

## Editorial



The Benami Transactions (Prohibition) Act, 1988 was passed by both Houses of Parliament and received assent of the President of India on 5th September, 1988. However, the important provisions of the Act were neither notified nor any rules required to be prescribed

under the Act were prescribed. An Amendment Act known as the “Benami Transactions (Prohibition) Amendment Act 2016” was brought in by the present Government and such Amendment Act came into force w.e.f. 1st August, 2016. The new Act in operation is named as “The Prohibition of Benami Property Transactions Act, 1988”. The provisions of the law as contained in the Act, are draconian. This is in view of the fact that sections 3, 5 and 8 which provide for the

“Prohibition of Benami Transactions”, “Property held Benami liable to confiscation” and “Composition of Authority” come into force immediately and the other provisions of the Act are deemed to have come into force on 19th May, 1988. The draconian aspect is very much evident from the fact that the definition with regard to Benami property, Benami transaction and Benamidar are in operation since 19th May, 1988 though these definitions have been amended by the Amendment Act 2016. Accordingly, new definitions of the aforesaid term as well as other terms contained in section 2 are retrospective in operation from 19th May, 1988 whereas the provisions relating to Prohibition of Benami the transactions etc come into force from 1st August, 2016. A perusal of the definition of the Benami Transactions that are covered under the aforesaid Act would reveal that the coverage is so wide that a genuine transaction may also get trapped as a Benami transaction.

### A BENAMI TRANSACTION AS PER THE ACT MEANS:-

#### (A) a transaction or an arrangement-

- (a) where a property is transferred to, or is held by, a person, and the consideration for such property has been provided, or paid by, another person; and
- (b) the property is held for the immediate or future benefit, direct or indirect, of the person who has provided the consideration,

#### except when the property is held by –

- (i) a Karta, or a member of a Hindu undivided family, as the case may be, and the property is held for his benefit or benefit of other members in the family and the consideration for such property has been provided or paid out of the known sources of the Hindu undivided family;
- (ii) a person standing in a fiduciary capacity for the benefit of another person towards whom he stands in such capacity and includes a trustee, executor, partner,

## INSIDE THE ISSUE

|  |    |
|--|----|
| Editorial.....                                       | 1  |
| Regulatory Snippets.....                             | 3  |
| Value Add.....                                       | 8  |
| Soul Corner.....                                     | 13 |
| Funny Side-up.....                                   | 14 |
| Dates for your diary.....                            | 14 |
| Updates from our global association-Morison KSi..... | 15 |
| Panorama.....  | 16 |
| Inside SCV.....                                      | 16 |

director of a company, a depository or a participant as an agent of a depository under the Depositories Act, 1996 (22 of 1996) and any other person as may be notified by the Central Government for this purpose;

(iii) any person being an individual in the name of his spouse or in the name of any child of such individual and the consideration for such property has been provided or paid out of the known sources of the individual;

(iv) any person in the name of his brother or sister or lineal ascendant or descendant, where the names of brother or sister or lineal ascendant or descendant and the individual appear as joint-owners in any document, and the consideration for such property has been provided or paid out of the known sources of the individual; or

**(B) a transaction or an arrangement in respect of a property carried out or made in a fictitious name; or**

**(C) a transaction or an arrangement in respect of a property where the owner of the property is not aware of, or, denies knowledge of, such ownership;**

**(D) a transaction or an arrangement in respect of a property where the person providing the consideration is not traceable or is fictitious;**

In terms of an explanation to above it has been provided that a benami transaction shall not include any transaction involving the allowing of possession of any property to be taken or retained in part performance of a contract referred to in section 53A of the Transfer of Property Act, 1882, if, under any law for the time being in force –

(i) consideration for such property has been provided by the person to whom possession of property has been allowed but the person who has granted possession thereof continues to hold ownership of such property;

(ii) stamp duty on such transaction or arrangement has been paid; and

(iii) the contract has been registered.

It would be observed from the exceptions provided in the aforesaid provisions that the terminology used in such clauses (i), (iii) and (iv) is that the consideration should flow for the acquisition of the property out of the “known sources of the individual”. There is no clue as to what is meant by known sources. Will the amount withdrawn from bank account be termed as known sources in which loans received from various parties and stand deposited? Will the person who has been issued a notice also requires to prove the sources of these loans as well as source of source of such loans? There is no answer available to these questions. It is understood that notices are being issued by the authorities specified under the Act merely on suspicion.

The issue raised above is one such example of the ambiguity in the law as enacted. There are number of issues which can crop up on account of the language used in the Act. It would therefore be advisable to keep the provisions of this Act before purchasing any property.

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.vasudeva@scvindia.com](mailto:sachin.vasudeva@scvindia.com)

**Happy Reading**

**S.C. Vasudeva**

## Regulatory Snippets

### Direct Tax



**Nehal Sharma**

Associate

Tax Advisory Services

#### **Notification No. 9/2018 - Scheme notified by Central Government for contribution under Section 80D of the Act**

Under Section 80D(2)(a), the Central Government may notify a scheme where an individual assessee may claim deduction of the expenditure under Section 80D of the Act.

The Central Government has notified the Contributory Health Service Scheme of the Department of Atomic Energy for the purposes of the said clause for the assessment year 2018-2019 and subsequent years.

#### **Notification No. 10/2018 – Amendment in Rule 17A of Income Tax Rules, 1962 in respect of application for registration of charitable or religious trusts etc.**

The Board, in exercise of its power conferred under section 12A clause (1) sub clause (aa) and clause (ab) of the Act read with Section 295 of the Act, has made rules to further amend Rule 17A in respect of self-certified documents to be filed at the time of application for registration and details of modification made to objects to be filed at the time of re-registration in substituted Form No. 10A. The form shall be furnished electronically under digital signature or through EVC as the case maybe.

#### **Notification No. 12/2018 – Centralised Communication Scheme, 2018 for power to call for information under Section 133C of the Act.**

Under Section 133C of the Act, prescribed income-tax authority for the purpose of verification of information in its possession have the power to call for information or documents

relevant to any inquiry or proceeding. Under clause (3), the Board may make a scheme for centralised issuance of notice for processing of information and making available the outcome to the Assessing Officer. For this, the Board has notified Centralised Communication Scheme, 2018. Under this, no person shall be required to appear personally or through authorised representative before the designated authority at the Centralised Communication Centre in connection with any proceedings.

### Indirect Tax



**Saurabh Jain**

Associate

Indirect Tax Services

#### **Relief for Persons registered under Composition Scheme**

On 1st January 2018, as a major relief to persons registered under Composition Scheme, the Government vide Notification No. 1/2018-Central Tax, read with State Tax Notification, has lowered down the rate of tax

for manufacturers from 2% to 1% and has also rationalised the taxation in case of traders who shall be required to pay tax at 1% on turnover of taxable supplies of goods instead of total turnover.

#### **Renting of immovable property by the Government to be taxed under Reverse Charge**

On 25th January 2018, the Central Government vide Notification No. 3/2018-Central Tax (Rate) has prescribed that supply of services by the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under the CGST Act 2017 shall be subject to payment of tax under reverse-charge mechanism by the recipient.

### Special procedure with respect to payment of tax by registered person supplying service by way of construction against transfer of development right and vice versa

On 25th January 2018, the Central Government vide Notification No. 4/2018-Central Tax (Rate) has notified the following classes of registered persons, namely:

- (a) registered persons who supply development rights to a developer, builder, construction company or any other registered person against consideration, wholly or partly, in the form of construction service of complex, building or civil structure; and
- (b) registered persons who supply construction service of complex, building or civil structure to supplier of development rights against consideration, wholly or partly, in the form of transfer of development rights,

as the registered persons in whose case the liability to pay central tax on supply of the said services, on the consideration received in the form of construction service referred to in clause (a) above and in the form of development rights referred to in clause (b) above, shall arise at the time when the said developer, builder, construction company or any other registered person, as the case may be, transfers possession or the right in the constructed complex, building or civil structure, to the person supplying the development rights by entering into a conveyance deed or similar instrument (for example allotment letter).

### Reduction in rates of tax in case of old and used motor vehicles

On 25th January 2018, the Central Government vide Notification No. 8/2018-Central Tax (Rate) has reduced the tax rate on supply of used cars from 28% to 18% for large cars & SUVs and 12% for small vehicles. Also, vide even dated Notification No. 1/2018-Compensation Cess (Rate), the compensation cess leviable on all old and used motor vehicles has been reduced to Nil.

### Cancellation in case of Voluntary Registration

On 23rd January 2018, the Central Government vide Notification No. 3/2018-Central Tax i.e., has notified amendments in the CGST Rules, 2017. The said amendments in CGST Rules, inter-alia, provides that taxable persons who have obtained voluntary registration under CGST Act shall be permitted to apply for cancellation of registration even before the expiry of one year from the effective date of registration. Earlier, persons who had obtained voluntary registration could not apply for cancellation before the expiry of a period of one year from the effective date of registration.

### Corporate Advisory



**Nishi Purohit**

Associate

Corporate Advisory Services

#### Amendment in the Companies (Registration Offices and Fees) Rules, 2014 pertaining to the fees levied for the filing of various e-Forms with the Registrar of Companies

The Ministry of Corporate Affairs (MCA) vide its Notification No. G.S.R. 48(E) dated 20.01.2018

has amended the provisions of the Companies (Registration Offices and Fees) Rules, 2014 with respect to the fees levied by the Registrar for filing of various e-Forms with the ROC through MCA portal. The major amendment to the said Rule is in respect to the fees involved at the time of registration of Companies (other than One Person Company and Small Companies). The said amendment came into force with effect from 26.01.2018.

By virtue of the said amendment, the registration fee on filing of incorporation forms shall be Nil in case the companies (other than One Person Company and Small Companies) are incorporated with a nominal capital of less than or equal to rupees ten lakhs or in case of the company not having a share capital whose number of members as stated in the Articles of Association does not exceed twenty.



For registration of the companies (other than OPC and small companies) having share capital whose nominal share capital exceed Rs. 10,00,000/- fee of Rs. 36,000 shall require to be paid along with the additional fees as per the slab rates on the amount of nominal capital as prescribed under the aforesaid Rules, as amended from time to time.

The amendment also specifies that no resubmission of the application shall be allowed in the case of reservation of name through web service-RUN.

### **Amendment in the Companies (Appointment and Qualification of Directors) Rules, 2014 pertaining to the application and allotment of Director Identification Number for the proposed Directors and Directors of an existing Company**

The Ministry of Corporate Affairs (MCA) vide its Notification No. G.S.R.51(E) dated 22.01.2018 has amended the provisions of Rule 9 (Application for allotment of Director Identification Number) of the Companies (Appointment and Qualification of Directors) Rules, 2014 with effect from 26.01.2018 pertaining to the provisions for application and allotment of Director Identification Number (DIN) for the Directors of a proposed Company not having approved DIN in form no. INC. 32(Spice) and for the proposed Directors to be appointed in the existing Company. The impact of key amendments in such rules have been summarised below:-

- By virtue of the aforesaid amendment, in case DIN is to be applied for a Director of an existing company, then the application shall be made in Form DIR-3 along with the required documents as prescribed under the rules including the board resolution proposing his appointment as director in the said existing company and with such fees as provided under the Companies (Registration Offices and Fees) Rules, 2014, as amended from time to time.

- The said Form DIR-3 shall be signed and submitted electronically by the applicant using his or her own Digital Signature Certificate and shall be verified digitally by a company secretary in full time employment of the company or by the managing director or director or CEO or CFO of the company in which the applicant is intended to be appointed as director in an existing company
- In case the DIN is to be applied for the Directors of a proposed Company, then such application shall be made in SPICe Form INC-32, subject to the condition that particulars of maximum three directors can be mentioned in SPICe Form INC-32 and DIN may be allotted to maximum three proposed directors through such form.

### **Amendment in the Companies (Registered Valuers and Valuation) Rules, 2017 pertaining to the transitional arrangement wherein the persons rendering valuation services were exempted to obtain the certificate of registration under these rules upto 31st March, 2018**

The Ministry of Corporate Affairs (MCA) vide its Notification No. G.S.R. 155 (E) dated 09.02.2018 has amended the provisions of Rule 11 (Transitional Arrangement) of the Companies (Registered Valuers and Valuation) Rules, 2017, wherein the time period for rendering valuation services under the Companies Act, 2013 without obtaining the certificate of registration under these rules has been extended from 31.03.2018 up to 30.09.2018.

Also, if a Company has appointed any valuer before 30.09.2018 and the valuation or any part of it has not been completed before 30.09.2018, the valuer shall complete such valuation or such part within three months thereafter.

### **Rolling out of Form AOC-3 under the Companies (Accounts) Rules, 2014**

The Ministry of Corporate Affairs (MCA) vide its Notification dated 27.02.2018 has prescribed a new Form i.e.

Form AOC-3A by amending the provisions of Rule 10 (Statement containing salient features of financial statements) of the Companies (Accounts) Rules, 2014, wherein the Listed Companies which are required to comply with the Companies (Indian Accounting Standards) Rules, 2015 shall forward a statement containing salient features of financial statements of the Company in Form AOC-3A to the Registrar.

## Value Add

### Taxation of equities as long-term capital gains



**Kimmi Dawar**

Associate

Tax Advisory Services

Section 45 of the Act provides that any profits or gains arising from the "transfer" of "Capital Asset" shall be chargeable to tax under the head "Capital Gain". However, at present, section 10(38) provides for exemption of capital gains in case of

- equity share in a company or
- unit of an equity-oriented fund or
- a unit of a business trust

### Conditions for availing the exemption under section 10(38) of the Act:

- Gain should arise from the transfer of **Long-term Capital Asset**;
- Such **long-term Capital Asset** should be **equity share in a company or unit of an equity-oriented fund or a unit of a business trust**;
- The **gain** should be arising from the transaction of sale of equity share in a company or unit of an equity-oriented fund or a unit of a business trust;
- Such transaction of sale should be chargeable to Security Transaction Tax (STT)
- The transaction of acquisition of equity shares shall be chargeable to STT if equity shares are acquired on or after 01.10.2004, except such type of acquisitions which are notified by the Central Government.

Capital gains were made exempt under section 10(38) of the Act in 2004 when the Securities Transaction Tax was introduced. Finance Bill, 2018 has now proposed to tax these capital gains. The provisions introduced by Finance Bill, 2018 are as under:

### Changes proposed in the Finance Bill, 2018 (applicable from the Assessment Year 2019-2020)

- 1) In section 10(38), a proviso has been added after the third proviso, which reads as under:  
"Provided also that nothing in this clause shall apply to any income arising from the transfer of long-term capital asset, being an equity share in a company or a unit of an equity-oriented fund or a unit of a business trust, made on or after the 1st day of April 2018".
- 2) A new section 112A has been inserted in the Act after the existing section 112 w.e.f. 01.04.2019 i.e. from Assessment Year 2019-20. The aspects of section 112A are as under:
  - Capital gains arising from the transfer of a **long-term capital asset** in the nature of:
    - > Equity shares in a company or
    - > a unit of an equity-oriented fund or
    - > a unit of a business trust,

earlier exempted u/s 10(38) of the Act shall be chargeable to tax @ 10%, exceeding Rs. 1,00,000. In other words, LTCG upto Rs. 1 Lakh shall be exempt. This concessional rate of 10% will be applicable on the satisfaction of the following conditions:

- > in a case where long-term capital asset is in the nature of an equity share in a company, securities transaction tax has been paid on both acquisition and transfer of such capital asset; and
- > in a case where long-term capital asset is in the nature of a unit of an equity-oriented fund or a unit of a business trust, securities transaction tax has been paid on transfer of such capital asset.

**For example:** If LTCG on sale of equity shares is Rs. 2.5 Lakhs and the assessee has other income of Rs. 8 Lakh, then out of the total LTCG, Rs. 1 Lakh is exempt and balance Rs. 1.5 Lakhs is taxable at 10% under section 112A. The other income amounting to Rs. 8 lakh shall be taxable as per the applicable rates.

3) The cost of acquisition in respect of the long-term capital asset acquired by the assessee before the 1<sup>st</sup> day of February 2018, shall be deemed to be the higher of:

- The actual cost of acquisition of such asset; and
- The lower of:
  - 1) The **fair market value** of such asset; and
  - 2) The full value of consideration received or accruing as a result of the transfer if the capital asset

The above can be explained with the help of table below:

| Scenarios | Actual Cost of equity shares acquired before 31 <sup>st</sup> January 2018 (A) | FMV of equity shares as on 31 <sup>st</sup> January 2018 (B) | Sale Value of such share on or after 01.04.2018 (C) | Cost of acquisition is to be higher of:<br>• A and<br>• Lower of:- B<br>- C (D) | LTCG/LTCL (C) –(D) |
|-----------|--|--|---|---|--------------------|
| 1         | 100  | 200  | 250   | 200   | 50                 |
| 2         | 100  | 200  | 150   | 150   | 0                  |
| 3         | 100  | 50   | 150   | 100   | 50                 |
| 4         | 100  | 200  | 50  | 100   | (50)               |

As stated above, one of the attribute to compute the Actual Cost is **Fair Market Value**.

**Fair market value** has been defined to mean:

- (a) in a case where the capital asset is listed on any recognized stock exchange, **the highest price** of the capital asset quoted on such exchange on the 31<sup>st</sup> day of January 2018.

However, where there is no trading in such asset on such exchange on the 31<sup>st</sup> day of January 2018, the highest price of such asset on such exchange on a date immediately preceding the 31<sup>st</sup> day of January 2018 when such asset was traded on such exchange shall be the fair market value; and

- (b) in a case where the capital asset is a unit and is not listed on recognized stock exchange, the **net asset value** of such asset as on the 31st day of January 2018;
- (c) in a case:
- where equity shares were unlisted as on January 31, 2018 but are listed on the date of transfer, or
  - where equity shares are listed on the date of transfer and which become the property of the taxpayer in consideration of share which is not listed on such exchange as on January 31, 2018 by way of transaction not regarded as a transfer under section 47 of the Act.

In such a situation given in (c) above, the FMV will be an amount which bears to the cost of acquisition, the same proportion as Cost Inflation index (CII) for FY 2017-18 bears to the CII for the first year in which the asset was held by the assessee or for the year beginning 1.4.2001, whichever is later. In other words, FMV in such cases is **indexed cost of acquisition**.

The computation of FMV mentioned in situation (c) can be explained with the help of following example

**Example:** Mr. X is a shareholder in XYZ Private Limited holding 100 shares at Rs. 100,000 (date of purchase 01.01.2017). The share of XYZ Private Limited was not listed on the recognized stock exchange. Subsequently, XYZ Private Limited got merged with ABC Limited on 15.02.2018. and Mr. X received shares in ABC Limited post such restructuring. This transaction was covered under section 47 of the Act (presuming that the conditions mentioned in section 47 of the act were fulfilled). Now, on 31.05.2018, Mr. X sells these shares to Mr. B for Rs. 2,50,000/-. On the said date, shares were listed. Capital gain as per the proposed provision would be computed as under:

| Particulars  | Amount   |
|--|----------|
| Date of Sale- 31.05.2018 (Financial Year 2018-19)<br>Sale Consideration  | 2,50,000 |
| Less: Cost of acquisition<br>Higher of: (A) and (B)= Rs. 1,00,000<br><b>A.- Actual Cost- Rs. 1,00,000</b><br><b>B.- Lower of:</b><br>- FMV- $(1,00,000/272\#)*264\## = \text{Rs. } 97,059$<br>-Sale Consideration= Rs. 2,50,000<br>Lower of above (B)= Rs. <b>97,059/-</b> | 1,00,000 |
| # Cost inflation index for FY 2017-18 (since the FMV is computed as on 31.01.2018)<br>## Cost inflation index of FY 2016-17 (since the date of acquisition is 01.01.2017)  |          |
| Long Term Capital Gain computed as per the provision of section 112A   | 1,50,000 |



#### 4) Benefit of grandfathering:

All the gains up to 31st January 2018 will be grandfathered. For example, if an equity share is purchased six months before 31st January 2018 at Rs. 100 and the highest price quoted on 31st January 2018 in respect of this share is Rs. 120, there will be no tax on the gain of Rs. 20 if this share is sold after one year from the date of purchase. However, any gain in excess of Rs. 20 earned after 31st January 2018 will be taxed at 10% if this share is sold after 31st July 2018.

### Clarifications on exports related refund issues



**Saurabh Jain**

Associate

Indirect Tax Services

The Central Board of Excise and Customs (CBEC) has vide Circular No. 17/17/2017 – GST dated 15th November 2017 and Circular No. 24/24/2017 – GST dated 21st December 2017 clarified various issues in relation to processing of claims for refund. However, the CBEC had been continuously receiving representations seeking further clarifications on issues relating to processing of refunds. Therefore, in order to clarify such issues and with a view to ensure uniformity in implementation of the provisions of the GST Law across the Country with respect to processing of refunds, the CBEC has issued Circular No. 37/11/2018-GST dated on 15<sup>th</sup> March 2018.

A summary of major issues arising during the processing of refund along with the corresponding clarifications issued by the CBEC by way of Circular No. 37/11/2018-GST dated on 15<sup>th</sup> March 2018 is as follows:

| Issue  | Clarification  |
|--|--|
| <p><b>1. Non-availment of drawback:</b></p> <p>The third proviso to Section 54(3) of the CGST Act states that no refund of ITC shall be allowed in cases where the supplier of goods or services or both avails of drawback in respect of central tax.</p>   | <p>1. Supplier availing of drawback only with respect to basic customs duty shall be eligible for refund of unutilized ITC of CGST/SGST/IGST.</p> <p>2. Refund of eligible ITC on account of State tax shall be available even if the supplier of goods or services or both has availed of drawback in respect of central tax.</p>   |
| <p><b>2. Amendment through Table 9 of GSTR-1:</b></p> <p>Refund claims are not being processed on account of mis-matches between data contained in Form GSTR-1, Form GSTR-3B and shipping bills/bills of export.</p> <p>In this regard, a taxpayer who has committed any error while entering the details of an invoice/shipping bill/bill of export in Table 6A or Table 6B of Form GSTR-1 for any particular tax-period can rectify the same by way of amendment by filling Table 9 of Form GSTR-1 of subsequent tax period.</p> | <p>1. It is advised that while processing refund claims on account of zero-rated supplies, information contained in Table 9 of Form GSTR-1 of the subsequent tax periods should be taken into account, wherever applicable.</p> <p>2. In case of discrepancies between the data furnished by the taxpayer in Form GSTR-3B and Form GSTR-1, the officer shall refer to the Circular No. 26/26/2017 – GST dated 29th December, 2017 wherein the procedure for rectification of errors made while filing the returns in Form GSTR-3B has been provided.</p> |

**3. Exports without LUT:**

Zero-rated supplies have been made before filing the LUT and thereafter refund claims for unutilized ITC have been filed.

1. The substantive benefits of zero-rating may not be denied where it has been established that exports in terms of the relevant provisions have been made.

2. The delay in furnishing of LUT in such cases may be condoned and the facility for export under LUT may be allowed on ex post facto basis taking into account the facts and circumstances of each case.

**4. Exports after specified period:**

Rule 96A(1) of the CGST Rules 2017 provides as follows:

(i) In case of Export of Goods against LUT: Exporters shall be liable to pay IGST within 15 days after expiry of 3 months or extended period from the date of issue of invoice for exports, in case goods are not exported out of India within 3 months or extended period.

(ii) In case of Export of Services against LUT: Exporters shall be liable to pay IGST within 15 days after expiry of 1 year or extended period from the invoice date, if the payment of such services is not received by the exporter in convertible foreign exchange.

It has been reported that the exporters have been asked to pay integrated tax where the goods have been exported but not within three months from the date of the issue of the invoice for export.

1. It is advised that while processing refund claims on account of zero-rated supplies, information contained in Table 9 of Form GSTR-1 of the subsequent tax periods should be taken into account, wherever applicable.

2. In such cases, the jurisdictional Commissioner may consider granting extension of time limit for export as provided in Rule 96A(1) of the CGST Rules on post facto basis keeping in view the facts and circumstances of each case.

3. The above-mentioned principle should be followed in case of export of services.

**5. Discrepancy between values of GST invoice and shipping bill/bill of export:**

Where the refund of unutilized ITC on account of export of goods is claimed and the value declared in the tax invoice is different from the export value declared in the corresponding shipping bill under the Customs Act, refund claims are not being processed.

The value of the goods declared in the GST invoice and the value in the corresponding shipping bill / bill of export should be examined and the lower of the two values should be sanctioned as refund.

**6. Filing frequency of Refunds:**

Various representations have been made to the Board regarding the period for which refund applications can be filed.

Section 2(107) of the CGST Act defines the term 'tax period' as the period for which the return is required to be furnished. The terms 'Net ITC' and 'turnover of zero-rated supply of goods/services' are used in the context of the relevant period in rule 89(4) of CGST Rules. The phrase 'relevant period' has been defined in the said sub-rule as 'the period for which the claim has been filed'.

In many scenarios, exports may not have been made in the period in which the inputs or input services were received and ITC has been availed. Similarly, there may be cases where exports may have been made in a period but no ITC has been availed in the said period.

1. Rule 89(4) of the CGST Rules defines relevant period in the context of the refund claim and does not link it to a tax period.

2. Exporter, at his option, may file refund claim for one calendar month / quarter or by clubbing successive calendar months / quarters.

2. The calendar month(s) / quarter(s) for which refund claim has been filed, however, cannot spread across different financial years.

**7. BRC / FIRC for export of goods:**

1. The realization of convertible foreign exchange is one of the conditions for export of services.

2. A statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices is required to be submitted along with the claim for refund in case of exports of goods.

3. Insistence on proof of realization of export proceeds for processing of refund claims related to export of goods has not been envisaged in the law and should not be insisted upon.

**8. Supplies to Merchant Exporters:**

1. The benefit of supplies at concessional rate is subject to certain conditions and the said benefit is optional.
2. The exporter will be eligible to take credit of the tax @ 0.05% / 0.1% paid by him.
3. The supplier who supplies goods at the concessional rate is also eligible for refund on account of inverted tax structure as per the section 54(3)(ii) of CGST Act.
4. The exporter of such goods can export the goods only under LUT / bond and cannot export on payment of IGST

## Amendments in the Companies (Incorporation) Rules, 2014 pertaining to the process of name approval and incorporation of Companies



**Aditi Mittal**

Assistant Manager

Corporate Advisory Services

The Ministry of Corporate Affairs (MCA) vide its Notification No. G.S.R. 49(E) dated 20.01.2018 has amended the provisions of the Companies (Incorporation) Rules, 2014 with effect from 26.01.2018. The major amendments have been made under Rule 9 (Reservation of name) and Rule 12 (Application for incorporation of companies) of the said rules with respect to the process of name approval and incorporation of Companies.

A new web Form i.e. RUN (Reserve Unique Name) Form has been rolled out for reservation of name and Form INC-7 which was earlier available for filing an application for incorporation for any Part I Company (as specified in section 366 of the Companies Act, 2013) or for Companies with more than seven subscribers has also been omitted as an effect to which SPICe Form INC-32 is now the only integrated form available for filing an application for incorporation of all types of Companies. The major impact and analysis of the amendments are as follows:-

1. By virtue of this amendment, e-Form INC-1 (Application for name approval or change of name) has been omitted. Accordingly, in case an applicant intends to apply for the name of a proposed Company, it can be applied through filing of SPICe Form INC-32 or the new web Form i.e. RUN (Reserve Unique Name) Form and in case of an existing Company it can be applied only through RUN Form with the Registrar, Central Registration Centre (CRC). The RUN Form can either be approved or rejected, as the case may be, by the Registrar (CRC) and a fresh fees of Rs. 1,000/- shall be levied on each submission of RUN Form with the Registrar, CRC.
2. In pursuance to the provisions of Section 4(5)(i) of the Companies Act, 2013, as substituted by the Companies (Amendment) Act, 2017, with effect from 26.01.2018, in case an application for approval of name for a proposed Company has been filed with the Registrar (CRC) in RUN Form, then all the incorporation documents

will have to be submitted through SPICe Form INC-32 within 20 days from the date of the approval of name of the proposed Company. However, in case of foreign subscribers some documents require notarization and apostillation and therefore it would be a challenge for such subscribers to file the SPICe Form INC-32 within 20 days from the date of the approval of the name of the proposed company.

3. In case an applicant applies for name and files the incorporation documents through SPICe Form INC-32, then the time period of 20 days shall not be applicable for arranging the signed apostilled/ notarised documents. However, the only challenge with this option is that in case the proposed name as applied for in the SPICe Form INC-32 is rejected, then all the incorporation documents comprising of the name of the New Company shall be prepared again and in case of foreign subscribers the documents shall require to be apostilled / notarised again.

It is pertinent to note that in case of SPICe Form INC-32, 2 chances of resubmission of the documents are allowed to the applicant wherein 15 days time period for each resubmission shall be given to the applicant from the date of intimation by the Registrar, CRC to remove the defect, deficiencies and incompleteness of the documents.

## Soul Corner

### Habitual Anger

Anger can easily become our go-to emotion; to remedy, start noticing when and why you get angry

Sometimes when we feel anger, it is coming from a deep place that demands acknowledgment and expression. At these times, it is important that we find healthy ways to honor our anger, remembering how dangerous it is to repress it. However, anger can also become a habit, our go-to emotion whenever things go wrong. Often this is because, for whatever reason, we feel more comfortable expressing anger than we do other emotions, like sadness. It can also be that getting angry gives us the impression that we've done something about our problem. In these cases, our habitual anger is inhibiting both our ability to express our other emotions and to take action in our lives.



If it's true that anger is functioning this way in your life, the first thing you might want to try is to notice when you get angry. You might begin to see a pattern of some kind. For example, you could notice that it is always your first response or that it comes up a lot in one particular situation. If the pattern doesn't become clear right away, you could try keeping a journal about when you get angry and see if you can find any underlying meaning. The good thing about keeping a journal is that you can explore your anger more deeply in it—from examining who in your family of origin expressed a lot of anger to how you feel when you encounter anger in others. This kind of awareness can be a formidable agent of transformation

Anger can be a powerful ally, since it is filled with energy that we can harness and use to create change in the world. It is one of the most cathartic emotions, and it can also be a very effective cleanser of the emotional system. However, when it becomes a habit, it actually loses its power to transform and becomes an obstacle to growth. Identifying the role anger plays in your life and restoring it to its proper function can bring new energy and expansiveness to your emotional life.

- By Madisyn Taylor



**Funny Side Up**



Wife Joins English speaking class .....

*(After Few days)*

Wife: Welcome home darling.

Husband: I am so tired today.

Wife: OK... REST IN PEACE

**Dates for your diary**



|             |   |
|-------------|---|
| PF/ ESI     | Payment for the month of April 2018 to be made by 15th May 2018<br>Payment for the month of May 2018 to be made by 15th June 2018<br>Payment for the month of June 2018 to be made by 15th July 2018  |
| TCS         | TCS collected for the month of March 2018 to be deposited by 7th April 2018<br>TCS collected for the month of April 2018 to be deposited by 7th May 2018<br>TCS collected for the month of May 2018 to be deposited by 7th June 2018<br>TCS return for the period January 2018 to March 2018 to be filed by 15th May 2018 and TCS certificate to be issued by 30th May 2018 |
| Advance Tax | First instalment (for corporate assesseees and for non-corporate assesseees) of Advance income tax for AY 2019-20 to be paid by 15th June 2018  |
| TDS         | TDS deducted for the month of March 2018 to be deposited by 30th April 2018<br>TDS deducted for the month of April 2018 to be deposited by 7th May 2018<br>TDS deducted for the month of May 2018 to be deposited by 7th June 2018<br>TDS return for the period January 2018 to March 2018 to be filed by 31st May 2018 and TDS certificate to be issued by 15th June 2018  |

## GST

GSTR 3B for the month of March to be filed by 20th April 2018.

GSTR 3B for the month of April to be filed by 20th May 2018.

GSTR 3B for the month of May to be filed by 20th June 2018.

GSTR-1 for the quarter January to March 2018 to be filed by 30th April by the registered persons with aggregate turnover upto Rs 1.50 crores.

GSTR-1 for the month of February 2018 to be filed by 10th April by the registered persons with aggregate turnover of more than Rs 1.50 crores.

GSTR-1 for the month of March 2018 to be filed by 10th May 2018 by registered persons with aggregate turnover of more than Rs. 1.50 crores.

GSTR-4 for the quarter January 2018 to March 2018 to be filed by persons registered under composition scheme by 18th April 2018.

## Updates from our global association-Morison KSi\*

- We are pleased to share that Morison KSi has maintained its ranking as the 9th largest association in the International Accounting Bulletin (IAB) World Survey 2018.
- We are pleased to share that Morison KSi has expanded its representation in Taiwan by appointing a new member firm WeTec International CPAs in Taipei.
- We are pleased to share that Morison KSi has also appointed Cabinet THK as a member firm in Tunis, Tunisia.
- We are pleased to share that Morison KSi has strengthened its representation in France with the appointment of SLIGEC



**Morison KSi**  
Independent member

\* 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.

**Panorama**



Budget Seminar organised for our clients on 5<sup>th</sup> February 2018

**Inside SCV**



Glimpses of Office Picnic at Lohagarh Farms on 17<sup>th</sup> February 2018

**S.C. Vasudeva & Co.  
Chartered Accountants**

B-41 Panchsheel Enclave  
New Delhi-110017  
Tel: 011-26499111, 26499222  
Fax: 00-91-11-41749444  
Email: info@scvasudeva.com

“W.E.F. 1.4.2018, our email address will change to delhi@scvindia.com”

This newsletter is intended for private circulation and is meant only for clients and old members of the firm.