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JUST TO
REMIND
YOU:

- Dec 24 - GST Return for Composition Dealer
- Dec 27 - GST TRAN - I
- Dec 30 - Payment of TDS of Purchase of Property for November
- Dec 31 - GSTR - I for July - September for T/o less than 1.5 Crore
- Dec 31 - GSTR - I for July - October for T/o more than 1.5 Crore

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MahaRera: Land Owners/ Investors having Area/ Revenue Share in Real Estate Project to be treated as Promoter

Whereas, under section 37 of the **Real Estate (Regulation and Development) Act, 2016** ("said Act") the MahaRERA is vested with the power to issue directions from time to time to the promoters, allottees or real estate agents, as it considers necessary from time to time.

Whereas, the Chairperson, MahaRERA is also vested with the powers of general superintendence and directions in the conduct of affairs of the Authority under section 25 of the said Act.

Whereas, under powers granted to the MahaRERA and its Chairperson under the aforesaid provisions of the said Act and since the MahaRERA considers it necessary in the interest of the promoters and the allottees, the present Circular is issued exercising powers under the aforesaid provisions of the said Act.

Whereas the Section 2(zk) of the said Act defines the term 'a Promoter' as follows:

"promoter" means, — (i) a person who constructs or causes to be constructed an independent building or a building consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or

(ii) a person who develops land into a project, whether or not the person also constructs structures on any of the plots, for the purpose of selling to other persons all or some of the plots in the said project, whether with or without struc-

tures thereon; or

(iii) any development authority or any other public body in respect of allottees of—(a) buildings or apartments, as the case may be, constructed by such authority or body on lands owned by them or placed at their disposal by the Government; — (b) plots owned by such authority or body or placed at their disposal by the Government, for the purpose of selling all or some of the apartments or plots; or

(iv) an apex State level co-operative housing finance society and a primary co-operative housing society which constructs apartments or buildings for its Members or in respect of the allottees of such apartments or buildings; or

(v) any other person who acts himself as a builder, coloniser, contractor, developer, estate developer or by any other name or claims to be acting as the holder of a power of attorney, from the owner of the land on which the building or apartment is constructed or plot is developed for sale: or

(vi) such other person who constructs any building or apartment for sale to the general public.

Explanation.—For the purposes of this clause, where the person who constructs or converts a building into apartments or develops a plot for sale and the persons who sells apartments or plots are different persons, both of them shall be deemed to be the promoters and shall be jointly liable as such for the functions and responsibilities specified. under this Act or the



rules and regulations made there under; "

Whereas, keeping in view the overall purpose, object and the intention behind enacting the said Act, more particularly various duties, responsibilities and obligations imposed thereby upon the MahaRERA so as to *inter-alia* bring in (i) maximum transparency in the real estate sector and resultantly to promote it (ii) awareness about the provisions of the said Act and educate general public about nuances of it, it is found requisite by the MahaRERA to issue appropriate clarification and/or explanation, for the better understanding, working and implementation of the said Act and the Rules framed there under, as also for the removal of doubts, if any and if at all, in regard to the aforesaid definition of the term 'Promoter' contained in the said Act.

Whereas, during the online registration process, especially for on-going projects, it was observed that several developers (who actually obtain building permissions and construct) of the real estate project, have entered into arrangement with individuals/ organizations like land owners or investors, by which the said individuals/ organizations are entitled to a



share of the total revenue generated from sale of apartments or share of the total area developed for sale which are also marketed and / or sold by such individuals / organizations.

Whereas, a careful consideration of the aforesaid definition in the light of the true object and purpose of the said Act leaves no manner of doubt that such individuals/ organizations are also covered and clearly fall within the aforesaid definition of the term 'Promoter' and as such are Promoters within the meaning of the said terms for the purpose and for the implementation of the said Act and all the rules framed there under. They are therefore jointly liable for the functions and responsibilities specified in the Act in the same manner as the Promoter who actually obtains building permissions and carries out construction.

Whereas, for the ease of filing online registration application and for the benefit of the consumers it is necessary to distinguish and / or identify

whether such Promoter is the land owner, investor or is actually obtaining the building permissions for carrying, out the construction and is in fact carrying out construction.

Therefore, it is directed that

(1) Such individuals/ organizations who fall within the aforesaid definition of the term 'Promoter' on account of being landowners or investors, shall be specified as such, at the time of online registration with MahaRERA.

(2) Though liabilities of such land owner Promoter or investor Promoter shall be as co-terminus with the written agreement / arrangement governing their rights in the real estate project, for the purpose of withdrawal from the designated bank account of a real estate project, the obligations and liabilities of all such Promoters shall be at par with each other.

(3) A copy of the written agreement or arrangement between Promoters (whether landowner or investor) which clearly specifies and details the rights and shares of each

Promoter, should be uploaded on the MahaRERA website, along with other details for public viewing.

(4) Such landowner Promoter and investor Promoter should also submit declaration in Form B of Maharashtra Real Estate (Regulation and. Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, rates of Interest and Disclosures on website) Rules, 2017.

(5) Further each such landowner Promoter or investor Promoter, who is entitled to a share of the total area developed, should also open separate bank account for deposit of 70% of the sale proceeds realized from the allottees of their share.

This circular shall replace the MahaRERA Order No MahaRERA/LA/32/2017 dated 1st May, 2017 and shall be effective from 11th May 2017.

Indirect Transfer provisions in case of redemption of share or interest outside India

Under the provisions contained in section 9(1)(i) of the Income-tax Act, 1961 ('Act'), all income accruing or arising, whether directly or indirectly, through or from any business connection in India. or through or from any property in India, or through or from any asset or source of income in India or through the transfer of a capital asset situate in India, shall be deemed to accrue or arise in India. Ex-

planations 5, 6 and 7 of section 9(1)(i) further define the scope of said provision.

2. Concerns have been expressed by investment funds, including private equity funds and venture capital funds, that on account of the extant indirect transfer provisions in the Act. non-resident investment funds investing in India, which are set up as multi-tier investment structures, suffer

multiple taxation of the same income at the time of subsequent redemption or buyback. Such taxability arises firstly at the level of the fund in India on its short term capital gain/ business income and then at every upper level of investment in the fund chain on subsequent redemption or buyback. The Board has received representations to exclude investors above the level of the direct inves-



tor, who is already chargeable to tax in India on such income, from the ambit of indirect transfer provisions of the Act.

3. Addressing such concerns in his Budget speech on 1st February, 2017, the Finance Minister had stated that Category I and Category II Foreign Portfolio Investors (FPI) will be exempted from indirect transfer provisions. It was also stated that a clarification will be issued that indirect transfer provisions shall not apply in case of redemption of shares or interests outside India as a result of or arising out of redemption or sale of investment in India which is chargeable to tax in India.

4. Vide [Finance Act, 2017](#), Category I and Category II FPIs have already been exempted from indirect transfer provisions of the Act through insertion of proviso to *Explanation 5* to section 9(1)(i) of the Act, with effect from 01.04.2015.

5. There could be situations in multi-tiered investment structures, where interest or share held indirectly by a non-resident in an Investment Fund or a Venture Capital Company or a Venture Capital Fund (hereinafter referred to as 'specified funds'), is redeemed in an upstream entity outside India in consequence of transfer of shares or securities

held in India by the specified funds, the income of which have been subject to tax in India. In such cases, application of indirect transfer provisions on redemption of share or interest in the upstream entity may lead to multiple taxation of the same income. In respect of Category I and Category II FPIs though, such multiple taxation will not take place on account of the insertion of proviso to *Explanation 5* to section 9(1)(i) of the Act, vide Finance Act, 2017.

6. The matter has been examined by the Board and it has been decided that the provisions of section 9(1)(i) of the Act read with *Explanation 5* thereof shall not apply in respect of income accruing or arising to a non-resident on account of redemption or buyback of its share or interest held indirectly (i.e. through upstream entities registered or incorporated outside India) in the specified funds if such income accrues or arises from or in consequence of transfer of shares or securities held in India by the specified funds and such income is chargeable to tax in India. However, the above benefit shall be applicable only in those cases where the proceeds of redemption or buyback arising to the non-resident do not exceed the pro-rata share of the non-resident in the total consideration

realized by the specified funds from the said transfer of shares or securities in India. It is further clarified that a non-resident investing directly in the specified funds shall continue to be taxed as per the extant provisions of the Act.

For the purposes of this Circular,

(i) "Investment fund" shall have the meaning assigned to it in clause (a) of *Explanation 1* to section 115UB of the Act.

(ii) "Venture capital company" and "venture capital fund" shall have the meanings respectively assigned to them in *Explanation* to clause (23FB) of section 10 of the Act.



CBDT extends date for linking of Aadhaar with PAN

Under the provisions of recently introduced section 139AA of the Income-tax Act, 1961 (the Act), with effect from 01.07.2017, all taxpayers having Aadhaar Number or Enrolment Number are required to link the same with Permanent Account Number (PAN). In view of the difficulties faced by some of the taxpayers in the process, the date

for linking of Aadhaar with PAN was initially extended till 31st August, 2017 which was further extended upto 31st December, 2017.

It has come to notice that some of the taxpayers have not yet completed the linking of PAN with Aadhaar. Therefore, to facilitate the process of linking, it has been decided to further extend the time

for linking of Aadhaar with PAN till 31.03.2018.





Clarification on Cash sale of agricultural produce by cultivators/ agriculturist

Representations have been received from the stakeholders regarding applicability of income-tax provision to cash sale of agricultural produce by cultivators/ agriculturists to traders.

2. In this context, it is stated that the provisions of section 40A (3) of the Income-tax Act, 1961 ('the Act') provides for the disallowances of expenditure exceeding Rs. 10000 made otherwise than by an account payee cheque/draft or use of electronic clearing system through a bank account. However, rule 6DD of the **Income-tax Rules, 1962** ('IT Rules') carves out certain exceptions from application of the provisions of section 40A (3) in some specific cases and circumstances, which *inter alia* include payments made for purchase of

agricultural produce to the cultivators of such produce. Therefore, no disallowance under section 40A (3) of the Act can be made if the trader makes cash purchases of agricultural produce from the cultivator.

3. Further, section 269ST, subject to certain exceptions, prohibits receipt of Rs. 2 lakh or more otherwise than by an account payee cheque/draft or by use of electronic clearing system through a bank account from a person in a day or in respect of a single transaction or in respect of transactions relating to an event or occasion from a person. Therefore, any cash sale of an amount of Rs. 2 lakh or more by a cultivator of agricultural produce is prohibited under section 269ST of the Act.

4. Further also the provisions

relating to quoting of **PAN** or furnishing of Form No.60 under rule **114B** of the IT Rules do not apply to the sale transaction of Rs. 2 Lakh or less.

5. In view of the above, it is clarified that cash sale of the agricultural produce by its cultivator to the trader for an amount less than Rs 2 Lakh will not:-

- a) result in any disallowance of expenditure under section 40A (3) of the Act in the case of trader.
- b) attract prohibition under section 269ST of the Act in the case of the cultivator; and
- c) require the cultivator to quote his PAN/ or furnish Form No. 60.



Form CRA-4 filing due date extended to 31st December, 2017 by MCA

The Ministry of Corporate Affairs has received several representations about extension of the last date for filing of Form CRA-4 without additional fees on account of **Companies (Cost Re-**

cords and Audit) Amendment Rules, 2017 and other reasons. The matter has been examined and it has been decided to extend the last date for filing of Form CRA-4, for the financial years starting on

or after 1st April, 2016, without additional fees till 31st December, 2017.



Govt increases MEIS Rate by 2% for labour intensive MSME sectors

The Minister of Commerce & Industry, Shri Suresh Prabhu released the much awaited Mid-term Review of the **Foreign Trade Policy 2015-20** in New Delhi.

The review was released in the presence of the Minister of State for Commerce & Industry, Shri CR Chaudhary, Finance Secretary, Shri Hasmukh Adhia, Commerce Secretary, Smt. Rita Teatota, Secretary Department of Industrial Policy & Promotion, Shri Ramesh Abhishek and the Director General of Foreign Trade, Shri Alok Chaturvedi.

Shri Prabhu in his keynote address, said that the FTP will leverage the long term advantages of the historic reform of the GST in terms of reduced compliance and logistics costs. The FTP will focus on exports from the labour intensive and MSME sectors by way of increased incentives in order to increase employment opportunities. Emphasis will be given on 'Ease of Trading' across borders. Information based policy interventions will be ensured through a State-of-the-Art Trade Analytics Division. While share in traditional products and markets will be maintained, focus will be on new products and new markets. The Commerce Minister focussed on transparency and trust with the industry and maintenance of Quality Standards to succeed in international market.

Shri Chaudhary stated that the revised FTP will help in making Indian exports more competitive. Under the dynamic and visionary leadership of the PM the government has made schemes for boosting manufacturing and exports. The issue of working capital blockage due to GST has also been resolved. The Minister of State stressed on the need to

diversify the export basket. The Export of Agricultural Products will be encouraged for increasing farmers' incomes.

Shri Adhia emphasized that the Government has been very sensitive towards the exporters. Export Package was approved by the **GST Council** resolving the problem of blockage of working capital. He further stated that ITC and IGST refunds for exporters are being expedited and explained in detail the process and procedure for refund of IGST claims for exporters. He reiterated that GST will be very beneficial for exporters in the long run. The Ministry of Finance will continue to work in collaboration with the Department of Commerce and exporters to address their operational issues.

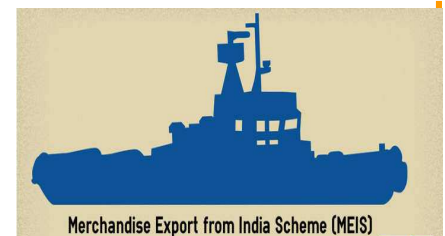
The Commerce Secretary, Smt. Rita Teatota stated that FTP will continue with 'Whole of Government' approach involving all Ministries and State Governments. Over the last 10 years, exports have grown at a CAGR of 8% which is fairly creditable. The government recognizes that the Medium and Small scale industries require hand holding and thus rates for MEIS for such sectors have been enhanced. An important consideration in framing this Policy has been the need to ensure that FTP is aligned with both India's interests in the trade negotiations, as well as its obligations and commitments under various WTO Agreements. The biggest challenge, however, is to address constraints within the country such as infrastructure bottlenecks, high transaction costs, complex procedures, constraints in manufacturing and inadequate diversification in our services. Towards this end, she stated, the Department of Commerce has set

up a new Division to promote integrated and streamlined logistics development in the country. For addressing gap in infrastructure sector, the Trade Infrastructure for Exports Scheme has been launched

Highlights of Mid Term Review of FTP

While restoring the benefits under the export promotion schemes of duty free imports under Advanced Authorization, Export Promotion Capital Goods and 100% Export Oriented Units and thus **resolving the problem of blocked working capital for exporters** following the roll out of GST, the FTP review has focused **on increasing the incentives for labour intensive MSME sectors**. Export incentives under Merchandise Exports from India (MEIS) have been **increased by 2% across the board for labour intensive MSME sectors leading to additional annual incentive of Rs 4,567 cr.** This is in addition to already announced increase in MEIS incentives from 2% to 4% for **Ready-made Garments and Made Ups in the labour intensive Textiles Sector with an additional annual incentive of Rs 2,743 cr.** Further, **incentives under Services Exports from India Scheme (SEIS) have also been increases by 2% leading to additional annual incentive of Rs 1,140 cr.**

Thus, incentives under the two schemes have been increased by **33.8% (Rs 8,450 cr)** from the existing in-





centives of Rs 25,000 cr leading to boost in exports from the labour intensive sectors and increased employment opportunities. Some of the major sector benefited are as under :

- Rs 2,743 cr for Ready-made Garments and Made Ups in Textiles Sector
- Rs 749 Cr for Leather and Footwear Articles,
- Rs 921 Cr for handmade carpets of silk, hand loom and coir and Jute products
- Rs 1354 Cr for Agriculture and related products,
- Rs 1140 cr for Services including Hotel & Restaurant, Hospital, Educational services etc.
- Rs 759 Cr for for Marine products
- Rs 369 Cr for for Telecom and Electronics Components
- Rs 193 Cr for for Medical and Surgical Equipment.

Further, the **validity period** of Duty Credit Scrips has been increased from 18 to 24 months and GST rates on transfer/sale of scrips has been reduced to zero. Issue of Gold availability for exporters has been resolved by allowing Specified Nominated Agencies to import Gold without payment of IGST. **Support to Export Credit Guarantee Corporation** is also being enhanced to increase insurance cover to exporters particularly MSME's exploring

new or difficult markets.

A **new scheme of Self-Assessment based duty free procurement of inputs required for exports** has been introduced. There will be no need of Standard Input Output Norms in such cases and will eliminate delays. It is based on trust. Exporters will self-certify the requirement of duty free raw materials/ inputs. The scheme would initially be available to the Authorized Economic Operators (AEOs) and will get expanded as more exporters join the AEO program. The scheme will improve ease of doing business.

Contact@DGFT service has been launched on the DGFT website (www.dgft.gov.in) as a single window contact point for exporters and importers for resolving all foreign trade related issues and also to give suggestions. Exporters/Importers can track status of their queries through the assigned reference number. Feedback mechanism has also been provided. High level monitoring of disposal is being ensured

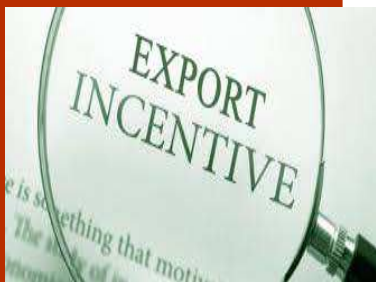
A **State-of-the-Art Trade Analytics** division has been set up in DGFT for data based policy actions. The initiative envisages processing trade information from DGCIS and other national and international databases related to India's key export markets and identify specific policy interventions.

A new **Logistics Division** has been created in the Department of Commerce to develop and coordinate inte-

grated development of the logistics sector, by way of policy changes, improvement in existing procedures, identification of bottlenecks and gaps, and introduction of technology based interventions in this sector. These steps would improve India's ranking in the Logistics Performance Index (LPI) and promote exports and enhanced growth.

Focus will be given to **Ease of Trading** across borders. A professional team to handhold, assist and support exporters in their export related problems, accessing export markets, meeting regulatory requirements. The team will also examine the procedures and processes in clearances related to trading across borders for their simplification and rationalization and track progress. Dwell time at ICDs, ports and airports is being closely monitored in coordination with Customs, and infrastructure Ministries.

The Foreign Trade Policy will continue to be reviewed and evaluated regularly for addressing concerns of the exporters, simplification of procedures and for promotion of exports.



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Digital Era and Chartered Accountancy Profession

The Institute of Chartered Accountants of India (ICAI) is a statutory body established by an Act of Parliament, viz., The **Chartered Accountants Act, 1949** (Act No. XXXVIII of 1949) for regulating the profession of Chartered Accountancy in the country. ICAI is the one among st accountancy bodies in the world, with a strong tradition of service to the Indian economy in public interest.

Over a period of time, ICAI has achieved recognition as a premier accounting body not only in the country but also globally, for maintaining highest standards in techni-

cal, ethical areas and for sustaining stringent examination and education standards.

DIGITAL ACCOUNTING AND ASSURANCE BOARD OF ICAI

ICAI has recently constituted "Digital Accounting and Assurance Board" (DAAB) for fostering a cohesive global strategy on aspects related to digital accounting and assurance, through sharing of knowledge and practices among st the members. DAAB is endeavouring to identify, deliberate and highlight on issues in accounting (including valuation) and assurance (including internal audit) issues in the digital

world.

The DAAB is focusing on issues in accounting and assurance arising from the high pace of digitisation, including use of artificial intelligence in audit, big data analytics in audit, relevance of sampling, valuation of data as an asset, impairment testing of digital assets, insurance of data – valuation and premium fixation, etc. The Board is taking up initiatives to develop knowledge base through position papers and articles on issues relating to impact of technology on accounting and assurance.

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