

Editorial



Reserve Bank of India (RBI) has recently released Financial Stability Report. The report contains the data with regard to the stressed accounts of the public sector banks as well as private banks. The International Monetary Fund has also released a report last week in which it

has been indicated that the public sector banks are most vulnerable as there is further decline in asset quality thus requiring additional provision in the books of account. It is evident from the data that 70% of the stressed accounts are from public sector banks. Further, the private banks are also experiencing problems with bad loans. It has been reported in the newspapers that the credit growth of commercial banks has improved between March and September this year but the asset quality of the banking sector is worsening.

banks has gone up from 9.6% to 10.2% when the last report was published in June. The report also points out that gross NPAs for public sector banks grew by 17% on year to year basis. As against this, in case of the private sector banks such loans have grown by app. 41%. RBI has estimated that gross NPAs may increase to 10.8% by March 2018 and 11.1% by September 2018. On the basis of the stress test conducted by RBI, it is estimated that the capital adequacy of the bank may remain about the regulatory threshold of 9% on the individual bank level. However, 23 banks which have a share of about 41% of the total bank asset which are under stress may result in affecting the capital adequacy of such banks. The report also indicates that presently risk to the banking sector is pretty high as compared to what it was when the last report was released in June. According to the report 33 banks have 74% share in the total advances and such banks would be unable to meet expected losses with the current level of provisioning. The credit quality of the large accounts has also not improved significantly in the recent past. Therefore, the NPAs situation in the banking system is alarming and requires to be tackled without any further delay.

INSIDE THE ISSUE

Editorial.....	1
Regulatory Snippets.....	2
Value Add.....	4
Soul Corner.....	14
Funny Side-up.....	15
Dates for your diary.....	16
Updates from our global association-Morison International	17
Inside SCV.....	17

I hope you find the contents of this newsletter useful. We would be happy to receive your comments/ suggestions on this initiative and the contents of this newsletter. You may e-mail your views at sachin@scvasudeva.com.

Happy Reading and Wish you all a very HAPPY NEW YEAR 2018.

S.C. Vasudeva

Regulatory Snippets

Direct Tax



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PAN –Aadhar Linking Deadline extended upto 31st March 2018

The CBDT has vide a press release dated 8th December 2017, has extended the **PAN –Aadhar Linking Deadline** by further three months i.e. upto 31st March 2018

Circular No. 26/2017 dated 25th October 2017- Country-by-Country Reporting (CbCR) Due Date (Accounting Year 2016-17) extended to 31st March 2018

The CBDT, in exercise of its power conferred under section 119 of the Act, in respect of all the assesseees covered under sub-section (2) of section 286 of the Act, has extended the “due date” prescribed therein for furnishing of report in respect of international group for accounting year 2016-17 to 31st March 2018.

Circular No. 27/2017 dated 3rd November 2017- CBDT Clarification on cash sale of agricultural produce by cultivators/agriculturist

The CBDT has vide Circular No. 27/2017 dated 3rd November 2017, clarified that cash sale of agriculture produce (**less than Rs. 2 Lacs**) by Cultivators/agriculturist shall:

- a) Not result in any disallowance of expenditure under section 40A(3) of the Act for trader,
- b) Not attract prohibition under section 269ST of the Act for cultivator, and
- c) Not require the cultivator to quote his PAN/ or furnish Form No. 60.

Circular No. 28/2017 dated 7th November 2017- CBDT clarification on Indirect Transfer provisions in case of redemption of share or interest outside India under the Income-tax Act

The CBDT has vide Circular No. 28/2017 dated 7th November 2017, clarified that the provisions of section 9(1)(i) read with Explanation 5 thereof shall not apply in respect of income accruing or arising to a non-resident on account of redemption or buy-back of its share or interest held indirectly 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.

Notification No. 8/1017 dated 13th September 2017- TDS on interest of a deceased

The CBDT has, vide notification number 8/2017, clarified that in case of a deceased person, the TDS certificate on interest income (**from deposits made in capital gain account scheme, 1988**) should be issued in two parts:

- a) On or and upto the period of death of the depositor, is required to be issued on the **PAN of the deceased depositor, and**
- b) For the period after death of the depositor, is required to be issued on the **PAN of the legal heir.**

Indirect Tax



Saurabh Jain

Associate

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Clarification on movement of goods for supply on approval basis

In response to the representations received from suppliers of jewellery etc. who need to carry the goods along with them outside their state of registration for approval, the CBEC vide Circular No. 10/10/2017-GST dated 18th October, 2017

has clarified that goods which are taken for supply on approval basis can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of delivery of goods. For this purpose, the person carrying the goods for such supply can carry the invoice book with him so that he can issue the invoice once the supply is fructified.

It has been further clarified that all such supplies, where the supplier carries goods from one State to another and supplies them in a different State, will be inter-state supplies and attract integrated tax in terms of Section 5 of the Integrated Goods and Services Tax Act, 2017. It is also clarified that this clarification would be applicable to all goods supplied under similar situations.

CBEC notifies a nominal GST Rate of 0.1% for supply of goods to Merchant Exporters

On 23rd October 2017, as a significant relief measure to Merchant Exporters, the CBEC vide respective notifications under CGST/IGST/UTGST Law has notified that supplies of goods by a registered supplier to a registered recipient for exports i.e., to a Merchant Exports shall attract a nominal GST rate of 0.1%. The said nominal rate shall be applicable subject to fulfilment of certain prescribed conditions.

Notifying certain supply of goods as Deemed Exports under GST

On 18th October 2017, the CBEC vide Notification No. 48/2017 – Central Tax has notified the following supplies of goods as deemed exports:

- 1) Supply of goods by a registered person against Advance Authorisation
- 2) Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation
- 3) Supply of goods by a registered person to Export Oriented Unit
- 4) Supply of gold by a bank or Public Sector Undertaking specified in the notification No. 50/2017- Customs, dated the 30th June, 2017 (as amended) against Advance Authorisation.

No RCM on procurements made from unregistered person till March 31, 2018

On 13th October 2017, the CBEC vide Notification No. 38/2017 – Central Tax (Rate) has amended Notification No. 8/2017 – Central Tax (Rate) dated 28th June, 2017 by omitting proviso under Paragraph 1 which provides for the exemption limit of Rs. 5000 per day available to the registered person on procurement of goods or services from any or all unregistered suppliers. Now, exemption shall be available to all the registered persons without any limit in case of supply procured from unregistered supplier till 31st March, 2018. Therefore, any registered person procuring taxable goods/services from unregistered suppliers, shall not be required to pay CGST under reverse charge mechanism U/s 9(4) of CGST Act, 2017 till March 31, 2018 with effect from 13th Oct, 2017.

Similar exemption has also been given with respect of inter-state supplies under section 5(4) of IGST Act, 2017 vide Notification No. 32/2017 – Integrated Tax (Rate).

Increase in Turnover Limit for Composition Scheme

On 13th October 2017, the CBEC vide Notification No. 46/2017-Central Tax has increased the turnover limit for Composition Levy from Rs. 75 lakhs to Rs. 1 crore. Accordingly, any eligible registered person, whose aggregate turnover in the preceding financial year did not exceed Rs.1 crore may opt to pay tax under composition scheme. However, in case of some special category states viz. Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and Himachal Pradesh, turnover limit for composition levy has been revised from 50 lakhs to 75 lakhs.

Exemption to suppliers from paying GST on advances for supply of goods

On 15th November 2017, the CBEC vide Notification No. 66/2017 – Central Tax has notified that all registered persons (having turnover below or above Rs. 1.50 crore) shall not be required to pay tax on advances received against future supplies of goods. This facility was earlier allowed only to persons having turnover below Rs. 1.50 crore which shall continue to enjoy the relaxation from 13th October 2017 but all other taxable persons (other than composition dealers) shall now enjoy from 15th November 2017 onwards.

Facility of furnishing Letter of Undertaking extended to all exporters

On 4th October 2017, the CBEC vide Notification No. 37/2017-Central Tax has extended the facility of furnishing Letter of Undertaking, in place of a bond, for exporting goods or services or both, to all the exporters except those who have been prosecuted for any offence under GST Law or any of the existing laws in force in case where the amount of tax evaded exceeds Rs. 2.50 crore.

Value Add



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Master File and Country-by-Country Report

Pursuant to the OECD Base Erosion and Profit Shifting (BEPS) Action Plan 13, Finance Act 2016, had introduced the provisions relating to the Master File and Country by Country Report (CbCR) in India. Section 92D of the Act was amended to provide for maintenance and furnishing of

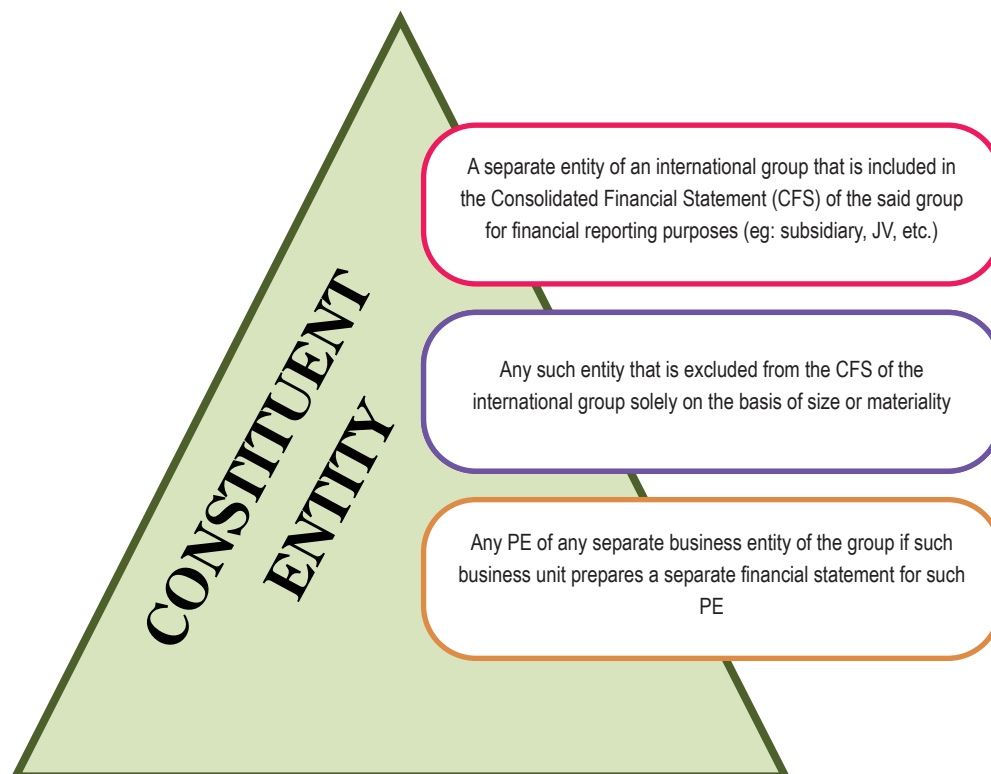
“Master File” of the international group and section 286 of the Act was inserted for CbC reporting by either the Parent company or Alternate Reporting Entity.

On October 6, 2017, the Central Board of Direct Taxes (‘CBDT’) released the draft rules with respect to maintenance and furnishing of Master File and CbCR for public comments and suggestions. Post public consultation on the draft rules, the final rules were notified on 31st October 2017 vide Notification No. 92/2017. CBDT has inserted Rules 10DA and 10DB in the Income-tax Rules, 1962 (‘the Rules’), laying down the guidelines for maintaining and furnishing of Transfer Pricing documentation in Master File and CbCR. These rules are in respect of filing of additional forms viz. Master file in Form 3CEAA, CbCR in Form 3CEAD and 3 other forms in Form 3CEAB, 3CEAC and 3CEAE. The last date of furnishing Master File and CbCR is 31st March 2018 for the accounting year 2016-17¹. The rules are summarized in this article as under:

¹This due date is only for the accounting year 2016-17. For accounting year 2017-18 and onwards, the due date of furnishing Master File and CbCR is the due date specified under section 139(1) of the Act.

Meaning of Constituent Entity

Since the compliances of Master File and various compliances of CbCR are to be done by the Constituent Entity, it is important to understand as to what is a Constituent Entity.



In other words, a constituent entity is a separate business entity of the international group that is included in the group for financial reporting purposes and also includes a PE if separate financial statement is prepared for regulatory, financial, internal management or tax purposes

Rules relating to furnishing of Master File(Rule 10DA read with section 92D of the Act)

The said rules are applicable for a constituent entity of an international group:

a) if the consolidated group revenue² of the international group, of which such person is a constituent entity, as reflected in the consolidated financial statement of the international group for the accounting year, **exceeds Rs. 500 crore**

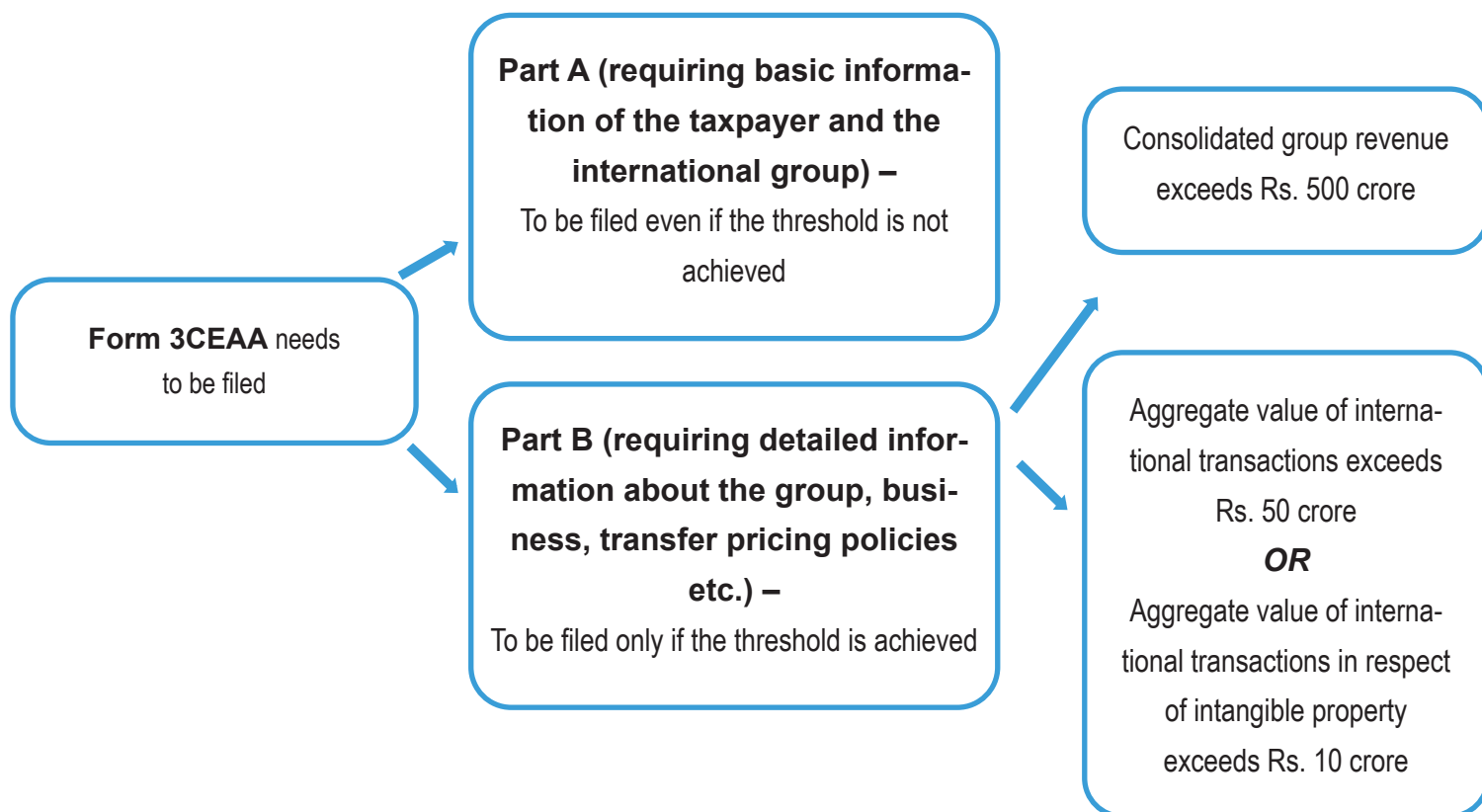
AND

b) the aggregate value of international transactions:

a. during the accounting year, as per the books of accounts, **exceeds Rs. 50 crore, or**

b. in respect of purchase, sale, transfer, lease or use of intangible property during the accounting year, as per the books of accounts, **exceeds Rs. 10 crores**

The above is presented diagrammatically as under:



²The rate of exchange for calculating the value in rupees of the consolidated group revenue (in foreign currency) shall be telegraphic transfer buying rate of such currency on the last day of the accounting year.

In case there are more than 2 constituent entities resident in India of an international group, then Form 3CEAA may be furnished by that constituent entity which has been designated by the group to furnish the said report. The same needs to be intimated by such designated constituent entity to the Director General of Income-tax (Risk Assessment) [DGIT(RA)] in Form 3CEAB at least 30 days before the due date of filing Form 3CEAA. Accordingly:

Accounting Year	Due date of furnishing intimation in Form 3CEAB
2016-17	1st March 2018
2017-18 & onwards	31st October

The information and documents specified under rule 10DA shall be kept and maintained for a period of 8 years from the end of the relevant assessment year.

The above compliance is a separate requirement in addition to the prevalent transfer pricing provisions with regard to filing of Transfer Pricing report in Form 3CEB and maintenance of Transfer Pricing documentation under section 92D of the Act read with Rule 10D.

The above rules w.r.t. furnishing of Master File are summarised as under:

Who needs to comply	What needs to be filed	By when to be filed
A constituent entity, irrespective of: <ul style="list-style-type: none"> • The threshold applicability, or • Whether the entity is resident or not 	Part A of Form No. 3CEAA	By the due date of furnishing return of income [except for FY 2016-17, which is on or before 31st March 2018]
A constituent entity, having: <p>(a) Consolidated group revenue of more than Rs. 500 crore;</p> <p>and</p> <p>(b) Aggregate value of international transactions:</p> <ul style="list-style-type: none"> • Exceeds Rs. 50 crore; or • Exceeds Rs. 10 crore in respect of intangible property 	Part A and B of Form No. 3CEAA	By the due date of furnishing return of income [except for FY 2016-17, which is on or before 31st March 2018]

<p>The designated entity (where there are multiple Constituent entities resident in India)</p>	<ul style="list-style-type: none"> ● Intimation in Form No. 3CEAB ● Part A and B of Form No. 3CEAA (as applicable) 	<ul style="list-style-type: none"> ● At least 30 days before the due date of filing Form 3CEAA [except for FY 2016-17, which is on or before 1st March 2018] <p>By due date of furnishing return of income [except for FY 2016-17 which is on or before 31st March 2018]</p>
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Rules relating to furnishing of CbCR (Rule 10DB read with section 286 of the Act)

CbCR is to be prepared for an accounting year by an international group having consolidated turnover³ exceeding Rs. 5,500 crore during the preceding accounting year.

In case the ultimate parent entity is not resident in India, each Constituent Entity (resident in India) is required to intimate the tax authorities 2 months prior to 31st March 2018 for the accounting year 2016-17⁴ in Form 3CEAC:

- (a) Whether it is the alternate reporting entity, or
- (b) The details of parent entity or alternate reporting entity and the country of which these are residents.

Parent entity or alternate reporting entity, resident in India, shall furnish CbCR in Form 3CEAD on or before the due date of furnishing return of income [except for accounting year 2016-17 for which the report can be filed on or before 31st March 2018]. The information to be furnished shall include information w.r.t.:

- Revenue, profit/ loss before tax, income tax paid & accrued, stated capital, accumulated earnings, number of employees, tangible assets with regard to each country in which the group operates,
- Details of all constituent entities and business activities of each such entity, etc.

If however, the parent entity is resident of a country:

- with which India does not have an agreement providing for exchange of information or
- there has been systemic failure of the country,

³The rate of exchange for calculating the value in rupees of the consolidated group revenue (in foreign currency) shall be telegraphic transfer buying rate of such currency on the last day of the accounting year preceding the accounting year

⁴This is only for the accounting year 2016-17. For accounting year 2017-18 and onwards, intimation has to be made at least 2 months prior to the due date of furnishing return of income.

then, the constituent entity, resident in India, shall furnish form 3CEAD in respect of the international group [section 286(4) of the Act]

In case there are more than 1 such constituent entities resident in India, the report shall be furnished by the one which has been designated by the international group and the same has been intimated by such designated constituent entity in Form 3CEAE to the DGIT (RA).

It may be noted here that the CbC reporting by either Parent company or Alternate Reporting Entity is applicable irrespective of whether there is any transaction with the international group.

The above rules w.r.t. furnishing of CbCR are summarised as under:

Who needs to comply	What needs to be filed	By when to be filed
Constituent Entity resident in India, of an international group, whose parent is a non-resident	Intimation in Form No. 3CEAC	At least 2 months prior to the due date of furnishing return of income [except for FY 2016-17, which is on or before 31 st January 2018]
Parent entity, or alternate reporting entity, which is: <ul style="list-style-type: none"> resident in India; and part of an international group, the consolidated group revenue of which exceeds Rs. 5,500 crore 	Form No. 3CEAD	By the due date of furnishing return of income [except for FY 2016-17, which is on or before 31 st March 2018]
Constituent Entity resident in India, of an international group, whose parent is non-resident [and conditions of section 286(4) of the Act are satisfied]	Form No. 3CEAD	By the due date of furnishing return of income [except for FY 2016-17, which is on or before 31 st March 2018]
The designated entity, where there are more than 1 constituent entities resident in India of an international group, whose parent is non-resident [and if conditions of section 286(4) of the Act are satisfied]	Intimation in Form 3CEAE	No time limit specified as the filing date will be dependent upon the provisions of section 286(4) of the Act

The rules w.r.t. Master file and CbCR have been appreciated by various stakeholders and are more or less in line with the OECD guidelines. Though the extended timeline for the first year is a welcome relief and Indian taxpayers have time for introspecting their overall group policies and their global alignment, however, the first impact of the final rules on Indian taxpayers is adherence to 'additional compliance' requirements. The entities of inbound and outbound groups operating in India need to gear up for collating the information of the group.

One significant concern for Indian taxpayers is the lower threshold for applicability of Master File, especially for inbound groups as they may not have access to the information to prepare the Master File. The requirement to file Part A of the Master File by all entities (regardless of the threshold conditions) has to be kept in mind to mitigate any penalty. Further, the information which needs to be furnished in the Master file is for an accounting year. On perusal of Rule 10DA, it seems that for the first year 2016 -17, the accounting year is the same as the Indian financial year (i.e., April to March). This might create problem for an inbound constituent entity. This is because there is a high likelihood that the parent entity of an inbound constituent entity follows a different reporting accounting year.

Another concern is as to how the information furnished in Master File and CbCR will be used by the authorities. However, since the information flow will soon start, it would be important for the Government to ensure that appropriate policies and safeguards are in place.



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Taxability of Bond-to-Bond Transfers under GST Law

The Central Board of Excise and Customs (CBEC) has issued Circular No. 46/2017-Customs dated 24.11.2017, wherein it has been clarified that in case of import transactions when goods remain deposited in a customs bonded warehouse and are transferred by the importer

to another person, the transaction shall fall within the definition of "supply" as per Section 7 of the CGST Act and shall be taxable in terms of section 9 of the CGST Act read with section 20 of the IGST Act. In this regard, it is worth noting that as per section 7(2) of the IGST Act any supply of imported goods which takes place before they cross the customs frontiers of India shall be treated as an inter-state supply.

Further, it has been clarified that levy of customs duty (i.e., BCD and applicable IGST payable under the Customs Tariff Act) shall be deferred and collected only at the ex-bond stage by the ultimate buyer.

Accordingly, in case of bond-to-bond transfers, IGST shall be leviable at two stages:

- i. At the time of bond-to-bond transfer, on transaction value determined as per the provisions of Section 15 of the CGST Act between Importer and ultimate Buyer.
- ii. At the time of filing Ex-Bond Bill of Entry for Home consumption by Ultimate Buyer, on transaction value determined between Exporter in other country & Importer.

The Circular clearly provides that **Importer on record shall bear dual IGST impact, as explained above, thus resulting in double taxation** (though Importer on record shall be entitled to avail IGST credit paid at both stages i.e., In-Bond purchase and filing Bill of Entry for Home Consumption.)

This article attempts to analyse issues emanating from the aforesaid circular issued by the CBEC.

Implementation of GST Law

Under the erstwhile Sales Tax Laws, no tax was leviable on various transactions like bond-to-bond transfers, high-seas sales etc. However, with the advent of GST Laws with effect from 1st July 2017 (except State of Jammu & Kashmir wherein GST has been implemented from 8th July 2017), doubts have been raised over the taxability of such transactions. Such doubts have come into picture as IGST Act which provides for principles for determining the nature of supply i.e., whether a supply shall be intra-state or inter-state supply through its Section 7(2) provides that in case of supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be treated as a supply of goods in the course of inter-State trade or commerce.

In this regard, with respect to taxability of High Seas Sales, the CBEC vide Circular No 33/2017 dated 10th Aug 2017 has clarified that IGST shall be leviable only once at the time of clearance of goods by Importer on record and no IGST shall be leviable on High Seas Sales.

Going by the above analogy, since the nature of both High-Seas Sales and Bond-to-Bond Transfers is alike inasmuch as both are taking place before the goods crossing the custom frontiers of India, different tax treatment should not be given to the two types of transactions. Hence, Bond-to-Bond Transfers should also be taxed at the time ex-bonding only and not twice.

The following questions emerge for consideration:

1. Whether the Circular is contradictory to Government's earlier Circular regarding High Seas Sales i.e., different treatment has been prescribed in respect of transactions where supply has taken place before crossing the customs frontiers of India.
2. Whether provisions of Section 7(2) of IGST Act are ultra vires the provisions of GST Act – since such provision may also raise doubt about taxability of Merchant Trading (i.e., where an Indian Supplier makes delivery of goods from a location outside India to another location outside India, on the instructions of Indian Buyer), which has been outside the tax net.

3. Whether the Circular results in double taxation of GST in respect of same goods on the Importer i.e., upon purchase of goods as well as upon import clearance, on the full value (without disputing the fact that credit in respect of both shall be available). This is against the very concept of taxation based on value addition, on which GST has been introduced.
4. Whether the excess input IGST (aggregate of IGST paid on bond transfer and de-bonding) shall be refunded if the input IGST is more than the GST payable on outward
5. Whether the position taken by the Circular results in a new levy of tax. The Government of India has given repeated assurances that no retrospective taxation shall be introduced.

We hope that the Government considers all the above issues and comes up with suitable clarifications.



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Introduction of 'The Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2017'

The Reserve Bank of India (RBI) has superseded the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India)

Regulations, 2000 and Foreign Exchange Management (Investment in Firm or Proprietary concern in India) Regulations, 2000 by issuance of 'The Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2017' (New Regulation) pertaining to regulation of the investments in India by Persons Resident Outside India.

Some of the major amendments in the new FEM (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2017 in comparison to the previous regulations are as follows:

1. Definitions: - Some of the definitions as stated in the previous Regulations have been revised and some new definitions have been introduced. The important definitions as introduced in the New Regulations are stated as follows:

i. Capital Instruments:- 'Capital Instruments' means equity shares, debentures, preference shares and share warrants issued by an Indian company;

Explanation:

- (a) Equity shares issued in accordance with the provisions of the Companies Act, 2013 shall include equity shares that have been partly paid. The expression 'Debentures' means fully, compulsorily and mandatorily convertible debentures. 'Preference shares' means fully, compulsorily and mandatorily convertible preference shares. Share Warrants are those issued by an Indian Company in accordance with the Regulations issued by the Securities and Exchange Board of India. Capital instruments can contain an optionality clause subject to a minimum lock-in period of one year or as prescribed for the specific sector, whichever is higher, but without any option or right to exit at an assured price.
- (b) Partly paid shares that have been issued to a person resident outside India shall be fully called-up within twelve months of such issue. Twenty five percent of the total consideration amount (including share premium, if any), shall be received upfront.
- (c) In case of share warrants at least twenty five percent of the consideration shall be received upfront and the balance amount within eighteen months of issuance of share warrants.

- (d) Capital instruments shall include non-convertible/optionally convertible/partially convertible preference shares issued as on and up to April 30, 2007 and optionally convertible/partially convertible debentures issued up to June 7, 2007 till their original maturity. Non-convertible/ optionally convertible/partially convertible preference shares issued after April 30, 2007 shall be treated as debt and shall conform to External Commercial Borrowings guidelines regulated under Foreign Exchange Management (Borrowing and Lending in Foreign Exchange) Regulations, 2000.'

The New Regulations has replaced the definition of 'Capital' with 'Capital Instruments'. The basic definition is same but the terms used have been explained in more detail. Share warrants can also be now issued by an Indian Company to a person resident outside India in accordance with the regulations issued by the Securities Exchange Board of India (SEBI)

ii. Foreign Direct Investment:- 'Foreign Direct Investment' (FDI) means investment through capital instruments by a person resident outside India in an unlisted Indian company; or in 10 percent or more of the post issue paid-up equity capital on a fully diluted basis of a listed Indian company;

Note: In case an existing investment by a person resident outside India in capital instruments of a listed Indian company falls to a level below 10 percent of the post issue paid-up equity capital on a fully diluted basis, the investment shall continue to be treated as FDI.

Explanation: Fully diluted basis means the total number of shares that would be outstanding if all possible sources of conversion are exercised.

The definition of FDI under the New Regulation differentiates between investment in an Indian listed company and unlisted company after considering the share capital on a fully diluted basis (in case of listed company only).

It may be here noted that in case of a listed Indian Company, any investment made by Foreign Portfolio Investors which is less than 10 percent of the of the post issue paid-up share capital on a fully diluted basis of a listed Indian company or less than 10 percent of the paid up value of each series of capital instruments of a listed Indian company shall be considered as Foreign Portfolio Investment (FPI) and in case the investment exceeds to 10 percent or more of the post issue paid-up equity capital on a fully diluted basis of a listed Indian company, it will be treated as FDI.

The said amendment has been made to align the FEMA Regulations with the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014 which states that a single foreign portfolio investor or an investor group can make investment below 10% of the total issued capital of the listed Indian company as Foreign Portfolio Investment. [Regulation 21 (7) of Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014]

iii. Foreign Portfolio Investment:- 'Foreign Portfolio Investment' means any investment made by a person resident outside India through capital instruments where such investment is less than 10 percent of the post issue paid-up share capital on a fully diluted basis of a listed Indian company or less than 10 percent of the paid up value of each series of capital instruments of a listed Indian company;

Explanation: The 10 percent limit for foreign portfolio investors shall be applicable to each foreign portfolio investor or an investor group as referred in Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014.

iv. Indian entity:- 'Indian entity' shall mean an Indian company or a LLP;

v. Investment:- 'Investment' means to subscribe, acquire, hold or transfer any security or unit issued by a person resident in India;

Explanation:

- (a) This will include to acquire, hold or transfer depository receipts issued outside India, the underlying of which is a security issued by a person resident in India.
- (b) For the purpose of LLP, investment shall mean capital contribution or acquisition/ transfer of profit shares.

(2) Delay in reporting of transactions as covered under Regulation 13.1 of the New Reg-

The time limit for issuance of Capital Instruments has been aligned with the Companies Act, 2013. Henceforth, the Capital Instrument should be issued to the person resident outside India making such investment within sixty days from the date of receipt of the consideration. In case of partly paid equity shares, the period of 60 days shall be reckoned from the date of receipt of each call payment. As per the previous Regulations, the shares can be issued within 180 days from the date of receipt of

(3) **Downstream Investment:** As per the New Regulation, the downstream investment by an Indian Entity in another Indian entity should be allowed only with the approval of the Board of Directors and also of the Shareholders' Agreement, if any;

(4) **Renunciation of rights issue entitlement:** Pursuant to a rights issue, Person Resident Outside India can now acquire capital instruments (other than share warrants) that are renounced by a Person Resident in India.

(5) Time Limit for Issuance of capital instruments

The time limit for issuance of Capital Instruments has been aligned with the Companies Act, 2013. Henceforth, the Capital Instrument should be issued to the person resident outside India making such investment within sixty days from the date of receipt of the consideration. In case of partly paid equity shares, the period of 60

days shall be reckoned from the date of receipt of each call payment. As per the previous Regulations, the shares can be issued within 180 days from the date of receipt of inward remittance.

(6) Pricing Guidelines - Valuation of Capital Instruments

Pursuant to the new Regulations, in case of an unlisted Indian company, the valuation of capital instruments can be done as per any internationally accepted pricing methodology for valuation on an arm's length basis which can be certified by a practicing Cost Accountant. Previously, the same could have been certified by only a Chartered Accountant or a SEBI registered Merchant Banker.

(7) Onus of Reporting for transfer of Capital Instruments in Form FC-TRS

Under the previous Regulations, in case of transfer of shares from Person Resident Outside India to Person Resident in India or vice versa the onus of submission of the form FC-TRS within the specified time was on the transferor/ transferee, resident in India. However, as per the new Regulations, in case of transfer of capital instruments between the resident transferor/transferee or the person resident outside India holding capital instruments on a non-repatriable basis, the onus is on the resident transferor/ transferee or the person resident outside India holding capital instruments on a non-repatriable basis, as the case may be. In case of transfer under Regulation 10 (9), the onus of reporting shall be on the resident transferor/ transferee. The Regulation 10 (9) contains the provisions relating to transfer of capital instruments between a person resident in India and a person resident outside India in which the payment of consideration by the buyer can be made on a deferred basis or through escrow arrangement subject to fulfillment of certain conditions.

Soul Corner

Blaming Others

We cannot insist that someone else take responsibility for their actions; only they can make that choice when they are ready.

As we begin to truly understand that the world outside of us is a reflection of the world inside of us, we may feel confused about who is to blame for the problems in our lives. If we had a difficult childhood, we may wonder how we can take responsibility for that, and in our current relationships, the same question arises. We all know that blaming others is the opposite of taking responsibility, but we may not understand how to take responsibility for things that we don't truly feel responsible for. We may blame our parents for our low self-esteem, and we may blame our current partner for exacerbating it with their unconscious behaviour. Objectively, this seems to make sense. After all, it is not our fault if our parents were irresponsible or unkind, and we are not to blame for our partner's bad behaviour.



Perhaps the problem lies with the activity of blaming. Whether we blame others or blame ourselves, there is something aggressive and unkind about it. It sets up a situation in which it becomes difficult to move forward under the burdensome feelings of shame and guilt that arise. It also puts the resolution of our pain in the hands of someone other than us. Ultimately, we cannot insist that someone else take responsibility for their actions; only they can make that choice when they are ready. In the meantime, if we want to move forward with our lives instead of waiting around for something that may or may not happen, we begin to see the wisdom of taking the situation into our own hands.

We do this by forgiving our parents, even if they have not asked for our forgiveness, so that we can be free. We end the abusive relationship with our partner, who may never admit to any wrongdoing, because we are willing to take responsibility for how we are treated. In short, we love ourselves as we want to be loved and create the life we know we deserve. We leave the resolution of the wrongs committed against us in the hands of the universe, releasing ourselves to live a life free of blame.



Funny Side Up

Ever since Robert was a child, he had a fear of someone under his bed at night. So he went to a Psychiatrist and told him "I've got problems. Every time I go to bed, I think there's somebody under it. I'm scared. I think I'm going crazy."

"Just put yourself in my hands for one year", said the psychiatrist.

"Come, talk to me three times a week and we should be able to get rid of those fears."

"How much do you charge?"

'\$200 per visit,' replied the doctor.

'I'll think of it and if needed I will come back to you,' Robert said.

Six months later he met the Psychiatrist on the street.

'Why didn't you come to see me about those fears you were having?' he asked.

'Well, \$200 a visit three times a week for a year is an awful lot of money!

"An Indian friend of mine cured me for the price of one plate biryani and a bottle of coke. I was so happy to have saved all that money that I went and bought myself a new SUV".

'Is that so!' with a bit of an attitude he said, 'and how, may I ask, did the friend cure you?'

He told me to "Sell the bed and sleep on a Mattress on the floor."

***Moral: TO HELL WITH THOSE PSYCHIATRISTS... GO TALK TO YOUR friend.
There is always an INDIAN way to solve a difficult problem...***

Dates for your diary



PF/ ESI	<p>Payment for the month of January 2018 to be made by 15th February 2018.</p> <p>Payment for the month of February 2018 to be made by 15th March 2018.</p> <p>Payment for the month of March 2018 to be made by 15th April 2018.</p>
Professional Tax	<p>Payment for the month of January 2018 to be made by 15th February 2018.</p> <p>Payment for the month of February 2018 to be made by 15th March 2018.</p> <p>Payment for the month of March 2018 to be made by 15th April 2018.</p>
Advance Tax	<p>Last instalment (for corporate assesseees and for non-corporate assesseees) of Advance income tax for AY 2018-19 to be paid by 15th March 2018.</p>
TDS	<p>TDS deducted/collected for the month of January 2018 to be deposited by 7th February 2018</p> <p>TDS deducted/collected for the month of February 2018 to be deposited by 7th March 2018.</p> <p>TDS deducted/collected for the month of March 2017 to be deposited by 30th April 2018.</p> <p>TDS return for the period October 2017 to December 2017 to be filed by 31st January 2018 and TDS certificate to be issued by 15th February 2018.</p>
GST	<p>Monthly Return in Form GSTR-3B after payment of tax for the month of December 2017 to be filed by 20th January 2018</p> <p>Monthly Return in Form GSTR-3B after payment of tax for the month of January 2018 to be filed by 20th February 2018</p> <p>Monthly Return in Form GSTR-3B after payment of tax for the month of February 2018 to be filed by 20th March 2018</p> <p>Quarterly Return of Outward Supplies in Form GSTR-1, for taxpayers with aggregate turnover upto Rs. 1.5 crore, for the quarter October to December 2017 is to be filed by 15th February 2018</p> <p>Monthly Return of Outward Supplies in Form GSTR-1, for taxpayers with aggregate turnover more than Rs. 1.5 crore, for the month of November 2017 is to be filed by 10th January 2018</p> <p>Monthly Return of Outward Supplies in Form GSTR-1, for taxpayers with aggregate turnover more than Rs. 1.5 crore, for the month of December 2017 is to be filed by 10th February 2018</p> <p>Monthly Return of Outward Supplies in Form GSTR-1, for taxpayers with aggregate turnover more than Rs. 1.5 crore, for the month of January 2018 is to be filed by 10th March 2018</p> <p>Quarterly return for composition dealers for the quarter October to December 2017 is to be filed by 18th January 2018.</p>

Updates from our global association-Morison KSi*

- We are pleased to share that Morison KSi has a new member firm Suga & Associates in Tokyo, Japan.
- We are pleased to share that Morison KSi has expanded its representation in the Netherlands by appointing a new member firm Kallen Accountants en Adviseurs B.V.
- We are delighted to share that Key Kak, Senior Partner at Morison Kak & Associés (Cambodia), has been honoured with a Lifetime Achievement award by The Institute of Certified Management Accountants.
- We are pleased to share that Morison Finansista, our member firm in Poland, has been recognized in the top 10 business ranking in Poland for the fourth consecutive year.



* Morison KSi is a **global** association of independent accountants, auditors, tax advisers, business consultants and lawyers. S.C. Vasudeva & Co. is an independent member of Morison KSi.

Inside SCV



Glimpses of
Diwali Pooja in office



Rangoli made by Ms. Aditi Gupta and
Mrs. Neelu on Diwali which got the first
prize in Rangoli Competition

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