

**2014
MARCH**

P. K. LUHARUKA & CO.
CHARTERED ACCOUNTANTS
MONTHLY NEWSLETTER
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THIS ISSUE GIVES AN UPDATE ON ASPECTS ON WHICH THE CBDT, CBEC, RBI, MINISTRY OF CORPORATE AFFAIRS AND THE WEST BENGAL GOVERNMENT THINK NEED CHANGES OR CLARIFICATIONS, A FEW RELEVANT CASE LAWS RELATING TO INCOME TAX, AN ANNOUNCEMENT BY THE ICAI AND A DUE DATES CALENDAR FOR THE MONTH OF MARCH.

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DIRECT TAXES

- a. CBDT hereby further relaxes and extends the date for filing ITR V form for Assessment Year 09-10, 2010-11 and 2011-12 till 31.03.2014 for returns e-filed with refund claims within the due date. The taxpayers may send a signed copy of ITR V by **speed post**. (Circular No. 04/2014 dated 10th February, 2014)
- b. Tax deductor and collector holding TAN can register and use the TAN based credentials to file Form 15CA. The updated utility to file form 15 CA can be downloaded from the website.
- c. CBDT hereby clarifies that the expenditure which is relatable to earning of exempt income shall be disallowed even where taxpayer in a particular year has not earned any exempt income. (Circular No. 05/2014, dated 11th February, 2014)

INDIRECT TAXES

- a. The Central Government hereby extends the exemption of service tax to (Notification No. 04/2014 – Service Tax, dated 17th February, 2014):
 - i. Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation.
 - ii. Services by way of loading, unloading, packing, storage or warehousing of rice.
- b. CBEC have examined and clarified various doubts regarding the scope and applicability of various exemptions available to various activities in relation to rice, under the negative list approach. Many benefits available to 'agricultural produce' in the negative list have been extended to rice. (Circular No. 177/03/2014 – ST)
- c. CBEC hereby determines the rate of exchange, with effect from 21st February, 2014, of conversion of each of the Foreign Currency into Indian Currency or vice-versa for the purpose of Valuation of goods under Sec 14 of the Customs Act, 1962, relating to imported and export goods. (Notification No. 13/2014 – Customs (N.T.), dated 20th February, 2014)

RESERVE BANK OF INDIA

RBI governor, Dr. Raghuram Rajan in the inaugural speech at FIMMDA-PDAI Annual Conference 2014 reiterated the central bank's commitment of getting the highest possible growth for India but not at the cost of high inflation. He further expressed that the best way and a long term solution to foster sustainable growth was through monetary stability which implied low inflation and a stable domestic currency as a byproduct of lower inflationary expectations. He further targeted CPI (Consumer Price Index) inflation down to 8 percent by January 2015 and 6 percent by January 2016. (Speech can be downloaded from the link "http://rbi.org.in/scripts/BS_SpeechesView.aspx?Id=878")

COMPANY LAW

- a. The Ministry of Corporate Affairs with regard to Section 185 of the Companies Act, 2013 hereby clarified that any guarantee given or security provided by a holding company in respect of loans made by a bank or financial institutions to its subsidiary company, exemption as provided under Sec 372A of the Companies Act, 1956 shall be applicable till Section 186 of the Companies Act, 2013 is notified. However, this will be applicable to cases where loans so obtained are **exclusively utilized by the subsidiary company for its principal business activities.** (General Circular No. 03/14, dated 14/02/2014)
- b. The Ministry of Corporate Affairs, hereby intimated that no company should be allowed to be registered with the word 'National' as part of its title unless it is a government company and the Central/State Government(s) has a stake in it. Similarly, there are restrictions imposed on the use of word 'Bank' and 'Stock Exchange' or 'Exchange' in names of the companies. (Circular No. 2/2014 dated 11/02/2014)
- c. The Ministry of Corporate Affairs hereby appoints 1st Day of April, 2014, as the appointed date for effecting the provisions of Sec 135 of the Companies Act, 2013, relating to provisions related to Corporate Social Responsibilities (CSR) of the company. To support the provisions of this section, the ministry hereby makes the Companies (Corporate Social Responsibility Policy) Rules, 2014, effective from 1st April, 2014. The Highlights of such rules are: (Notification No. 1/2014 & Notification No. 2/2014 dated 27/02/2014)
- Projects or Programs eligible are - Activities which may be included by companies in their CSR policies are specified in Schedule VII of the Act or Activities undertaken by the board of directors of a company (Board) in pursuance of recommendations of the CSR committee of the board as per declared CSR policy of the company subject to the condition that such policy will cover subjects enumerated in Schedule VII of the Act. Though in our opinion and after plain reading of the definition in Rule 2 (1) (c) of the notified rules, this is not the exhaustive list.
 - Criteria for applicability of the section and hence the rules –
 - i. Networth of 500 crores or more or
 - ii. Turnover of 1000 crores or more or
 - iii. Net Profit of 5 crores or more,during any financial year. The company fulfilling the criteria shall constitute a CSR committee of the board consisting of three or more directors, out of which at least one director shall be an independent director.
 - The CSR activities may be undertaken through a registered trust or a registered society or a company established by the company or its holding or subsidiary or associate company under section 8 of the Act or through other trust that has an established track record of three years in undertaking similar programs or projects.

- Two companies may together undertake their CSR activities.
- Contribution to any political party shall not be considered as CSR activity.
- CSR Committee establishment is also defined in the rules
- The Board's Report of a company shall include an Annual Report on CSR. Format for the Annual Report is annexed to the notification
- The company shall display its CSR activities on its website.

MEMBERS

The Council of ICAI decided to increase the "specified number of tax audit assignments" for practicing Chartered Accountants, as an individual or as a partner in a firm, from 45 to 60. The said limit will be effective for the audits conducted during the financial year 2014-15 and onwards.

WEST BENGAL STATE LAWS

For the purpose of obtaining separate certificate of enrolment and payment of Profession Tax, Government of West Bengal has clarified that **no factory or godown/warehouse** of a firm, company, corporation or other corporate body, any society, club or association, unless it acts as a branch or office, shall be treated as a separate person for the purpose of the Act. (Circular No. 1/2014 dated 13th February, 2014)

CASE LAWS

a. **February 28, 2014 – Adithya Bizorp Solutions India Pvt. Ltd. vs. UOI (Karnataka High Court) –**

The Karnataka High Court grants interim stay, until further orders, on enforcement of notices for levy of fee for failure to file TDS Statement. A similar stay has been granted by the Kerala High Court last month in Narath Mapila LP School vs. UOI.

b. **February 10, 2014 – CIT vs. Bhogilal Ramjibhai Atara (Gujarat High Court) –**

Unclaimed liability (of earlier years), which are shown as payable in the accounts, are not taxable as income even if creditors are untraceable or liabilities are non-genuine. The High Court actually stated that since the liability is still existing perhaps there was no cessation or remission of liability and that the amount cannot be added back as deemed income, even if the debt itself is found to be non-genuine from the very inception, atleast in terms of Sec 41(1) of the Income Tax Act, 1961. Although there are contrary views held at different forums.

P. K. Luharuka & Co., Chartered Accountants**Due Dates Calendar**01 March 2014 – 31 March 2014

March 2014

M	T	W	T	F	S	S
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3	4	<u>5</u>	<u>6</u>	<u>7</u>	8	9
<u>10</u>	11	12	13	14	<u>15</u>	16
17	18	19	20	<u>21</u>	22	23
24	25	26	27	28	29	30
<u>31</u>						

Details

05 March 2014

Subject Due Date of payment of Central Excise Duties for the previous month
- For non SSI Units - GAR-7 Challan



Subject Due Date of payment of Service Tax for services deemed to be provided as per rules in the month of February in case of assesseees, other than individual or proprietorship firm or partnership firm (if not paid electronically) (GAR 7 Challan)

06 March 2014

Subject Due Date of payment (latest by 8 P.M.) of Service Tax for services deemed to be provided as per rules in the month of February in case of assesseees, other than individual or proprietorship firm or partnership firm (if paid electronically) (GAR 7 Challan)



Subject Due Date of payment of Central Excise Duties for the previous month
- For non SSI Units (if paid electronically) - GAR-7 Challan

07 March 2014



Subject Due Date of deposit of TDS where income or amount is paid or credited in the month of February (Challan No./ ITNS. 281)



Subject Due Date of Monthly payment of TCS in February u/s 206C



Subject Submission of copy of declaration forms (Form 15G and form 15H) received for non deduction of TDS under section 197A before the Chief Commissioner or Commissioner

10 March 2014



Subject Due Date of ER-1 for Non-SSI assesseees and ER-2 for EOU units for the month of February

15 March 2014



Subject Due Date of Payment of PF for the month of February (plus grace period of 5 days)



Subject Final installment (in case of non company assessee) (100%) or Final installment (in case of company assessee) (100%) of Advance Tax for current FY (Challan No./ ITNS. 280)

21 March 2014



Subject Due Date of Payment of ESI for the month of February

31 March 2014

Subject Due Date of payment of Central Excise Duties for the month of March
- For non SSI Units (whether paid or not paid electronically)- G.A.R.-7
Challan



Subject Due Date of payment of Service Tax for services deemed to be
provided as per rules in the month of March in case of assesseees,
other than individual or proprietorship firm or partnership firm
(whether or not paid electronically) (GAR 7 Challan)



Subject Due Date of payment of Service Tax for services deemed to be
provided as per rules in the quarter January-March in case of
individuals or proprietorship firms or partnership firms (whether or
not paid electronically) (GAR 7 Challan)

Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

North Block, New Delhi
Dated the 10th of February, 2014

Subject: - Non-Filing of ITR-V in returns with refund claims-relaxation of time-limit for filing ITR-V and processing of such returns -regarding.

Several instances of grievances have come to the notice of the Board stating that a large number of returns-of-income for Assessment Year ('AY') 2009-2010, which were electronically filed without a digital signature in accordance with procedure laid down under the Income-tax Act, 1961 ('Act'), were not processed as such returns became non-est in law in view of Circular No. 3 of 2009 of CBDT dated 21.05.09. Paragraphs 9 and 10 of the said Circular laid down that ITR-V had to be furnished to the Centralised Processing Centre ('CPC'), Bengaluru by post within 30 days from the date of transmitting the data electronically and in case, ITR-V was furnished after the stipulated period or not furnished, it was deemed that such a return was never furnished. It was claimed by some of the taxpayers that despite sending ITR-V through post to CPC within prescribed time-frame, the same probably could not reach CPC and thus such returns became non-est. Since ITR-V was required to be sent through (ordinary) post at a 'post box' address, there were no despatch receipts with the concerned senders in support of their claim of having furnished ITR-V to CPC within prescribed time limit.

2. Subsequently CBDT extended the time-limit for filing ITR-V (relating to Income-tax returns filed electronically without digital signature for AY 2009-2010) upto 31.12.2010 or 120 days from the date of filing, whichever was later. It also permitted sending of ITR-V either by ordinary or speed post to the CPC. However, for the AY 2009-10, some cases were still reported where return was declared non-est due to non-receipt of ITR-V by CPC even within such extended time-frame and consequently the refunds so arising continue to remain held up.

3. Likewise, for AY's 2010-11 and 2011-12, though relaxation of time for furnishing ITR-V was granted by Director General of Income Tax (Systems), it has been noticed that a large number of such electronically filed returns still remain pending with Income-tax Department for want of receipt of valid ITR-V Certificate at CPC.

4. The matter has been examined. In order to mitigate the grievances of the taxpayers pertaining to non-receipt of tax refunds, Central Board of Direct Taxes, in exercise of powers under section 119(2)(a) of the Act, hereby further relaxes and extends the date for filing ITR-V Form **for Assessment Years 2009-10, 2010-11 and 2011-12 till 31.03.2014** for returns e-Filed with refund claims within the time allowed under section 139 of the Act. The taxpayer concerned may send a duly signed copy of ITR-V to the CPC by this date **by**

speed post. In such cases, Central Board of Direct Taxes also relaxes the time-frame of issuing the intimation as provided in second proviso to sub section (1) of Section 143 of the Act and directs that such returns shall be processed within a **period of six months** from end of the month in which ITR-V is received and the intimation of processing of such returns shall be sent to the assessee concerned as per laid down procedure.

5. Provision of sub-section (2) of section 244A of the Act would apply while determining the interest on such refunds.
6. The taxpayer concerned may ascertain whether ITR-V has been received in the CPC, Bengaluru or not by logging on the website of Income-tax Department - <http://incometaxefiling.gov.in/e-Filing/Services/ITR-V Receipt Status.html> by entering PAN No. and Assessment Year or e-Filing Acknowledgement Number. Alternatively, status of ITR-V could also be ascertained at the above Website under 'Click to view Returns/Forms' after logging in with registered e-Filing account. In case ITR-V has not been received within the prescribed time, status will not be displayed and further steps would be required to be taken as mentioned above.
7. Hindi version to follow.


(Rohit Garg)

Deputy Secretary to the Government of India

(F.No. 225/198/2013-ITA.II)

Copy to:

1. Chairperson and all Members of CBDT
2. Director General of Income Tax (Systems) with request for uploading on Departments website
3. All Chief-Commissioners/Directors-General of Income-tax
4. CIT(Media-Coordinator), CBDT with request to issue Press-Note for giving wide coverage to the above Circular
5. All Officers and Technical Sections of CBDT
6. Director of Income tax (Inv.)/IT & Audit/Vigilance/Inv./RSP&PR/Recovery
7. Dy. Director of Inspection (P&PI), New Delhi
8. C&AG of India
9. Asst. Director of Inspection (Bulletin), New Delhi
10. JS & Legal Adviser, Ministry of Law & Justice, New Delhi
11. Director of Income tax (O&MS), New Delhi
12. Director General, NADT
13. ITCC Division of CBDT (3 copies)
14. NIC, M/o-Finance for uploading on website
15. Database Cell for uploading on IRS Officers website
16. Guard File


(Rohit Garg)

Deputy Secretary to the Government of India

Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

North Block, New Delhi
dated the 11th of February, 2014

Subject: - Clarification regarding disallowance of expenses under section 14A of the Income-tax Act in cases where corresponding exempt income has not been earned during the FY -regarding.

Section 14A of the Income-tax Act, 1961 ('Act') provides for disallowance of expenditure in relation to income not "includible" in total income.

2. A controversy has arisen in certain cases as to whether disallowance can be made by invoking section 14A of the Act even in those cases where no income has been earned by an assessee which has been claimed as exempt during the financial-year.
3. The matter has been examined in the Board. It is pertinent to mention that section 14A of the Act was introduced by the Finance Act, 2001 with retrospective effect from 01.04.1962. The purpose for introduction of section 14A with retrospective effect since inception of the Act was clarified vide Circular No. 14 of 2001 as under:

"Certain incomes are not includible while computing the total income, as these are exempt under various provisions of the Act. There have been cases where deductions have been claimed in respect of such exempt income. This in effect means that the tax incentive given by way of exemptions to certain categories of income is being used to reduce also the tax payable on the non-exempt income by debiting the expenses incurred to earn the exempt income against taxable income. This is against the basic principles of taxation whereby only the net income, i.e., gross income minus the expenditure, is taxed. On the same analogy, the exemption is also in respect of the net income. Expenses incurred can be allowed only to the extent they are relatable to the earning of taxable income".

Thus, legislative intent is to allow only that expenditure which is relatable to earning of income and it therefore follows that the expenses which are relatable to earning of exempt income have to be considered for disallowance, irrespective of the fact whether any such income has been earned during the financial-year or not.

- pg
4. The above position is further clarified by the usage of term 'includible' in the Heading to section 14A of the Act and also the Heading to Rule 8D of I.T. Rules, 1962 which indicates that it is not necessary that exempt income should necessarily be included in a particular year's income, for disallowance to be triggered. Also, section 14A of the Act does not use the word "income of the year" but "income under the Act". This also indicates that for invoking disallowance under section 14A, it is not material that assessee should have earned such exempt income during the financial year under consideration.

5. The above position is further substantiated by the language used in Rule 8D(2)(ii) & 8D(2)(iii) of I.T.Rules which are extracted below:

"(ii) in a case where the assessee has incurred expenditure by way of interest during the previous year which is not directly attributable to any particular income or receipt an amount computed in accordance with the following formula, namely:-

$A*B/C$

Where.....

B= the average of value of investment, income from which does not or shall not form part of the total income as appearing in the balance sheet of the assessee, on the first day and the last day of the previous year;

.....
(iii) an amount equal to one-half percent of the average of the value of investment, income from which does not or shall not form part of the total income, as appearing in the balance-sheet of the assessee, on the first day and the last day of the previous year."

(Emphasis added)

6. Thus, in light of above, Central Board of Direct Taxes, in exercise of its powers under section 119 of the Act hereby clarifies that Rule 8D read with section 14A of the Act provides for disallowance of the expenditure even where taxpayer in a particular year has not earned any exempt income.

7. This may be brought to the notice of all concerned.

8. Hindi version to follow.

Rg

(Rohit Garg)

Deputy Secretary to the Government of India

(F.No:225/182/2013-ITA.II)

Copy to:

1. Chairman and all Members of CBDT
2. Director General of Income Tax (Systems) with request for uploading on official website
3. All Chief-Commissioners/Directors-General of Income-tax
4. All Officers and Technical Sections of CBDT
5. Director of Income tax (Inv.)/IT & Audit/Vigilance/Inv./RSP&PR/Recovery
6. C&AG of India
7. Asst. Director of Inspection (Bulletin), New Delhi
8. JS & Legal Adviser, Ministry of Law & Justice, New Delhi
9. Director of Income tax (O&MS), New Delhi
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Rg

(Rohit Garg)

Deputy Secretary to the Government of India

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 04/2014 - Service Tax

New Delhi, the 17th February, 2014

G.S.R....(E).- In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.25/2012-Service Tax, dated the 20th June, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* G.S.R. 467 (E), dated the 20th June, 2012, namely:-

In the said notification, in the opening paragraph,-

(i) after entry 2, the following entry shall be inserted, namely:-

“2A. Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation;”;

(ii) after entry 39, the following entry shall be inserted, namely:-

“40. Services by way of loading, unloading, packing, storage or warehousing of rice.”.
[F.No. 334 /3/ 2014-TRU]

(Akshay Joshi)
Under Secretary to the Government of India

Note.- The principal notification was published in the Gazette of India, Extraordinary, vide notification No. 25/2012 - Service Tax, dated the 20th June, 2012, number G.S.R. 467 (E), dated the 20th June, 2012 and was last amended by notification No.02/2014 - Service Tax, dated the 30th January, 2014 vide number G.S.R. 71(E), dated the 30th January, 2014.

Circular No.177/03/2014 – ST

F. No.334/03/2014-TRU
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
Tax Research Unit

North Block, New Delhi
17th February, 2014

To,

Chief Commissioners of Central Excise and Service Tax (All),
Director General (Service Tax), Director General (Central Excise Intelligence), Director General (Audit),
Commissioners of Service Tax (All),
Commissioners of Central Excise and Service Tax (All).

Madam/Sir,

Subject: Rice– exemptions from service tax -- regarding.

Doubts have been raised regarding the scope and applicability of various exemptions available to various activities in relation to rice, under the negative list approach. These doubts have been examined and clarifications are given below:

2. These doubts have arisen in the context of definition of 'agricultural produce' available in section 65B(5) of the Finance Act, 1994. The said definition covers 'paddy'; but excludes 'rice'. However, many benefits available to agricultural produce in the negative list [section 66D(d)] have been extended to rice, by way of appropriate entries in the exemption notification.

3. Transportation of rice:

3.1 by a rail or a vessel: Services by way of transportation of food stuff by rail or a vessel from one place in India to another is exempt from service tax vide exemption notification 25/2012-ST dated 20th June, 2012 [entry sl.no.20(i)]; food stuff includes rice.

3.2 by a goods transport agency: Transportation of food stuff by a goods transport agency is exempt from levy of service tax [exemption notification 25/2012-ST dated 20th June, 2012 [entry sl.no.21(d)]; amending notification 3/2013-ST dated 1st March 2013]. Food stuff includes rice.

4. Loading, unloading, packing, storage and warehousing of rice: Exemption has been inserted in the exemption notification 25/2012-ST dated 20th June, 2012 [entry sl.no.40]; amending notification 4/2014-ST dated 17th February 2014 may be referred.

5. Milling of paddy into rice: When paddy is milled into rice, on job work basis, service tax is exempt under sl.no.30 (a) of exemption notification 25/2012-ST dated 20th June, 2012, since such milling of paddy is an intermediate production process in relation to agriculture.

6. Reference may be made to JS, TRU in case of any further doubt. Trade Notice/ Public Notice may be issued. Hindi version to follow.

[S.Jayaprahasam]
Technical Officer, TRU

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, PART-II, SECTION 3, SUB-SECTION (ii),
EXTRAORDINARY]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
CENTRAL BOARD OF EXCISE AND CUSTOMS

Notification No.13/2014-Customs (N.T.)

Dated the 20th February, 2014
1 Phalguna, 1935(SAKA)

S.O. (E). – In exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and in super session of the notification of the Government of India in the Ministry of Finance (Department of Revenue) No.9/2014-CUSTOMS (N.T.), dated the 6th February, 2014 *vide* number S.O.360 (E), dated the 6th February, 2014, except as respects things done or omitted to be done before such super session, the Central Board of Excise and Customs hereby determines that the rate of exchange of conversion of each of the foreign currency specified in column (2) of each of Schedule I and Schedule II annexed hereto into Indian currency or *vice versa* shall, **with effect from 21st February, 2014** be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods.

SCHEDULE-I

S.No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
(1)	(2)	(3)	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Australian Dollar	56.65	55.15
2.	Bahrain Dinar	170.40	161.05
3.	Canadian Dollar	57.10	55.70
4.	Danish Kroner	11.70	11.35
5.	EURO	86.85	84.85
6.	Hong Kong Dollar	8.10	8.00
7.	Kuwait Dinar	228.40	215.30
8.	New Zealand Dollar	52.25	50.95
9.	Norwegian Kroner	10.45	10.15
10.	Pound Sterling	105.30	103.00
11.	Singapore Dollar	49.95	48.75
12.	South African Rand	5.85	5.45
13.	Saudi Arabian Riyal	17.15	16.20
14.	Swedish Kroner	9.75	9.45
15.	Swiss Franc	71.35	69.40
16.	UAE Dirham	17.50	16.55
17.	US Dollar	62.95	61.95

SCHEDULE-II

S.No.	Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
(1)	(2)	(3)	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Japanese Yen	62.00	60.50
2.	Kenya Shilling	74.70	70.35

[F.No.468/01/2014-Cus.V]

(Akshay Joshi)
Under Secretary, Government of India

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No.1/12/2013-CL.V
Government of India
Ministry of Corporate Affairs

5th Floor, 'A' Wing, Shastri Bhawan,
Dr. R.P. Road, New Delhi-110001.
Dated : 14/2/2014

To
All Regional Directors,
All Registrar of Companies,
All Stakeholders.

Subject: Clarification with regard to Section 185 of the Companies Act, 2013.

Sir,

This Ministry has received number of representations on the applicability of Section 185 of the Companies Act, 2013 with reference to loans made, guarantee given or security provided under Section 372A of the Companies Act, 1956. The issue has been examined with reference to applicability of Section 372A of the Companies Act, 1956 vis-à-vis Section 185 of the Companies Act, 2013. Section 372A of the Companies Act, 1956, specifically exempts any loans made, any guarantee given or security provided or any investment made by a holding company to its wholly owned subsidiary. Whereas, Section 185 of the Companies Act, 2013 prohibits guarantee given or any security provided by a holding company in respect of any loan taken by its subsidiary company except in the ordinary course of business.

2. In order to maintain harmony with regard to applicability of Section 372A of the Companies Act, 1956 till the same is repealed and Section 185 of the Companies Act, 2013 is notified, it is hereby clarified that any guarantee given or security provided by a holding company in respect of loans made by a bank or financial institution to its subsidiary company, exemption as provided in clause (d) of sub-section (8) of Section 372A of the Companies Act, 1956 shall be applicable till Section 186 of the Companies Act, 2013 is notified. This clarification will, however, be applicable to cases where loans so obtained are exclusively utilized by the subsidiary for its principal business activities.

Yours faithfully,


(K.M.S. Narayanan)

Assistant Director (Policy)
Phone No. 23387263

Copy to: Guard File.

F No. 2/2/2014 – C L -V
Government of India
Ministry of Corporate Affairs

5th Floor 'A' Wing, Shastri Bhawan,
Dr RP Road, New Delhi – 110 001.

Dated the 11th February, 2014

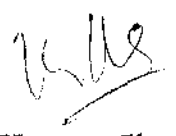
To,


All Regional Directors,
All Registrar of Companies,
All Stakeholders

Sub:- Use of word 'National' in the names of Companies or Limited Liability Partnerships (LLPs) .

Sir,

It has come to the knowledge of this Ministry that Companies / Limited Liability Partnerships are being registered with the word 'National' in their names. It is being intimated that no company should be allowed to be registered with the word 'National' as part of its title unless it is a government company and the Central / State government(s) has a stake in it. This should be stringently enforced by all Registrar of Companies (ROCs) while registering companies. Similarly, the word 'Bank' may be allowed in the name of an entity only when such entity produces a 'No Objection Certificate' from the RBI in this regard. By the same analogy the word "Stock Exchange" or "Exchange" should be allowed in name of a company only where 'No Objection Certificate' from SEBI in this regard is produced by the Promoters.


Kamna Sharma
(Assistant Director)
23387263


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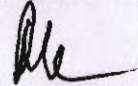
[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section -(ii)]

Government of India
Ministry of Corporate Affairs
Notification

New Delhi, the 27/11 ^{Feb} 2014

S.O. _____(E).- In exercise of the powers conferred by sub-section (3) of section 1 of the Companies Act, 2013 (18 of 2013), the Central Government hereby appoints the 1st day of April, 2014 as the date on which the provisions of section 135 and Schedule VII of the said Act shall come into force.

[File No. 1 /15 /2013-CL. V]



RENUKA KUMAR,
Joint Secretary to the Government of India

Government of India
Ministry of Corporate Affairs

Notification

New Delhi, dated 27th Feb 2014

G.S.R. ____ (E). – In exercise of the powers conferred under section 135 and sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules, namely: -

1. Short title and commencement. – (1) These rules may be called the Companies (Corporate Social Responsibility Policy) Rules, 2014.

(2) They shall come into force on the 1st day of April, 2014.

2. Definitions.- (1) In these rules, unless the context otherwise requires,

- (a) “Act” means the Companies Act, 2013;
- (b) “Annexure” means the Annexure appended to these rules;
- (c) “Corporate Social Responsibility (CSR)” means and includes but is not limited to :-

(i) Projects or programs relating to activities specified in Schedule VII to the Act; or

(ii) Projects or programs relating to activities undertaken by the board of directors of a company (Board) in pursuance of recommendations of the CSR Committee of the Board as per declared CSR Policy of the company subject to the condition

that such policy will cover subjects enumerated in Schedule VII of the Act.

- (d) "CSR Committee" means the Corporate Social Responsibility Committee of the Board referred to in section 135 of the Act.
- (e) "CSR Policy" relates to the activities to be undertaken by the company as specified in Schedule VII to the Act and the expenditure thereon, excluding activities undertaken in pursuance of normal course of business of a company;
- (f) "Net profit" means the net profit of a company as per its financial statement prepared in accordance with the applicable provisions of the Act, but shall not include the following, namely :-
 - (i) any profit arising from any overseas branch or branches of the company, whether operated as a separate company or otherwise; and
 - (ii) any dividend received from other companies in India, which are covered under and complying with the provisions of section 135 of the Act:

Provided that net profit in respect of a financial year for which the relevant financial statements were prepared in accordance with the provisions of the Companies Act, 1956, (1 of 1956) shall not be required to be re-calculated in accordance with the provisions of the Act:

Provided further that in case of a foreign company covered under these rules, net profit means the net profit of such company as per profit and loss account prepared in terms of clause (a) of sub-section (1) of section 381 read with section 198 of the Act.

(2) Words and expressions used and not defined in these rules but defined in the Act shall have the same meanings respectively assigned to them in the Act.

3. Corporate Social Responsibility. -

(1) Every company including its holding or subsidiary, and a foreign company defined under clause (42) of section 2 of the Act having its branch office or project office in India, which fulfills the criteria specified in sub-section (1) of section 135 of the Act shall comply with the provisions of section 135 of the Act and these rules:

Provided that net worth, turnover or net profit of a foreign company of the Act shall be computed in accordance with balance sheet and profit and loss account of such company prepared in accordance with the provisions of clause (a) of sub-section (1) of section 381 and section 198 of the Act.

(2) Every company which ceases to be a company covered under sub-section (1) of section 135 of the Act for three consecutive financial years shall not be required to -

- (a) constitute a CSR Committee; and
- (b) comply with the provisions contained in sub-section (2) to (5) of the said section,

till such time it meets the criteria specified in sub-section (1) of section 135.

4. CSR Activities.-

(1) The CSR activities shall be undertaken by the company, as per its stated CSR Policy, as projects or programs or activities (either new or ongoing), excluding activities undertaken in pursuance of its normal course of business.

(2) The Board of a company may decide to undertake its CSR activities approved by the CSR Committee, through a registered trust or a registered

society or a company established by the company or its holding or subsidiary or associate company under section 8 of the Act or otherwise:

Provided that—

(i) if such trust, society or company is not established by the company or its holding or subsidiary or associate company, it shall have an established track record of three years in undertaking similar programs or projects;

(ii) the company has specified the project or programs to be undertaken through these entities, the modalities of utilization of funds on such projects and programs and the monitoring and reporting mechanism.

(3) A company may also collaborate with other companies for undertaking projects or programs or CSR activities in such a manner that the CSR Committees of respective companies are in a position to report separately on such projects or programs in accordance with these rules.

(4) Subject to provisions of sub-section (5) of section 135 of the Act, the CSR projects or programs or activities undertaken in India only shall amount to CSR Expenditure.

(5) The CSR projects or programs or activities that benefit only the employees of the company and their families shall not be considered as CSR activities in accordance with section 135 of the Act.

(6) Companies may build CSR capacities of their own personnel as well as those of their Implementing agencies through Institutions with established track records of at least three financial years but such expenditure shall not exceed five percent. of total CSR expenditure of the company in one financial year.

(7) Contribution of any amount directly or indirectly to any political party under section 182 of the Act, shall not be considered as CSR activity.

5. CSR Committees.-

(1) The companies mentioned in the rule 3 shall constitute CSR Committee as under:-

(i) an unlisted public company or a private company covered under sub-section (1) of section 135 which is not required to appoint an independent director pursuant to sub-section (4) of section 149 of the Act, shall have its CSR Committee without such director ;

(ii) a private company having only two directors on its Board shall constitute its CSR Committee with two such directors;

(iii) with respect to a foreign company covered under these rules, the CSR Committee shall comprise of at least two persons of which one person shall be as specified under clause (d) of sub-section (1) of section 380 of the Act and another person shall be nominated by the foreign company.

(2) The CSR Committee shall institute a transparent monitoring mechanism for implementation of the CSR projects or programs or activities undertaken by the company.

6. CSR Policy.-

(1) The CSR Policy of the company shall, inter-alia, include the following, namely :-

(a) a list of CSR projects or programs which a company plans to undertake falling within the purview of the Schedule VII of the Act, specifying modalities of execution of such project or programs and implementation schedules for the same; and

(b) monitoring process of such projects or programs:

Provided that the CSR activities does not include the activities undertaken in pursuance of normal course of business of a company.

Provided further that the Board of Directors shall ensure that activities included by a company in its Corporate Social Responsibility Policy are related to the activities included in Schedule VII of the Act.

(2) The CSR Policy of the company shall specify that the surplus arising out of the CSR projects or programs or activities shall not form part of the business profit of a company.

7. CSR Expenditure.- CSR expenditure shall include all expenditure including contribution to corpus for projects or programs relating to CSR activities approved by the Board on the recommendation of its CSR Committee, but does not include any expenditure on an item not in conformity or not in line with activities which fall within the purview of Schedule VII of the Act.

8. CSR Reporting.-

(1) The Board's Report of a company covered under these rules pertaining to a financial year commencing on or after the 1st day of April, 2014 shall include an annual report on CSR containing particulars specified in Annexure.

(2) In case of a foreign company, the balance sheet filed under sub-clause (b) of sub-section (1) of section 381 shall contain an Annexure regarding report on CSR.

9. Display of CSR activities on its website. -

The Board of Directors of the company shall, after taking into account the recommendations of CSR Committee, approve the CSR Policy for the company and disclose contents of such policy in its report and the same shall be displayed on the company's website, if any, as per the particulars specified in the Annexure.

(File No. 1/15/2013-CL.V)


(Renuka Kumar)

Joint Secretary to the Government of India

ANNEXURE

FORMAT FOR THE ANNUAL REPORT ON CSR ACTIVITIES TO BE INCLUDED IN THE BOARD'S REPORT

1. A brief outline of the company's CSR policy, including overview of projects or programs proposed to be undertaken and a reference to the web-link to the CSR policy and projects or programs.
2. The Composition of the CSR Committee.
3. Average net profit of the company for last three financial years
4. Prescribed CSR Expenditure (two per cent. Of the amount as in item 3 above)
5. Details of CSR spent during the financial year.
 - (a) Total amount to be spent for the financial year;
 - (b) Amount unspent , if any;
 - (c) Manner in which the amount spent during the financial year is detailed below.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
S. No	CSR project or activity identified.	Sector in which the Project is covered	Projects or programs (1) Local area or other (2) Specify the State and district where projects or programs was undertaken	Amount outlay (budget) project or programs wise	Amount spent on the projects or programs Sub-heads: (1)Direct expenditure on projects or programs. (2)Overhead s:	Cumulative expenditure upto to the reporting period.	Amount spent: Direct or through implementing agency
1							

2							
3							
	TOTAL						

*Give details of implementing agency:

6. In case the company has failed to spend the two per cent. of the average net profit of the last three financial years or any part thereof, the company shall provide the reasons for not spending the amount in its Board report.
7. A responsibility statement of the CSR Committee that the implementation and monitoring of CSR Policy, is in compliance with CSR objectives and Policy of the company.

Sd/- (Chief Executive Officer or Managing Director or Director)	Sd/- (Chairman CSR Committee)	Sd/- (Person specified under clause (d) of sub-section (1) of section 380 of the Act) (wherever applicable)
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Government of West Bengal
Directorate of Commercial Taxes
Profession Tax
Jalasampad Bhaban (North Block)
Salt Lake City, Kolkata- 700 091

Circular No. 1/2014 Dated 13/2/2014

Consequent upon the amendment in section 2(f) of the West Bengal State Tax on Professions, Trades, Callings & Employments Act'1979, to consider every branch or office of a firm, company, corporation, or other corporate body, any society, club or association to be separate person, a question has come up whether a factory or godown / warehouse (of such entity) shall be treated as a separate person for the purpose of obtaining separate certificate of enrolment and payment of Tax. After careful consideration into the matter it is now clarified that no factory or godown / warehouse of a firm, company, corporation, or other corporate body, any society, club or association, unless it acts as a branch or office, shall be treated as a separate person for the purpose of the Act.

Commissioner
Profession Tax, West Bengal