INTERNATIONAL BUSINESS ADVISORS

CONNEKT

October - 2019

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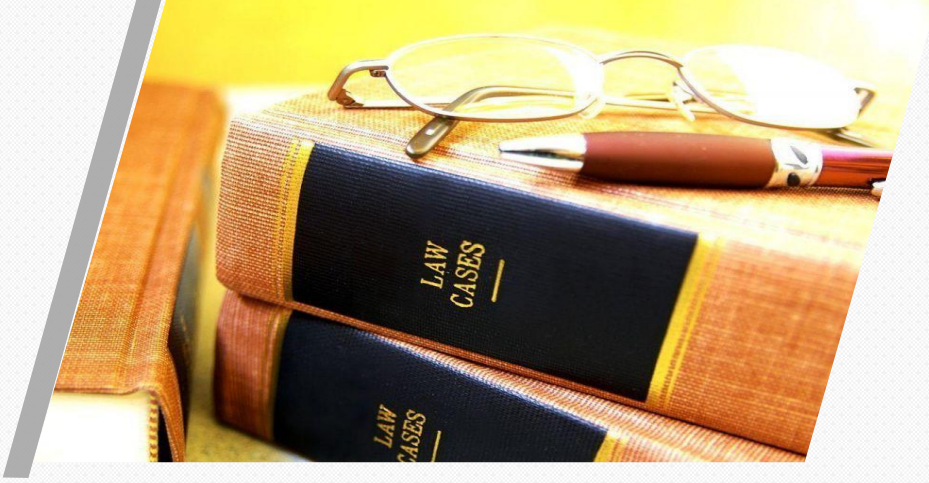
Direct Tax Case Laws



Case Law 1:

Where assessee purchases new house after selling his land, he is entitled to claim full exemption u/s 54F if he pays the whole consideration, irrespective of fact that new house is registered in joint names of himself and his wife

The assessee sold a land for a sale consideration of Rs. 4.33 crores. Out of the total gain arose from sale of land, the assessee claimed exemption of capital gain to the extent of Rs. 3.18 crores under section 54F on account of purchase of new house.

On going through the purchase deed of the above residential house, it was noticed by the Assessing Officer that the purchase deed was made jointly in the names of the assessee and his wife. However, the assessee had claimed exemption under section 54F with reference to the whole amount invested in new house. Since, it was jointly owned, The Assessing Officer, therefore, allowed 50 per cent of the exemption claimed under section 54F.

The Commissioner (Appeals) upheld the order of Assessing Officer. Assesse made the appeal to the Tribunal. The dispute in instant case was only with regard to the extent of assessee's share in the new residential house purchased. After perusing the relevant purchase deed it was found that the new residential house had been purchased in the name of the assessee and his wife. However, the whole consideration of Rs 3.18 crores was paid by the assessee himself.

The assessee's wife had not contributed a single penny towards the purchase of the new residential house. Also, an affidavit by the assessee's wife had also been filed declaring and stating that the assessee's wife had not contributed a single penny in the purchase of the house and she had no interest or title in the said property. It had also been stated in the affidavit that the assessee's wife's name was stated in the purchase deed only for 'Shagun' purposes and because of the assessee being physically handicap.

A case was referred ITO v S.Vardarajan, in which the purchase deed was executed in the name of the assessee's wife but the exemption benefit of section 54F was taken by the assessee himself. The Claim of the assessee was allowd by the Tribunal after observing the fact that the total amount invested in the property was provided by the assessee and the property purchased in the name of the wife was only in trust for the assessee and the assessee must be accepted to be the real owner.

The facts of the case was applicable in the instant case. In the instant case, the wife had given a declaration that her name was included in the sale-deed in trust for the assessee. Therefore, in the instant case, the assessee was to be treated as a real owner of whole of the property purchased for the purpose of claiming exemption under section 54F. Resultantly, the appeal filed by the assessee was allowed.

Ravinder Kumar Arora v ACIT

Direct Tax : Case Laws

Case Law 2:

Where assessee, engaged in business of hire purchase, leasing etc., having purchased vehicles from manufacturers, leased out those vehicles to customers, it was entitled to claim depreciation in respect of vehicles so leased out.

The assessee-company was engaged in the business of hire purchase, leasing and real estate. It had purchased vehicles directly from the manufacturers. The assessee, as a part of its business, leased out these vehicles to its customers and thereafter, had no physical connection with the vehicles. Also, lessees were registered as the owners of the vehicles, in the certificate of registration issued under the Motor Vehicles Act, 1988.

In its return of income for the relevant assessment years, the assessee claimed depreciation in relation to vehicles which had been financed by the assessee but registered in the name of lessees. The Assessing Officer disallowed the claim, for depreciation, on the ground that the assessee's use of these vehicles was only by way of leasing out to others and not as actual user of the vehicles in the business of running them on hire.

The High Court held that in view of the fact that the vehicles were not registered in the name of the assessee, and that the assessee had only financed the transaction, it could not be held to be the owner of the vehicles, and thus, was not entitled to claim depreciation in respect of these vehicles. Assessee made appeal to the SC.

First consideration by the SC is the Requirements to be satisfied to make a valid claim for depreciation under IT Act.

- Asset must be "owned, wholly or partly, by the assessee and used for the purposes of the business".

Revenue contended that the assessee is not the owner of the vehicles in question and the assessee did not use the Vehicles in the course of its business. The revenue argued that since the lessees were actually using the vehicles, they were the ones entitled to claim depreciation, and not the assessee. SC held that Section 32 requires that the assessee must use the asset for the "purposes of business".

Section does not mandate usage of the asset by the assessee itself. As long as the asset is utilized for the purpose of business of the assessee, the requirement of section 32 will stand satisfied. In the present case, the assessee is a leasing company which leases out Vehicles that it purchases. Therefore, the income derived from leasing of the vehicles would be business income. Hence, it fulfils the second requirement of section 32 , that the asset must be used in the course of business.

Now second consideration of the SC is that Whether assessee could be regarded as owner of vehicles leased out

The relevant clauses of the agreement between the assessee and the customer specifically provided that:

- The assessee was the exclusive owner of the vehicle at all points of time
- If the lessee committed a default, the assessee was empowered to re-possess the vehicle
- At the conclusion of the lease period, the lessee was required to return the vehicle to the assessee

- The assessee had the right of inspection of the vehicle at all times.

Therefore, as long as the assessee has a right to retain the legal title of the vehicle against the rest of the world, it would be the owner of the vehicle in the eye of law. However, The only hindrance to the claim of the assessee, is section 2(30) of the Motor Vehicle Act 1988.

SC held that MV Act defines ownership for the subsequent provisions of the MV Act, not for the purpose of law in general. Therefore, if the MV Act at any point uses the term 'owner' in any section, it means the one in whose name the vehicle is registered and in the case of a lease agreement, the lessee. That is all. It is not a statement of law on ownership in general.

Therefore, in the facts of the present case, it is held that the lessor, i.e., the assessee is the owner of the vehicles. As the owner, it used the assets in the course of its business, satisfying both requirements of section 32 and hence, is entitled to claim depreciation in respect of additions made to the vehicles, which were leased out.

I.C.D.S. Ltd. v CIT

Case Law 3:

In view of provisions of section 133(6), assessing authority is empowered to issue notice calling for general information for purpose of any enquiry even in a case where proceeding is not pending against assessee after obtaining prior approval of Director or Commissioner.

The assessee was a rural bank. The Assessing Officer issued a notice to the assessee under section 133(6) calling for general information regarding details of all persons (whether resident or non-resident) who had made cash transactions of Rs. 1 lakh and above in any account for the period of three years between 1-4-2005 and 31-3-2008. The assessee objected to the said notice on grounds, that such notice seeking for information is unrelated to any existing or pending proceeding against the assessee, and hence could not be issued under the provisions of the Act. The Assessing Officer rejected assessee's objection.

High Court upheld the order of AO and held that AO is right in issuing the notice. Assessee made appeal to the SC. Before the introduction of amendment to section 133(6) in year 1995, the Act only provided for issuance of notice in case of pending proceedings. As a consequence of the said amendment, the scope of section 133(6) was expanded to include issuance of notice for the purposes of enquiry also.

The objective of the amendment of section 133(6) by the Finance Act, 1995 shows that the intention was to give wide powers to the officers to gather general particulars in the nature of survey and store those details in the computer so that the data so collected can be made use of for checking evasion of tax. Therefore, SC held that The assessing authorities are now empowered to issue such notice calling for general information for the purposes of any enquiry in both cases: (a) where a proceeding is pending and (b) where proceeding is not pending against the assessee.

However in the case where proceeding is not pending against the assessee, the assessing authority must obtain the prior approval of the Director or Commissioner, as the case may be before issuance of such notice. The powers under section 133(6) are in the nature of survey and a general enquiry to identify persons who are likely to have

taxable income and whether they are in relation to "such points or matters" which the assessing authority issuing notices requires.

So, in the instant case, by the notice the assessing authority require information in respect of assessee's customers which have cash transactions or deposits of Rs. 1 lakh or above for a period of three years, without reference to any proceeding or enquiry pending before any authority under the Act. Also, in the present case notice was issued only after obtaining approval of the Commissioner. Therefore, it is held that the Assessing Authority has not erred in issuing the notice to the assessee-requiring it to furnish information regarding the account holder with cash transactions or deposits of more than Rs. 1 lakh.

Therefore SC dismissed the appeal of assessee.

Kathiroor Service Cooperative Bank Ltd v CIT

Case Law 4:

Once it is demonstrated that consideration received on transfer of a capital asset is invested in a residential property, fact that the transactions involved in purchase or construction of such residential property are not complete in all respects within the time given in sectiin 54F would not disentitle assessee from benefit of exemption under section 54F

During the previous year assessee sold shares of a company for a consideration of Rs. 4.18 crores. Part of the proceeds of the said sale consideration was invested in purchase of house property to the extent of Rs. 2.16 crores. Accordingly, the assessee claimed exemption under section 54F to the extent of such investment. One of the condition for claiming exemption under section 54F is that the house should be constructed within the period of 3 years from the date of transfer of the old asset.

On enquiry, the Assessing Officer found that the construction activities with regard to the residential property were not completed even after lapse of three years of time from the date of transfer of the shares. Therefore Assessing Officer, held that the assessee had neither purchased the property within the period of two years nor constructed the property within the period of three years after the date of transfer of the shares, as section 54F was not applicable to the assessee. Therefore, exemption claimed by the assessee under section 54F was denied.

On appeal, by the assessee, the Commissioner (Appeals) confirmed the order of Assessing Officer. On further appeal, the Tribunal reversed the order of Assessing Officer. Revenue made appeal to the HC.

HC held that section 54F is a beneficial provision of promoting the construction of residential house. Therefore, the said provision has to be interpreted liberally for achieving the purpose for which it was incorporated in the statute. The intention of the Legislature was to encourage investments in the acquisition of a residential house and completion of construction or occupation is not the requirement of law.

The condition for claiming benefit under section 54F is that the capital gain realized from sale of capital asset should have been parted by the assessee and invested either in purchasing a residential house or in constructing a residential house. If he has invested the money in construction of a residential house, merely because the

construction was not complete in all respects and it was not in a fit condition to be occupied within the period stipulated, that would not disentitle the assessee from claiming the benefit under section 54F.

The essence of the section 54F is whether the assessee who received capital gains has invested in a residential house. Once it is demonstrated that the consideration received on transfer has been invested either in purchasing a residential house or in construction of a residential house even though the transactions are not complete in all respects that would not disentitle the assessee from the exemption under section 54F

In the instant case, the material on record discloses that the assessee had invested Rs. 2.16 crores within twelve months from the date of realization of sale proceeds of shares. According to the developer of the house, only minor fittings like window shutters and some electrical work were required to be made. In fact, the report of the inquiry conducted by the department also discloses the same pending work. Also, The assessee has produced before the authorities the registered sale deed showing the transfer of the property in his favour. And also, the assessee has been put in possession of the property.

Therefore, the assessee has invested the sale consideration in acquiring a residential premises and has taken possession of the residential building and is living in the said premises. The objective of enacting section 54F i.e., to encourage investment in a residential building is completely fulfilled.

Therefore, Exemption is allowed to the assessee and Decision is given in favour of the assessee and against the revenue.

Sambandam Udaykumar v CIT

Direct Tax Notification

1. Notification No. 60/2019 [F.No.370142/14/2018-TPL]/SO 3215(E) : Income-tax (6th Amendment) Rules, 2019

In exercise of the powers conferred by section 10 and section 80G read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes makes certain rules further to amend the Income-tax Rules, 1962.

https://www.incometaxindia.gov.in/communications/notification/notification_60_2019.pdf

2. Circular No. 23/2019 : Exception to monetary limits for filing appeals specified in any Circular issued under Section 268A of the Income-tax Act, 1961.

Board has decided that notwithstanding anything contained in any circular issued U/S 268A specifying monetary limits for filing of departmental appeals before Income Tax Appellate Tribunal (ITAT), High Courts and SLPs/appeals before Supreme Court.

https://www.incometaxindia.gov.in/communications/circular/circular_23_2019.pdf

3. Circular No. 25/2019 : Relaxation of time-Compounding of Offences under Direct Tax Laws-One-time measure

https://www.incometaxindia.gov.in/communications/circular/circular_25_2019.pdf

4. Notification No. 63/2019 [F. No. 370142/11/2019-TPL] /SO 3266(E) : Notification No. 63/2019 [F. No. 370142/11/2019-TPL] /SO 3266(E)

In exercise of the powers conferred by clause (v) of the Explanation to section 48 of the Income tax Act, 1961 (43 of 1961), the Central Government makes further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), Central Board of Direct Taxes.

https://www.incometaxindia.gov.in/communications/notification/notification_63_2019.pdf

Direct Tax Notification

5. Notification No. 69/2019/ F.No. 370142/17/2019-TPL/ GSR 679(E)

Higher depreciation on certain motor cars, motor buses, motor lorries and motor taxis.

https://www.incometaxindia.gov.in/communications/notification/notification_69_2019.pdf

6. Circular No. 26/2019

Clarifications in respect of filling-up of return forms for the Assessment Year 2019-20.

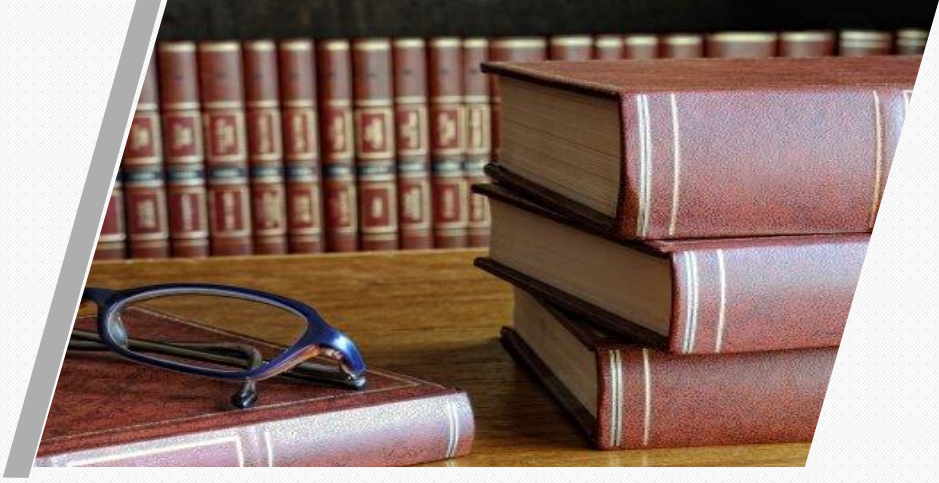
https://www.incometaxindia.gov.in/communications/circular/circular_26_2019.pdf

7. Circular No. 27/2019

Conduct of assessment proceedings through "e-Proceeding" facility during financial year 2019

https://www.incometaxindia.gov.in/communications/circular/circular_27_2019.pdf

Indirect Tax : Case Laws



Case Law 1:

GST paid on inter-state inward supplies in a non-registered state is non-admissible Input tax credit

The applicant is engaged in supply of event management services wherein he organizes event on behalf

of clients and books conference halls, outdoor caterers, etc. The applicant is registered in the states of West Bengal, Delhi, Jharkhand, Odisha and Maharashtra. The applicant submitted that he is being charged CGST and SGST on inward supplies procured in these states, and thus wanted to know if ITC can be claimed in GST returns of West Bengal of the CGST & SGST paid in other state, and whether the same could be adjusted against the output IGST liability of West Bengal. The authority referring to section 12(3) & (4) of the IGST Act 2017, observed that the place of supply for booking hotels, banquet halls is the place where service is actually performed. Thus, it was ruled that the applicant need to be registered in the Tamil Nadu state, to avail CGST and SGST paid on intra state inward supplies in Tamil Nadu and cannot claim the ITC of other states in the state of West Bengal.

AUTHORITY FOR ADVANCE RULING - West Bengal in M/s Storm Communication private Limited (Advance Ruling no. 39/WBAAR/2018-19 dated 3rd December 2018)

GST liable to be paid on the interest component charged over late receipt of any consideration

Case Law 2:

GST liable to be paid on the interest component charged over late receipt of any consideration

The applicant is a Public Limited company registered under the Companies Act. The applicant is a registered stockbroker dealing in sale or purchase of securities. Applicant has sought an advance ruling on whether there would be any liability to pay GST on any additional amount charged on delayed payment. The applicant submitted that as per section 2(102) of the CGST Act 2017, securities are neither supply of goods nor supply of services and “brokerage” is basically facilitating or arranging transactions in securities & thus covered under the definition of services and accordingly liable to tax. Further, as per section 15(2)(d) of the CGST Act, 2017 “Transaction value” includes any interest on late fee or penalty or delayed payment of any consideration. The applicant contented that interest charged fall under exempt supplies as notified by the government. After vetting all the documents, the ruling authority observed that the additional amount charged is in the nature of penalty which was charged if the payment was not made within the stipulated time.

Therefore, it was held that the stock broking

Indirect Tax : Case Laws

services is the principal supply & and all other supply form part of such principal supply. Accordingly, the additional amount charged by the broker cannot be termed as interest, therefore the exemption vide entry no. 27 of the Notification No. 12/2017 cannot be applied and GST shall be payable.

AUTHORITY FOR ADVANCE RULINGS – MADHYA PRADESH in M/s INDO THAI SECURITIES LIMITED [No. 2019-VIL-268-AAR) dated 25th JUNE 2019]

Case Law 3:

SAD refund only allowed if filed within one year of date of payment of VAT/CST in case of sale of imported goods within India.

The appellant had effected imports vide bill of entry dated 29.10.2014, 17.10.2014, 17.11.2014 and released goods upon payment of SAD@4%. Appellant sold the goods in India on payment of applicable VAT/CST and sought for refund of SAD vide Notification no. 93/2008-Cus. The refund was rejected by the Assistant Commissioner. The appellant's Counsel argued that since the refund application can only be filed after payment of Vat/CST, the relevant date for completion of one year is to be taken as the date of payment of VAT/CST. In response, the authorized representative for the department argues that the time limit of one year as prescribed in the customs Notification No. 93/2008-Cus will apply and it has well taken into consideration the decision in the case M/s. Sony India Ltd. He further argued that Tribunal over which Hon'ble High Court has superintendence cannot ignore law declared by that court in reference to East India Commercial Co. Ltd., Calcutta Vs. Collector of customs, Calcutta reported in 1983(13) ELT 1342 (SC

Such SAD refund was stipulated to be filed before the expiry of one year from the date of payment of the said additional duty of customs. The time frame was fixed to be one year invoking section 27 of the customs act, where normal time limit of 6 months was prescribed to claim refund, in public interest considering the fact that imported goods will have to be dispatched to various parts of the country for sale. In its additional submissions, appellant has reproduced detail concerning payment of VAT/CST thorough challans and it appears that except payment on 20.10.2014, all VAT payments were made between July 2015 and October 2015. The said refund is therefore allowed against bills of entry dated 29.10.2014, 17.10.2014, 17.11.2014 except refund against which VAT/CST paid on 20.10.2014.

M/s. SHANDONG HEAVY INDUSTRY INDIA PVT. LTD. Vs COMMISSIONER OF CUSTOMS, NHAVA SHEVA- II [FINAL ORDER NO. A/86726/2019 dated 30.09.2019]

Case Law 4:

Ex works plus Freight & Insurance is a Composite Supply, GST Chargeable

The applicant is in the business of solar, payments bank and health insurance. The applicant entered into a contract with M/s Power Grid Corporation of India Ltd. (PGCIL) consisting of ex works and transportation, insurance and other incidental expenses. Considering the contract as a composite supply, the applicant wants to charge GST on freight and insurance against which PGCIL raised an objection, thus an advance ruling was sought on whether the ex-works plus freight & insurance to be treated as composite supply

Indirect Tax : Case Laws

The applicant in their submission, reiterated the definition of “composite supply” as provided u/s 2(30) of the CGST Act, 2017 and contented that freight and insurance are naturally bundled along with the supply of goods. The CGST Additional Commissioner also agreed with the opinion of the applicant. The ruling authority referring to the provisions of the CGST Act and the CBEC E-flyer concluded that freight & insurance charged would be included in the value for levying GST even if freight & insurance portion is separately charged in the invoice. Further, the authority also pointed out if the actual freight cost incurred by the applicant varies with the pre-contracted price (which would be reimbursed), GST shall be charged on the higher of the two values. Therefore, it was ruled that supply of goods/services along with freight & insurance is a composite supply u/s 2(30) of the Act and GST shall be charged.

AUTHORITY FOR ADVANCE RULINGS – GUJARAT IN M/S ADITYA BIRLA NUVO LIMITED [ADVANCE RULING NO. GUJ/GAAR/R/2018/05 DATED 04TH MARCH 2019]

Indirect Tax Notification

1. Seeks to amend notification No 14/2019- Central Tax dated 7.3.2019 so as to exclude manufacturers of aerated waters from the purview of composition scheme.

CBIC vide Notification No.43/2019-Central Tax has excluded '2202 10 10' aerated water manufacturers from the purview of composition scheme.

http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-43-central-tax-english-2019.pdf;jsessionid=8B623AFC374D59045D1848F1B3743446

2. Seeks to bring rules 10, 11, 12 and 26 of the CGST (Fourth Amendment) Rules, 2019 in to force.

CBIC vide Notification No. 42/2019 – Central Tax hereby appoints the 24th day of September, 2019, as the date on which the provisions of rules 10, 11, 12 and 26 of the Central Goods and Services Tax (Fourth Amendment) Rules, 2019 [notification No. 31/2019– Central Tax, dated the 28th June, 2019]

http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-42-central-tax-english-2019.pdf;jsessionid=72478443BCCFE29C8659C5D98C747D70

3. Seeks to notify the place of supply of R&D services related to pharmaceutical sector as per Section 13(13) of IGST Act, as recommended by GST Council in its 37th meeting held on 20.09.2019.

CBIC vide Notification No. 04/2019- Integrated Tax hereby notifies description of services or circumstances as specified in Column (2) of the Table A, in which the place of supply shall be the place of effective use and enjoyment of a service as specified in the corresponding entry in Column (3) of the below notification.

http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-4-2019-igst-english.pdf;jsessionid=421ABC29C1931DC7E3733B4A3EC1F160

Corporate Legal & Regulatory Notifications

S. No	Notifications

1. National Financial Reporting Authority (NFRA) Amendment Rules, 2019

(MCA notification dated September 5, 2019)

The Ministry of Corporate Affairs (MCA) vide its notification dated September 5, 2019 has amended various provisions of National Financial Reporting Authority Rules, 2018 through National Financial Reporting Authority (NFRA) Amendment Rules, 2019 which shall come into force with effect from September 5, 2019.

Through the said amendment, MCA has introduced the form NFRA-2 in which the auditor of specified companies have to provide a statement of the quality control policies and procedures for its auditing practice during the reporting period.

The key highlights as per the said notification are as follows:

i. The due date for filing Form NFRA-2 has been changed to November 30 of every year instead of April 30 as prescribed earlier.

ii. For the purpose of Rule 3 (1)(c), an explanation has been added for "banking company" which includes 'corresponding new bank' as defined in section 2(d) of the Banking Companies (Acquisition and Transfer of Undertakings) Act, and section 2(b) of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 and 'subsidiary bank' as defined in section 2(k) of the State Bank of India (Subsidiary Bank) Act, 1959.

iii. In Rule 11, new provision has been added to provide that where the disposal of disciplinary proceedings does not take place within the defined period, the Division shall record the reasons for not disposing of the show-cause notice within the said period, and the chairperson, may, after taking into account the reasons so recorded, extend the aforesaid period by such additional period not exceeding ninety days as he may consider necessary and the chairperson may, if he thinks fit, grant the said extension of the period more than once.

http://www.mca.gov.in/Ministry/pdf/NFRA_05092019.pdf

Legal & Regulatory

2. Extension of last date of filing of Form BEN-2 under the Companies Act, 2013

(MCA circular dated September 24, 2019)

The Ministry of Corporate Affairs (MCA) vide its circular dated September 24, 2019 extended the time limit for filing of E-form No. BEN-2 is up to 31st December 2019 without payment of additional fee and thereafter fee and additional fee shall be payable. Consequent to the extension in the date of filing of e Form BEN-2, the date of filing of Form BEN-1 may be construed accordingly.

http://www.mca.gov.in/Ministry/pdf/GeneralCircular_24092019.pdf

3. Companies (Appointment and Qualification of Directors) Fourth Amendment Rules, 2019
(MCA notification dated September 30, 2019)

The Ministry of Corporate Affairs (MCA) vide its notification dated September 30, 2019 has amended the provisions of Companies (Appointment and Qualification of Directors) Rules, 2014 through Companies (Appointment and Qualification of Directors) Fourth Amendment Rules, 2019 which shall come into force with effect from September 30, 2019.

Through the said amendment, the individual shall submit e-form DIR-3 KYC or web form DIR-3 KYC-WEB, as the case may be, on or before the October 14, 2019.
Therefore, no fee shall be payable for e-form DIR-3 KYC or DIR-3 KYC-WEB through web service, for the financial year ended on 31.03.2019 till October 14, 2019.

http://www.mca.gov.in/Ministry/pdf/Companies4thAmendtRules_30092019.pdf

Column

IEPF Rules 2019 - Investor Education and Protection Fund

By – Paridhi Agarwal

IBA

The Ministry of Corporate Affairs (MCA) vide notification dated August 14, 2019 issued the Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Second Amendment Rules, 2019 ('Amendment Rules') to amend the Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Rules, 2016 ('the Rules').

The Amendment Rules simplifies the process of filing certain forms with the Investor Education and Protection Fund Authority ('IEPF') and provide for certain new requirements such as the appointment of Director or CFO or CS as nodal officer of the Company for the purpose of the Rules.

Key amendments made under the Rules are as follows:

Changes in Definitions :

Definition of "Company" under the Rules now includes transferee company in respect of assets and liabilities of transferor companies.

Definition of "corporate action" has been made inclusive instead of specific. Corporate actions pursuant to amalgamation and other methods will now be included in the definition.

Definition of "investor" has been omitted.

Statement to be furnished to IEPF

Any amount required to be credited by a company to the Fund as provided under clauses (a) to (n) of Section 125(2) of the Act shall be remitted online along with a Statement in Form No. IEPF 1 containing details of such transfer to the Authority within a period of thirty days of such amounts becoming due to be credited to the Fund. The requirement of tendering the amount by companies along with challan in the specified branches of Punjab National Bank has been done away with. Accordingly, sub-rule (1) is amended and sub-rules (2), (3) and (4) are omitted.

Appointment of Nodal Officer

Every company which is required to credit amounts or shares to the fund or has deposited the amount or transferred the shares to the Fund shall nominate a Nodal Officer for the purpose of

verification of claims and coordination with IEPF authority. Every company which is required to credit amounts or shares to the fund or has deposited the amount or transferred the shares to the Fund shall nominate a Nodal Officer for the purpose of verification of claims and coordination with IEPF authority.

The Nodal Officer shall be one amongst the following:

- A director; or
- Chief Financial Officer (CFO); or
- Company Secretary (CS)

Intimation of details of Nodal Officer to the IEPF Authority

The following details of the Nodal Officer and Deputy Nodal Officer shall be filed with the IEPF authority in form IEPF-2 within 15 days from the date of publication of these rules:

- Designation;
- Postal address;
- Telephone and mobile number;
- Company authorized email ID;

The company shall display the name of Nodal Officer and his e-mail ID on its website Any change in the details of the nodal officer shall be communicated to the IEPF authority within 7 days of such change in form IEPF-2.

New and Revised Forms Under the 2nd Amendment

Under the IEPF amendment of 2019, a new form IEPF-1A has been introduced and other forms have been revised. Form No. IEPF-1A is meant to function as a statement of the amounts that have been credited to the Investor Education and Protection Fund in any given period.

Transfer of shares to IEPF: Timelines and maintenance of record

- In case any dividend amount has been credited to the bank account of the owner of the shares during the last seven years, such shares shall not be required to be transferred to the Fund;

- A clarification to sub-rule (1) has been inserted to provide that all shares in respect of which dividend has been transferred to Investor Education and Protection Fund on or before the 7th September 2016, shall also be transferred by the company in the name of Investor Education and Protection Fund.

- Timeline for filing IEPF-4 provided: While effecting the transfer of shares to IEPF, the company shall send a statement to the Authority in Form No. IEPF-4 within thirty days of the corporate action and the company shall also attach a copy of the public notice published under clause (a) of sub-rule (3) of rule 6 in Form No IEPF-4.

- Format for record of shares transferred to IEPF: The company shall maintain record of the form IEPF-4 including the published notice filed along with all supporting documents and the Authority shall have the powers to inspect such records.

- Timeline for filing IEPF-4 for corporate action: All benefits accruing on such shares like bonus shares, split, consolidation, fraction shares and except right issue shall also be credited to the DEMAT account of IEPF by the company which shall send a statement to the Authority in Form No. IEPF-4 within thirty days of the corporate action containing details of such transfer.

The following Schedules have been inserted through this amendment:

Schedule I: The current schedule has been renamed as schedule 1, which prescribes the registers and books to be maintained by the authority.

Schedule II: This schedule prescribes the documentary requirement for transmission of securities held in physical mode as well as in DEMAT mode.

Schedule III: The schedule prescribes documents like copy of FIR/Police compliant, surety affidavit etc required to be submitted to the Authority in case of loss of securities held in physical form.

Schedule IV: This schedule prescribes the indicative procedure that may be followed by the Authority while disposing claims from the claimants.

The Amendment has come into force from the 20th of August 2019 except Rules 6 (i), 6 (iv), 6 (v), 6(vi), 6(vii) and 6 (viii) which will come into force on 20th of September.

Conclusion:

The changes made to the Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Rules, 2016 by the 2019 Amendment have been quite comprehensive. The changes were chiefly geared towards modernising the rules and maximising efficiency while filling any gaps in the regulations, which may have been detrimental to the interests of investors.

IBA NEWS

Gandhi Jayanti – Swachhta Abhiyan @ IBA Office

To commemorate Gandhi Jayanti, IBA conducted cleanliness campaign at office.

Upcoming Compliances

Date	Compliance
October 11, 2019	Due date for furnishing of Form GSTR-1 for the taxpayers having aggregate turnover of more than 1.5 crore for the month of September 2019
October 13, 2019	Due date for furnishing of Form GSTR-6 for Input Service Distributor for the month of September 2019
October 15, 2019	Due date for issue of TDS Certificate for tax deducted under section 194-IA in the month of August 2019
	Due date for issue of TDS Certificate for tax deducted under section 194-IB in the month of August 2019
	Quarterly statement of TCS deposited for the quarter ending September 30, 2019
October 20, 2019	Due date for filing consolidated return in the Form GSTR-3B for the month of September 2019
October 31, 2019	Due date for furnishing of Form GSTR-1 for the taxpayers having aggregate turnover of less than 1.5 crore for the quarter of July to September 2019
	Quarterly statement of TDS deposited for the quarter ending September 30, 2019
	Due date for filing of audit report under section 44AB for the assessment year 2019-20 in the case of a corporate-assessee or non-corporate assessee (who is required to submit his/its return of income on September 30, 2019) has been extended from September 30, 2019 to October 31, 2019 vide Order [F.NO.225/157/2019-ITA.II], dated 27-09-2019
	Due date for filing of annual return of income for the assessment year 2019-20 if the assessee (not having any international or specified domestic transaction) is (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) working partner of a firm whose accounts are required to be audited) has been extended from September 30, 2019 to October 31, 2019 vide Order [F.NO.225/157/2019-ITA.II], dated 27-09-2019

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 Bengaluru 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.

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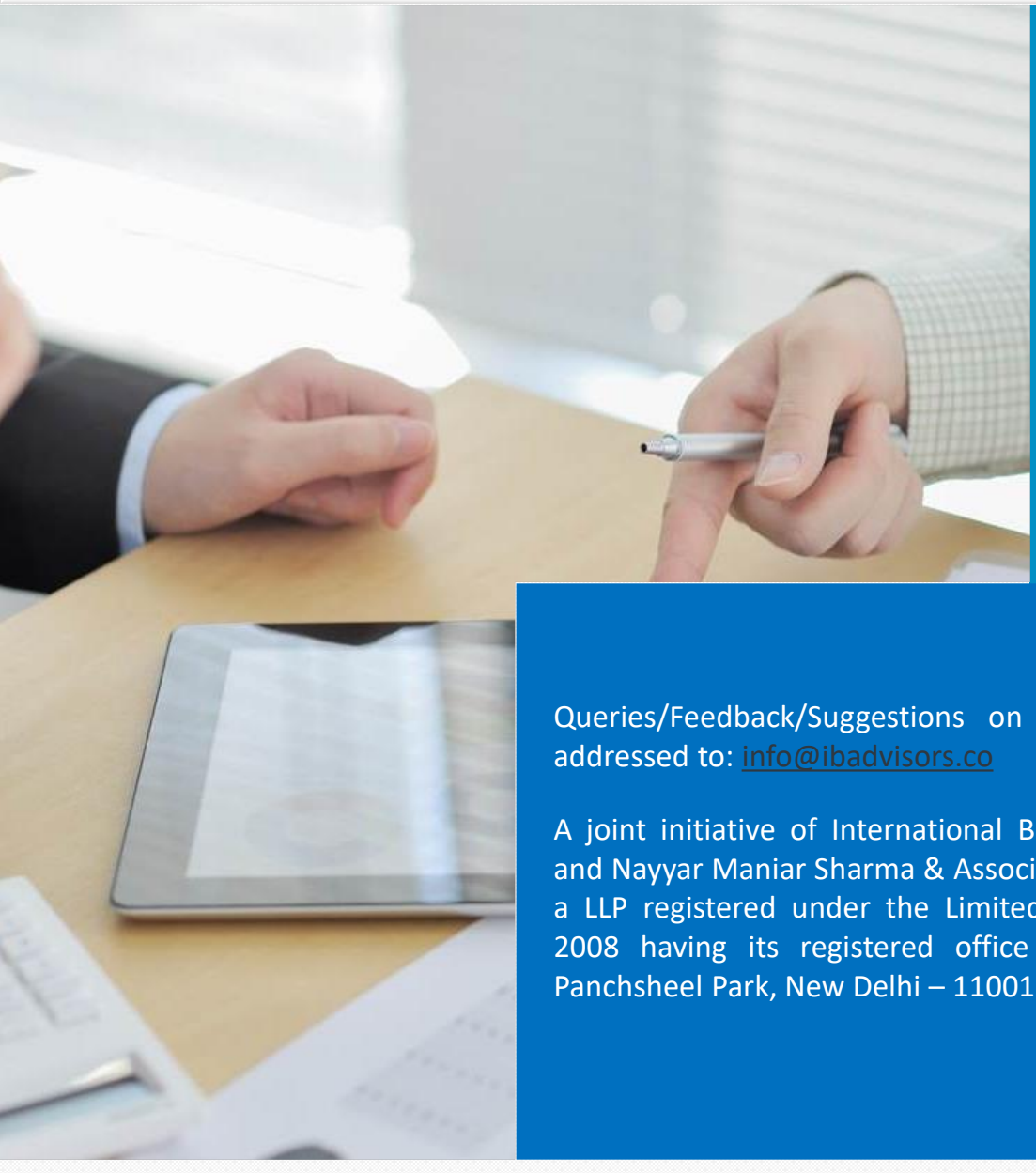

Queries/Feedback/Suggestions on this newsletter may be addressed to: info@ibadvisors.co

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