

LLB & Co.
Chartered Accountants



Continuous Improvement is better
than delayed perfection.
~ Mark Twain

Connection

Volume V, Issue 7

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BUSINESS

JUST TO REMINDE YOU:

- Oct 10 - Ex-cise Return for September
- Oct 17 - E-filing of Tax Audit Report and ITR
- Oct 25 - Filing of Half Yearly Service Tax Returns
- Oct 30 - TDS Return for September Quarter

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Communiqué

Dear Seniors, Friends & Colleagues,



I start this foreword by welcoming the festive season. India with different culture and beliefs with huge population base comes together in these festive seasons. These festivals start with get together of people and ends with enjoyment & happiness of subjects and people get away from their daily routine life. One of the basic themes of festivals is unity, which at this time plays pivotal role for our country, when we are facing lots of terror activities and a recent one happened in the last month itself. These activities are done to break our unity and disturb our routine activities. However, we have strong army forces which defeat all their intentions and are always standing on the border to protect the country at the cost of their life for subjects of country. This is time we should also stand with them and morally support and we should also be alert of any suspicious activity in our surrounding which should be reported immediately to the concerned authorities. We should take proper precaution and also educate the criticality of the situation to our loved ones.

It's also the time when we will be busy in finalising the audits of our clients. There have been lots of developments related to tax, audit, accounts etc. We should be extremely careful in considering those situations before we finalise and give our audit reports. In the recent era of increasing frauds, fraternity members should document all supporting related to audits and vouch them properly. As mentioned earlier audit planning is also very important due to festive session.

At a time it is also very much necessary that we should focus on our health and cleanliness of our surroundings. We should feel proud of being member of the prestigious institute which has been nominated by our Prime Minister for Swachh Bharat Abhiyan (Clean India Mission). We as a member should also educate society about the importance of this which helps us in maintaining the clean society and combat various diseases. At the same time we should focus on our health and have regular exercise and yoga as it has been rightly said health is the biggest asset of ours.

Our new RBI governor Urjit Patel headed the Monetary Policy Committee (MPC) and decided to cut the key lending – the repo rate by 25 basis points to 6.25 percent, as newly setup panel felt that inflation levels were low enough to reduce loan rates. Fiscal deficit will also be expected to remain as per the original estimates. Global markets have shown variability on account of step taken by OPEC towards cap on crude oil output and trading of Deutsche Banks shares at weakest level on record. Indian markets are also behaving range bound with overall bull sentiments.

Best Wishes

CA Lalit Bajaj

Enhance Credit Supply for Large Borrowers

Guide to enhance Credit Supply for Large Borrowers via Market Mechanism

(i) Aggregate Sanctioned Credit Limit (ASCL) means the aggregate of the fund based credit limits sanctioned or outstanding, whichever is higher, to a borrower by the banking system. ASCL would also include unlisted privately placed debt with the banking system.

(ii) 'Specified borrower', means a borrower having an ASCL of more than

Rs.25,000 crore at any time during FY 2017-18;

Rs.15,000 crore at any time during FY 2018-19;

Rs.10,000 crore at any time from April 1, 2019 onwards;

(iii) 'Reference date', means the date on which a borrower becomes a 'specified borrower'.

(iv) Normally permitted lending limit (NPLL), means 50 percent of the incremental funds raised by the specified borrower over and above its ASCL as on the reference date, in the financial years (FYs) succeeding the FY in which the reference date falls. For this purpose, any funds raised by way of equity shall be deemed to be part of incremental funds raised by the specified borrower (from outside the banking system) in the given year;

Provided that where a specified borrower has already

raised funds by way of market instruments and the amount outstanding in respect of such instruments as on the reference date is 15 per cent or more of ASCL on that date, the NPLL will mean 60 percent of the incremental funds raised by the specified borrower over and above its ASCL as on the reference date, in the financial years (FYs) succeeding the FY in which the reference date falls.

(v) Banking system, means all banks in India including RRBs and co-operative banks and branches of Indian banks abroad.

(vi) Market instruments, shall include bonds, debentures, redeemable preference shares and any other non-credit liability, other than equity.

Scope:

2. This guidelines will be applicable on all single counterparties of Scheduled Commercial Banks (SCBs), except other SCBs, NBFCs registered with RBI, AIFs (NHB, SIDBI, EXIM Bank and NABARD) and HFCs registered with NHB. Banks should apply their due-diligence while deciding the NPLL for a single borrower in order that borrowers do not circumvent the cut-off ASCL criteria by borrowing through dummy/fictitious group companies.

3. This will come into effect from the financial year 2017-18 onwards. The banking system shall ordinarily keep its future incremental expo-

sure to the specified borrowers within the NPLL, else they will be subject to the prudential measures as detailed below.

Prudential Measures:

4. From 2017-18 onwards, incremental exposure of the banking system to a specified borrower beyond NPLL shall be deemed to carry higher risk which shall be recognised by way of additional provisioning and higher risk weights as under:

(i) Additional provisions of 3 percentage points over and above the applicable provision on the incremental exposure of the banking system in excess of NPLL, which shall be distributed in proportion to each bank's funded exposure to the specified borrower.

(ii) Additional Risk weight of 75 percentage points over and above the applicable risk weight for the exposure to the specified borrower. The resultant additional risk weighted exposure, in terms of risk weighted assets (RWA), shall be distributed in proportion to each bank's funded exposure to the specified borrower.

Explanation: For the purpose of determining exposure beyond NPLL, subscription by the banking system to market instruments shall be included except any subscription made by the banking system to the market instruments issued by a specified borrower in 2017-18 and held within the permissible prudential limits by a bank, as derived from para 5 below.



5. Banks may, at their discretion, subscribe to bonds issued by the specified borrowers (over and



above NPLL) in the first year of this framework taking effect, i.e., 2017-18 subject to extant investment guidelines and these being divested in the subsequent three years as per the following mile-

stones:

(i) Not less than 30 percent by March 31, 2019

(ii) Not less than 60 percent by March 31, 2020

(iii) Not less than 100 percent by March 31, 2021.

6. All holdings by a bank of market instruments issued by a 'specified borrower' after the 'reference date' shall be held in the AFS/HFT category and marked to market as applicable thereto. However, banks may, at their discretion, value their holdings of market instruments issued by the specified borrowers in 2017-18 at book value.

7. RBI will review the entire guidelines including the ASCL limits after a year of the guidelines becoming fully implemented, i.e. during FY 2019-20.

FAQs on Enhancing Credit Supply

(i) If a borrower has aggregate sanctioned credit limit of Rs. 25,000 crore on or before March 31, 2016, will it still qualify as a 'Specified Borrower'?

Ans: In all such cases, the borrower will be deemed to be a 'Specified borrower' from April 1, 2016 and the disincentive mechanism will be applicable from April 1, 2017 if the borrower borrows from the banking system beyond the NPLL.

(ii) If a borrower becomes a 'specified borrower' during the last quarter of the FY 2016-17, say on March 31, 2017, then what will be the date of application of the disincentive mechanism?

Ans: As the disincentive mechanism will be applicable from the FY succeeding the FY in which a borrower becomes a 'specified borrower', the disincentive mechanism will be applicable from April 1, 2017 for any borrowing from the banking system beyond the

NPLL.

(iii) Is there any restriction on borrowers tapping the market mechanism for their funding needs before they reach the ASCL?

Ans: Borrowers are free to raise their funding needs from any source at any level.

(iv) Whether ECB and Trade Credit raised from overseas branches of Indian banks be counted towards ASCL?

Ans: Yes, ECB and Trade Credit raised from overseas branches of Indian banks will count towards ASCL.

(v) In terms of circular DBOD.No.BP.BC.97/21.04.141/2009-10 dated April 23, 2010 on "Classification of Investments by Banks in Bonds issued by Companies engaged in Infrastructure Activities", investment by scheduled commercial banks in the long-term bonds issued by companies engaged in executing infrastructure projects and having a minimum residual maturity of seven

years may be classified under HTM category. Whether this classification will be available for investments made by banks in bonds issued by infrastructure 'specified borrowers' beyond their NPLL?

Ans: Bonds subscribed by banks and which meet the criteria specified in circular dated April 23, 2010 will continue to be classified under HTM category.

(vi) Will the additional risk weight on incremental exposure result in change in credit rating also?

Ans: No, additional risk weight on incremental exposure merely on account of borrower being classified as specified borrower, should not normally result in change in credit rating.

(vii) Whether borrowers under restructuring will be covered in the framework? Whether additional credit facilities extended during restructuring of stressed borrowers will be included in computing the ASCL?





“Relaxation in the requirement of rotation of engagement partner given in paragraph 27 of SQC 1 for the transition phase for 2016-17”



Ans: In cases of accounts with ASCL above the cut-off where S4A is implemented, both the sustainable and unsustainable debt (Parts A & B) should be counted towards calculating ASCL.

Restructured accounts where cut-off ASCL is achieved/likely to be achieved due to additional finance under the restructuring package under

JLF and other RBI frameworks, should not be subjected to disincentive mechanism for the incremental exposure.

(viii) Whether subscription to the market instruments in the primary market will be reckoned towards NPPL.

Ans: Yes, subscription to the market instruments in the primary market will be consid-

ered to determine exposures beyond NPPL.

Auditor’s rotation under SQC 1

Clarification on the difference in requirements relating to auditor’s rotation under SQC 1 vis-à-vis Companies Act, 2013 – (30-09-2016)

1. The Council of the Institute of Chartered Accountants of India (ICAI), at its 359th meeting held on September 16-17, 2016 considered an issue regarding the difference in requirements relating to the auditor’s rotation under the SQC 1, “Quality Control for Firms that Perform Audits and Reviews of Historical Financial Information, and Other Assurance and Related Services Engagements” issued by ICAI vis-à-vis the Companies Act, 2013. At the meeting, the Council noted the following points:

In case of audits of listed entities, Paragraph 27 of SQC

1 requires rotation of engagement partner after a pre-defined period normally not more than seven years (emphasis added).

Since SQC 1 is applicable from April 1, 2009, the provisions regarding the rotation of engagement partner would be due from April 1, 2016 as per SQC 1 during the transition phase.

Since the Companies Act, 2013 is applicable from April 1, 2014 and the existing companies have been given relaxation of 3 years to comply with requirement of auditor’s rotation, the provisions regarding auditor’s rotation would be due from April 1, 2017 as per the Companies Act, 2013 during the transition phase. Hence, there is a difference of 1 year in the

requirement of auditor’s rotation between SQC 1 vis-à-vis the Companies Act, 2013 during the transition phase of implementation of the Companies Act, 2013.

2. On consideration of the matter, the Council decided to issue a clarification on the issue and provide relaxation in the requirement of rotation of engagement partner given in paragraph 27 of SQC 1 for the transition phase (i.e. one time only for the financial year 2016-17).

*“BE the Change
You wish to see in the world”*

- Mahatma Gandhi



Advisory on the Rebate of State Levies on Textiles Scheme



Attention of all Exporters/ Customs brokers / members of Trade is invited to the scheme for implementation of Rebate of State Levies on textile garments (ROSL) notified vide Notification Nos. 12020/03/2016-IT dated 12.8.2016 and 31.8.2016 by the Ministry of Textiles. Further, the Central Government (Ministry of Textiles) has issued Notification No. 12020/03/2016-IT dated 13.8.2016 notifying the rates of rebate in Schedule I and Schedule II. Additionally, CBEC has issued Board Circular 043/2016-Cus dt.31.08.2016 which provides the guideline framework for implementation of this scheme.

2. ROSL Scheme:

In the ROSL scheme, the Central Govt. provides rebate of State levies comprising of State VAT/ CST on inputs including packaging, fuel, duty on electricity generation and duties and charges on purchase of grid power, as accumulated through the stages of production from yarn to finished garments. There is no need for separate application or supporting documents except for making a specific choice in the Shipping bill. The rebate amount would be credited into the Exporter's NC mentioned for drawback automatically after processing.

The ROSL scheme is not mandatory for an exporter. Therefore, an exporter has to make a conscious

choice to opt for the ROSL scheme by making a claim for rebate in acceptance terms and conditions of the ROSL scheme (including under the aforementioned Circular) along with a declaration of eligibility for the rate and rebate.

3. OPTING FOR ROSL SCHEME:

The claim cum declaration of eligibility has to be made by the exporter by using specified scheme codes for drawback exports, at the item level. The options in permutation with the ROSL Scheme are being provided with separate scheme-codes .

For EDI shipping bill, selection of the scheme-code involving ROSL scheme at the time of export shall itself amount to making claim cum declaration of eligibility. For EDI shipping bill this shall be the only means to make the claim. Any other means of claim shall not be accepted.

Shipping Bills which are filed prior to 20-09-2016 but for which LEO is given on are after 20-09-2016 are also eligible for RoSL. Such Shipping Bills which have not claimed the scheme code as listed above, may need to be amended before LEO to avail this benefit. In the absence of proper scheme codes, the ROSL benefit would not be available.

4. ROSL Rebate:

The amount of rebate is calculated using the FOB value and the rates and caps of rebate specified in the ROSL scheme. (For further details refer to Para 7 of CBEC Circular 43/2016-Cus). To facilitate exporters, necessary changes have been made to reflect the rebate amount in the shipping bill check list, during export processing and in the print out of post-

LEO shipping bill. 11A/hie changes have been made in the Service center checklist, RES providers may provide similar option in their packages for facilitation of tradel.

5. Ensuring availment of ROSL:

The following changes have been made in the Shipping Bill Checklist & ICEGATE for Exporters to confirm that their choice has been reflected correctly in the system.

1. The ROSL Amount is printed at the Shipping bill level as well as at the item level for the items where option has been exercised by giving a scheme code.

2. The option and total ROSL amount thus claimed is reflected in the SB Enquiry available on the ICEGATE website.

3. Declaration-cum-eligibility as detailed below is printed on the checklist.

I declare that, I have not claimed or shall not claim credit/ rebate/ refund/ reimbursement of these specific State Levies under any other mechanism and I am eligible for the rate and rebate claimed for. Further, declare that an Internal Complaints Committee (ICC), where applicable, in pursuance of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 has been constituted.

RES vendors may ensure that their RES versions are compliant to changes in (1) & (3) as stated above. SB Message format has also been revised accordingly.

6. ROSL Disbursal:

ROSL would be disbursed as per





*“Settlement Act
time limit is
extended from
30th September
2016 to 15th
November 2016”*



procedure detailed in para 8 of the above referred Board Circular. For speedy disbursement, Exporters may ensure that the Account No. already registered for drawback disbursement is live and valid, as the ROSL disbursement would be made to the same account. The disbursement shall be in par-

allel with drawback albeit separately. The status of disbursement would be displayed on ICEGATE separately.

The above changes would be effective from the 20th September, 2016. Suitable public notices and standing order should be issued for guidance of the trade and officers

in this regard. Difficulties, if any, may be brought to the notice of this Directorate at (nsm.ices@icegate.gov.in).

Maharashtra Settlement of Arrears in Dispute Act

The Maharashtra Settlement of Arrears in Disputes Act, 2016 (hereinafter referred to as “Settlement Act”) has come into force with effect from 26th April 2016. So as avail the benefits under the Settlement Act, the applicant was required to fulfill obligation such as submission of appeal, it’s withdrawal, payment of requisite amount and submission of application in Form -I on or before 30th September 2016.

Now, the Maharashtra Ordinance No. XXIV of 2016 is promulgated on 30th September 2016. Thus for the purposes of Settlement Act time limit is extended from 30th September 2016 to 15th November 2016. All the stakeholders are requested to take note of it.

Queries have been received in respect of the non-consideration of amount paid before the date of assessment order and instruction for submission of Audit report where penalty order under section 61 (2) of the MVAT ACT is passed. With regards to this following instructions are issued:

Procedure to be followed so

as to give credit of the amount paid prior to assessment order In Trade circular 20T of 2016 (FAQ – 29) and trade circular 21T of 2016 (FAQ-42),

It was clarified that on fulfillment of the condition given therein the appellate authority or the Nodal officer was directed to give the credit of the amount paid prior to the assessment.

It was also directed that if the credit has not been given by the appellate authority then same should be given by Nodal officer.

the concerned officer shall ensure that the credit of the said challan (amount of which credit has not been given earlier) has not been given in any other order

However, despite above clarification queries have received from the Nodal officers as well as trade stating therein that the different officers are following different methods. So as to streamline the procedure following guidelines are issued:

It is , reiterated that if the credit for the amount paid prior to assessment , is not given by the appellate authority

then the Nodal officer , shall take this into account and should reduce the demand to the extent of the credit not given in the AO. He shall also give consequential effect to the levy of the interest under section 30(3).

Further, the Nodal officer, should take into account the due date for the payment of the amount (for which the credit was not been given). On verification, if it is found that the payment, for which credit was not given, is due as per return and attracts interest under section 30(2) then said interest shall also be levied.

The Nodal officer shall consider all these aspects at the time of determination of requisite amount and extent of the waiver towards interest.

It may be noted that against interest under section 30(2) and 30(4) for period 2010-2011 and 2011 - 2012 Settlement Act do not provide any waiver.

Thus after consideration of aforesaid factual aspects the Nodal officer shall on proceeding sheet calculate the revised demand in respect of tax, interest and penalty imposed if,

any.

Needless to state that as the reduction is on account of amount paid prior to the date of assessment order hence it will not hit by the period of limitation as provided under section 24 of the MVAT Act.

Relaxation of condition to submit audit Report in Form -704 in case of imposition of penalty under section 61 (2) of MVAT Act.

(a) It may be recalled that with regards to the cases where penalty order under section 61(2) has been passed for failure to file the audit Report within the prescribed time limit or non – submission of said report, clarification was given vide Trade circular 20T of 2016 (FAQ - 33). Further clarification was given in Para 3(3) of the Trade Circular 24T of 2016.

(b) It was stated that in the circumstances,

(i) where the penalty order under section 61(2) for the reason that the dealer has not filed the Audit Report in Form -704 (even after penalty order has passed) and dealer has preferred the appeal and

(ii) Where dealer has also made request for withdrawal of appeal

Then the penalty so levied shall not be waived unless the dealer files the Audit Report in Form -704.

(c) in order to facilitate this, the dealer was allowed to submit the Audit Report for periods under settlement on or before 31st October 2016.

(d) On this aspect queries are received from the Trade and Associations. Same are examined. On this backdrop, it is now decided to relax the conditions for submission of Audit Report in respect of the periods under Settlement Act.

(e) In other words, it is now made clear that so as to avail the benefits towards the penalty imposed under

section 61(2), the applicant will not be required to submit the Audit Report therefore, all the concerned officer are directed not to insist on submission of Audit Report. All other conditions with regards withdrawal of appeal and submission of application in Form-I remain unchanged.



Simplified Proforma for Incorporating Company Electronically

The Ministry of Corporate Affairs has taken another bold initiative in Government Process Re-engineering (GPR) and launched Simplified Proforma for Incorporating Company Electronically (SPICE) e-Form, on the occasion of Gandhi Jayanthi 2016, with the specific objective of providing speedy incorporation related services within stipulated time frames which are in line with international best practices.

SPICE's USP is as follows: –

- Simplified and completely Digital form for Company Incorporation
- Standard format of e-Memorandum of Association as per Companies Act, 2013

- Standard format of e-Articles of Association as per Companies Act, 2013
- Memorandum and Articles will now be filed as linked e-forms (except for Section 8 companies)
- Provision to apply for Company Incorporation with a pre-approved Company Name
- Mandatory DSCs of Subscribers and Witnesses (max 7+1) in SPICE MOA and SPICE AOA
- Back Office productivity gains due to faster review of e-MOA and e-AOA by approving authorities.

Existing INC-29 and INC-7 will be

phased out and SPICE will be the Sole, Simplified & Versatile form available for incorporation of a company in India.





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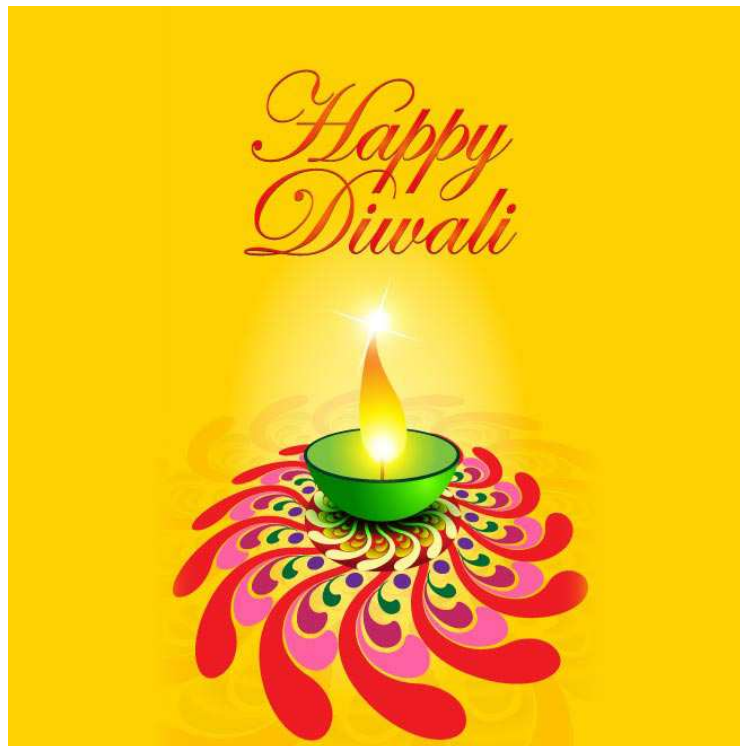
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Peak Filing Preparation 2016 - MCA21

As you are aware it is time of peak filing of Balance Sheet & Annual Return under the Companies Act.

To avoid last minute rush and system congestion on the MCA 21 portal on account of annual filings during October / November 2016, we are quite sure that you might have already taken steps in advising corporates to file balance sheet and annual return of the companies early without postponing it to the last few days permitted for the same.

We would also like to inform you



that during this period the Corporate Seva Kendra / help desks (ph. no. 0124-4832500) would give priority to e-filing/ answering queries of companies for filing balance sheet and annual return.

In this regard, the Ministry of Corpo-

rate Affairs, Government of India, has issued a Notice which is available on their website (www.mca.gov.in).

Members concerned are earnestly requested to kindly plan their filing accordingly.

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