the insurer nor made part of the insurance contract. In absence of communication of the Exclusion Clause to the insured, the insurer could not claim the benefit of that clause. **[Capt. A.K. Singh v. New India Assurance Co. Ltd., dated 11<sup>th</sup> May, 2015, (NCDRC)]**

### 2) DAMAGES AND RATE OF INTEREST ENHANCED ON THE AMOUNT TO BE RETURNED BY THE BANK WHICH WAS RE-

### INVESTED WITHOUT THE CONSENT OF PETITIONER: NCDRC

In this case Complainants' son availed a loan of Rs. 72,000/- from SBI, the second Opposite Party, under the Prime Minister RozgarYojna Scheme ('PMRY Scheme') on 4.9.2002. As security for the said loan, the Bank took two FDRs bearing Nos. 439812 and 439813 dated 1.5.2002, amounting to Rs.40,000/- each from the Complainants. A receipt for having taken the two FDRs as security was also issued by SBI. Thereafter, the Complainants' son realised that no security is required to be taken by the Bank under the 'PMRY' loan scheme and therefore, he requested the Bank officials to return the two FDRs. In spite of repeated requests, only one FDR was returned. SBI re-invested the FDR on its maturity. In this factual situation NCDRC has held that the petitioners had to run from pillar to post to ascertain the position of their Fixed Deposits. It is pertinent to note that consent cannot be *implied* but should be explicitly stated in a written form. **[Jagdish Chand Sharma v. Punjab National Bank, dated 13<sup>th</sup> May, 2015, (NCDRC)]**

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## ENVIRONMENT

### 1. SC REFUSES TO STAY NGT RESTRICTIONS ON TOURIST VEHICLES PLYING THROUGH ROHTANG PASS

Supreme Court has refused to stay NGT order limiting the number of tourist vehicles passing through Rohatang Pass to 1,000 per day. The bench asked the tourist operator association to approach the NGT for modification of order. - **[The Times of India, dated 26th May, 2015]**

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## 2. GREEN TRIBUNAL BANS ALL ILLEGAL SLAUGHTERHOUSES IN UTTAR PRADESH

NGT has imposed a ban on all illegal slaughter houses in Uttar Pradesh and directed state authorities to ensure there is proper regulation of meat shops. Held that the slaughter houses which do not have permission from UP Pollution Control Board (UPPCB) and/or environmental clearance from State Level Environment Impact Assessment Authority (SEIAA) besides permissions from local authorities will not be allowed to operate either in open or shops. - *[Business Standard, dated 12th May, 2015]*

## 3. RS.5,000 FINE FOR DUMPING WASTE INTO DRAINS

In January, 2015, the Tribunal had announced the fine on dumping of waste in Yamuna. Now the NGT has extended the overview of its earlier order by announcing a fine of Rs.5,000 even on those found dumping waste in drains, which ultimately lead to Yamuna. - *[The Hindu, dated 9th May, 2015]*

## 4. HARYANA GOVERNMENT BANS FARMERS FROM BURNING WHEAT STUBBLE

In a step towards preventing air pollution in the state, the Haryana government issued an advisory to farmers stating that burning of wheat stubble would amount to prosecution. - *[The Economic Times, dated 6th May, 2015]*

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