

# NEWSLETTER MAR 2020

"Strive not to be success but rather to be of value"

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# DIRECT TAX

## INCOME TAX

Where the rent was charged by father from financially unmarried independent son and daughter, all of them living in a same house, the transaction was regarded as a genuine one.

**Md. Hussain Habib Pathan v. ACIT, [2020] 115 taxmann.com 179 (Mumbai - Trib.)**

### Facts

1. The assessee earned a rental income of Rs. 9 Lakhs and claimed an Interest on borrowed capital of approx. Rs. 21 lakhs resulting into a loss of approx. Rs. 15 lakhs under the head Income from House Property.
2. The said rent was charged from unmarried major Son and major Daughter, both residing at the same place as that of assessee with other family members.
3. AO was of the view that no one will charge rent from his own son and daughter who are living together with their family at its self-owned abode. Such an arrangement was regarded as merely a tax reducing device and thus considering the said house property as SOP restricted the claim of interest to Rs. 1.5 lakhs
4. The same has been affirmed by CIT(A).
5. Aggrieved by the aforementioned decision, assessee preferred an appeal before ITAT.

### Held

1. The assessee claimed that though the rental income has been received from family members it cannot be ignored. The Revenue on the other hand has shown nothing that the arrangement is against human probabilities and to avoid tax.
2. Though the arrangement is highly unusual but not conclusive one. Further the Revenue has not verified the facts i.e., What is the total area? How many family members are residing thereat? Whether any private space has been let to the tenants? How the rent has been received i.e., Cash or Bank? From where the said rent was sourced i.e, from the assessee or capital/income of the tenants? Why no attempt has been made to inquire whether the arrangement was continuing one? The authorities have merely doubted the genuineness of the transaction.
3. Both major son and major daughter are financially independent with independent incomes. Instead of transferring funds as share of interest on loan the tenants are paying rent to assessee providing a dual benefit of interest sharing and tax saving. A genuine arrangement cannot be disregarded as the same results or operates to minimize the assessee's tax liability. There is nothing on record by the revenue to show that the transaction is not genuine. We are therefore in agreement with the assessee's claim.
4. Further, the assessee's claim of interest is not fully correct. The house property is SOP as well as rented. The interest pertains to the entire property and the rental income is only for the rented property. The interest claim with respect to SOP will be restricted to 1.5 lakhs, for which the assessee will provide the working for allocation of interest on loan into SOP and rented part of the property within a reasonable time.
5. The assessee's appeal was thus partly allowed.

# DIRECT TAX

## INCOME TAX

Where assessee claimed deduction of interest on borrowed capital against rental income of house property, however, Assessing Officer finding that assessee was charging rent from his own son and daughter and, thus, treating house property as a self-occupied property, restricted claim of interest under section 24(b) to a particular amount, in view of fact that both daughter and son were financially independent and, as such, instead of transfer of funds to assessee per se, regarded, by mutual agreements, same as rent, as that would, apart from meeting interest burden to that extent, also allow tax saving to assessee-father, it was to be regarded as a genuine arrangement in order to minimise assessee's tax liability and, thus, impugned order passed by Assessing Officer was to be set aside

[2020] 115 taxmann.com 179 (Mumbai - Trib.)

IN THE ITAT MUMBAI BENCH 'B'

Md. Hussain Habib Pathan

v.

**Assistant Commissioner of Income Tax**  
SANJAY ARORA, ACCOUNTANT MEMBER

AND C.N. PRASAD, JUDICIAL MEMBER

IT APPEAL NO. 4058 (MUM.) OF 2013

[ASSESSMENT YEAR 2009-10]

MARCH 5, 2020

**Kirit Mehta**, CA for the Appellant. **Kavita P. Kaushik**, DR for the Respondent.

### ORDER

**Sanjay Arora, Accountant Member** - This is an Appeal by the Assessee directed against the Order by the Commissioner of Income-tax (Appeals)-29, Mumbai ('CIT(A)' for short) dated 13-12-2012, partly allowing the assessee's appeal contesting his assessment for Assessment Year (AY) 2009-10 vide order u/s. 143(3) of the Income-tax Act, 1961 ('the Act') dated 30-12-2011.

2. At the outset, it was observed that the assessee's appeal is delayed by a period of sixty six days. In view of the delay being reasonably explained, we are, after hearing the parties, inclined to condone the delay, and admit the appeal.
3. Opening the arguments for and on behalf of the assessee, it was submitted by his counsel, Sh. Mehta, that he is not pressing the assessee's Ground II as well as the additional ground, making an endorsement to that effect on Form 36. No plea was accordingly advanced toward the admission of the additional ground. The only issue therefore requiring our adjudication is that raised by the assessee per Ground I, i.e., in respect of house property income qua the assessee's residential house property, i.e., A/1-5, Prithvi Apartments, at Mumbai. The assessee has claimed a loss of Rs. 15,32,120 qua the said property on account of interest (on borrowed capital) at Rs. 21,62,120, adjusting it against the rental income of Rs. 9 lakhs. The said rent was, on the basis of a field enquiry by the Assessing Officer (AO), found to be from the assessee's major son, Roman Pathan and major daughter, Neha Pathan, residing thereat along with the assessee's other family members. Nobody would, in the view of the AO, charge rent (for residence) from his own son and daughter,



particularly considering that both are unmarried and living together with their family at its' self-owned abode. The arrangement was therefore regarded merely as a tax-reducing device adopted by the assessee, liable to be ignored. Treating the house property as a self-occupied property, the AO restricted the claim of interest u/s. 24(b) to Rs. 1,50,000, and which was confirmed by the Id. CIT(A) in appeal for the same reason/s.

4. Before us, the assessee's claim was that there is nothing to show that the arrangement, which is duly supported by written agreements, furnished in the assessment proceedings, is fake or a make-believe. Rental income cannot be overlooked or disregarded merely because it arises from close family members. Sh. Mehta was, however, not able to, on a query by the Bench, state the status, i.e., self-occupied or rented, of the said premises for the earlier or subsequent years, though would submit that this is the first year of the claim of loss. The rent agreements having not been brought on record by the assessee, he was also unable to tell us of the area let, i.e., out of the total area available, inasmuch as other family members, including the assessee, are also residing in the same premises. The Revenue's case, on the other hand, was of no cognizance being accorded to an arrangement which is against human probabilities, and clearly a device to avoid tax.
5. We have heard the parties, and perused the material on record.
- 5.1 Surely, the arrangement is highly unusual, particularly considering that the rent is in respect of a self-owned property (i.e., for which no rent is being paid), which constituted the family's residence, with, further, the assessee's son and daughter being unmarried. That, however, to our mind, may not be conclusive of the matter. Being a private arrangement, not involving any third party, not informing the cooperative housing society may also not be of much consequence. The Revenue has rested merely by doubting the genuineness of the arrangement, without probing the facts further. What is the total area, as well as its composition/profile? How many family members, besides the assessee (the owner) and the two tenants, are residing thereat? Has the area let been specified, allowing private space (a separate bedroom each) to son and daughter, who would in any case be also provided access to or user of the common area - specified or not so in the agreement/s, viz. kitchen, balcony, living area, bathrooms, etc. How has the rent been received, i.e., in cash or through bank and, further, been sourced, i.e., whether from the assessee (or any other family member), or from the capital/income of the tenants. Why, there was even no attempt to inquire if the arrangement was a subsisting/continuing one, or confined to a year or two, strongly suggestive of, in that case, a solely tax motivated exercise.
- 5.2 It could, however, we are conscious, well be that the assessee's major son and daughter are financially independent (or substantially so), with independent incomes, sharing the interest burden of their common residence with their father. And, as such, instead of transfer of funds to him per se, have regarded, by mutual agreements, the same as rent, as that would, apart from meeting the interest burden to that extent, also allow tax saving to the assessee-father. A genuine arrangement cannot be disregarded as the same results or operates to minimize the assessee's tax liability. Reference in this regard may be made to the decision in *Union of India v. Azadi Bachavo Andolan* [2003] 263 ITR 706 (SC) and, more recently, in *Vodafone International Holdings B.V. v. Union of India* [2012] 314 ITR 1 (SC). We are, accordingly, in principle, in agreement with the assessee's claim inasmuch as, as afore-noted, there is nothing on record to further the Revenue's case of the arrangement being not a genuine arrangement, i.e., apart from being unusual.

- 5.3** On quantum, however, the assessee's stand is infirm. The house property, A/1-5, Prithvi Apartments, the family residence of the Pathan family, is, in view of the rent agreements, both a self-occupied and a let out property. The interest claimed (Rs. 21.62 lakhs) is qua the entire property, which therefore cannot be allowed in full against the rental income, which is qua a part of the house property. The assessee's interest claim therefore cannot be allowed in full and shall have to be suitable proportioned, even as agreed to by Sh. Mehta, restricting the interest claim relatable to the self occupied part thereof to, as allowed, Rs. 1.50 lakhs. The assessee shall provide a reasonable basis for such allocation as well as the working of the area let. We say so as it may well, in view of the joint residence, be that no area (portion) is specified in the rent agreements. The number of family members living jointly; their living requirements - which may not be uniform; fair rental value of the property, etc., are some of the parameters which could be considered for the purpose. The AO shall adjudicate thereon per a speaking order, giving definite reasons for being in disagreement, where so, in whole or in part, with the assessee's working, within a reasonable time. We decide accordingly.
- 6.** In the result, the assessee's appeal is partly allowed on the aforesaid terms.

# INDIRECT TAXATION

## GST Notifications

- **Value of supply of Lottery**

Value of supply of lottery shall be deemed to be 100/128 of the face value of ticket or of the price as notified in the Official Gazette by the Organizing State, whichever is higher.

Accordingly, a uniform rate of 28% was fixed for Lottery being applicable from 1 March 2020.  
**(Notification No. 08/2020-Central Tax dated 02 March 2020)**

- **Exemption to foreign airline**

Govt. exempts foreign airlines from furnishing reconciliation Statement in Form GSTR-9C, subject to following condition:

- Submission of statement of receipts and payments for the financial year in respect of its Indian Business operations for each GSTIN,
- To be duly authenticated by a practicing Chartered Accountant,
- To be submitted by 30th September of the year succeeding the financial year.

**(Notification No. 09/2020-Central Tax dated 16 March 2020)**

- **Special procedure to be followed by corporate debtors undergoing the Corporate Insolvency Resolution Process (CIRP)**

CIRP is a recovery mechanism introduced by National Company Law Tribunal (NCLT) for recovery of creditors of an Insolvent company. If a corporate becomes insolvent, a financial creditor, an operational creditor, or the corporate itself may initiate CIRP.

As per Insolvency and Bankruptcy Code, 2016 (IBC), once an entity defaults certain threshold amount the CIRP gets triggered, and the management of such entity (Corporate Debtor) and its assets vest with an interim resolution professional (IRP) or resolution professional (RP).

It continues to run the business and operations of the said entity as a going concern till the insolvency proceeding is over and an order is passed by the NCLT.

**(Notification No. 11/2020-Central Tax dated 21 March 2020 and Circular No.134/04/2020-GST dated 23rd March 2020)**

- **Composition Scheme**

Persons who, instead of furnishing FORM GST CMP-08, have furnished a return in FORM GSTR-3B under CGST Rules, 2017 for the tax periods in the financial year 2019-20, such taxpayers shall not be required to furnish statement in FORM GSTR1 of the said rules or the statement containing details of payment of self-assessed tax in FORM GST CMP-08 for all tax periods in the financial year 2019-20

**(Notification No. 12/2020-Central Tax dated 21 March 2020)**



- **Deferment of E-invoice and QR Code**

The implementation of e-Invoicing system and QR code stands deferred to 1 October 2020. Further, sectors such as banking, insurance, Goods transport agency (GTA), passenger transportation service, and selling of movie tickets are exempted from e-Invoicing.

**(Notification No. 13/2020-Central Tax and 14/2020-Central Tax dated 21 March 2020)**

- **Due date for filing GSTR 9 and GSTR 9C Extended.**

Last date for furnishing GSTR-9 and GSTR-9C for FY 2018-19 extended till 30 June 2020.

**(Notification No. 15/2020-Central Tax dated 23rd March 2020)**

- **Aadhar authentication**

(I) Following persons shall undergo the Aadhaar authentication from 1 April 2020, in order to be eligible for registration:

- (a) Authorised signatory of all types,
- (b) Managing and Authorised partners of partnership firm, and
- (c) Karta of Hindu undivided family

Aadhar authentication shall not apply to

- (a) a person who is not a citizen of India or
- (b) to a class of persons other than stated in point (I) above.

If Aadhaar number is not assigned to said persons, they shall be offered alternate and viable means of identification in the manner specified in rule 9 of the CGST rules.

Where a person fails to undergo authentication of Aadhaar number, then the registration shall be granted only after physical verification of the principle place of business in the presence of the said person, not later than sixty days from the date of application.

**(Notification No. 17/2020, 18/2020 and 19/2020 – Central Tax dated 23 March 2020)**

- Due date extension for registered taxpayers of erstwhile Jammu and Kashmir (J&K) state or for registered taxpayers of the Union territories of J&K and Ladakh dated 23 March 2020

Notification No.	Due date extension
20/2020	Extension of due dates for filing GSTR-7 for the registered taxpayers of J&K, For the tax periods July 2019 to October 2019 and November 2019 to February 2020, the GSTR-7 return can be filed before 24th March 2020.
21/2020	Extension of due dates for filing Quarterly GSTR-1 for the registered taxpayers of erstwhile J&K state, or present union territories J&K and Ladakh, for the quarter October-December 2019, the GSTR-1 return can be filed before 24th March 2020
22/2020	Extension of due dates for filing Monthly GSTR-1 for the registered taxpayers of erstwhile J&K state, or present union territories J&K and Ladakh, for the months from October 2019 till February 2020, the GSTR-1 return can be filed before 24th March 2020, having aggregate turnover more than 1.5 crore
23/2020	Extension of due dates for filing Monthly GSTR-1 for the registered taxpayers of erstwhile J&K state, for the months from July 2019 to September 2019, the GSTR-1 return can be filed before 24th March 2020, having aggregate turnover more than 1.5 crore
24/2020	Extension of due dates for filing Quarterly GSTR-1 for the registered taxpayers of erstwhile J&K state, for the quarter July 2019-September 2019, the GSTR-1 return can be filed before 24th March 2020
25/2020	Extension of due dates for filing GSTR-3B for the registered taxpayers of the Union territories of J&K and Ladakh, for the period October 2019 to February 2020, the GSTR-3B return can be filed before 24th March 2020
26/2020	Extension of due dates for filing GSTR-3B for the registered taxpayers of erstwhile J&K state, for the period July 2019 to September 2019, the GSTR-3B return can be filed before 24th March 2020.

- Changes in GST Rates:

Product	Old Rate	New Rate	Condition
Mobile Phones and Specified Parts	12%	18%	-
Handmade Matches	5%	12%	-
Other than Handmade matches	18%	12%	-
Maintenance, Repair and Overhaul (MRO) service in respect to aircraft	18%	5%	With Full ITC

(Notification 02/2020 and 03/2020 – Central Tax (Rate) dated 26 March and 25 March 2020)



- **No Late Fees on PT Return for periods up to March 2020 in Maharashtra**

Late fee payable by the registered employer for monthly or annual returns pertaining to periods up to March 2020 is exempted due to technical difficulties faced by the tax payers subject to fulfillment of eligibility conditions as follows.

- (a) Any amount payable as per return should have been/shall be paid on or before the filing of returns.
- (b) Aforesaid employers should submit returns pertaining to any periods up to March 2020 on or before 30th April 2020.

**(Trade Circular No. 04T of 2020 dated 19 March 2020)**

# MCA UPDATES

- **COMPANIES (REGISTRATION OFFICES AND FEES) SECOND AMENDMENT RULES, 2020**
  - In exercise of the powers conferred by sections 396, 398, 399, 403 and 404 read with sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the Companies (Registration Offices and Fees) Second Amendment Rules, 2020 further to amend the Companies (Registration Offices and Fees) Rules, 2014.
  - They shall come into force on the date of their publication in the Official Gazette.
- **COMPANIES (INCORPORATION) SECOND AMENDMENT RULES, 2020**
  - In exercise of the powers conferred by section 3, sub-section (1) of section 7 and sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the Companies (Incorporation) Second Amendment Rules, 2020 further to amend the Companies (Incorporation) Rules, 2014.
  - They shall come into force on the date of their publication in the official Gazette.
- **COMPANIES (MEETINGS OF BOARD AND ITS POWERS) AMENDMENT RULES, 2020**
  - In exercise of the powers conferred by sections 173, 177, 178 and section 186 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the Companies (Meetings of Board and its Powers) Amendment Rules, 2020 further to amend the Companies (Meetings of Board and its Powers) Rules, 2014.
  - They shall come into force on the date of their publication in the Official Gazette.
  - In the Companies (Meetings of Board and its Powers) Rules, 2014, rule 4 shall be renumbered as sub-rule (1) thereof and after sub-rule (1) as so renumbered, the following sub-rule shall be inserted, namely:- "(2) For the period beginning from the commencement of the Companies (Meetings of Board and its Powers) Amendment Rules, 2020 and ending on the 30th June, 2020, the meetings on matters referred to in sub-rule (1) may be held through video conferencing or other audio visual means in accordance with rule 3.
- **EXTENSION FOR FILING FORM NFRA-2**
  - In continuation of the Ministry's General Circular No. 14/2019 dated 27th November, 2019 and after due examination, it has been decided that the time limit for filing of Form NFRA-2, for the reporting period Financial Year 2018-19' will be 150 days from the date of deployment of this form on the website of National Financial Reporting Authority (NFRA).
- **LLP SETTLEMENT SCHEME, 2020**
  - MCA vide its General Circular No. 6/2020 dated March 04, 2020 notified LLP settlement Scheme, 2020 which is a one-time settlement scheme for LLPs that have yet to submit their statutory documents to gain immunity from prosecution for defaults by filing pending documents. This is further modified vide Circular No. 13/ 2020 dated March 30, 2020.

- **RELAXATION OF ADDITIONAL FEES AND EXTENSION OF LAST DATE IN FILLING OF FORMS MGT-7 ANNUAL RETURN AND AOC-4 FINANCIAL STATEMENT UNDER THE COMPANIES ACT, 2013**
  - In continuation to General Circular No.03/ 2020 dated 31.01.2020 and keeping in view of the requests received from various stakeholders stating that due to disturbances in internet services and the normal work was affected in the UT of J&K and UT of Ladakh and sought extension of time for filing of financial statements for the financial year ended 31.03.2019. Therefore, it has been decided to further extend the due date for filing of e-forms AOC-4, AOC-4 (CFS) AOC4 XBRL and e-form MGT-7 upto 30.06.2020, for companies having jurisdiction in the UT of J&K and UT of Ladakh without levy of additional fee.
- **CLARIFICATION ON SPENDING OF CSR FUNDS FOR COVID-19**
  - It is clarified by the Ministry that spending of CSR funds for COVID-19 is a eligible CSR activity.
  - Funds may be spent for various activities related to COVID-19 under item nos. (i) and (xii) of Schedule VII relating to promotion of health care, including preventive health care and sanitation, and, disaster management. Further, as per General Circular No. 21/2014 dated 18.06.2014, items in Schedule VII are broad based and may be interpreted liberally for this purpose.
- **SPECIAL MEASURES UNDER COMPANIES ACT, 2013 (CA-2013) AND LIMITED LIABILITY PARTNERSHIP ACT, 2008 IN VIEW OF COVID-19 OUTBREAK.**
  - MCA vide its General Circular 11/2020 dated March 24, 2020 issues the Special Measures under Companies Act, 2013 (CA-2013) and Limited Liability Partnership Act, 2008 in view of COVID-19 outbreak. In order to support and enable Companies and LLPs in India to focus on taking necessary measures to address the COVID-19 threat, including the economic disruptions caused by it, the following measures have been implemented by the MCA to reduce their compliance burden and other risks:
    - I. No additional fees shall be charged for late filing during a moratorium period from 01st April, 2020 to 30th September, 2020 in respect of any document, return, statement etc.
    - II. The mandatory requirement Board Meetings (BM) within the intervals provided in section 173 of the CA, 2013 (i.e. 120 days) stands extended by a period of 60 days till next 2 quarters. Accordingly, as a onetime relaxation, the gap between 2 consecutive BM meetings may extend to 180 days till the next 2 quarters, instead of 120 days as required in the CA, 2013.
    - III. The Companies (Auditor's Report) Order, 2020 (CARO 2020) shall be made applicable from the financial year 2020-2021 instead of being applicable from the financial year 2019-2020 notified earlier.
    - IV. As per Schedule IV of the CA, 2013 Independent Directors (IDs) are required to hold at least one meeting without the attendance of Non-independent directors and members of management. For the financial year 2019-20, if the IDs of a company have not been able to hold such a meeting, the same shall not be viewed as a violation.
    - V. Requirement under section 73(2)© of the CA, 2013 to create the deposit repayment reserve of 20% of deposits maturing during the financial year 2020-21 before 30th April, 2020 shall be allowed to be complied with till 30th June, 2020.



- VI. Requirement under rule 18 of the Companies (Share Capital & Debentures) Rules, 2014 to invest or deposit at least 15% of amount of debentures maturing in specified methods of investments or deposits before 30th April, 2020, may be complied with till 30th June, 2020.
- VII. Newly incorporated companies are required to file a declaration for Commencement of Business within 180 days of incorporation under section 10A of the CA, 2013. An additional period of 180 more days is allowed for this compliance.
- VIII. Non-compliance of minimum residency in India for a period of at least 182 days by at least 1 director of every company, pursuant to Section 149 of the CA, 2013 shall not be treated as a non-compliance for the financial year 2019-20.

- **CLARIFICATION ON PROSECUTION FILED OR INTERNAL ADJUDICATION PROCEEDINGS INITIATED AGAINST INDEPENDENT DIRECTORS, NONPROMOTERS AND NON-KMP NON-EXECUTIVE DIRECTORS:**

- Ministry of Corporate affairs (MCA), on March 02, 2020 vide its general circular no. 5/2020 issues clarification that prosecution proceedings will not be initiated against independent and non-executive directors unless there is strong evidence of their complicity in frauds committed by the companies. ¶ At the time of serving notices to the Company by the Registrar of Companies (ROC) & Regional Director (RD), in case where lapses are attributable to the decisions taken by the Board or its Committees, all care must be taken to ensure that civil or criminal proceedings are not unnecessarily initiated against the IDs or the NEDs, unless sufficient evidence exists to the contrary.

- **FILING OF FORMS IN REGISTRY (MCA-21) BY INSOLVENCY PROFESSIONAL [INTERIM RESOLUTION PROFESSIONAL (IRP) OR RESOLUTION PROFESSIONAL (RP) OR LIQUIDATOR] APPOINTED UNDER IBC, 2016**

- MCA vide general circular no. 08/2020 dated March 06, 2020 issued a clarification that IP (IRP/RP/Liquidator) would have to file the NCLT order approving him/ her as IP in e-form INC-28 through the MCA21 portal and once the same is approved IP will be allowed to file any form for and on behalf of the company. ¶ The IP shall choose his designation as "Chief Executive Officer" (CEO), for the purpose of filing various e-forms. ¶ The Master Data for the company will accordingly be changed from "Active"/ "Inactive" to "CIRP/ Liquidation or CIRP/Liquidation" which shall be effected on the basis of Formal Change Request Form submitted by IBBI to e-governance Cell. ¶ The IRP/ RP/ Liquidator shall be responsible for filing all the e-forms in the MCA portal and sign the form in the capacity of CEO. However, this shall in no way affect his/her legal status as IRP/ RP/ Liquidator. ¶ All filings of e-forms including AOC-4 and MGT-7 shall be filed through e-form GNL-2 by way of attachments till the company is under CIRP. In GNL-2, IRP/ RP/ Liquidator will choose radio button "Filings under IBC".

- **COMPANIES FRESH START SCHEME, 2020**

- MCA vide its General Circular 12/2020 dated March 30, 2020 issued Companies Fresh Start Scheme, 2020 (CFSS-2020) (— Scheme) in order to facilitate all the defaulting companies registered in India to make a fresh start on a clean slate.

- The Scheme shall come in force on April 01, 2020 and shall remain in force till September 30, 2020. This is in pursuance of the Government of India's efforts to provide relief to defaulting companies to make good any filing related defaults, irrespective of duration of default, and make a fresh start as a fully compliant entity.
- Following are the few important definitions prescribed in the Scheme:
  - i. "Company" means a Company defined in clause (20) of section 2 of the Companies Act, 2013;
  - ii. "Defaulting Companies" means a company defined under the Companies Act, 2013, and which has made a default in filing of any of the documents, statement, returns, etc. including annual statutory documents on MCA-21 registry;
  - iii. "Designated authority" means the Registrar of Companies having jurisdiction over the registered office of the company;
  - iv. "Immunity certificate" means the certificate referred to in sub-paragraph [viii] of paragraph 6 of the Scheme;
  - v. "Inactive Company" means a company as defined in Explanation (i) to sub-section (1) of section 455(1) of the Companies Act, 2013.
- Applicability of the Scheme: Any "defaulting company" is allowed to file its belated e-forms which are yet to be uploaded and which attracts additional fees, under this scheme with normal filing fees.
- Non-Applicability: Scheme shall not apply to following cases:
  - i. Companies struck off by ROC u/s 248;
  - ii. Companies applied for strike off;
  - iii. Companies Amalgamated/merged;
  - iv. Companies applied for dormant status u/s 455;
  - v. Vanishing Companies;
  - vi. E-Form SH-7;
  - vii. E-Form CHG-1, CHG-4, CHG-8 & CHG-9
- This Initiative has been taken for the following:
  - i. to condone the delay in filing of any e-forms like AOC-4, MGT-7, ADT-1, PAS-3, etc. except two e-forms i.e. SH-7 & Charge related forms;
  - ii. to immune from launch of prosecution [only pertaining to delay associated with filing of belated documents];
  - iii. to immune from proceedings for impose of penalty due to delay in filing of e-forms.
- With this scheme company can file such e-forms by paying only normal fees without attracting any additional fees.
- DIN holders of DINs marked as „Deactivated“ due to non-filing of DIR-3KYC/ DIR-3 KYCWeb and those Companies whose compliance status has been marked as "ACTIVE noncompliant" due to non-filing of e-form ACTIVE are encouraged to become compliant once again in pursuance of the General Circular No. 11 dated 24th March, 2020 & General Circular No. 12 dated 30th March 2020 and file DIR-3KYC/DIR-3KYC-Web/ ACTIVE as the case may be between 1st April, 2020 to 30th September, 2020 without any filing fee of INR 5000/INR 10000 respectively.

- **LLP SETTLEMENT SCHEME, 2020---- MODIFIED**
- MCA in continuation with its general circular no. 06/2020 dated March 04, 2020 issues Modified LLP Settlement Scheme, 2020 vide general circular 13/2020 dated March 30, 2020 in order to provide relief to defaulting LLPs registered in India to focus on taking necessary measures to address COVID-19 threat and to reduce their compliance burden.



# SEBI UPDATES

- **RELAXATION OF SEBI (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2015 DUE TO THE COVID -19 PANDEMIC**
  - Due to the COVID 19 virus pandemic SEBI vide its circular dated March 19, 2020 has granted certain temporary relaxations to the Listed Entities from the compliance under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 („LODR“).
- **RELAXATIONS TO LISTED ENTITIES WHICH HAVE LISTED THEIR NCDS, NCRPS, MDS AND CPS**
  - In continuation of the March 19, 2020 circular, SEBI has further issued relaxation to listed entities vide its circular dated March 23, 2020 in respect of compliance of certain provisions by extending the timelines relating to Non-Convertible Debentures (NCDs), Non-Convertible Redeemable Preference Shares (NCRPS), Commercial Paper(s) due to COVID-19 virus pandemic.
- **MEASURES TO BE TAKEN BY MINISTRIES AND DEPARTMENTS OF GOVERNMENT OF INDIA DUE TO COVID-19 PANDEMIC**
  - The Ministry of Home affairs had issued an Order No. 40-3/2020-D in which various guidelines had been issued about the measures to be taken by various ministries and departments for containment of COVID-19 Epidemic in the country. The same has been notified by SEBI vide its notification dated March 24, 2020.
  - The Order inter alia provides that Commercial and private establishment shall be closed down but that the capital and debt market service as notified by SEBI shall be exempted from such closures.
- **RELAXATION FROM COMPLIANCE WITH CERTAIN PROVISION OF SEBI (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2015**
  - SEBI, vide circular dated March 19, 2020 had provided relaxation from compliance with certain provisions of LODR. In its continuation, SEBI vide its circular dated March 26, 2020 has granted further relaxations from certain compliances of LODR.
  - Compliance Certificate under Reg. 40(9) from Practicing Company Secretary on timely issue of share certificates – extended till May 31st, 2020 (period of relaxation – 1 month).
  - Extension of timeline for filings under Regulation 7(3) till 31st May, 2020; Regulation 13(3) till 15th May, 2020; Regulation 24A till 30th June, 2020; Regulation 27(2) till 15th May, 2020; Regulation 31 till 15th May, 2020; Regulation 33 till 30th June, 2020 and Regulation 33 till 30th June, 2020.
  - Also, SEBI vide its circular dated January 22, 2020 had issued the Standard Operating Procedure (SoP) effective on or after March 31, 2020 but the same shall now come into force with effect from compliance periods ending on or after June 30, 2020.
  - Exempt publication of advertisements in newspapers as required under regulation 47 for all events scheduled till May 15, 2020.

- **RELAXATION FROM COMPLIANCE OF SEBI (SUBSTANTIAL ACQUISITION OF SHARES AND TAKEOVER) REGULATIONS, 2011**
  - SEBI vide circular dated March 27, 2020 has decided to extend the due date of filing disclosures in terms of Regulations 30(1), 30(2) and 31(4) of the SAST Regulations for the F.Y. ending March 31, 2020 to June 01, 2020 due to the COVID-19 pandemic which restricts travel and various other logistical challenges.
- **RELAXATION FROM COMPLIANCE FOR PROCESSING DEMAT REQUEST DUE TO COVID-19 PANDEMIC**
  - NSDL vide its circular dated March 30, 2020 has granted temporary relaxation in compliance with deadline prescribed for processing of Demat requests in SEBI (Depositories & Participants) Regulations, 2018.



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