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## RBI/FEMA

### 1) **CREDIT INFORMATION COMPANIES (CICS) TO FURNISH COMPREHENSIVE CREDIT INFORMATION REPORTS (CIRS) IN RESPECT OF A BORROWER TO THE CREDIT INSTITUTIONS (CIS)**

RBI vide para (v) of Annex IV of its Circular DBOD.No.CID.BC.127/20.16.056/2013-14 dated June 27, 2014 advised CICs to include information on all accounts, both current and past, of a customer having multiple borrowings, in her/his CIR. However, it was observed that some CICs are following the practice of offering limited versions of CIRs to CIs based on credit information available in specific modules such as commercial data, consumer data or MFI data. Accordingly, CICs are charging differential rates for such specific reports. Consequently, the lenders remain unaware of the entire credit history of the borrower, if any, available in other modules and this adversely affects the quality of credit decisions of the CIs. Therefore, CICs are directed through the present Circular to ensure that the CIR in respect of a borrower, furnished to the CI, incorporates all the credit information available in all modules, e.g. consumer,

commercial and MFI, etc., in respect of the borrower. —

*[DBR.CID.BC.No.79/20.16.042/2017-18, dated 2nd August, 2017]*

### 2) **RBI AMENDS RULES ON LEVEL 1 ASSETS IN BASEL III LIQUIDITY STANDARDS**

RBI has amended its guidelines for Basel III framework on liquidity standards by annexing with the present Circular an amended text for the liquidity standard, which should be read in combination with the earlier RBI circulars on liquidity coverage ratio (LCR), liquidity risk monitoring tools, and the LCR disclosure standard. For banks incorporated in India, certain amendments have been made regarding Level 1 assets of banks that can be included in the stock of liquid assets without any limit, also without applying any haircut. — *[DBR.BP.BC.No. 81/21.04.098/2017-18, dated 2nd August, 2017]*

### 3) **RBI CLARIFIES ITS ROLE INVOLVING ISSUE OF LETTERS OF CREDIT (LC) AND BANK GUARANTEE (BG) FOR THE GOVERNMENT**

RBI has clarified that it will continue not to issue LCs on behalf of government and will not act as an issuing or advising bank for government as far as transactions related to BGs are concerned. It is advised that the government department concerned, would directly be taking up the matter with any commercial bank identified by them and all matters concerned with the issuances of LC should be dealt with by the government and the commercial banks, without involving RBI. It is further clarified that as LC/BG business is not part of agency banking, government can choose any commercial bank for this purpose. The role of RBI is strictly limited to reimbursement of payments made by the banks for such LCs/BGs on behalf of the government, after

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satisfying itself with the debit mandate given by the government. Further, RBI may not issue any letter advising / recommending opening of LC/BG to the commercial banks on behalf of government department. –

**[DGBA.GBD.No.279/31.02.007/2017-18, dated 3rd August, 2017]**

#### **4) CHANGE OF INSTRUCTIONS RELATING TO REPORTING OF RISK MANAGEMENT AND INTERBANK DEALINGS**

In terms of para (viii) under Part-E (Reports to the Reserve Bank) of the Master Directions on Risk Management and Inter-Bank Dealings dated July 5, 2016, the Head/Principal Office of AD Category-I banks are required to submit a statement in form BAL giving details of their holdings of all foreign currencies on fortnightly basis through Online Returns Filing System (ORFS). The same needs to be done within seven calendar days from the close of the reporting period to which it relates. RBI has now decided that w.e.f. August 16, 2017 (i.e., for the statement of first fortnight of August 2017) this statement may be submitted through the web portal at <https://bop.rbi.org.in> as per the format given in Annexure I to this Circular. Further the submission of monthly statement of Nostro/Vostro account balances in terms of para (ii) under Part-E of the aforementioned master direction has now been discontinued. – **[A .P. (DIR Series) Circular No. 3, dated 10th August, 2017]**

#### **5) RBI ISSUES RESERVE BANK COMMERCIAL PAPER DIRECTIONS, 2017**

The RBI has issued revised guidelines for commercial papers (CP), including mandating that the issuer must disclose the end-use of such funds and that it cannot buy back its securities before 60 days from the sale to investors. The issuer would

also need to ensure that proceeds from CP issuance are used to finance only current assets and operating expenses. Among other guidelines, the RBI said the issuer must receive at least two ratings from a credit agency, and would have to assign the lower rating to the CP, up from a requirement of needing only one rating. – **[FMRD.DIRD.2/14.01.002/2017-18, dated 10th August, 2017]**

#### **6) RBI ALLOWS USE OF RATING OF FIXED DEPOSITS BY INFOMERICS VALUATION AND RATING PRIVATE LIMITED (IVRPL)**

RBI has decided that NBFCs can also use the ratings of IVRPL for the purpose of rating the fixed deposit portfolios of NBFCs with IVR BBB as the minimum investment grade credit rating. The other agencies are - Credit Rating Information Services of India Limited (CRISIL), ICRA, Credit Analysis and Research (CARE), Fitch Ratings India, Brickwork Ratings India and SME Rating Agency of India. – **[DNBR (PD).CC.No.89/03.10.001/2017-18, dated 14th August, 2017]**

#### **7) RELEASE OF DOCUMENT ON FUNCTIONAL AND TECHNICAL REQUIREMENTS FOR CORE BANKING SOLUTION IN URBAN CO-OPERATIVE BANKS**

A document dealing with the functional and technical requirements for Core Banking Solution in Urban Co-operative Banks has been prepared by the Institute for Development and Research in Banking Technology (IDRBT) in consultation with the Reserve Bank which is expected to serve as a reference material for implementing and improving CBS in the banks. The document can be accessed at the IDRBT website under the link [http://www.idrbt.ac.in/assets/publications/Reports/CBS\\_Requirements\\_for\\_UCBs.pdf](http://www.idrbt.ac.in/assets/publications/Reports/CBS_Requirements_for_UCBs.pdf). –

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*[DCBR.BPD.PCB.Cir.No.03/09.18.300/2017-18,  
dated 16th August, 2017]*

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## FOREIGN TRADE

### 1) AMENDMENT IN IMPORT POLICY CONDITIONS OF RED SANDERS

Import of Red Sanders (*Pterocarpus santalinus*) is prohibited. *–[Notification No. 17/2015-2020, 1<sup>st</sup> August, 2017 (DGFT)]*

### 2) EXPORT POLICY FOR MULI BAMBOO AND BAMBOO PRODUCTS

Proforma for obtaining Certificate of Origin (COO) for export of (i) Muli bamboo (*Melconna baccifera*); and (ii) Bamboo products made from bamboo obtained from legal source (except bamboo charcoal, bamboo pulp and unprocessed bamboo shoots) has been notified. *–[Public Notice No. 15/2015-2020, 2<sup>nd</sup> August, 2017, (DGFT)]*

### 3) AMENDMENT IN APPENDIX 2E OF FTP 2015-2020

The change in name of Indian Merchants' Chamber to IMC Chamber of Commerce and Industry and new address of Trade Promotion Council of India are notified, under Appendix 2E of FTP, 2015-2020. *–[Public Notice No. 16/2015-2020, 4<sup>th</sup> August, 2017, (DGFT)]*

### 4) AMENDMENT IN IMPORT POLICY OF PIGEON PEAS (CAJANUS CAJAN)

Import policy of Pigeon Peas (*Cajanus cajan*)/Toor Dal under EXIM Codes: 07136000, 07139010 and 07139090 is revised from 'free' to 'restricted'. –

*[Notification No: 19/2015-2020, 5<sup>th</sup> August, 2017, (DGFT)]*

### 5) SUPPLY OF ESSENTIAL COMMODITIES TO THE REPUBLIC OF MALDIVES DURING 2017-18

Export of eggs (232805000 numbers) and pulses(dhal) (122.23 MT) 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 Table at Para 1 above. The export of above items to Republic of Maldives will be exempted from any existing or future restriction / prohibition on export. *– [Notification No. 20/2015-2020, 14<sup>th</sup> August, 2017, (DGFT)]*

### 6) AMENDMENT IN IMPORT POLICY OF BEANS

Import policy of Urad/ Moong dal under EXIM Codes: 0713 31 00 is revised from 'free' to 'restricted'. *–[Notification No.22/2015-2020, 21<sup>st</sup> August, 2017, (DGFT)]*

### 7) ENTITLEMENT TO EXPORT FREELY EXPORTABLE ITEMS FREE OF COST BY STATUS HOLDERS

Status holders shall be entitled to export freely exportable items (excluding Gems and Jewellery, Articles of Gold and precious metals) on free of cost basis for export promotion subject to an annual limit of Rupees One Crore or 2% of average annual export realization during preceding three licensing years, whichever is lower. For export of pharma products by pharmaceutical companies, the annual limit would be 2% of the average annual export realization during preceding three licensing years. In case of supplies of pharmaceutical products, vaccines and lifesaving drugs to health programmes of international agencies



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such as UN, WHO-PAHO and Government health programmes. the annual limit shall be up to 8% of the average annual export realization during preceding three licensing years. Such free of cost supplies shall not be entitled to Duty Drawback or any other export incentive under any export promotion scheme. –*[Notification No. 23/2015-2020, 23<sup>rd</sup> August, 2017, (DGFT)]*

## 8) AMENDMENT IN APPENDIX 2G OF FTP 2015-20.

M/s SNG Inspection Services, UP with its branch offices in Malaysia, Vietnam and Indonesia is de-listed from Appendix 2G and made ineligible issue Pre-Shipment Inspection Certificates. – *[Public Notice No. 19/2015-2020, 23<sup>rd</sup> August, 2017, (DGFT)]*

## 9) INTRODUCTION OF APPENDIX- 2X

Import and export restriction on all items of milk and milk products from People's Republic of China and all items of gold and silver from South Korea. – *[Public Notice No. 20/2015-2020, 25<sup>th</sup> August, 2017, (DGFT)]*

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## CORPORATE

### 1) LIMITATION ACT DOES NOT APPLY TO INSOLVENCY PROCEEDINGS

In this judgment the National Company Law Appellate Tribunal ("NCLAT") had to deal with the subject of admission of insolvency application filed by a financial creditor against the corporate debtor in connection with default of redemption of debentures.

Interestingly, as the debentures matured in years 2011, 2012 and 2013, the limitation period of 3 years for seeking remedy had expired, but still the financial creditor filed the insolvency application before the National Company Law Tribunal.

In the said case, NCLAT had to adjudicate upon two very important and interesting issues, as under:

1. Whether the provisions of Limitation Act apply to proceedings initiated under Insolvency & Bankruptcy Code, 2016 ("Code")?
2. Whether, in absence of record of default as recorded with the information utility or any other "record or evidence of default" specified by the Insolvency Board, an application under Section 7 of the Code is maintainable or not?

NCLAT held that the provisions of Limitation Act, 1963 were not applicable to the proceedings initiated under the provisions of the Code. The ruling effectively allows parties to initiate insolvency proceedings for time barred debts (i.e., debts which could not be recovered due to expiry of limitation period).

Taking into consideration that the corporate debtor had issued debenture certificates and also that the corporate debtor had acknowledged the debt in its financial statements which were prepared after the default, NCLAT considered the same to be sufficient and admissible evidence to establish a default of debt under Section 7 of the Code. –*[Neelkanth Township and Construction Pvt. Ltd. v. Urban Infrastructure Trustees Limited, 11th August, 2017, the National Company Law Appellate Tribunal (NCLAT)]*

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## SECURITIES

### 1) DISCLOSURE BY LISTED ENTITIES ON DEFAULT OF DEBT (INTEREST AND PRINCIPAL AMOUNT)

The extant SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 require specific disclosures upon delay/default in payment of interest/principal on debt securities, including listed Non-Convertible Debentures, listed Non-Convertible Redeemable Preference Shares, Foreign Currency Convertible Bonds (FCCBs) etc. Similar disclosures are presently not stipulated for any delay or default with respect to loans from banks and financial institutions.

Thus, to make information available to investors, listed companies are mandated through the SEBI Circular to disclose default (Default for the purpose of this Circular shall mean non-payment of interest or principal amount in full on the pre-agreed date) of interest/instalment obligations on debt securities (including commercial papers), Medium Term Notes (MTNs), Foreign Currency Convertible Bonds (FCCBs), loans from banks and financial institutions, External Commercial Borrowings (ECBs) etc.

**APPLICABILITY:** SEBI Circular is applicable to all listed entities, which have listed their equity and convertible securities, including non-convertible debt securities and non-convertible and redeemable preference shares.

**TIMING OF DISCLOSURES:** The listed entities are required to make disclosures *within one working day* from the date of default, at the first instance of default, in format provided in the SEBI Circular.

**LIST OF DISCLOSURES:** The format provided in the Circular, *inter alia* requires details of name of

listed entity, nature of obligation (type of instrument), name of lenders (or number of investors in security), date of default, amount of default, gross amount on which default has occurred etc.

If there is any outstanding amount under default in any quarter, *SEBI Circular also requires disclosures within seven days* from the end of such quarter. Format for making such disclosure has been provided in the Circular and *inter alia* requires details on nature of obligations (debt securities or loans from banks and financial institutions), total amount outstanding and cumulative amount of default.

The Circular also clarifies that listed entities are separately required to provide information pertaining to default to concerned credit rating agencies in manner specified by SEBI.

The Circular comes into effect from October 1, 2017. **–[CIR/CFD/CMD/93/2017, August 4, 2017]**

### 2) ACTION AGAINST EXCLUSIVELY LISTED COMPANIES AND ITS PROMOTERS/DIRECTORS PENDING EXIT OPTION TO SHAREHOLDERS.

SEBI vide its Circular dated October 10, 2016 had provided an option to Exclusively Listed Companies (ELCs) to either raise required capital to meet the minimum capital requirement to be listed on nationwide stock exchanges or to provide exit to investors. ELCs were required to furnish their plan of action by January 09, 2017 to Designated Stock Exchanges (DSE) which was subsequently extended to June 30, 2017.

The SEBI Circular (October 10, 2016) mandated the following actions for non-compliant ELCs: - (a) the

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company, its promoters, directors and companies which are promoted by them shall not directly or indirectly associate with the securities market or seek listing of equity shares for a period of ten years from the exit from the Dissemination Board (DB); (b) freezing of shares of the promoters/directors; (c) list of directors, promoters etc. of the non-compliant companies shall be shared with related agencies; and (d) attachment of bank accounts/other assets of promoters/directors of the companies so as to compensate the investors.

Where no exit option is provided to public shareholders of ELCs that are non-compliant with the provisions of SEBI Circular mentioned above, to protect such shareholders, present SEBI Circular mandated that: - (a) till the time the non-compliant ELCs provide an exit option to public shareholders, such ELCs and the depositories shall not effect transfer, by way of sale, pledge etc. of any of the equity shares and the corporate benefits, such as dividend, rights, bonus shares, split etc. shall be frozen for all equity shares held by promoters of directors; (b) the non-compliant ELCs, its promoters, directors and companies promoted by any of them, shall not be eligible to access the securities market; and (c) the promoters or directors of such non-compliant ELCs shall not be eligible to become director of any listed company. –

**[SEBI/HO/MRD/DSA/CIR/P/2017/92, 1<sup>st</sup> August, 2017, (SEBI)]**

### **3) SEBI CAN ISSUE AD INTERIM EX PARTE ORDER TO MEET TWO OBJECTIVES OF SEBI ACT- THE PROTECTION OF INVESTORS' INTEREST AND ORDERLY GROWTH OF CAPITAL MARKET**

Appellant in the present Appeal sought to challenge show cause notice and ad-interim *ex parte* orders of SEBI, against the Appellant and other Key

Managerial Persons (KMP) of United Spirits Limited (USL). The Appellant vide orders of SEBI had been restrained from accessing the securities market, holding position as Director or KMP of any listed company and directed to file reply to SEBI within 21 days.

SEBI's prima facie view was that the Appellant was instrumental in diverting funds from USL to certain United Breweries Group Companies. Importantly, the auditor of USL issued a qualified report in 2013-14 highlighting that Rs. 649.55 Crore was due to be received from its debtors. Certain sums of monies were advanced by USL (under the chairmanship of Appellant). The beneficiaries of these monies further lent the money advanced to certain group companies of UB Group. Later in 2013, loans due from the debtors (approximately 1337.40 crores) were consolidated into and recorded as an unsecured loan vide an agreement between USL and United Breweries Holdings Limited (UBHL). Further, the payment that was forthcoming from the debtors was made conditional to the debtors getting paid by UBHL. In 2015, UBHL defaulted in payment of interest to USL as it was under winding up. An investigation conducted by PWC-UK at the behest of USL revealed that funds from USL had been diverted and ultimate beneficiaries of these advances by group companies of UBHL. Further, investigations conducted by Ernst and Young (E&Y) revealed more improprieties between USL and its Indian and Overseas subsidiaries, that appeared to be affiliated to the Appellant. Based on these reports and investigations, WTM of SEBI passed the impugned Order. Although, SEBI gave 21 days to the Appellants to file a reply, no such reply was filed and instead present Appeal was filed before SAT.

The Counsel for the Appellant challenged that there was no urgency that occasioned an ex-parte ad interim order, breaching principles of natural justice. Further, it was argued that SEBI failed to fulfil the



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condition of causing an enquiry or investigation required under Section 11(4) and 11(B) of SEBI Act. The counsel for the Appellant also submitted that SEBI has no power to rely on private reports to pass ex-parte ad interim order. While the private reports can corroborate SEBI's investigation but cannot in itself form sole basis. It was also argued that Appellant has been wrongly charged with breach of PFUTP regulations, as any charge of fraudulent and unfair trade practice has to be in relation to dealing in securities or manipulation in price of scrip.

The Tribunal noted that invoking the jurisdiction under Section 11(4) and 11(B) of SEBI Act is an extraordinary power and shall be used sparingly, but in this instance, SEBI was justified. The Tribunal also rejected that argument that SEBI did not have material of its own to sustain the impugned order. The Tribunal also noted that the ex-parte impugned order was a prima facie view and was to effectively operate only for 21 days from date of issuance and if the Appellant had appeared before SEBI and pointed out perversity, irregularity, illegality or irrationality in the impugned order, SEBI could have modified or recalled the Order. Accordingly, the Appeal was dismissed and Appellant was given 21 days to make submissions before SEBI. -[*Paramjit Singh Gill v. SEBI, 11<sup>th</sup> August, 2017 (SAT)*]

#### **4) MCA's COMMUNICATION IN RELATION TO SUSPECTED SHELL COMPANIES REQUIRED SEBI TO FIRST INVESTIGATE THE CREDENTIAL/FUNDAMENTALS OF THE COMPANIES SO NAMED BEFORE INITIATING ANY ACTION AGAINST THEM.**

In the present Appeal, the Appellants had challenged the communication (dated August 7, 2017) issued by SEBI to Bombay Stock Exchange (BSE), National Stock Exchange of India Limited (NSE) and

Metropolitan Stock Exchange of India Limited, which had essentially termed the Appellants companies along with 331 other companies as suspected shell companies and accordingly, trade in the shares of such companies was restricted to once a month under trade to trade category. Upward price movement in the securities beyond the last traded price was not permitted and additional surveillance deposit of 200% of trade value shall be collected from the buyer and retained for five months with the exchanges.

Further, the promoters and directors of the 331 suspected shell companies were disallowed from transacting in the security except to buy the securities until verification of credential/fundamental by exchanges. Exchanges were also asked to appoint an independent auditor to conduct audit of such companies. If on verification, appropriate credentials/fundamentals were found missing, then the exchanges were directed to initiate proceedings for compulsory delisting against the company.

SEBI opposed the challenge to its communication before the Tribunal by citing decision of Apex Court in NSDL v. SEBI (reported in (2017) 5 SCC 517) where the Supreme Court of India held that administrative circulars of SEBI fall outside the appellate jurisdiction of Securities Appellate Tribunal.

The Tribunal, however noted that the impugned communication was not general direction given by SEBI to the three exchanges but specific directions in respect of only 331 listed companies which Ministry of Corporate Affairs (MCA) suspected to be shell companies, and thus the impugned communication was not an administrative order but a quasi-judicial order and hence appealable.

The Tribunal noted that the letter addressed by MCA merely required SEBI to investigate as to whether the

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331 companies named therein which were suspected to be shell companies, were in fact shell companies and whether the said companies had any credentials/fundamentals. The action taken by SEBI was without conducting any investigation, and the fact that decision was taken two months after MCA's communication shows that there was no urgency in issuing the impugned communication without investigating the credentials/fundamentals of the companies named in the communication. Accordingly, the Tribunal stayed the communication of SEBI dated August 07, 2017, qua the two Appellants, BSE and NSE were directed to reverse their decisions. *–[ J. Kumar Infraprojects Ltd. v. SEBI, 10<sup>th</sup> August, 2017, (SAT)]*

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## COMPETITION

### 1) APPELLATE TRIBUNAL ASKED CCI TO RESERVE SUGGESTIONS TO STATE GOVERNMENT IN THE NAME OF PUBLIC INTEREST

The Competition Commission of India (CCI) had asked Karnataka State Road Transport Corporation (KSRTC) to take fresh view on the flexi rates it charged on certain bus routes citing larger public interest, even as it rejected the complaint of abuse of dominance by KSRTC. The National Company Law Tribunal (NCLT) however stated that since the CCI had not found any abuse of dominance, it cannot impose any modification on KSRTC's flexi scheme. The Appellate Tribunal importantly held that CCI had no authority to express its views as to what the state government was required to do in the name of larger public interest. *–[Karnataka State Road Transport Corporation v. Sree Gajanana Motor Transport Co. Limited & Others, 2<sup>nd</sup> August, 2017, (NCLAT)]*

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## INDIRECT TAXES

### a. CUSTOMS

#### 1) BCD ON EDIBLE OILS INCREASED

Notification No.50/2017-Customs dated 30th June, 2017 amended, so as to:

- i. Increase the BCD on crude soya bean oil from 12.5% to 17.5%;
- ii. Increase the BCD on crude palm oil of edible grade from 7.5% to 15%; and
- iii. Increase the BCD on refined palm oil of edible grade from 15% to 25%. – *[Notification No. 71/2017-Customs, dated 11th August, 2017]*

#### 2) EXEMPTION FROM DUTY ON TEMPORARY IMPORT OF MACHINERY, EQUIPMENT OR TOOLS

Notification No. 27/2002- Customs dated 1st March, 2002 superseded to provide exemption to temporary import of goods (Machinery, equipment or tools, falling under Chapters 84, 85, 90 or any other Chapter of the First Schedule to the Customs Tariff Act, 1975) from Customs duty leviable under First Schedule to the Customs Tariff Act, 1975 and from the whole of the integrated tax leviable under sub-section (7) of Section 3 of the Customs Tariff Act, 1975 subject to specified conditions. – *[Notification No. 72/2017 – Customs, dated 16th August, 2017]*

#### 3) INDIA - KOREA COMPREHENSIVE ECONOMIC COOPERATION AGREEMENT (BILATERAL)



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## **SAFEGUARD MEASURES) RULES, 2017 NOTIFIED**

The CBEC through the present Circular has notified the India - Korea Comprehensive Economic Cooperation Agreement (Bilateral Safeguard Measures) Rules, 2017. – *[Notification No. 77/2017 – Customs (N.T.), dated 4th August, 2017]*

## **4) CLASSES OF IMPORTERS NOTIFIED WHO SHALL PAY CUSTOMS DUTY ELECTRONICALLY**

The CBEC has amended the Notification No. - 83/2012- Customs (N.T.) dated 17.09.2012 and has made it mandatory that the below classes of importers shall pay customs duty electronically, namely: (i) importers registered under Authorised Economic Operator Programme; and (ii) importers paying customs duty of ten thousand rupees or more per bill of entry. – *[Notification No. 80/2017 – Customs (N.T.), dated 17th August, 2017]*

## **5) ADD ON OPAL GLASSWARE**

Anti-dumping duty imposed on "Opal Glassware", originating in or exported from China PR and UAE for a period of five years. – *[Notification No. 37/2017 - Customs (ADD), dated 9th August, 2017]*

## **6) ADD ON TEXTURED TOUGHENED (TEMPERED) GLASS**

Anti-dumping duty imposed on "Textured Toughened (Tempered) Glass", originating in or exported from China PR for a period of five years. – *[Notification No. 38/2017 - Customs (ADD), dated 18th August, 2017]*

## **7) ADD ON SODIUM NITRITE**

Anti-dumping duty imposed on the imports of "Sodium Nitrite" originating in or exported from China PR for a period of five years. – *[Notification No. 40/2017 - Customs (ADD), dated 25th August, 2017]*

## **8) ADD ON CASTINGS FOR WIND OPERATED ELECTRICITY GENERATORS**

Definitive anti-dumping duty levied on Castings for Wind Operated Electricity Generators originating in or exported from China PR for a period of five years. – *[Notification No. 42/2017 - Customs (ADD), dated 30th August, 2017]*

## **9) ADD ON STYRENE BUTADIENE RUBBER (SBR)**

Anti-dumping duty imposed on "Styrene Butadiene Rubber (SBR)", originating in or exported from European Union, Korea RP or Thailand for a period of five years. – *[Notification No. 43/2017 - Customs (ADD), dated 30th August, 2017]*

## **10) CBEC CLARIFIES THE POINT OF COLLECTION OF INTEGRATED GOODS AND SERVICES TAX (IGST) ON HIGH SEA SALES OF IMPORTED GOODS**

'High Sea Sales' is a common trade practice whereby the original importer sells the goods to a third person before the goods are entered for customs clearance. High sea sales of imported goods are akin to inter-state transactions. Owing to this, the question before the Board was that whether the high sea sales of imported goods would be chargeable to IGST twice i.e., at the time of Customs clearance under sub-

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section (7) of Section 3 of Customs Tariff Act, 1975 and also separately under Section 5 of The Integrated Goods and Services Tax Act, 2017. It has been clarified that that IGST on high sea sale (s) transactions of imported goods, whether one or multiple, shall be levied and collected only at the time of importation i.e., when the import declarations are filed before the Customs authorities for the customs clearance purposes for the first time. Further, value addition accruing in each such high sea sale shall form part of the value on which IGST is collected at the time of clearance. – *[Circular No. 33/2017 - Customs, dated 1st August, 2017]*

## **11) GUIDELINES FOR PROVISIONAL RELEASE OF SEIZED IMPORTED GOODS PENDING ADJUDICATION UNDER SECTION 110A OF THE CUSTOMS ACT, 1962**

The CBEC has issued guidelines for guidance of the adjudicating authorities in order to ensure uniformity and to streamline the divergent procedures being followed for grant of provisional release of imported goods which are seized under Section 110 of the Customs Act, 1962. – *[Circular No. 35/2017 - Customs, dated 16th August, 2017]*

### **b. CENTRAL EXCISE**

## **1) FRESH FORMS SPECIFIED FOR MONTHLY RETURN FOR PRODUCTION AND REMOVAL OF GOODS AND CENVAT CREDIT**

The CBEC has specified return forms ER-1 & ER-3 under Rule 12 of Central Excise Rules, 2017 and Rule 11 (5) of CENVAT Credit Rules, 2017 in supersession of Notification No. 16/2011-CE (NT)

for monthly return for production and removal of goods and other relevant particulars and CENVAT credit. – *[Notification No. 23/2017 - Central Excise (N.T.), dated 9th August, 2017]*

## **2) FRESH FORMS SPECIFIED FOR MONTHLY RETURN FOR 100% EOUS IN RESPECT OF GOODS MANUFACTURED, GOODS CLEARED AND RECEIPT OF INPUTS AND CAPITAL GOODS**

The CBEC has specified return ER-2 under Rule 23 (3) of Central Excise Rules, 2017 and Rule 11 (3) of CENVAT Credit Rules, 2017 in supersession of Notification No. 24/2008-CE (NT) for monthly Return for hundred per cent export-oriented undertakings in respect of goods manufactured, goods cleared and receipt of inputs and capital goods. – *[Notification No. 24/2017 - Central Excise (N.T.), dated 9th August, 2017]*

## **3) CBEC CLARIFIES ON REQUIREMENT OF SUBMITTING BANK CERTIFICATE EVIDENCING RECEIPT OF PAYMENT IN FREELY CONVERTIBLE CURRENCY UNDER NOTIFICATION NO. 45/2001-CE (NT) DATED 26.06.2001 FOR EXPORT TO BHUTAN FOR SPECIFIED HYDROELECTRIC PROJECTS**

The CBEC received references seeking clarification on, whether proof of export, namely Bank certificate evidencing receipt of payment in freely convertible currency as required under Notification No. 45/2001-CE (NT) dated 26.06.2001 as amended, for export of commodities to Bhutan would have to be submitted in the case of export for the following Hydroelectric projects, namely, Kurichu Hydro Electric Project, Tala Hydro Electric Project, Punatsangchhu-I Hydro Electric Project,

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Punatsangchhu-II Hydro-Electric Project, Mangdechhu Hydro-Electric Project and Kholongchhu Hydro Electric Project, which are being constructed with the assistance of Government of India as part of Bilateral Agreements with Bhutan. It has been clarified that payment condition relating to currency with regard to export of commodities to Bhutan for the said Hydroelectric projects shall be considered to have been discharged in cases where payment has been received in Indian currency through the banking channels. – **[Circular No. 1058/07/2017-CX, dated 16th August, 2017]**

## c. GST

### 1) EXTENSION OF TIME LIMIT FOR FURNISHING VARIOUS FORMS FOR THE MONTHS OF JULY AND AUGUST, 2017

- i. FORM GSTR-1 (for filing of details of outward supplies): July – From 1st September to 5th September, 2017; August – From 16th September to 20th September, 2017. – **[Notification No. 18/2017 – Central Tax, dated 8th August, 2017]**
- ii. FORM GSTR-2 (for filing of details of inward supplies): July – From 6th September to 10th September, 2017; August – From 21st September to 25th September, 2017. – **[Notification No. 19/2017 – Central Tax, dated 8th August, 2017]**
- iii. FORM GSTR-3: July – From 11th September to 15th September, 2017; August – From 26th September to 30th September, 2017. – **[Notification No. 20/2017 – Central Tax, dated 8th August, 2017]**
- iv. FORM GSTR-6: July – Last date 8th September; August – Last date 23rd

September, 2017. – **[Notification No.26/2017 – Central Tax, dated 28th August, 2017]**

- v. FORM GSTR-3B: August – Last date 20th September, 2017. – **[Notification No. 21/2017 – Central Tax, dated 8th August, 2017]**

### 2) CGST RULES, 2017 AMENDED

CGST Rules, 2017 has been amended vide which amendments has been made in many Rules and Forms. For eg: Period for submission of details of stock has been extended from 60 days to 90 days for registered persons operating under Composition scheme. Also, Forms like FORM GST REG-01, FORM GST REG-13 have been amended. – **[Notification No. 22/2017 – Central Tax, dated 17th August, 2017]**

### 3) REDUCTION OF CGST RATE ON SPECIFIED PARTS OF TRACTORS

CGST rate on specified parts of tractors has been reduced from 14% to 9 %. – **[Notification No. 19/2017-Central Tax (Rate), dated 18th August, 2017]**

Similar corresponding Notifications have also been issued under IGST Act and UTGST Act. – **[Notification No. 19/2017- Integrated Tax (Rate), dated 18th August, 2017 & Notification No. 19/2017- Union Territory Tax (Rate), dated 18th August, 2017]**

### 4) REDUCTION OF CGST RATE ON SPECIFIED SUPPLIES OF WORKS CONTRACT SERVICES, JOB WORK FOR TEXTILE & TEXTILE PRODUCTS,



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## **PRINTING SERVICE OF BOOKS, NEWSPAPERS ETC.**

Notification No. 11/2017-CT(R) amended so as to reduce CGST rate on specified supplies of Works Contract Services, job work for textile & textile products, printing service of books, newspapers etc, admission to planetarium, and, also to provide option of GTA & transport of passengers by motorcab service providers to avail full ITC & discharge CGST @ 6%. – *[Notification No.20/2017-Central Tax (Rate), dated 22nd August, 2017]*

Similar corresponding Notifications have also been issued under IGST Act and UTGST Act. – *[Notification No. 20/2017- Integrated Tax (Rate), dated 22nd August, 2017 & Notification No. 20/2017- Union Territory Tax (Rate), dated 22nd August, 2017]*

## **5) REVERSE CHARGE (RCM) PROVISIONS RELATING TO GOODS TRANSPORT AGENCIES (GTA) AMENDED AND EXPLANATION FOR LLP INSERTED**

The CBEC has amended provisions relating to GST Reverse Charge on Services supplied by GTA (i.e., recipient is not required to pay GST under RCM for services supplied by GTA which has paid Central Tax @6%) and has clarified that LLP is to be treated as a Partnership Firm or a Firm. – *[Notification No. 22/2017- Central Tax (Rate), dated 22nd August, 2017]*

Similar corresponding Notifications have also been issued under IGST Act and UTGST Act. – *[Notification No. 22/2017- Integrated Tax (Rate), dated 22nd August, 2017 & Notification No. 22/2017- Union Territory Tax (Rate), dated 22nd August, 2017]*

## **6) ELECTRONIC COMMERCE OPERATOR (ECO) RESPONSIBLE FOR PAYMENT OF GST ON SERVICES PROVIDED BY WAY OF HOUSE-KEEPING**

Notification No. 17/2017-CT(R) amended so as to make ECO responsible for payment of GST on services provided by way of house-keeping such as plumbing, carpentering etc. – *[Notification No. 23/2017-Central Tax (Rate), dated 22nd August, 2017]*

Similar corresponding Notifications have also been issued under IGST Act and UTGST Act. – *[Notification No. 23/2017- Integrated Tax (Rate), dated 22nd August, 2017 & Notification No. 23/2017- Union Territory Tax (Rate), dated 22nd August, 2017]*

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## **INTELLECTUAL PROPERTY RIGHTS**

### **1) BOMBAY HC: “OVERALL STRUCTURAL AND PHONETIC SIMILARITY BETWEEN THE PRODUCTS, FEVIKWIK OF THE PLAINTIFF AND KWIKHEAL OF THE DEFENDANT IS LIKELY TO CAUSE CONFUSION IN THE MINDS OF THE PUBLIC”**

Pidilite Industries Limited, filed a trade mark infringement suit before the Bombay HC for restraining the Defendants from manufacturing, importing, selling, advertising, offering to sell or dealing in any products bearing the mark ‘KWIKHEAL’ or any other mark which is identical or similar to the Plaintiff’s registered trade mark ‘FEVIKWIK’. In the suit it is stated that, the

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Defendants have adopted an identical packaging, and the mark 'KWIKHEAL' is written in an identical font and in red lettering as that of FEVIKWIK. Further, it is stated that the words 'one drop instant adhesive' at the bottom of the word KWIKHEAL is also identical. Plaintiff argued that the infringing mark is causing loss to the goodwill and reputation of Plaintiff's business and diluting the distinctiveness of the registered trade mark. The Court held that the mark 'KWIKHEAL' used by the defendant is prima facie deceptive and misleading, and opined that the identical packaging had been adopted to ride on the reputation of the Plaintiff. The Court further held that the overall structural and phonetic similarity between the two products is likely to cause confusion in the minds of the public as the word 'Kwik' is a dominant part of the trade mark of the Plaintiff's 'FEVIKWIK'. The Court has issued a permanent injunction in favor of the Plaintiff based on the aforesaid reasoning. The Court inter-alia also observed that a condition or disclaimer on registration of mark in one class cannot be imported into registration of the same mark in another class. – *[Pidilite Industries Limited v. Poma-Ex Products and 15 Ors, dated 2nd August, 2017 (Bombay HC)]*

## **2) DELHI HC: “RIGHT TO CLAIM INJUNCTION BY PLEADING PASSING OFF IS A RIGHT WHICH IS A STEP/SHADE BELOW THE RIGHT ASSERTED OF INFRINGEMENT OF A TRADEMARK”**

The Delhi HC while rejecting the right to claim interim injunction in the cause of action of passing off by the appellant/plaintiff for the same reasons already given for refusing interim injunction on the causes of action of infringement and dilution of the trademark under Sub-Section (4) of Section 29 of the Trade Marks Act, observed that right to claim

injunction by pleading passing off is a right which is a step/shade below the right asserted of infringement of a trademark. Claim of passing off is however a step above the right claimed of dilution of trademark or violation of the provision of Sub-Section (4) of Section 29 of the Trade Marks Act. Once interim injunction cannot be granted with respect to the right asserted under Sub-Section (4) of Section 29 of the Trade Marks Act, then surely no interim injunction can be claimed for the higher step right of passing off. – *[Advance Magazine Publishers Inc v. Bombay Rayon Fashions Limited & Ors., dated 23rd August, 2017 (Delhi HC)]*

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## **CONSUMER**

### **1) REQUEST FOR ACCOUNT DETAILS AFTER 28 YEARS HELD TO BE BARRED BY TIME.**

The apex consumer commission refused to accept the charge of deficiency of service by a bank, where the complainant/petitioner had approached the bank after 28 years of his father's death, to know the status of his father's account and claim the money deposited in it. The Commission held that complainant's request was hopelessly time barred. The Commission held that after a lapse of 28 years the complainant/petitioner cannot allege deficiency of service if the record of his father's account is not available. – *[Shiv Bachan Jha v. Central Bank of India, 17<sup>th</sup> August, 2017, (NCDRC)]*

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## **ENVIRONMENT**

### **1. BOMBAY HIGH COURT STAYS CENTRE'S MOVE TO SHIFT GOA'S NGT CASES TO DELHI**

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High court of Bombay at Goa, taking suo motu cognizance of the decision of the Ministry of Environment, Forest and Climate Change (MoEFCC) to transfer Goa's environmental cases from the Pune bench of the NGT to the Delhi bench, has issued a notice to the government. The HC questioned as to why Goa has been singled out while no change has been made in the status of the two other states from the western region — Maharashtra and Karnataka — which continue under the jurisdiction of the Pune bench. The HC has restrained authorities from moving files pertaining to Goa cases from NGT Pune bench to Delhi bench, till September 5, which is the next date of hearing. - *[The Times of India, dated 22nd August, 2017]*

## 2. CENTRE ISSUES GUIDELINES FOR DIVERTING FOREST LAND

The economic viability of any development project that involves diversion of forest land may now reduce with the Environment Ministry coming up with new cost benefit analysis guidelines. The new guidelines submitted to the NGT by the ministry comprise a number of new costs for diversion of forest land, including possession costs and habitat fragmentation costs. - *[The Times of India, dated 8th August, 2017]*

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