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RBI/FEMA

1. REVISION OF PRIORITY SECTOR LENDING REPORTING SYSTEM

The Reserve Bank of India (RBI) has reviewed and revised the priority sector lending reporting formats and modified the quarterly and annual reporting formats for reporting priority sector lending by banks. The banks are now required to furnish data on priority sector advances in the revised formats as enclosed with the present circular. *-[FIDD. CO. Plan. CO. BC. No. 17/04.09.001/2016-17, dated 6th October, 2016]*

2. OPERATING GUIDELINES FOR SMALL BANKS ISSUED

In November 2014, the RBI had notified the Guidelines for Licensing of Payments Banks under which in-principle approvals/ licences were issued to the applicants for setting up of the payments banks.

Now, considering the differentiated nature of business and financial inclusion focus of these banks, the RBI examined the need for separate Operating Guidelines for payments banks and

accordingly, the Operating Guidelines for payments banks are given by the RBI in the Annexure to this circular. *-[DBR. NBD. No. 25/16.13.218/2016-17, dated 6th October, 2016]*

3. OPERATING GUIDELINES FOR SMALL FINANCIAL INSTITUTIONS ISSUED

Earlier, RBI notified the Guidelines for Licensing of Small Finance Banks on November 27, 2014, under which in-principle approvals/ licences were issued to the applicants for setting up of the small finance banks.

Now, considering the differentiated nature of business and financial inclusion focus of these banks, the RBI examined the need for separate Operating Guidelines for small finance banks and accordingly, the Operating Guidelines for small finance banks are given by the RBI in the Annexure to this circular. *-[DBR. NBD. No. 26/16.13.218/2016-17, dated 6th October, 2016]*

4. BANKS ARE ALLOWED TO CONSIDER GOVT SECURITIES TOWARDS SLR CALCULATION: RBI

The RBI has allowed banks to consider SLR securities acquired from RBI under Liquidity Adjustment Facility (LAF) towards the calculation of the statutory liquidity ratio (SLR) from October 3, 2016. *-[DBR. No. Ret. BC. 15/12.02.001/2016-17, dated 13th October, 2016]*

5. RBI ALLOWS PARTICIPATION OF FOREIGN PORTFOLIO INVESTORS (FPIs) IN GOVERNMENT SECURITIES

Currently FPIs are permitted to transact in the Over-The-Counter (OTC) market for Government securities with T+2 settlement.

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RBI has now allowed FPIs to trade Government securities in the secondary market through the primary members of NDS-OM including the Web-module. The primary members of NDS-OM shall be responsible for settlement of the trades, which will be on T+1 basis. This facility will become available with effect from December 1, 2016. **-[FMRD. DIRD. 08/14.03.007/2016-17, dated 20th October, 2016]**

6. SECTORAL CAPS AND SIMPLIFICATION OF FOREIGN DIRECT INVESTMENT (FDI) POLICY REVIEWED

Pursuant to various changes announced by the Government of India to conditions specific to various sectors, RBI by way of present circular announced a process of simplification for FDI. Some of the key changes are:

- a. In all sectors where there is a limit/cap on foreign investment, such limit/cap shall be reckoned in a composite manner.
- b. "Total foreign investment" in an Indian company will be the sum total of direct and indirect foreign investments.
- c. Portfolio investment up to aggregate foreign investment level of 49% or sectoral/statutory cap, whichever is lower, will not be subject to either Government approval or compliance with the sectoral conditions, as the case may be, provided such investment does not result in change in ownership leading to control of Indian entities [within the meaning of Regulation 14 (1) of Foreign Exchange Management (Transfer or issue of security by a person resident outside India) Regulations, 2000] by non-resident entities.
- d. The onus of compliance with the sectoral/statutory caps on foreign investment and attendant conditions, if any, shall be on the company receiving foreign investment.
- e. A company shall be considered as owned by resident Indian citizens if more than 50% of the capital in it is beneficially owned by resident Indian citizens and/or Indian companies, which are ultimately owned and controlled by resident Indian citizens. A LLP will be considered as owned by resident Indian citizens if more than 50% of the investment in such an LLP is contributed by resident Indian citizens and/or entities which are ultimately 'owned and controlled by resident Indian citizens' and such resident Indian citizens and entities have majority of the profit share.
- f. Foreign investment in LLP is permitted under the automatic route if the LLP is engaged in sector where 100% FDI is allowed and there are no attendant FDI linked performance conditionalities to the sector. And so on. **-[A.P. (DIR Series) Circular No. 6, dated 20th October, 2016]**

7. INVESTMENT REGIME FOR FOREIGN VENTURE CAPITAL INVESTORS (FVCIS) LIBERALIZED

RBI has now permitted FVCIs, registered under SEBI (FVCI) Regulations, 2000 to make investments in certain sectors without requiring any approval from the RBI. In case of unlisted companies, FVCIs can make investments in equity, equity-linked instruments or debt instruments in specific sectors, which include biotechnology, IT, nanotechnology, etc. as listed in the present circular.

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FVCIs can also invest into a “start-up” irrespective of the sector in which such start-up is engaged. A “start-up” is defined in the instant notification as an entity (private limited company or a registered partnership firm or a limited liability partnership) incorporated or registered in India not prior to five years, with an annual turnover not exceeding INR 25 Crores in any preceding financial year, working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property and satisfying certain conditions given in the Regulations. **-[A.P. (DIR Series) Circular No. 7, dated 20th October, 2016]**

8. 100% FOREIGN INVESTMENT UNDER THE AUTOMATIC ROUTE EXTENDED TO “OTHER FINANCIAL SERVICES”

As per the Principal Regulations, foreign investment up to 100%, under the automatic route, is allowed by the RBI in NBFCs engaged in the 18 activities listed in the schedule to the relevant RBI regulations.

On a review, RBI in consultation with the Government of India, has allowed the foreign investment up to 100% under the automatic route in ‘Other Financial Services’.

Other Financial Services will include activities which are regulated by any financial sector regulator viz. Reserve Bank of India, Securities and Exchange Board of India, Insurance Regulatory and Development Authority, Pension Fund Regulatory and Development Authority, National Housing Bank or any other financial sector regulator as may be notified by the Government of India in this regard. Such foreign investment shall be subject to conditions, including minimum capitalisation norms, as specified by the concerned Regulator/

Government Agency. **-[A.P. (DIR Series) Circular No. 8, dated 20th October, 2016]**

9. RBI CAPS THE PERMITTED TRADE TRANSACTION UNDER THE RUPEE DRAWING ARRANGEMENTS (RDAS)

RBI through its circular A.P. (DIR Series) Circular No. 102 dated May 21, 2015 had permitted banks to regularize payments exceeding the prescribed limit under RDA provided that they are satisfied with the bona-fide of the transaction.

On a review, RBI has now decided that the permitted trade transaction, under the RDAs shall not exceed fifteen lakh rupees per transaction. **- [A.P. (DIR Series) Circular No. 9, dated 20th October, 2016]**

10. PROCEDURE RELATING TO EXTENSION AND CONVERSION OF ECBS SIMPLIFIED

Under the extant ECB guidelines issued by the RBI, designated AD Category-I banks can approve requests from borrowers for changes in repayment schedule during the tenure of the ECB, i.e., prior to maturity provided average maturity and all-in-cost are in conformity with applicable ceilings/ norms.

To simplify the procedure, RBI has now delegated the powers to designated AD Category-I banks to approve requests from borrowers for extension of matured but unpaid ECB, subject to the following conditions:

- (i) No additional cost is incurred;
- (ii) Lender’s consent is available;
- (iii) Reporting requirements are fulfilled.

The approval also extends to allowing conversion of “matured-but-unpaid” ECBs into equity. **-[A.P.**

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(DIR Series) Circular No. 10, dated 20th October, 2016]

11. SOVEREIGN GOLD BONDS (SGBS) CAN BE USED AS COLLATERAL SECURITY FOR ANY LOAN

The Sovereign Gold Bond Scheme was notified by Government of India specifying the maximum limit of subscription to the bonds to be 500 gm, per person per fiscal year.

RBI through the present circular has provided clarifications with respect to the scheme on the queries received from banks about the feasibility of lending against the bonds and whether the restrictions on subscription would extend to acquisitions through transfers etc. It has been clarified that:

- (i) the SGBs may be used as collateral security for any loan.
- (ii) Banks and other eligible holders can acquire more than 500 gms. of SGBs in a fiscal year, through transfers etc., including transfers arising out of recovery proceedings. *-[IDMD. CDD. No. 892/14.04.050/2016-17, dated 20th October, 2016]*

12. FRAMEWORK FOR IMPOSITION OF PENALTY/FINE UNDER SECTION 30 OF THE PSS ACT NOTIFIED

Under the Payment and Settlement Systems Act, 2007 (**PSS Act**) certain powers have been conferred upon the RBI to impose penalties/fines for certain contraventions/offences and to compound contraventions/offences committed by the entity.

In consideration of the same, the RBI through the present circular has introduced a framework for

imposition of penalty/fine under section 30 of the PSS Act and compounding of contraventions / offences under section 31 of the PSS Act. *-[DPSS. CO. OD. No. 1082/06.08.005/2016-17, dated 20th October, 2016]*

13. FRAMEWORK FOR EXTERNAL COMMERCIAL BORROWINGS (ECB) BY STARTUPS NOTIFIED

The RBI in its Fourth Bi-monthly Monetary Policy Statement for the year 2016-17 released on October 04, 2016 permitted the Start-up enterprises to access loans under ECB framework. Now, the RBI through the present circular has introduced a framework under which Start-ups will be allowed to raise ECB. *– [A.P. (DIR Series) Circular No. 13, dated 27th October, 2016]*

FOREIGN TRADE

1. CHANGES IN GRANT OF NOMINATED AGENCY CERTIFICATE

As a result of certain amendments in the Hand Book of Procedures 2015-2020 by the DGFT, the export performance of Gems and Jewellery items from SEZ/EOU units shall now not be clubbed with export performance from Domestic Tariff Area (DTA) units of any Importer Exporter Code (IEC) holder for grant of Nominated Agency Certificate and accordingly changes in Para 4.94(a)(i), 4.94(a)(ii) and ANF-4I are also carried out. *-[Public Notice No. 37/2015-2020, 4th October, 2016, (DGFT)]*

2. MINIMUM IMPORT PRICE ON 66 HS CODE OF IRON AND STEEL TO BE CONTINUED

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The DGFT vide notification No 20/2015-20 dated 4.8.2016, had imposed Minimum Import Price on 66 HS Code of Iron and Steel. The effect of this notification has been extended till 4th December, 2016. *-[Notification No. 30/2015-2020, 4th October, 2016, (DGFT)]*

3. PROCEDURE FOR DESIGNATING PORTS FOR IMPORT OF UN SHREDDED METALLIC SCRAP NOTIFIED

The procedure for designating ports for imports of un-shredded metallic scrap and handling of un-shredded scrap by ICDs has been prescribed. Any sea port to be designated for import of un-shredded metallic scrap will be required to install Radiation Portal Monitors and Container Scanner with adequate security. The sea port having completed the above shall approach jurisdictional Customs for inspection and certification. Customs may give necessary clearance on receipt of certification from AERB. On getting clearance from Customs, DGFT will notify such a port as designated port for import of un-shredded scrap.

The existing designated ports (Chennai, Cochin, Ennore, JNPT, Kandla, Mormugao, Mumbai, New Mangalore, Paradip, Tuticorin, Vishakhapatnam, Pipava, Mundra and Kolkata) have been given time till 31st March, 2017, to install and operationalize Radiation Portal Monitors and Container Scanner. Failure to meet this requirement within the deadline will result de-recognition for the purpose of import of un-shredded metallic scrap w.e.f.1.4.2017.

Further, any ICD can handle clearance of un-shredded metallic scrap provided the same passes through ports that have Radiation Portal Monitors and Container Scanner in operation and the consignment has been subjected to risk based scanning/ monitoring as per the protocol laid down

by Customs. Also import consignments would be subject to pre-inspection certificate from the country of origin. The requirement of Pre Shipment Inspection Certificate, however will be reviewed on operationalisation of above mechanism, and will depend on assessment of risk associated with un-shredded metal scrap imports. *-[Public Notice No. 38/2015-2020, 6th October, 2016, (DGFT)]*

4. TWO MORE INLAND CONTAINER DEPOTS (ICDs) AS PORTS ADDED

ICDs located at Kalinganagar and Tumb Village (Taluka Umbergaon, District Valsad) have been included by the Central Government under para 4.37 (a) Hand Book of Procedures (2015-2020) for availing export promotion benefits under Chapter 4 of Foreign Trade Policy. *-[Public Notice No. 39/2015-2020, 20th October, 2016, (DGFT)]*

CORPORATE

1. COMPANIES (INCORPORATION) FOURTH AMENDMENT RULES, 2016 NOTIFIED

To simplify the process of Incorporation, the Companies (Incorporation) Fourth Amendment Rules, 2016 has been issued. Through the Amendment Rules, MCA launches Simplified Proforma for Incorporating Company Electronically (SPICE). The new proforma (SPICE) has a standard format of e-Memorandum of Association and e-Articles of Association, both of which can now be filed as linked e-forms, except in the case of not-for-profit associations.

Firms now have the provision for incorporation with a pre-approved name. Further, the existing

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forms INC 29 and INC 7 are to get phased-out as SPICE becomes the sole format for incorporating a company in India. The INC 29 form is used to convert a public firm into a private one or vice-versa and the INC 7 form enables the submission of affidavits by directors concerned. *-[Ministry of Corporate Affairs, 1st October, 2016]*

2. ADDITIONAL FEES AND EXTENSION OF LAST DATE RELAXED

The last date for filing financial statements and annual returns using e-forms AOC-4, AOC-4 (XBRL), AOC-4 (CFS) or MGT-7, without payment of additional fees has been extended by the government till 29th November, 2016. *-[General Circular No. 12/2016, 27th October, 2016, (MCA)]*

SECURITIES

1. INVESTMENT LIMIT BY FPIs IN GOVERNMENT SECURITIES REVISED

Limit for FPIs in Central Government securities has been revised by SEBI to INR 148,000 crore *m.e.f.* October 03, 2016 and INR 152,000 crore *m.e.f.* January 02, 2017 respectively (Government Debt).

Limit for Long Term FPIs in Central Government securities has been further enhanced to INR 62,000 crore and INR 68,000 crore *m.e.f.* October 03, 2016 and January 02, 2017 respectively (Long Term Government Debt).

The limit for investment by all FPIs in State Development Loans (SDL) has been enhanced to INR 17,500 cr. *m.e.f.* October 03, 2016 and INR 21,000 cr. *m.e.f.* January 02, 2017 respectively.

Incremental limit for Long Term FPIs shall be available for investment on tap *m.e.f.* October 03, 2016 and January 02, 2017 respectively.

While incremental limit of INR 3,500 crore each for investment by FPIs in SDLs shall be available for investment on tap *m.e.f.* October 03, 2016 and January 02, 2017 respectively.

It has also been promised by SEBI that communication regarding transfer of unutilized limits from Government Debt – Long Term category to Government debt category will be issued later. *-[IMD/FPIC/CIR/P/2016/107, 3rd October, 2016, (SEBI)]*

2. INSTRUCTIONS FOR EXCLUSIVELY LISTED COMPANIES (ELCs) ON DISSEMINATION BOARD (DB) ISSUED

SEBI has previously issued guidelines (vide circular dated 30th May, 2012) to facilitate exit of de-recognized/non-operational stock exchanges and exit of shareholders of exclusively listed companies (ELCs) by allowing them to get listed on nationwide stock exchanges after complying with the diluted listing norms of nationwide stock exchanges, failing which they would be moved to the Dissemination Board (DB). SEBI, however, has allowed a grace period of 18 months to ELCs on DB to obtain listing upon compliance with the listing requirements of the nation-wide stock exchanges, vide its circular dated 17th April, 2015. In this regard SEBI has issued following clarification:-

The nationwide stock exchanges hosting the ELC on its DB would be referred to as 'designated stock exchange'. ELCs on DB would have two options (i) *Raise Capital for Listing*-ELCs on the DB shall be

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allowed to raise capital for meeting the listing requirements through preferential allotment route.

For this purpose the procedure as prescribed by Issue of Capital and Disclosure Requirements Regulations, 2009 (ICDR), shall be followed. In case the allotment is made to promoters/public such that it is in excess of the threshold limits (5% or 25%) of the SEBI (Substantial Acquisition of Shares and Takeovers Regulations), 2011 (SAST), the provisions of SAST Regulation shall not be applicable for the proposed acquisition subject to the overall holding of the promoter group not exceeding 75% of the paid up capital of the company. The other option includes, (ii) *exit mechanism* which involves an independent value who determines fair value and promoter acquiring shares from public shareholders, completing the entire process within 75 working days (Detail procedure given in Annexure A).

The oversight and monitoring of such exit mechanism shall be carried out by the designated stock exchange, which includes ensuring that the promoters have made adequate efforts for providing exit to their shareholders. The designated stock exchange shall display the list of companies willing to provide exit to their investors on their website on a monthly basis.

In order to facilitate the raising of capital or provide exit to investors, the ELCs on DB shall indicate their and submit their plan of action to designated stock exchanges latest within three months from the date of this circular to the satisfaction of the designated stock exchanges, which shall review the plan and ensure its completion within 6 months. Any promoter or director who fails to demonstrate adequacy of efforts for providing exit to their shareholders and remain on DB, would face freezing of shares, attachment of their bank accounts/other

assets and debarred from listing of any equity shares for 10 years.

The provision of this circular has been made applicable to the exclusively listed companies of all de-recognized/non-operational stock exchanges which are exited/in the process of exit in terms of exit circular dated May 30, 2012. - **[SEBI/HO/MRD/DSA/CIR/P/2016/110, 10th October, 2016, (SEBI)]**

3. COLLATERAL LIMIT EXTENDED FOR CLEARING MEMBERS OF SEBI

SEBI vide circular CIR/CDMRD/DRMP/01/2015 dated 1st October, 2015, had set the framework on collateral that can be accepted by Exchanges from their members. In the present circular SEBI has increased the limit of collateral that can be maintained by clearing member as percentage of total liquid assets.

Earlier the total commodities collateral for any clearing member could not exceed 15% of the total liquid assets of the clearing member. Now the limit has been enhanced to 30% of total liquid assets of the clearing member, out of which non-bullion collateral shall not exceed 15% of the total liquid assets of the clearing member.

To implement this change exchanges have been asked to enable timely liquidation of collaterals accepted by them and stipulate concentration limits for collateral. - **[SEBI / HO / CDMRD / DRMP / CIR / P / 2016/112, 14th October, 2016, (SEBI)]**

4. SEBI RIAs TO FACILITATE TRANSACTIONS THROUGH MUTUAL FUND / ASSET MANAGEMENT COMPANIES

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SEBI through its circular CIR/MRD/DSA/32/2013 dated 4th October, 2013 had permitted mutual fund distributors to use recognised stock exchanges' infrastructure to purchase and redeem mutual fund units directly from Mutual Fund/Asset Management Companies.

This facility of purchasing and redeeming mutual fund units directly from Mutual Fund/Asset Management Companies, on behalf of their clients, through recognized stock exchanges has been extended to SEBI Registered Investment Advisors (RIAs). **-[SEBI / HO / MRD / DSA / CIR / P / 2016 / 113, 19th October, 2016, (SEBI)]**

5. DISCLOSURE FORMAT FOR LISTED INSURANCE COMPANIES NOTIFIED

It has been notified by SEBI that insurance Companies are now required to make the following disclosures in the format as specified by IRDA (i) format for quarterly results and (ii) Format for Reporting of Segment wise Revenue, Results and Capital Employed along with the quarterly results, for quarter ending 30th September, 2016 and 31st December, 2016.

For disclosures for Newspaper Publishing Purpose the insurance companies shall continue to follow the format as specified under the aforesaid circulars: CIR/CFD/CMD/15/2015 dated Nov 30, 2015 and CIR/CFD/FAC/62/2016 dated July 05, 2016. **- [CIR/CFD/DIL/115/2016, 24th October, 2016, (SEBI)]**

6. FREEZING OF PROMOTER AND PROMOTER GROUP DEMAT ACCOUNTS FOR NON-COMPLIANCE OF SEBI LISTING REGULATIONS

SEBI vide its circular CIR/CFD/CMD/12/2015 dated November 30, 2015 had prescribed a structure of fine for non-compliance with provisions of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. As certain entities acting in non-compliance with listing regulations have not paid the fines levied by recognized stock exchanges, it has been decided by SEBI to freeze the DEMAT accounts of promoters and promoter group.

Accordingly, it has been instructed that upon expiry of notice period served on non-compliant entity, if such entity fails to pay the fine levied, the recognized stock exchange shall freeze holdings in other securities in the DEMAT accounts of promoter and promoter group to the extent of liability which shall be calculated on a quarterly basis. In case the non-compliance continues for two consecutive periods the concerned recognized stock exchange shall forthwith intimate the depositories to freeze the entire shareholding of the promoter and promoter group in such listed entity. In addition to freezing of the shares in the non-compliant listed entity, the holdings in the DEMAT accounts of promoter and promoter group in other securities shall also be frozen to the extent of liability which shall be calculated on a quarterly basis.

The recognized stock exchanges also hold the discretion while freezing the holdings of errant promoter/promoter group. Depositories have also been directed to furnish to the exchange upon receipt of request, all such information pertaining to holdings in the demat accounts of promoter and promoter group of such listed entities. **- SEBI/HO/CFD/CMD/CIR/P/2016/116, 26th October, 2016, (SEBI)]**

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COMPETITION

1. CCI DIRECTS INVESTIGATION AGAINST GAIL FOR ABUSE OF DOMINANCE AND IMPOSING UNFAIR AND DISCRIMINATORY CONDITIONS

Rico Auto, Rico Casting and Omax Auto who are engaged in the business of automotive component manufacturing, had signed a Gas Sale Agreement with GAIL, the opposite Party (OP) herein, in order to procure Liquefied Natural Gas at their manufacturing units. They filed complaints against GAIL for the alleged abuse of dominance by GAIL, by imposing unfair and discriminatory conditions under the Gas Sale Agreement, in contravention of Section 4 of the Competition Act. The terms of Gas Sale Agreement were challenged as they were alleged to be manifestation of Gail's dominance which it was abusing through asymmetric rights and burdening the informant parties with onerous obligations. The allegedly abusive clauses included terms on 'Make Good Gas', 'Restoration Quantity' and 'Recovery Period Gas', wherein buyer need to pay if it fails to take delivery but the OP is not liable to pay any damages if it fails to supply.

Other allegations regarding unfair nature of the clauses of GSA include (a) the force majeure events being wider for OP and limited for the buyer; (b) no liability on OP in case of force majeure but such benefit being available to buyer only for a limited period of 60 days and thereafter (i.e. from 61st day), take or pay liability applies even if the force majeure event continues; (c) liability of seller to pay liquidated damages not to exceed the value of daily contracted quantity for 21 days whereas take or pay liability of buyer having no such limitation; (d) GSA not envisaging a mechanism whereby OP is required to certify the quality/specification of the gas supplied; and (e) while OP could terminate GSA if

its arrangement with its supplier is terminated, no such right of termination is provided to the buyer to terminate

GSA on account of production constraints. Further there were also allegation that OP held power to suspend gas supply without notice to the Informants, OP denying dispute resolution mechanism envisaged under GSA to the Informants and unilaterally substituting the term 'disconnection' with 'suspension' of gas supplies to avoid compliance requirement for suspension of gas.

In view of the above allegations, the National Commission directed the Director General (DG) to conduct further investigation into the matter and present its report within 60 days. ***-[Rico Auto Industries Limited v. GAIL (India) Limited, 3rd October, 2016, (CCI)]***

INDIRECT TAXES

a. CUSTOMS

1. BCD EXEMPTION ON IMPORT OF TECHNIUM-99

Notification No. 12/2012-Customs, dated 17.03.2012 amended by the Central Government so as to exempt technitium-99 from BCD upon import. ***-[Notification No. 55/2016-Customs, dated 3rd October, 2016]***

2. IMPORT CONDITION UNDER ATA CARNET AMENDED

Notification No. 157/90-Customs dated 28th March, 1990 has been amended by the Central

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Government regarding temporary admission under the ATA Carnet.

In case of default on re-export, the importer has been made jointly and severally liable for payment of customs duty and interest along with the Federation of Chambers of Commerce and Industry, which was earlier solely liable as guarantor of the carnet. The liability of the Federation has been restricted to customs duty plus ten per cent. *-[Notification No. 58/2016-Customs, dated 5th October, 2016]*

3. ADD ON NARROW WOVEN FABRICS FROM CHINA

Anti-dumping duty has been imposed on Narrow woven Fabrics [Hook and Loop Velcro Tapes] of specified types, originating in or exported from People's Republic of China for a period of five years. *-[Notification No. 50/2016 - Customs (ADD), dated 6th October, 2016]*

4. KALINGANAGAR AND TUMB VILLAGE NOTIFIED AS INLAND CONTAINER DEPOT

The Central Government has included Kalinganagar and Tumb Village (Taluka Umbergaon, District Valsad) as two more ICDs in list of Customs stations from where Export/Import under EP schemes can take place. *-[Notification No. 54/2016 – Customs, dated 3rd October, 2016]*

5. GOLD INCLUDED IN THE LIST OF ITEMS IN RELATION TO WHICH PROSECUTION MAY BE LAUNCHED IMMEDIATELY AFTER ISSUANCE OF SHOW CAUSE NOTICE

The Central Board of Excise and Customs (CBEC) vide its Circular No. 27/2015 dated 23.10.2015 had

issued guidelines for launching of prosecution in relation to offences punishable under the Customs Act, 1962. Normally, prosecution may be launched immediately on completion of adjudication proceedings. However, prosecution in respect of cases involving offences related to items *i.e.* FICN, arms, ammunitions & explosives, antiques, art treasures, wild life items and endangered species of flora and fauna may preferably be launched immediately after issuance of show cause notice. Now, Gold has also been included in this list. *-[Circular No. 46/2016 – Customs, dated 4th October, 2016]*

6. FOREIGN POST OFFICES NOTIFIED AT VIJAYAWADA, LEH AND HYDERABAD

Notification No. 63/94- Customs (NT), dated 21st November, 1994 has been amended by the Central Government so as to add the Foreign Post Offices at Hyderabad, Vijayawada and Leh as land customs stations for the customs clearance of goods imported or exported by land. *-[Notification No. 125 /2016-Customs (N.T), dated 13th October, 2016]*

b. CENTRAL EXCISE

1. NOTIFICATION RELATING TO TERRITORIAL JURISDICTIONS IN MADHYA PRADESH AMENDED

Notification No. 27/2014-Central Excise(NT), dated 16.09.2014 has been amended by the Central Government so as to amend the territorial jurisdictions of Chief Commissioners and Commissioners in Madhya Pradesh. *-[Notification No. 48/2016 - Central Excise (N.T.), dated 7th October, 2016]*

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c. GST

1. CBEC ISSUED REVISED DRAFT RULES AND FORMATS UNDER GST

CBEC has placed on its website the revised draft of the rules and formats pertaining to registration, refund, return, payment and invoice relating to GST. These can be accessed at <http://www.cbec.gov.in/htdocs-cbec/gst/draft-rules-format>.

INTELLECTUAL PROPERTY RIGHTS

1. INTERIM INJUNCTION GRANTED EVEN WHEN THE PLAINTIFF HAS NOT DIRECTLY MARKETING ITS PRODUCT IN INDIA AS YET BUT IS THE FIRST USER OF THE TRADEMARK IN THE WORLD: DELHI HC

Cephalon (Plaintiff) has filed the present suit seeking a decree of permanent injunction restraining infringement of its trademark "PROVIGIL", and for passing off, use of unfair practices and damages against the defendants Maneesh Pharmaceutical Limited (MPL).

It was the case of the Plaintiff that the mark "PROVIGIL" was first adopted in the year 1995 by Genelco, S.A, a subsidiary of the Cephalon; however, as per the documented use, it was adopted in 1998. It was averred in the plaint that "PROVIGIL" is a drug containing 'modafinil' and is used for treating excessive sleepiness associated with narcolepsy and shift work disorder.

In 2009, it came to the knowledge of the Plaintiff that the Defendant was using the mark "PROVIGIL" on its website http://svizerahealth.com/Products/Ace_Privigil.html with the registered ® symbol. In July, 2015, it came to the knowledge of the Plaintiff that the Defendant was also manufacturing and selling the medicines under the trademark "PROVIGIL" and that the said medicines were available for sale in Delhi. The Defendant contended that they are prior user of the trademark "PROVIGIL" and has been using the said trademark since 2002. It is further averred that MPL's application for registration of the trademark was filed on 11.07.2001, which was prior to Cephalon's application filed on 01.07.2004. Defendant further states that the products manufactured by MPL and Cephalon under the mark "PROVIGIL" are completely different further the prices, consumers, trade channels, etc. of the products of MPL and Cephalon are also completely different.

The Court observed that there is no dispute that trademarks used by the parties are similar; the spelling of the word 'PROVIGIL' is identical and, thus, both the marks are also phonetically identical. There is little doubt that the use of the trademark "PROVIGIL" for different medicines has a propensity to create confusion. The drugs manufactured by MPL are used for a completely different purpose and to address a different medical condition; nonetheless, it would be highly undesirable if the same trademark is associated with two different drugs. It was further observed that although, Cephalon has not sold PROVIGIL directly in India as yet, but it would be highly confusing if one drug is sold all over the world under a trademark and another drug is sold in India under the same trademark.

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The Court then discussed the decision of the Supreme Court of India in the case of Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd.: (2001) 5 SCC 73 and how that the boundaries is not one of the barriers for transmission of information now a days, held that the fact that Cephalon has not directly marketed its product in India as yet would not be of significant relevance since it is the first to use the trademark in the world. ***-[Cephalon, Inc vs Maneesh Pharmaceutical Limited & Anr., dated 19th October, 2016 (Delhi HC)]***

CONSUMER

1. NATIONAL COMMISSION UPHOLDS ORDER DIRECTING ARREST OF OFFICIALS OF INFRASTRUCTURE FIRM FOR FAILING TO HAND OVER FLATS

The Punjab State Commission had ordered arrest of officials of the respondent real estate firm, as they had failed to appear before the forum to explain their failure to hand over the possession of flats or make refunds on time. The officials did not appear before the State Commission even after proclamations published against them under Section 82 of Cr.P.C.

Accordingly, the State Commission ordered arrest and this order was challenged before the apex consumer forum. The National Commission upheld the order of the State Commission, holding that it was the duty of the judgment debtor, to put in appearance before the State Commission and state their view point before them. ***-[Nitishree Infrastructure Ltd., v. Inderdeep Singh & Anr., 5th October, 2016 (NCDRC)]***

2. COMPLAINT WHERE AGGREGATE VALUE OF COMPENSATION DEMANDED EXCEEDS 1 CR. MAINTAINABLE BEFORE NATIONAL COMMISSION

Answering certain questions referred to it by lower bench, the full bench of National Commission, interpreting Section 12(1)(c) of the Consumer Protection Act, which deals with manner in which complaint should be made, has held that a complaint before the apex commission is maintainable where the aggregate value of the goods purchased or the services hired or availed of by all the consumers on whose behalf or for whose benefit the complaint is instituted and the total compensation, if any, claimed in respect of all such consumers exceeds Rs 1 crore.

Thus, effectively dispensing with the requirement to first approach a lower forum where the compensation claimed collectively exceeds 1 crore. Further, home buyers can avail the benefit of favourable judgment irrespective of whether they were party to the complaint. Thus, a complaint filed for the benefit of or on behalf of all such consumers (who have not received possession of their flats) and claiming same relief for all of them, would be maintainable under Section 12(1)(c) of Consumer Protection Act. ***-[Ambrish Kumar Shukla & 21 Ors., v. Ferrous Infrastructure Private Ltd., 7th October, 2016, (NCDRC)]***

ENVIRONMENT

1. INDIA, EU SIGN MOU TO CLEAN RIVERS

India and the European Union (EU) on 07.10.2016 signed a Memorandum of Understanding (MoU) for Water Partnership to clean Indian rivers with European assistance at World Sustainable

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Development Summit (WSDS) organised by The Energy and Resources Institute (TERI). -[*The Times of India, dated 7th October, 2016*]

2. NGT DIRECTS DELHI GOVT TO SHUT PICKLING UNITS

Noting that the pickling units fall under prohibited list of industries as per Master Plan 2021, the NGT has directed the Delhi Government to shut down such industries units located in the city with immediate effect. Pickling is a metal surface treatment used to remove impurities like stains, inorganic contaminants, rust or scales from ferrous and precious metals, copper and aluminium alloys. - [*The Times of India, dated 6th October, 2016*]

3. NGT QUESTIONS DEMOLITIONS UNDER DELHI REDEVELOPMENT PLAN

Alleging that over 1.86 lakh trees would be destroyed in the demolition of seven government residential colonies in New Delhi, the NGT has sought the views of the centre on the issue, asking why it should not stop the redevelopment plan. The Tribunal was acting on a plea by ex-union minister Raghunath Jha. In his complaint Mr Jha alleged that the demolition of residential colonies - Sarojini Nagar, Netaji Nagar, Nauroji Nagar, Kasturba Nagar, Thyagaraj Nagar, Srinivaspuri and Mohammadpur - was being done in haste, and in violation of environmental norms. NGT issued notices to the Environment Ministry, Ministry of Urban Development (MoUD) and state-owned construction firm National Buildings Construction (NBCC) Limited on the issue. Advocate Sumeet Sodhi has been appointed as *amicus curiae* to probe the complaint. -[*The Hindu, dated 13th October, 2016*]

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