

# News Weekly

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## Services Offered

Corporate Finance  
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## INCOME TAX HIGHLIGHTS

- 'Book Profit' for the purpose of tax liability as per the provisions of Section 115JB of the I.T. Act, 1961 cannot be altered on any subject or item which otherwise is not falling in the explanation to Section 115JB of the Act.

### [B&B Infratech Ltd. vs. ITO, High Court of Karnataka.]

- CBDT has decided to reduce the existing rate of deemed profit of 8% under section 44AD of the Act to 6% in respect of the amount of total turnover or gross receipts received through banking channel / digital means for the financial year 2016-17. However, the existing rate of deemed profit of 8% referred to in section 44AD of the Act, shall continue to apply in respect of total turnover or gross receipts received in cash.
- Deposits up to Rs.1.50 lakh in National Savings Certificate (NSC) qualify for Deduction Section 80C of the Income Tax Act. Accrued interest on NSC also qualifies for deduction u/s. for first five years. NSC interest is taxable.
- Section 50C does not apply to transfer of land and building, being leasehold property the issue before the tribunal was whether section 50C of the act would be applicable to transfer of leasehold rights in land and buildings. CIT vs. Greenfield Hotels & Estates Pvt. Ltd (Bombay High Court).
- CBDT has issued a circular via circular no. 42 of 2016 dated 23rd December, 2016 regarding clarifications on the Direct Tax Dispute Resolution Scheme, 2016. This scheme provides an opportunity to tax payers who are under litigation to come forward & settle the dispute in accordance with the provisions of the scheme.

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### SERVICE TAX

**Ministry of Finance (Department of Revenue) has notified via notification no. 53/2016 dated 19th December, 2016 to amend Service Tax Rules, 1994 so as to allow a person located in non-taxable territory providing online information and database access or retrieval services to a non-assessee online recipient to issue online invoices not authenticated by means of a digital signature for a period up to 31st January, 2017.**

G.S.R..... (E). - In exercise of the powers conferred by sub-section (1), read with subsection (2) of section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the Service Tax Rules, 1994, namely: -

1. (1) These rules may be called the Service Tax (Fifth Amendment) Rules, 2016.

(2) They shall come into force on the date of their publication in the official gazette.

2. In the Service Tax Rules, 1994, in rule 4C, in sub-rule (1), the following proviso shall be inserted, namely:-

'Provided that a person located in non-taxable territory providing online information and database access or retrieval services to a non-assessee online recipient located in taxable territory may issue online invoices not authenticated by means of a digital signature for a period upto 31st January, 2017'

### INPUT SERVICE ON OUTWARD FREIGHT

CESTAT disallows CENVAT credit of tax paid on outward freight not forming part of 'assessable value' of manufactured goods; According to CESTAT, accepting assessee's contention that value of service claimed as "input service" is not includible in assessable value, would result in availment of undue privilege of credit balance by paying lower tax and retention of tax recovered from customer, which is clearly not intent of CENVAT Credit Rules (CCR) [TS-544-CESTAT-2016-ST]

### OTHER AMENDMENTS

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| <ul style="list-style-type: none"><li>• Cabinet on Wednesday cleared promulgation of an ordinance to penalize persons holding junked Rs 500 and Rs 1,000 notes beyond March 31. According to the new rule, a person holding old currency in excess of 10 notes will be punished with imprisonment for 4 years along with a fine of Rs. 10,000 or five times the amount caught — whichever is higher.</li></ul> | <ul style="list-style-type: none"><li>• The Reserve Bank of India on Friday relaxed the daily ATM withdrawal limit to Rs 4500 from the earlier cap of Rs 2500. However, the weekly withdrawal limit of Rs 24,000 remains unchanged even as the 50-day demonetisation exercise comes to a close.</li></ul> |
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## COMPANIES ACT

- A.** MCA has issued the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 which shall be come into force with effect from 15th December, 2016.
- B.** MCA has revised the version of e-forms: Form INC-18, Form DIR-3 and Form MGT-14 with effect from 17th Dec' 2016.

- C. MCA issued a Notification dated 26th December, 2016 notifying Section 248, 249, 250, 251 and 252 of Companies Act, 2013 (Chapter XVIII). This chapter deals with removal of names of Company from ROC.**

It shall come into force on the date of their publication in the Official Gazette.

The Above-Mentioned Rules Contains The Procedure For Removal Of Name Of Company From The Register On Suo-Moto Basis In **Rule 3**.

**Rule 4** Prescribed The Manner Application To Be Made For The Removal Of Name Of Company. The Application Under Sub-Section (2) Of Section 248 Shall Be Made In Form Stk - 2 Along With The Fees Of Five Thousand Rupees.

The Application Shall Be Accompanied By Indemnity Bond By Every Director In Form No.Stk-3, Statement Of Accounts Certified By Chartered Accountant, Affidavit In Form No. Stk-4, Copy Of Special Resolution Duly Certified By Each Director Or Consent Of 75% Of The Members In Terms Of Paid Up Share Capital As On The Date Of Application And A Statement Regarding Pending Litigation.

**Rule 5** Is Regarding Manner Of Filing Of Application.

**Rule 6** Is Form To Be Certified.

**Rule 7** Contains Manner Of Publication Of Notice Under Section 248

**Rule 8** Is Regarding Manner Of Notarization, Appostilisation Or Consularisation Of Indemnity Bond And Declaration In Case Of Foreign Nationals Or Non-Residents Indians.

**Rule 9** Is Notice Of Strike Off And Dissolution O Company

**Rule 10** Is Application Or Forms Pending Before Central Government.

**The** Circular states that e-Form STK-2 prescribed under Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016 is under development and would be deploy in some time

**D. MCA has notified National Company Law Tribunal (Procedure for reduction of share Capital of Company) Rules, 2016 which shall come into force from the date of their publication in the official Gazette Vide Notification dated 15.12.2016.**

**G.S.R. 1147(E).**—In exercise of the powers conferred by sub-section (1) and (2) of section 469 read with section 66 of the Companies Act, 2013 (18 of 2013) the Central Government hereby makes the following rules namely:-

**1. Short title and Commencement.—**

These **rules** may be called the National Company Law Tribunal (Procedure for reduction of share capital of Company) Rules, 2016.

They shall come into force on the date of their publication in the Official Gazette.

The words and expressions used in these rules but not defined and defined in the Companies Act, 2013 (hereinafter referred to as the Act) or in the Companies (Specification of Definitions Details) Rules, 2014 or the National Company Law Tribunal Rules, 2016 shall have the meanings respectively assigned to them in the Act or the said rules.

**2. Form of application or petition for Reduction of share capital under section 66.—**

An application to the Tribunal to confirm a reduction of share capital of a company shall be in **Form No. RSC-1** and fee shall be, as prescribed in the Schedule of fee to these rules.

An application to confirm a reduction of share capital of a company shall be accompanied with –

(a) the list of creditors duly certified by the Managing Director, or in his absence, by two directors, as true and correct, which is made as on a date not earlier than fifteen days prior to the date of filing of an application showing the details of the creditors of the company, class-wise, indicating their names, addresses and amounts owed to them;

(b) a certificate from the auditor of the company to the effect that the list of creditors referred to in clause (a) is correct as per the records of the company verified by the auditor;

(c) a certificate by the auditor and declaration by a director of the company that the company is not, as on the date of filing of the application, in arrears in the repayment of the deposits or the interest thereon; and

(d) a certificate by the company's auditor to the effect that the accounting treatment proposed by the company for the reduction of share capital is in conformity with the accounting standards specified in section 133 or any other provisions of Act.

Copies of the list of creditors shall be kept at the registered office of the company and any person desirous of inspecting the same may, at any time during the ordinary hours of business, inspect and take extracts from the same on payment of the sum of rupees fifty for inspection and for taking extracts on payment of the sum of rupees ten per page to the company.

**3. Issue of notice and directions by the National Company Law Tribunal.**—(1) The Tribunal shall, within fifteen days of submission of the application under rule 2, give notice, or direct that notice be given to –

- (i) the Central Government, Registrar of Companies, in all cases, in **Form No. RSC-2**;
- (ii) the Securities and Exchange Board of India, in the case of listed companies in **Form No. RSC-2**;
- (iii) the creditors of the company, in all cases in **Form No. RSC-3**; seeking their representations and objections, if any.

The notice under clause (iii) of sub-rule (1) shall be sent, within seven days of the direction given under that sub-rule or such other period as may be directed by the Tribunal, to each creditor whose name is entered in the list of creditors submitted by the company about the presentation of the application and of the said list, stating the amount of the proposed reduction of share capital and the amount or estimated value of the debt or the contingent debt or claim or both for which such creditor's name is entered in the said list, and the time within which the creditor may send his representations and objections.

The Tribunal shall along with directions under sub-rule (1) give directions for the notice to be published, in **FormNo. RSC-4** within seven days from the date on which the directions are given, in English language in a leading English newspaper and in a leading vernacular language newspaper, both having wide circulation in the State in which the registered office of the company is situated, or such newspapers as may be directed by the Tribunal and for uploading on the website of the company (if any) seeking objections from the creditors and intimating about the date of hearing.

The notice under sub-rule (3) shall state the amount of the proposed reduction of share capital, and the places, where the aforesaid list of creditors may be inspected, and the time as fixed by the Tribunal within which creditors of the company may send their objections:

Provided that the objections, if any, shall be filed in the Tribunal within three months from the date of publication of the notice with a copy served on the company.

The company or the person who was directed to issue notices and the publication in the newspaper under this rule shall, as soon as may be, but not later than seven days from the date of issue of such notices, file an affidavit in **FormNo. RSC- 5** confirming the despatch and publication of the notice.

Where the Tribunal is satisfied that the debt or claim of every creditor has been discharged or determined or has been secured or his consent is obtained, it may dispense with the requirement of giving of notice to creditors or publication of notice under this rule or both.

**4. Representation by Central Government, Registrar etc. under sub-section (2) of section 66.**— If the authorities or the creditors of the company referred to in clause (i), clause (ii) and clause (iii) of sub-rule (1) of rule 3 desire to make any representation under sub-section (2) of section 66, the same shall be sent to the Tribunal within a period of three

months from the date of receipt of notice and copy of such representation shall simultaneously be sent to the company and in case no representation has been received within the said period by the Tribunal it shall be presumed that they have no objection to the reduction.

**5. Procedure with regard to representations and objections received.—**

- (1) The company shall submit to the Tribunal, within seven days of expiry of period upto which representations or objections were sought, the representations or objections so received along with the responses of the company thereto.
- (2) The Tribunal may give such directions as it may think fit with respect to holding of any enquiry or adjudication of claims or for hearing the objection or otherwise.
- (3) At the hearing of the application, the Tribunal may, if it thinks fit, give such directions as may deem proper with reference to securing the debts or claims of creditors who do not consent to the proposed reduction, and the further hearing of the petition may be adjourned to enable the company to comply with such directions.

**6. Order on application and Minute thereof.—**

- (1) Where the Tribunal makes an order confirming a reduction, the order confirming the reduction and approving the minute may include such directions or terms and conditions as the Tribunal deems fit .
- (2) The order confirming the reduction of share capital and approving the minute shall be in Form No. RSC - 6 on such terms and conditions as may be deemed fit.
- (3) The Certificate issued by the Registrar under sub-section (5) of section 66 shall be in Form No. RSC -7.

**SCHEDULE OF FEES**

Sl. No.	Section of the Companies Act, 2013	Nature of application / petition	Fees in Rs.
1.	Sub-Section (1) of Section 66.	Application for reduction of share capital.	5,000/-

Event Date	Act	Application form	Obligation
07/01/2017	Income Tax	Form No. 27C (TCS)	Submission of Forms Received in Dec to IT Commissioner
07/01/2017	Income Tax	Challan No. ITNS-281	Payment of TDC/TCS deducted/collected in Dec
14/01/2017	Income Tax	Form 16B	Issue of TDS Certificate in Case Of Payment/Credit Made In Nov For Purchase Of Property U/S 194Ia.
15/01/2017	Income Tax	Form No. 15G/H	E-Filing of Form No. 15G/H for Dec Quarter
15/01/2017	Income Tax	Form No. 15CC	Statement By Bank etc. In respect, Foreign Remittances During The Quarter
15/01/2017	Income Tax	Form No. 27EQ	TCS Return by all Collectors
30/01/2017	Income Tax	Form 26QB	Payment of TDS on purchase of property for Dec
30/01/2017	Income Tax	Form 27D	Issue TCS Certificate By collectors for quarter ended Dec
31/01/2017	Income Tax	Return No. 24Q, 26Q & 27Q	TDS Return for Dec Quarter by All Deductors
31/01/2017	Income Tax	Form No. 26QAA	Return by Banks for interest upto Rs 10000/- for Dec Quarter
31/01/2017	Income Tax	Form No.61A	AIR for Cash deposit >2.50 lacs in Individual Accounts in 12.50 lacs in current accounts
06/01/2017	Service Tax	Challan No. GAR-7	E-Payment of Service Tax For Month Ended Dec For Cos & Quarter Ended Dec For Others.
10/01/2017	Excise	ER-6	Return by Unit paying duty>1 Crore(CENVAT+PLA) for Dec
10/01/2017	Excise	ER-1	Return on Non SSI assesseees for Dec
10/01/2017	Excise	ER-2	Return for EOUs Dec
10/01/2017	Excise	ER-3	Return of SSI assessee for Quarter Ending Dec
12/01/2017	D-Vat	BE-2	Advance Information For 2Nd Fortnight Of Jan Of Functions With Booking Cost > 1 Lack Banquet Halls, Hotels, Etc. In Delhi
15/01/2017	Delhi Labour Welfare Fund	Challan	Amount = No. of Employees as on Dec X RS 3
15/01/2017	Provident Fund	Electronic Challan cum return (ECR)	E-payment PF of Dec
15/01/2017	D-Vat	DVAT-20	Deposit Of Dvat/TDS For The Month Dec
15/01/2017	M-Vat	Form No. 704	E filing of MVAT Audit report FY 2015-2016 (Turnover>1 CR)

<b>21/01/2017</b>	M-Vat	Form no. 231-235 & CST 1	MVAT return Month/Quarter ended Dec. ( 10 Days for E-Return)
<b>21/01/2017</b>	ESI	ESI Challan	Payment of ESI Of Dec
<b>21/01/2017</b>	D- Vat	DVAT-20 & Central	E-Payment of DVAT & CST of Dec
<b>21/01/2017</b>	M-VAT Challan	MVAT Challan	Payment of MVAT & WCT TDS for Dec
<b>22/01/2017</b>	D-Vat	DVAT - 43	Issue of Dvat Certificate For Deduction Made In Month Of Dec
<b>25/01/2017</b>	D-Vat	Form 16 & CST 1	E-Return of Dvat For The Quarter Ended Of Dec
<b>27/01/2017</b>	D-Vat	BE-2	Advance Information For 1Nd Fortnight Of Jan Of Functions With Booking Cost > 1 Lack Banquet Halls, Hotels, Etc. In Delhi
<b>28/01/2017</b>	D-Vat	DVAT - 56	Filing of Dvat Return Verification Form Quarter Ended Dec Where Return Not Signed With Digital Signature.
<b>28/01/2017</b>	D-Vat	DVAT- 48	Return of TDS for Dec Quarter in DVAT-48
<b>28/01/2017</b>	D-Vat	Bank-1	Return of scheduled Bank branches in Delhi engaged in sale of silver, gold, repossessed vehicles for quarter ending December
<b>31/01/2017</b>	Maharashtra Professional tax	MTR-6/Form IIIB	Payment & Monthly Return of Maharashtra PT ( Annual Liability 50000 or more)