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## RBI/FEMA

### 1) INTRODUCTION OF LEGAL ENTITY IDENTIFIER FOR OTC DERIVATIVES MARKETS

RBI has decided to implement the LEI system for all participants in the Over-the-Counter (OTC) markets for Rupee Interest Rate derivatives, foreign currency derivatives and credit derivatives in India, in a phased manner. Accordingly, it has been notified that all current and future participants would be required to obtain the unique LEI code as per time lines indicated in the annexed schedule to this Circular. Entities without an LEI code would not be eligible to participate in the OTC derivative markets, after the date specified in the schedule.

The Legal Entity Identifier (LEI) code has been conceived of as a key measure to improve the quality and accuracy of financial data systems for better risk management post the Global Financial Crisis. The LEI is a 20-character unique identity code assigned to entities who are parties to a financial transaction. - **[FMRD.FMID No.14/11.01.007/2016-17, dated 1st June, 2017]**

### 2) FIRMS CAN NOW ISSUE MASALA BONDS ONLY POST RBI APPROVAL

On a review of the laid down framework for issuance of Rupee denominated bonds overseas (Masala Bonds) and with a view to harmonize the various elements of the ECB framework, RBI has decided that any proposal of borrowing by eligible Indian entities by issuance of these bonds will be examined at the Foreign Exchange Department, Central Office, Mumbai. It has also been decided to revise the provisions in respect of maturity period, all-in-cost ceiling and recognized lenders (investors) of Masala Bonds as under:

- i. Maturity period: Minimum original maturity period for Masala Bonds raised upto USD 50 million equivalent in INR per financial year should be 3 years and for bonds raised above USD 50 million equivalent in INR per financial year should be 5 years.
- ii. All-in-cost ceiling: The all-in-cost ceiling for such bonds will be 300 basis points over the prevailing yield of the Government of India securities of corresponding maturity.
- iii. Recognised investors: Entities permitted as investors under the provisions of paragraph 3.3.3 of the Master Direction but should not be related party within the meaning as given in Ind-AS 24. - **[A. P. (DIR Series) Circular No.47, dated 7th June, 2017]**

### 3) COMPULSORY RECORDING OF PPO NUMBER IN THE PASSBOOK OF PENSIONERS / FAMILY PENSIONERS

RBI has decided to record the PPO number in all the pension passbooks of the pensioners/family pensioners issued to them. This is to alleviate the difficulties reported by pensioners/family pensioners to get duplicate Pension Payment Orders (PPO) in case of missing of original PPO, transfer of pension

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account from one bank/branch to another bank/branch, commencement of family pension to spouse or dependent children after the death of pensioner, etc. in the absence of ready availability of PPO numbers. -

*[DGBA.GBD.No.3235/45.01.001/2016-17, dated 8th June, 2017]*

#### 4) RATINGS OF INFOMERICS ADDED FOR PURPOSE OF RISK WEIGHTING CLAIMS FOR CAPITAL ADEQUACY PURPOSES

RBI through the present Circular has decided that banks may also use the ratings of the INFOMERICS Valuation and Rating Pvt Ltd. (INFOMERICS) for the purpose of risk weighting their claims for capital adequacy purposes in addition to the existing six domestic credit rating agencies viz. CARE, CRISIL, FITCH India, ICRA, Brickwork Ratings and SMERA. - *[DBR.No.BP.BC.74/21.06.009/2016-17, dated 13 June, 2017]*

#### 5) EXCLUSION OF "THE ROYAL BANK OF SCOTLAND N.V." FROM THE SECOND SCHEDULE TO THE RBI ACT

RBI has excluded "The Royal Bank of Scotland N.V." from the Second Schedule to the RBI Act which means it is no more a scheduled bank. - *[DBR.No.Ret.BC.75/12.07.150/2016-17, dated 22nd June, 2017]*

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### FOREIGN TRADE

#### 1) IMPORT POLICY OF POULTRY AND POULTRY PRODUCTS

Import policy of poultry and poultry products has been revised and will be regulated as per present Circular and amended from time to time, issued under

the Livestock Importation Act, 1898. - *[NOTIFICATION No. 9 /2015-2020, 8<sup>th</sup> June, 2017, (DGFT)]*

#### 2) PROHIBITION ON IMPORT OF MILK AND MILK PRODUCTS FROM CHINA

Prohibition on import of milk and milk products (including chocolates and chocolate products and candies/ confectionery/ food preparations with milk or milk solids as an ingredient) from China is extended for one more year, i.e., till 23<sup>rd</sup> June, 2018 or until further orders, whichever is earlier. - *[NOTIFICATION No. 10 /2015-2020, 22<sup>nd</sup> June, 2017, (DGFT)]*

#### 3) AMENDMENT IN EXPORT POLICY FOR BAMBOO PRODUCTS.

Export of Mull Bamboo till 31<sup>st</sup> March, 2019 and bamboo products (except bamboo charcoal, bamboo pulp and unprocessed bamboo shoots) made from bamboo obtained from legal sources has been permitted. - *[NOTIFICATION No. 11 /2015-2020, 23<sup>rd</sup> June, 2017, (DGFT)]*

#### 4) SUPPLY OF ESSENTIAL COMMODITIES TO THE REPUBLIC OF MALDIVES

Export of potato, onion, rice, wheat flour and sugar has been permitted to the Republic of Maldives under bilateral trade agreement between Government of India and Government of Maldives during the period 2017-18 w.e.f. April, 2017 as per the quantities indicated in the notification. The export of above items to Republic of Maldives will be exempted from any existing or future restriction / prohibition on export. - *[NOTIFICATION No. 12 /2015-2020, 27<sup>th</sup> June, 2017, (DGFT)]*

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## CORPORATE

### 1) DISPUTE NEED NOT BE A SUIT OR PROCEEDING. IT COULD EVEN BE REPLY TO DEMAND NOTICE.

The Petitioner was appointed as consultants and advisors with an annual fee and bonus to be paid committed to be paid by the Respondent. From June, 2012 till February 2015, no bill was raised on the request of the Respondent Company. A bill was raised in March 2015 but the amount owed was not been settled. Petitioner therefore filed a petition before the Tribunal after serving a copy to the Respondent.

The Respondent however raised issue with the amount demanded and alleged that Petitioner's claim was contingent on certain targets being achieved which were not fulfilled and thus the claim for the amount owed was incorrect. The Respondent's primary ground for opposing the petition was reliance on sub-section (5) of Section 9 of Insolvency and Bankruptcy Code, whereby the Adjudicating Authority is required to reject an insolvency application in case where there is a dispute. Thus, the central issue dealt with by the Tribunal was whether there was a bona fide dispute.

Relying upon the judgment of NCLAT in *Kirusa software private limited v. Mobilox Innovation P. Ltd.*, the Tribunal observed, that dispute need not be a suit or proceeding it could be even by way of reply to demand notice, but the Adjudicating Authority has to see whether the dispute raised by the corporate debtor in reply to the notice is bona fide on substantial grounds or it is only raised to give a colour of dispute or it is illusory dispute. On the review of

facts of the case the Tribunal found that the dispute raised by the Respondent company was a bona fide dispute on substantial grounds, and accordingly, rejected the petition filed by the Petitioner. – *[M/s.Capital Partners v. Reliance Defence and Engineering, 2<sup>nd</sup> June, 2017, (National Company Law Tribunal, Ahmedabad)]*

### 2) A PETITION CAN BE FILED ON BASIS OF VALID POWER OF ATTORNEY AND ALSO BY AN ASSIGNEE OF OPERATIONAL CREDITOR.

The Tribunal was faced with the issue of determining the validity of filing the petition for initiating corporate insolvency resolution process by a power of attorney holder. The Tribunal in this regard held that where a power of attorney is executed post enactment of the Insolvency and Bankruptcy Code, 2016 (“Code”) which does not specifically authorise the attorney holder to file a petition under the Code but authorises the attorney holder to file a petition for winding up before any court/tribunal, in such circumstance, the nature of the Code cannot be seen as something different from the winding up proceedings, therefore, it is construed that the power of attorney authorising the attorney holder to file the winding up petition would fully cover the authority to file petition before the Tribunal for the initiation of the insolvency resolution process under the Code.

In the present case, a sales agreement was entered into by the corporate debtor (Respondent herein) and the original supplier. Subsequently, a non-recourse receivable agreement was entered between the original supplier and the petitioner (hereinafter referred to as “Operational Creditor”) whereby, the Operational Creditor purchased the original supplier's rights, title and interest against the corporate debtor. The Tribunal was therefore faced with the question whether the Petitioner was entitled to file this petition



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as an assignee of the original supplier. In light of Section 5(20) of the Insolvency and Bankruptcy Code, 2016 which defines an Operational Creditor as a person to whom an operational debt is owed and includes the person to whom such debt has been legally assigned or transferred, the Tribunal held that the perusal of the definition of Operational Creditor shows that it has wide connotation to include the Petitioner. Accordingly, the Petitioner was allowed to file the petition as an assignee of the original supplier.

*–[ Macquarie Bank Limited v. Uttam Galva Metallics Limited, 1<sup>st</sup> June, 2017, (NCLT, Chandigarh)]*

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## SECURITIES

### 1) RECORDING OF NON-DISPOSAL UNDERTAKING IN THE DEPOSITORY SYSTEM.

SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 requires promoters of a company to disclose details of their encumbered shares including Non-Disposal Undertakings (NDU) by promoters which are covered under the scope of disclosures of 'Encumbrances'.

In this regard SEBI, in the present Circular noted that promoters enter into NDU while borrowing funds from various lenders and undertake not to transfer or otherwise alienate the securities (which is in nature of negative lien in favour of the lender). SEBI pointed out that currently there is no mechanism to capture the details of NDU in records of depositories.

For this purpose, SEBI has asked depositories to develop a separate module/ transaction type in their system for recording NDUs; (ii) both parties to the NDU shall have a Demat account with the same depository and be KYC compliant; (iii) pursuant to entering into of NDU, the Beneficial Owner (BO)

along with the other party shall make an application through the participant (where the BO holds his securities) to the depository, for the purpose of recording the NDU transaction; (iv) the application shall include details of BO ID, PAN, email-id, signature, name of entity in whose favour NDU has been entered and the quantity of securities. The entity in whose favor NDU is entered, shall also authorize the participant of the BO holding the shares, to access the signatures as recorded in that entity's Demat account; (v) the participant on satisfaction that securities are available for NDU shall record the NDU and freeze for debit the requisite quantity of securities under the NDU; (vi) On creation of freeze in the depository system, the depository/ participant of the BO holding shares, shall inform both parties of the NDU regarding creation of freeze under NDU; (vii) The depositories shall make suitable provisions for capturing the details of company/ promoters if they are part of the NDU; (viii) In case if the participant does not create the NDU, it shall intimate the same to the parties of the NDU along with the reasons thereof; (ix) the NDU may be cancelled by the depository/participant of the BO through unfreeze of specified quantity if parties to the NDU jointly make such application to the depository through the participant of the BO; (x) On unfreeze of shares upon termination/ cancellation of NDU, the depository shall inform both parties of the NDU in the form and manner agreed upon at the time of creating the freeze. The unfreeze shall be effected in the depository system after a cooling period of 2 clear business days but no later than 4 clear business days; (xi) The freeze and unfreeze instructions executed by the Participant for recording NDUs will be subject to 100% concurrent audit; (xii) The DPs shall not facilitate or be a party to any NDU outside the depository system as outlined herein; and (xiii) the terms of this circular have to be implemented by the depositories within four months from the date of this circular. –

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*[CIR/MRD/DP/56/2017, 14<sup>th</sup> June, 2017, (SEBI)].*

## **2) PARTICIPATION OF NRIs IN THE EXCHANGE TRADED CURRENCY DERIVATIVE (ETCD) SEGMENT.**

RBI through its 2<sup>nd</sup> February 2017 Circular had permitted NRIs to participate in the exchange traded currency derivatives market to hedge the currency risk arising out of their investments in India under FEMA, 1999. The position limits for specified currency pairs have been provided in the Circular, however the position in these currency pairs are subject to (i) NRIs designating Authorized Dealer Category I bank who is also a clearing member of the stock exchange for the purpose of reporting their combined positions in the Over The Counter (OTC) and ETCD segment; (ii) NRI can hedge their currency risk subject to their rupee investment being under permissible limit (as per FEMA Act and rules) and (iii) the onus of complying with this Circular and RBI Circular dated 2<sup>nd</sup> February, 2017 is on the NRI and contravention will be dealt with under FEMA. –  
*[SEBI/HO/MRD/DP/CIR/P/2017/63, 28<sup>th</sup> June, 2017 (SEBI)]*

## **3) INTERNATIONAL SECURITIES IDENTIFICATION NUMBER (ISIN) FOR DEBT SECURITIES ISSUED UNDER SEBI (ISSUE AND LISTING OF DEBT SECURITIES) REGULATIONS, 2008.**

SEBI in order to increase the float of debt issues with same tenor, issued during a quarter by an issuer, SEBI suggested issuing them under the same umbrella ISIN. Accordingly, for private placement of debt securities, SEBI has decided that following should be specified:

A maximum of 17 ISIN maturing a financial year shall be allowed. However, an additional number of

12 ISIN shall be available for issuance of capital gains tax debt securities by authorized issuers (Section 54EC of Income Tax Act). SEBI has also provided for a bifurcation of 17 ISINs maturing in a financial year: (a) a maximum of 12 ISINs maturing per financial year shall be allowed only for plain vanilla debt securities. Within this however, the issuer can issue both secured and unsecured debt securities; (b) a maximum of 5 ISINs (i.e. for structured debt securities such as debt securities with call and/or put option etc.) maturing per financial year shall be allowed only for structured products/market linked debt securities. Where the issuer only issues structured/market linked debt securities, he may utilize all 12 ISINs in a financial year only for structured/market linked debt securities but would not be made available with remaining 5 ISINs, either for structured debt or plain vanilla debt securities.

The maturity of structured/market linked debt securities which have embedded options, shall be reckoned on the basis of their original maturity date rather than the period of option. The provision of this Circular applies to debt securities issued in the financial year 2017-18.

Exemption from applicability of ISINs: Certain classes of debt securities issued for raising regulatory capital are exempt from applicability of this circular. They are: (a) tier II bonds issued by housing finance companies with minimum maturity of five years; (b) tier II bonds issued by standalone primary dealers with minimum maturity of five years; (iii) subordinated debt issued by insurance companies which is either perpetual or issued for not less than 10 years for life, general and reinsurance companies and 7 years for health insurance companies; tier I bonds issued by banks under basel III norms and tier II bonds having minimum maturity period of five years; bonds issued by banks to raise resources for long term infrastructure sector lending and for affordable

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housing with minimum maturity of 7 years; perpetual debt instruments by systematically important non-deposit taking NBFCs; and tier II bonds issued by non-systematically important non-deposit taking NBFCs.

An issuer may honour its debt obligations arising out of such ISIN restriction in the manner it deems feasible, depending on different category of investors i.e. staggered repayments or bullet maturity repayments. The issuer for making change in terms of payment, change in interest, payout frequency may have to adhere by Regulation 59 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. The issuer is further required to make changes in articles of association within six months from this Circular to carry out consolidation and re-issuance of debt securities. The issuer is also required to submit a confirmation certificate in this regard within 30 days from the end of half year.

**Reporting and Monitoring:** All issuers who have issued debt securities through private placement are required to make disclosures, within 15 days of issue of this circular, in the format prescribed in the circular, which includes details on ISIN number, maturity date, coupon rate, payment frequency, embedded option if any, amount issued and amount outstanding. Such statement has to be submitted to the stock exchange and depository also in case of a listed debt security, 15 days from the end of every half year. *–[CIR/IMD/DF-1/ 67/2017, 30<sup>th</sup> June, 2017, (SEBI)]*

#### **4) ACCEPTANCE OF E-PAN CARD FOR KYC PURPOSE.**

Central Board of Direct Taxes (CBDT) recently introduced the facility of applying and procuring e-pan card. Accordingly, through present circular SEBI clarified that e-pan cards issued by CBDT can also be

produced by Foreign Portfolio Investors for KYC compliance.–

***[SEBI/HO/IMD/FIIC/CIR/P/2017/068, 30<sup>th</sup> June, 2017, (SEBI)]***

#### **5) CLARIFICATION ON MONITORING OF INTEREST/PRINCIPAL REPAYMENT AND SHARING OF SUCH INFORMATION WITH CREDIT RATING AGENCIES BY DEBENTURE TRUSTEE.**

The SEBI Circular requires Debenture Trustee (DT) to have adequate systems to ascertain the status of payment of interest/principal by issuer companies on due dates in timely manner and efficiently share such information with the credit rating agencies (CRAs) in order to comply with SEBI (Debenture Trustee) Regulations, 1993.

To enforce this, SEBI requires (i) DTs to seek confirmation on payment status of interest/principal from issuer companies; (ii) accordingly provide CRAs ISIN wise information latest by one day after such due date which shall state the following: (a) information about payment made on or before the due date or (b) information about delay/default in payment or (c) no information forthcoming from the issuer company on the payment status; (iii) in case no information is forthcoming from the issuer company, DT shall update the CRA as and when any such information is available to it.

The DTs are also required to ascertain the payment status of the issuer company from other sources which, *inter alia*, include the websites of stock exchange & Issuer Company, debenture holders and quarterly reports submitted by Issuer Companies. DT Regulations mandate the DTs to exercise due diligence to ensure compliance by the body corporate, with the provisions of the Companies Act, the listing agreement of the stock exchange or



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the trust deed [Regulation 15(1)(i)], and thus DT has to ensure that the listed entity has submitted a certificate to stock exchange within two days of interest or principal of listed debt securities becoming due (as required under the listing regulations).

DTs in their communication to the Issuer Companies as mentioned in point no. 2(i) above shall inform them that non-furnishing of information regarding status of payment by due date or non-disclosure of information with respect to timely payment by them on stock exchange website may be considered as suppression of material information and may attract provisions of Section 12A of the Securities and Exchange Board of India Act, 1992 and SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003. Further, in case of default or failure to create charge on assets and revision of rating, DT is required to disclose the information to the investors and the general public by issuing press release.

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[SEBI/HO/MIRSD/MIRSD3/CIR/P/2017/72,  
30<sup>th</sup> June, 2017, (SEBI)]

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## COMETITION

### 1) HYUNDAI MOTORS PENALISED FOR RESALE PRICE MAINTENANCE.

Competition Commission of India issued a ceased and desist order and imposed a penalty of Rs. 87 crore against Honda Motors India Limited (HMIL) for imposing resale price maintenance on its dealers in sale of passenger cars manufactured by it. It was alleged that ex-showroom price of the cars sold by dealers was fixed by HMIL which was the maximum price at which a dealer could sell the cars. Further, it followed a mechanism involving monitoring maximum permissible discounts, such that dealers

were not permitted to give discounts beyond recommended range and this was marked by penalties for deviation. Accordingly, by fixing the maximum resale price as well as the maximum amount of discount that can be granted to customers, the HMIL effectively imposed minimum resale price, which result is accrual of no consumer benefits. Resale price maintenance has been prohibited under Section 3(4) of the Competition Act as agreements that fix a minimum resale price restrict competition. —[*Fx Enterprise Solutions India Pvt. Ltd. v. Hyundai Motors India Limited*, 14<sup>th</sup> June, 2017, (CCI)]

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## INDIRECT TAXES

### a. CUSTOMS

#### 1) BCD ON SPECIFIED STEEL ITEMS REDUCED

Notification No. 12/2012-Customs amended, so as to reduce the basic customs duty on certain grades of steel to 5 per cent if they are for use in the manufacture of cold rolled grain oriented (CRGO) steel. - [*Notification No. 23 /2017 – Customs, dated 12th June, 2017*]

#### 2) TAXATION LAWS (AMENDMENT) ACT, 2017 CAME IN EFFECT FROM 1ST JULY, 2017

The CBEC vide present Circular declared the 1st day of July, 2017 as the date on which all the provisions of the Taxation Laws (Amendment) Act, 2017 shall come into force. - [*Notification No. 25 /2017 – Customs, dated 28th June, 2017*]

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### 3) INDIA - MALAYSIA COMPREHENSIVE ECONOMIC COOPERATION AGREEMENT (BILATERAL SAFEGUARD MEASURES) RULES, 2017 NOTIFIED

CBEC has notified the India-Malaysia Comprehensive Economic Cooperation Agreement (Bilateral Safeguard Measures) Rules 2017, under which investigation would be made and bilateral safeguard measures suggested / recommended in case of complaints that the reduced rates of import duty under the India-Malaysia trade agreement are causing injury to domestic industry. - *[Notification No. 55/2017 - Customs (N. T.), dated 21st June, 2017]*

### 4) KANNUR INTERNATIONAL AIRPORT DECLARED AS CUSTOMS AIRPORT

Notification No. 61/94 (NT) - Customs, dated the 21st November, 1994 amended so as to declare Kannur International Airport as Customs Airport under sub-section (2) of Section 7 of the Customs Act, 1962. - *[Notification No. 56/2017-Customs (N.T.), dated 23rd June, 2017]*

### 5) PROVISIONAL ANTI-DUMPING DUTY, ON 'TOLUENE DI-ISOCYANATE' (TDI)

Provisional anti-dumping duty levied on 'Toluene Di-Isocyanate' (TDI) originating in or exported from China PR, Japan and Korea RP for a period of six months (unless revoked, superseded or amended earlier) from the date of imposition of the provisional anti-dumping duty, that is, 5th June, 2017. - *[Notification No. 25/2017 - Customs (ADD), dated 5th June, 2017]*

### 6) EXTENSION OF ADD ON "PLAIN GYPSUM PLASTER BOARDS"

ADD imposed on the imports of "Plain Gypsum Plaster Boards" originating in or exported from China PR, Indonesia, Thailand and UAE extended for a period of one year upto and inclusive of 06.06.2018. - *[Notification No. 26/2017 - Customs (ADD), dated 7th June, 2017]*

### 7) PROVISIONAL ADD ON "CERAMIC TABLEWARE AND KITCHENWARE, EXCLUDING KNIVES AND TOILET ITEMS"

Provisional ADD imposed on the imports of "ceramic tableware and kitchenware, excluding knives and toilet items", originating in or exported from China PR for a period not exceeding six months(unless revoked, amended or superseded earlier) from the date of publication of this Notification in the Gazette of India. - *[Notification No. 27/2017 - Customs (ADD), dated 12th June, 2017]*

### 8) ADD ON THE IMPORTS OF "HYDROGEN PEROXIDE"

ADD imposed on the imports of "Hydrogen Peroxide" originating in or exported from Bangladesh, Taiwan, Korea RP, Pakistan and Thailand for a period of five years. - *[Notification No. 28/2017 - Customs (ADD), dated 14th June, 2017]*

#### b. CENTRAL EXCISE

### 1) NOTIFICATION OF NEW JURISDICTIONS OF OFFICERS OF CENTRAL EXCISE AND SERVICE TAX



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Eyeing GST, new jurisdictions of officers of Central Excise and Service Tax have been notified. - *[Notification No. 12/2017 - Central Excise (N.T.), dated 9th June, 2017 & Notification No. 13/2017 - Central Excise (N.T.), dated 9th June, 2017]*

## **2) AMENDMENT TO CENVAT CREDIT RULES, 2004**

Cenvat Credit Rules, 2004 amended so as to allow un-availed CENVAT Credit in respect of services provided by the Government, local authority or any other person by way of assignment of the right to use of any natural resource. - *[Notification No. 15/2017 - Central Excise (N.T.), dated 12th June, 2017]*

## **3) NOTIFICATION OF NEW CENTRAL EXCISE RULES & CENVAT CREDIT RULES, 2017**

The CBEC has notified the new Central Excise Rules, 2017 & CENVAT Credit Rules, 2017. - *[Notification No. 19/2017 - Central Excise (N.T.), dated 30th June, 2017 & Notification No. 20/2017 - Central Excise (N.T.), dated 30th June, 2017]*

### **c. SERVICE TAX**

#### **1) SERVICE TAX RETURN FOR THE PERIOD FROM 01.04.2017 TO 30.06.2017 TO BE SUBMITTED BY 15.08.2017**

Rule 7 and 7B of the Service Tax Rules 1994 amended so that the return for the period from 01.04.2017 to 30.06.2017 shall be submitted by

15.08.2017. - *[Notification No. 18/2017 - Service Tax, dated 22nd June, 2017]*

### **d. GST**

*The CBEC has amended many of the Customs, Central Excise Duties and Service Tax notifications including the drawback rules with a view to insert necessary changes under the new indirect tax regime GST.*

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### **INTELLECTUAL PROPERTY RIGHTS**

#### **1) COURT ALLOWED PLAINTIFF'S LEAVE PETITION TO COMBINE THE CAUSE OF ACTION OF PASSING OFF WITH THE CAUSE OF ACTION FOR INFRINGEMENT OF TRADE MARK WHEN THE CAUSE OF ACTION FOR PASSING OFF ARISES OUTSIDE THE JURISDICTION OF THE COURT**

In a trademark infringement and passing off suit, the Leave Petition is filed by the Plaintiff on the basis that the plaintiff's suit for infringement of its registered trade mark is maintainable before this Court and that under Clause XIV of the Letters Patent, the plaintiff be permitted to combine the cause of action of passing off with the cause of action for infringement of trade mark in the above suit. The cause of action for passing off arises outside the jurisdiction of this Court. The Court observed that if leave is granted, it will also be convenient to the defendants as otherwise, the defendants will have to defend an action for infringement of trade mark in this Court and for passing off in the Courts of Andhra Pradesh. Court finding support in the judgments of the Bombay HC *Indchemie Health Specialities Pvt. Ltd. v.*

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*Intas Pharmaceuticals and Anr. 2 and Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd., allowed the leave petition. - [Kalpataru Properties Pvt. Ltd. vs. Sri Kalpataruvu Chits (India) Pvt. Ltd. & Anr., dated 28th June, 2017 (Bombay HC)]*

## 2) GUIDELINES ISSUED FOR FILING WELL-KNOWN TRADEMARK

The office of CGPD™, for the sake of convenience to general public, issued guidelines for filing applications for well-known trademark. - *[CG Office/TMR/Well-Known TM/ 355, dated 22.05.2017]*

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## CONSUMER

### 1) NATIONAL COMMISSION OBSERVED BUILDER BUYER AGREEMENT TO BE MORE FAVOURABLE TOWARDS BUILDERS.

The Complainants had alleged unfair trade practice and deficiency in service by Kanpur Development Authority for keeping the money given by the complainants for allotment of a plot and returning the amount on cancellation without interest. The Commission in this regard held that builder buyer agreements are more favourable towards builders. The builder exercises right to charge penalty or interest at 18-24% on the delayed payment of instalments. Thus, in the interest of natural justice the consumers at large also deserve to receive same interest from opposite parties in cases of fault of deficiency. The Complainants prayer for grant of interest on amount returned was accepted. -*[Sheo Prakash*

*Gupta and Another v. Kanpur Development Authority, 12<sup>th</sup> June, 2017, (NCDRC)]*

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## ENVIRONMENT

### 1. NGT ASKS HIMACHAL GOVERNMENT TO ENSURE BAN ON ILLEGAL MINING

The NGT has directed the Himachal Pradesh government to ensure there is no illegal mining in the state "under any circumstances". Responding to a plea alleging unauthorised excavation on government land in Kangra, a circuit bench headed by NGT chairperson Justice Swatanter Kumar asked the state government to submit a restoration plan for damage caused to the area where illegal sand mining has been carried out in the past. The green panel also issued notices to four persons who were allegedly carrying out mining in Kangra district. - *[The Times of India, dated 24th June, 2017]*

### 2. PANEL STUDIES DRAFT BILL ON GANGA POLLUTION

Stepping up its efforts to finalise details of the proposed law on Ganga, a government's expert panel deliberated on finer points of the draft National River Ganga (Rejuvenation, Protection and Management) Bill, 2017 which proposes penalty, including jail terms, for those who pollute the river or obstruct its flow. The draft bill was framed by a panel formed by the Centre under the chairmanship of Justice (retired) Giridhar Malviya in July last year. - *[The Times of India, dated 14th June, 2017]*

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