

IBA INTERNATIONAL
BUSINESS ADVISORS

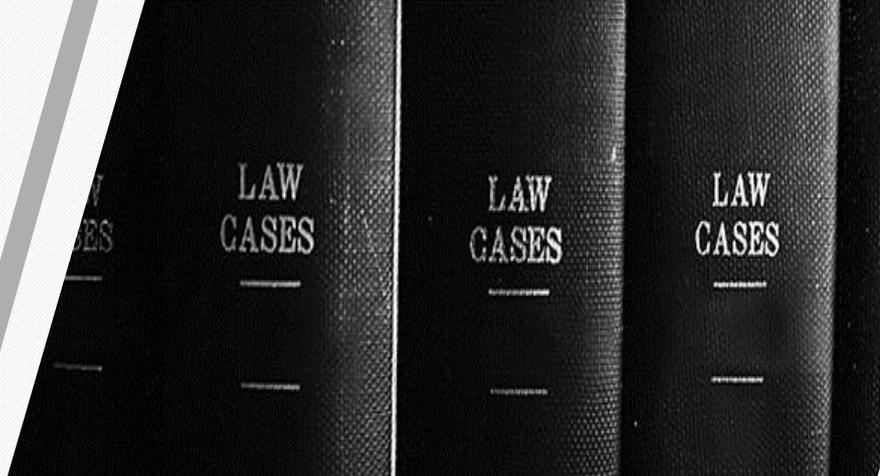
CONNEKT

February - 2018

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Direct Tax Case Laws



Case Law 1

Authority for Advance Rulings New Delhi: Indirect tax provisions not applicable if foreign co. wasn't deriving substantial value from Indian Co.

The applicant, a German company is engaged in the business of industrial refrigeration. The Applicant entered into a share purchase agreement to acquire an unrelated German company, Bock GmbH. Bock GmbH holds 100 per cent shares in Bock India, along with 100 percent shareholding in other Bock companies in various entities. Due to acquisition of Bock GmbH by the applicant, there was an indirect change in ownership of Bock India. As per section 9(1)(i), all income accruing or arising in India, whether directly or indirectly, through or from any business connection in India, or through or from any property in India, or through or from any asset or source of income in India, or through the transfer of a capital asset situate in India, would be taxable in India. As per Explanation 6 to section 9(1)(i), to see whether shares derive its value substantially from assets, value of assets transferred shall be more than Rs 10 crores and value of such shares represent atleast 50 percent of the value of all assets owned by the company. In the instant case, the value of assets in Bock India represent merely 5.40 percent, and hence it fails the test of deriving value substantially from the Indian company. Thus, income derived by the shareholders of Bock GmbH from the

sale transaction not chargeable to tax in India.

GEA Refrigeration Technologies GmbH, In re

Case Law 2

High Court of Allahabad: No cessation of liability if sum received as share application money was subsequently adjusted against sales

During financial year 1999-2000, an assessee had received Rs. one crore by way of 'share application money' from its holding company. Admittedly, said money continued to remain available to the assessee during subsequent years without allotment of any shares being made against it. Subsequently, the assessee made sales to its holding company and the assessee adjusted the aforesaid amount of Rs. one crore against the sales. The Assessing Officer taking a view that provisions of section 41 applied to the said sales transaction, added amount of Rs. one crore to assessee's income. The Commissioner (Appeals) opined that transaction in question could not be categorised as 'cessation of liability'. Otherwise also, section 41 was not applicable because said amount had never been debited to the profit & loss account. The Tribunal upheld the order of CIT(A). It was held that by the Hon'ble High Court of Allahabad that to invoke section 41, the initial burden was on the revenue to

Direct Tax : Case Laws

Establish cessation or remission of liability of Rs. one crore and the burden were not discharged. In as much as it had been found by the Commissioner (Appeals) and the Tribunal that the amount of Rs. one crore received by the assessee from the holding company had been adjusted against the sale price payable to the assessee by that entity, there did not survive any scope to invoke section 41 of the Act in favour of the revenue. Hence, the ruling was in favour of assessee.

Commissioner of Income-tax v. Indo Widecom International Ltd.

Case Law 3

High Court of Delhi: Royalty on use of brand name was taxable in hands of 'Dabur' even if it acquired 100% shareholdings of payer co.

The Assessee provided expertise and permitted use of its brand name 'Dabur' by a UAE based entity 'Redrock'. In terms of the agreement, 'Redrock' paid royalty of one percent to assessee. Subsequently, assessee acquired entire shareholding of 'Redrock' as a result of which it became 100 per cent subsidiary of assessee, which resulted in name change for overseas entity to 'Dabur International Ltd.' The TPO computed royalty chargeable from Dabur International Ltd. at the rate of 4 per cent. The Commissioner (Appeals) reduced the royalty rate to 2 per cent. Assessee raised a plea that after acquisition of shareholding of 'Redrock', royalty was not payable. It was held that unless at the entity level there was

a complete re-organization so as to result in a complete identity of the two concerns, royalty arising out of the use of the 'Dabur' brand, had to be treated as an international transaction. Therefore, the conclusions and findings recorded by the Appellate Commissioner and the Tribunal cannot be faulted.

Dabur India Ltd. v. Principal Commissioner of Income Tax-III

Case Law 4

Bombay HC: Depreciation on machinery was to be allowed even if it was used only for trial production

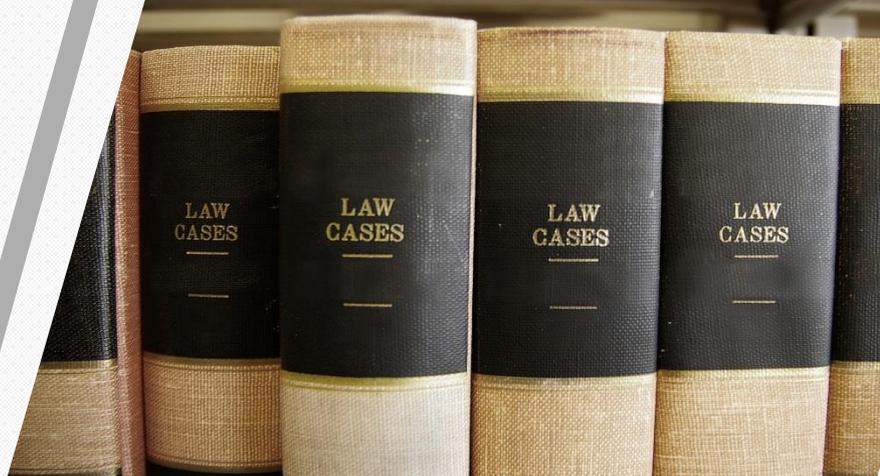
The assessee had claimed depreciation in respect of the machinery installed and used in the production of cement. A trial run was conducted for one day and the quantity produced was very small. After the trial run, commercial production of cement was initiated within reasonable time. According to the Assessing Officer, use of machinery for trial production was not for business and, therefore, depreciation could not be allowed. The assessee had not produced any evidence to show as to when exactly commercial production had commenced. On appeal, the Commissioner (Appeals) confirmed the disallowance finding that there was a long gap between the first trial run, subsequent trial runs and commercial production. He concluded that the user of the assets during the year should be actual, effective and real user in the commercial sense and that some technical snag had developed in the plant and therefore the

Direct Tax : Case Laws

trial run had to be stopped. On further appeal, the Tribunal held that the assessee would be entitled to claim depreciation as once the plant commenced operations and a reasonable quantity of product was produced, the business was set up even if product was sub-standard and not marketable. It was held by the Hon'ble High Court of Bombay that once plant commences operation and even if product is substantial and not marketable, the business can be said to have been set up. Mere breakdown of machinery or technical snags that may have developed after the trial run which had interrupted the continuation of further production for a period cannot be held ground to deprive the assessee of the benefit of depreciation claimed.

Principal Commissioner of Income-tax-4 v. Larsen & Toubro Ltd.

Indirect Tax : Case Laws



Case Law 1

CESTAT upholds non-payment of service tax in respect of management consultancy services

The appellant was registered with service tax department for providing Management Consultancy Service. The appellant was involved in various activities which are essentially with reference to giving opinion, updates on tax, legal position, filing of tax returns under various statutes relating to Income Tax, Service Tax, Sales Tax etc. The Commissioner of Service Tax, Chennai entertained a view that these activities are to be covered under the category of "Management Consultant" in terms of Finance Act, 1994. Accordingly, proceedings were initiated against the appellant and order was passed for payment of service tax, interest and penalty thereon. The appellant aggrieved and filed appeal against the decision of Commissioner. The Ld. Counsel appearing for the appellant voiced that these activities are not management consultancy services rather these are in the nature of tax compliance advice. Revenue opposed the appeal and submitted that the definition of management consultant is wide enough to cover all such advises and concluded that these relate to promotion of financial management of organisation. CESTAT holds that the legal assistance either for direct planning or compliance is within the ambit of various tax laws has no direct relevance to working or improving any

organization of the client in order to avoid penal consequence. It may indirectly keep the organization within the ambit of legal promotion work for their further business. This by itself will not make the consultancy or advisor in tax matters management consultant. Appeal decided in favour of appellant.

M/s. Pricewaterhouse Coopers Pvt. Ltd. Versus Commissioner of Service Tax, Chennai [2018 (1) TMI 1057 - CESTAT CHENNAI]

Case Law 2

CESTAT upholds non-payment of service tax in respect of vocational courses

The appellant, an educational trust was conducting courses in International Hotel Management in collaboration with The Thames Valley University, UK until 2008. Post 2008, they discontinued the course and started a 3-year course of BA (Hons) in International Hospitality Administration approved by IGNOU, a recognised open university under UGC Act. The Commissioner of Central Excise issued 2 impugned orders stating that the appellant was liable for service tax under the category of "Commercial training" or "Coaching centre". The period in question ranged from 1.04.2008 to 30.09.2009 and 4 shows cause notices were issued proposing demand of service tax along with penalties. The notices

Indirect Tax : Case Laws

were adjudicated resulting in the 2 impugned orders. The plea of the appellant was that the courses are for training the students in specialized field of profession involving both academic and practical training in all aspects of hotel management and are squarely covered by the category of vocational courses, claiming exemption in terms of Notification issued by the Department. The Original Authority did not accept claim of the appellant for exemption under notification on the ground that the course conducted by the appellant has resulted in professional degree awarded by a foreign university and the same is not a vocational course. CESTAT Hold that for the period prior to 2008, the courses conducted by the appellant in collaboration with the Thames Valley University, UK in international hotel management is covered by exemption N/N. 24/2004. No service tax liability can be fastened on the appellant for this period. Accordingly, set aside the demand and appeal decided in favor of appellant.

M/s. Rosalinds Mediretta Institutional Foundation Versus CST, New Delhi And Vice-Versa (2018 (1) TMI 1020 - CESTAT NEW DELHI)

Indirect Tax: Notifications



| S.no | Notifications |
|----------|---|
| 1 | <p>NOTIFICATION NO.4/2018-CENTRAL TAX, DATED JANUARY 23, 2018</p> <p>Reduction of late fee in case of delayed filing of FORM GSTR-1</p> <p>Central Government waives the amount of late fee payable by any registered person for failure to furnish the return in FORM GSTR-1 by the due date, which is in excess of an amount of Rs 25/- for every day during which such failure continues.</p> <p>Provided that where there are no outward supplies in any month/quarter, the amount of late fee payable by any registered person, for failure to furnish the said return by the due date, shall stand waived to the extent, which is more than an amount of Rs. 10/- for every day during which such failure continues.</p> <p>http://www.cbec.gov.in/resources//htdocs-cbec/gst/Notification-4-2018-central_tax-English.pdf</p> |
| 2 | <p>NOTIFICATION NO.5/2018-CENTRAL TAX, DATED JANUARY 23, 2018</p> <p>Reduction of late fee in case of delayed filing of FORM GSTR-5</p> <p>Central Government waives the amount of late fee payable by any registered person for failure to furnish the return in FORM GSTR-5 by the due date, which is in excess of an amount of Rs 25/- for every day during which such failure continues.</p> <p>Provided that where the total amount payable in the said return is nil, the amount of late fee payable by any registered person, for failure to furnish the said return by the due date, shall stand waived to the extent, which is in excess of an amount of Rs 10/- for every day during which such failure continues.</p> <p>http://www.cbec.gov.in/resources//htdocs-cbec/gst/Notification-5-2018-central_tax-English.pdf</p> |

Indirect Tax: Notifications

| S.no | Notifications |
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| 3 | <p>NOTIFICATION NO.6/2018-CENTRAL TAX, DATED JANUARY 23, 2018</p> <p>Reduction of late fee in case of delayed filing of FORM GSTR-5A</p> <p>Central Government waives the amount of late fee payable by any registered person for failure to furnish the return in FORM GSTR-5A by the due date, which is in excess of an amount of Rs 25/- for every day during which such failure continues.</p> <p>Provided that where the total amount payable in the said return is nil, the amount of late fee payable by any registered person, for failure to furnish the said return by the due date, shall stand waived to the extent, which is in excess of an amount of Rs 10/- for every day during which such failure continues.</p> <p>http://www.cbec.gov.in/resources//htdocs-cbec/gst/Notification-6-2018-central_tax-English.pdf</p> |
| 4 | <p>Notification No.7/2018-Central Tax, Dated January 23, 2018</p> <p>Reduction of late fee in case of delayed filing of FORM GSTR-6</p> <p>Central Government waives the amount of late fee payable by any registered person for failure to furnish the return in FORM GSTR-6 by the due date, which is in excess of an amount of Rs 25/- for every day during which such failure continues.</p> <p>http://www.cbec.gov.in/resources//htdocs-cbec/gst/Notification-7-2018-central_tax-English.pdf</p> |
| 5 | <p>Notification No.8/2018-Central Tax, Dated January 23, 2018</p> <p>Extension of date for filing the return in FORM GSTR-6</p> <p>Central Government extends the time limit for furnishing the return by an Input Service Provider (ISD) in FORM GSTR-6 for the months of July 2017 to February 2018 till 31st March 2018.</p> <p>http://www.cbec.gov.in/resources//htdocs-cbec/gst/Notification-8-2018-central_tax-English.pdf</p> |

Indirect Tax: Notifications

| S.no | Notifications |
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| 6 | <p>Notification No.9/2018-Central Tax, January 23, 2018</p> <p>Amendment of Notification No. 4/2017-Central Tax dated 19.06.2017 for notifying e-way bill website</p> <p>The central government wide has notified www.gst.gov.in as the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, and computation and settlement of integrated tax.</p> <p>It has also notified www.ewaybillgst.gov.in as the Common Goods and Services Tax Electronic Portal for furnishing electronic way bill.</p> <p>http://www.cbec.gov.in/resources//htdocs-cbec/gst/Notification-9-2018-central_tax-English.pdf</p> |
| 7 | <p>Notification No.10/2018-Central Tax, Dated January 23, 2018</p> <p>Cross-empowerment of State tax officers for processing and grant of refund</p> <p>The central government has amended Notification No.39/2017-Central Tax dated 13.10.2017, and has granted the power to process and grant of refund under GST to the State Tax Officers.</p> <p>http://www.cbec.gov.in/resources//htdocs-cbec/gst/Notification-10-2018-central_tax-English.pdf</p> |
| 8 | <p>Notification No. 11/2018-Central Tax, Dated February 2, 2018</p> <p>Deferment of E-way Bill implementation</p> <p>The central government has indefinitely deferred coming into force of e-way bill rules.</p> <p>Also, it has rescinded Notification No. 74/2017-Central Tax dated 29th December 2017 which had appointed February 1 for said rules.</p> <p>http://www.cbec.gov.in/resources//htdocs-cbec/gst/Notification-11-2018-central_tax-English.pdf</p> |

Corporate Legal & Regulatory Notifications



| S.no | Notifications | | | | | | |
|---|---|---------|----------|---|--|---|--|
| <p>1</p> | <p>RESERVE BANK OF INDIA</p> <p>Reserve Bank of India (RBI) releases master direction on foreign investment in India</p> <p><i>(RBI Notification dated January 12, 2018)</i></p> <p>In order to consolidate the Master Circular released on 07th November, 2017 Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 and RBI notification dated 16th September, 2003 issued for Derecognition of Overseas Corporate Bodies as an Investor Class, RBI on 04th January, 2018 issued the Master Directions on Foreign Investment in India and thereafter amended it on 12th January, 2018.</p> <p>https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11200&Mode=0</p> | | | | | | |
| <p>2</p> | <p>DEPARTMENT OF INDUSTRIAL POLICY AND PROMOTION (DIPP)</p> <p>Cabinet approves liberalization of fdi policy</p> <p><i>(PIB Notification dated January 10, 2018)</i></p> <p>The Union Cabinet on 10th January, 2018 gave its approval to amend the FDI Policy with an intention to liberalize foreign investments in India and to simplify ease of doing business in India. The broad amendments to the FDI Policy are:</p> <table border="1" data-bbox="236 1673 1497 2029"> <thead> <tr> <th data-bbox="236 1673 866 1737">Current</th> <th data-bbox="866 1673 1497 1737">Proposed</th> </tr> </thead> <tbody> <tr> <td data-bbox="236 1737 866 1866">49% FDI under automatic route for Single Brand Retail Trading and approval route for FDI beyond 49%</td> <td data-bbox="866 1737 1497 1866">100% FDI under automatic route for Single Brand Retail Trading</td> </tr> <tr> <td data-bbox="236 1866 866 2029">FDI under automatic route in Construction Development</td> <td data-bbox="866 1866 1497 2029">It has been clarified that Real Estate Broking is not part of Real Estate Business and hence 100 % FDI is allowed under automatic route.</td> </tr> </tbody> </table> | Current | Proposed | 49% FDI under automatic route for Single Brand Retail Trading and approval route for FDI beyond 49% | 100% FDI under automatic route for Single Brand Retail Trading | FDI under automatic route in Construction Development | It has been clarified that Real Estate Broking is not part of Real Estate Business and hence 100 % FDI is allowed under automatic route. |
| Current | Proposed | | | | | | |
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Legal & Regulatory

| S.no | Notifications | |
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| | FDI not allowed to invest under in Air India | Foreign airlines allowed to invest up to 49% of their paid-up capital under approval route in Air India |
| | FIIs/FPIs were allowed to invest in Power Exchanges only through secondary market | FIIs/FPIs now allowed to invest in Power Exchanges through primary market |
| | No provision for restriction of appointment of audit firms by Indian investee company for receiving foreign investment. | Wherever a foreign investor wishes to specify a particular auditor/audit firm having international network for the Indian investee company, then audit of such investee companies should be carried out as joint audit wherein one of the auditors should not be part of the same network. |
| | Foreign investments from Countries of Concern, requiring security clearance as per FEMA, FDI Policy and security guidelines, were to be processed by the Ministry of Home Affairs (MHA) for investments falling under automatic route sectors/activities, while cases pertaining to government approval route sectors/activities requiring security clearance were to be processed by the respective Administrative Ministries/Departments, as the case may be. | Application for FDI in automatic route sectors, requiring approval only on the matter of investment being from Country of Concern, FDI applications would be processed by DIPP only. For Government approval route, also requiring security clearance with respect to Countries of Concern, will continue to be processed by concerned Administrative Department/Ministry. |
| 3 | <p>MINISTRY OF CORPORATE AFFAIRS</p> <p>Coming into force of certain sections of the Companies (Amendment) Act, 2017</p> <p><i>(MCA Notification dated 23rd January, 2018)</i></p> <p>The MCA on 23rd January, 2018 notified coming into force of section 1 and section 4 of the Companies (Amendment) Act, 2017. The said sections shall be deemed to have come into force on the 26th January, 2018</p> <p>http://www.mca.gov.in/Ministry/pdf/NotificationComapniesAct_23012018.pdf</p> | |

Legal & Regulatory

| S.no | Notifications |
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| 4 | <p data-bbox="229 460 1225 494">MCA notifies the Companies (Incorporation) Amendment Rules, 2018</p> <p data-bbox="229 542 829 576">(MCA Notification dated January 20, 2018)</p> <p data-bbox="229 623 1485 825">The Ministry of Corporate Affairs (“MCA”), vide notification dated January 20, 2018, has notified the Companies (Incorporation) Amendment Rules, 2018 thereby amending the Companies (Incorporation) Rules, 2014 (hereinafter referred to as the “Principal Rules”). The amendment shall be made effective from 26th January, 2018. The following are the major amendments to the same:</p> <ul data-bbox="229 873 1485 1991" style="list-style-type: none"><li data-bbox="229 873 1485 954">• Rule 9 of the Principal Rules now provides for reservation of name of the company through RUN (Reserve Unique Name) form along with the prescribed fee<li data-bbox="229 1002 1485 1283">• Rule 12 of the Principal Rules now provides for application for incorporation of companies to be made in Form No.INC-32 (SPICe) along with the prescribed fee. Rule 12 also prescribes that in case the objects of the proposed company requires registration or approval from sectoral regulators such as the Reserve Bank of India, the Securities and Exchange Board, the registration or approval, shall be obtained prior to filing the application and a declaration in this regard shall be submitted at the stage of incorporation of the company.<li data-bbox="229 1331 1485 1991">• Sub-rule (1) of rule 38, the following proviso has been inserted.-<ul data-bbox="352 1412 1485 1991" style="list-style-type: none"><li data-bbox="352 1412 1485 1657">a) in sub-rule (1), after the proviso, the following proviso shall be inserted, namely:- “provided further that in case of incorporation of a company having more than seven subscribers or where any of the subscriber to the MOA/AOA is signing at a place outside India, MOA/AOA shall be filed with INC-32 (SPICe) in the respective formats as specified in Table A to J in Schedule I without filing form INC-33 and INC-34”;<li data-bbox="352 1705 1485 1991">b) in sub-rule (2), after the proviso, the following proviso shall be inserted, namely:- ‘Provided further that in case of companies incorporated, with effect from the 26th day of January, 2018, with a nominal capital of less than or equal to rupees ten lakhs or in respect of companies not having a share capital whose number of members as stated in the articles of association does not exceed twenty, fee on INC-32 (SPICe) shall not be applicable”. <p data-bbox="229 2038 1485 2111">Further, Form RUN, Form INC – 3 (One Person Company – Nominee Consent Form), Form INC – 12 (application for Grant of License under Section 8), Form INC 22 (Notice of</p> |

Legal & Regulatory

| S.no | Notifications | | | | | | | | | | | | |
|-----------------|---|---|---|--|--|----------------|-------------|----|-----------|---|---|--|--|
| | <p>Situation or Change of Situation of Registered Office), Form INC – 24 (Application for Approval of Central Government for Change of Name), Form INC – 32 (Simplified Proforma for Incorporating Company Electronically) have also been substituted under the amendment.</p> <p>http://www.mca.gov.in/Ministry/pdf/CompaniesIncorporationAmendmentRules2018_25012018.pdf</p> | | | | | | | | | | | | |
| <p>5</p> | <p>INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (IBBI)</p> <p>Enactment of Insolvency and Bankruptcy Code (Amendment) Act, 2018</p> <p><i>(IBBI Notification dated January 18, 2018)</i></p> <p>The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2017 has been passed by the Parliament on 18th January, 2018 to be called the Insolvency and Bankruptcy Code (Amendment) Act, 2018.</p> <p>The Amendment shall be deemed to be in force from 23rd November, 2017 and aims to:</p> <ol style="list-style-type: none"> prohibit certain persons from submitting a resolution plan who on account of their antecedents may adversely impact the credibility of the processes laid down under the Code; and specify certain additional requirements for submission and consideration of the resolution plan before approval of the committee of the creditors formed under the Code. <p>The key Amendments are:</p> <table border="1"> <thead> <tr> <th data-bbox="220 1646 331 1730">S. No</th> <th data-bbox="331 1646 491 1730">Provision</th> <th data-bbox="491 1646 764 1730">Particulars</th> <th data-bbox="764 1646 1023 1730">Old Regulation</th> <th data-bbox="1023 1646 1262 1730">New Regulation</th> <th data-bbox="1262 1646 1474 1730">Implication</th> </tr> </thead> <tbody> <tr> <td data-bbox="220 1730 331 2100">1.</td> <td data-bbox="331 1730 491 2100">Section 2</td> <td data-bbox="491 1730 764 2100">Applicability of the Code in case of insolvency, liquidation, voluntary liquidation or bankruptcy</td> <td data-bbox="764 1730 1023 2100">The Code was applicable to: <ul style="list-style-type: none"> Companies under the Companies Act </td> <td data-bbox="1023 1730 1262 2100">Personal guarantors to corporate debtors and proprietorship firms have also been added to the list</td> <td data-bbox="1262 1730 1474 2100">The scope of the Code has been widened by adding these persons</td> </tr> </tbody> </table> | S. No | Provision | Particulars | Old Regulation | New Regulation | Implication | 1. | Section 2 | Applicability of the Code in case of insolvency, liquidation, voluntary liquidation or bankruptcy | The Code was applicable to: <ul style="list-style-type: none"> Companies under the Companies Act | Personal guarantors to corporate debtors and proprietorship firms have also been added to the list | The scope of the Code has been widened by adding these persons |
| S. No | Provision | Particulars | Old Regulation | New Regulation | Implication | | | | | | | | |
| 1. | Section 2 | Applicability of the Code in case of insolvency, liquidation, voluntary liquidation or bankruptcy | The Code was applicable to: <ul style="list-style-type: none"> Companies under the Companies Act | Personal guarantors to corporate debtors and proprietorship firms have also been added to the list | The scope of the Code has been widened by adding these persons | | | | | | | | |

Legal & Regulatory

| S.no | | Notifications | | | |
|------|------------|-------------------------------------|--|--|---|
| | | | <ul style="list-style-type: none"> • Companies governed by any special Act • LLPs under the LLP • Other incorporated bodies • Partnership firms • Individuals | | |
| 2 | Section 5 | Definition of "resolution plan" | A resolution plan may be proposed by any person for insolvency resolution of a corporate debtor | A resolution plan may be proposed only by a resolution applicant as defined under the Code. | Streamlining the process of preparation and execution of a resolution plan |
| 3. | Section 25 | Duties of a resolution professional | While seeking monetization of the business of a corporate debtor, the resolution professional may call upon any prospective lender, investor or person to submit a resolution plan | The resolution professional may call upon prospective resolution applicants in consultation with the committee of creditors only to submit a resolution plan | This would help the creditors in effective realization of assets as the creditors would be involved in preparation of the resolution plan |

Legal & Regulatory

| S.no | | Notifications | | | | |
|------|-------------|---|-----|--|---|--|
| 4. | Section 29A | Eligibility for becoming a resolution applicant | N/A | <p>A new clause has been added to the Code which states no such person shall become a resolution applicant if he is:</p> <ul style="list-style-type: none"> a. An undischarged insolvent b. Wilful defaulter as per RBI c. Declared as NPA as per RBI d. Convicted for 2 years or more e. Disqualified as a director under Companies Act f. Prohibited by SEBI from trading or accessing securities market g. Indulged in preferential, undervalued or fraudulent transaction h. Executed an enforceable guarantee in favour of a creditor of corporate debtor | This prohibits the corporate debtor from buying the business or assets of its own entity at a discount. | |

Legal & Regulatory

| S.no | | Notifications | | | |
|------|------------------|--|-----|--|---|
| 5. | Section 35(1)(f) | Sale of assets of a corporate debtor by the liquidator | N/A | A provision has been added to section 35 (1)(f) which prohibits sale of assets of a corporate debtor by the liquidator to persons who are not eligible to become a resolution professional | This would prevent corporate debtors and wilful defaulters from purchasing their own assets at discount |
| 6. | Section 235A | Punishment where no specific penalty or punishment is provided | N/A | A new clause has been added to the Code which defines a punishment of Rs. One lakh extending upto Rs. 2 crores where no specific penalty or punishment is provided under the Code. | This clarifies the punishment for offences which are not specifically mentioned in the Code. |

Budget 2018 – More from IBA

Blocking the defamed route to avoid DDT/CDT payment

By - Sarthak Juneja, Asst. Manager –Direct Tax

Amongst various other proposals, not finding spot in Mr. Jaitley's Budget Speech was one such proposal which is surely going to pinch a few corporate houses going in for amalgamation/ merger or such other restructuring.

As a professional, we are always advised that *"it's better to read everything of something and something of everything."* Going by this, we sat down at peace to go through Memorandum and Finance Bill of 2018 to know what exactly is in store for everyone and in search of a few silent proposals having significant impact.

Its seen as a practice in India, that the Ruling Party in their budget speech, immediately before Election Year, tend to blow their own horns rather than putting forward the changes brought about. This necessitates studying the Memorandum in depth even [Read More...](#)

Streamlining Business Connection in accordance with BEPS Action Plan

By – Akshit Gulati, Associate – Direct Tax

In recent times, the innovation in technology has helped to bring individuals and information together more than ever. However, it has also led to evolution of complex transactions which has encouraged tax avoidance practices. It has been widely reported that multinational corporations resort to base erosion and profit sharing (BEPS) techniques to shift their profit to tax havens or nations with lower tax incidence. For dealing with such challenges, the G20 nations at the 2012 Los Cabos summit tasked the Organisation for Economic Cooperation and Development ("OECD") to develop the BEPS Action Plan.

The Action Plan 1 deals with tax challenges in a digital economy and Action Plan 7 deals with the definition of permanent establishment ("PE") with a view to prevent avoidance of tax by circumventing the existing definition of PE. [Read More...](#)

Upcoming Compliances

| Date | Compliance |
|-------------------|---|
| February 10, 2018 | Due dates for the furnishing of FORM GSTR-1 for the period of December 2017 by taxpayers having aggregate turnover of more than Rs.1.5 crore |
| February 15, 2018 | Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending December 31, 2017. |
| | Due dates for the furnishing of FORM GSTR-1 for the period of October – December, 2017 by taxpayers with aggregate turnover of up to Rs.1.5 crore |
| February 20, 2018 | Due date for furnishing of Form GSTR-3B(Consolidated Return) for the Period of January 2018 |
| March 2, 2018 | Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA in the month of January, 2018 |
| | Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IB in the month of January, 2018 |
| March 7, 2018 | Due date for deposit of Tax deducted/collected for the month of February, 2018. |

Editorial Team



About us:

IBA is a leading Financial and legal advisory company with specialization in Assurance, Risk Consulting, Legal, Direct Tax, Indirect Tax(GST) and Corporate Advisory for midsize, SMEs and start-up firms. IBA constitute a young team of path breaking professionals, who believe in creating value through innovation and creativity to provide ultimate client satisfaction. Clients benefit from our fresh thinking, constructive challenge and practical understanding of the issues they face. We aim to alloy a perfect blend of professionalism with high standards of service, in our pursuit of excellence.

Founded in the Year 2003, the company witnessed immense growth from 2 members to currently a 100 members team, with its offices in Delhi, Mumbai and Bangalore and its clients from across states. IBA continues to offer wholesome service experience to boost highly valued client relationships by combining the technical and industry expertise at par with well-placed firms together with a personal commitment to optimize client service.

New Delhi(Head Office)

S-217,Panchsheel Park
New Delhi 110017
Tel - +91-11-40946000

Mumbai

Level 11 - 1102 Peninsula
Business Park ,Tower B, S B Road,
Lower Parel, Mumbai 400013

Bangalore

Golden Square Serviced Office
#No 1101, 24th Main, JP Nagar
1st Phase (above ICICI Bank)
Bangalore-560078



Queries/Feedback/Suggestions on this newsletter may be addressed to: info@ibadvisors.com

A joint initiative of International Business Advisors LLP (IBA) and Nayar Maniar Sharma & Associates LLP (NMS LLP). IBA is a LLP registered under the Limited Liability Partnership Act, 2008 having its registered office at S-217, Ground Floor, Panchsheel Park, New Delhi – 110017, India.

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