



NEWSLETTER ^{Weekly}

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MINISTRY OF FINANCE

AMENDMENT TO 7.75% SAVINGS (TAXABLE) BONDS 2018, NOTIFICATION NO S.O. 44 (E)

In place of clauses 4, 9 (i), 9 (iii) and 17 respectively of the original notification the following shall be substituted:

4. Tax Treatment: Interest on the Bonds will be taxable under the Income Tax Act, 1961 as applicable according to the relevant tax status of the Bond holders.

9 Application:

9 (i) Applications for the Bonds, either in physical form or electronic form, may be made in the Revised Form-A attached hereto, as Annexure 2, or in any other form as near as thereto stating clearly the amount, name and full address of the applicant/s.

9 (iii) Applicants who have obtained exemption from Income Tax under the relevant provisions of the Income Tax Act, 1961, shall make a declaration to that effect in the application (in Revised Form A) and submit a true copy of the certificate obtained from Income Tax Authorities.

17 Brokerage: Brokerage at the rate of 0.5% of the amount mobilized will be paid to the brokers, registered with the Receiving Offices, as listed in paragraph 10 above, on the applications tendered by them and bearing their stamp, on behalf of their clients

Source: <http://www.egazette.nic.in/WriteReadData/2018/181720.pdf>

INCOME TAX DEPARTMENT STEPS-UP ACTIONS UNDER PROHIBITION OF BENAMI PROPERTY TRANSACTIONS ACT: BENAMI PROPERTIES OF MORE THAN RS. 3,500 CRORE IN MORE THAN 900 CASES ATTACHED

Due to intensive efforts undertaken by the Income Tax Department, provisional attachment has been made in more than **900 cases** of properties under the Prohibition of Benami Property Transactions Act (the 'Benami Act'), which came into force w.e.f. 1st November, 2016. These attachments include plots of land, flats, shops, jewellery, vehicles, deposits in bank accounts, fixed deposits etc. The value of properties under attachment is more than **Rs. 3,500 crore** including immovable properties of more than **Rs. 2,900 Crore**.

In five cases, the provisional attachments of Benami properties, amounting to more than **Rs. 150 Crore** have been **confirmed by the Adjudicating Authority**. In one such case, it was established that Real Estate Company had acquired about 50 acres of land, valued at more than Rs.110 crore, using the names of certain persons of no means as *benamidars*. This was corroborated from the sellers of the land as well as the brokers involved. In another case, post demonetization, two assesseees were found depositing demonetized currency into multiple bank accounts in the names of their employees, associates etc. to be ultimately remitted to their bank accounts. The total amount attempted to be remitted to the beneficial owners was about Rs. 39 crore. In yet another case, a cash amount of Rs. 1.11 crore was intercepted from a

vehicle with a person who denied the ownership of this cash. Subsequently, no one claimed ownership of this cash and it was held to be benami property by the Adjudicating Authority.

Earlier, the Income Tax Department had stepped-up actions under the Prohibition of Benami Property Transactions Act (the 'Benami Act'. The Act provides for provisional attachment and subsequent confiscation of benami properties, whether movable or immovable. It also allows for prosecution of the beneficial owner, the benamidar and the abettor to benami transactions, which may result in rigorous imprisonment up to 7 years and fine upto 25% of fair market value of the property.

The Department had set-up 24 dedicated Benami Prohibition Units (BPUs) under its Investigation Directorates all over India in May, 2017 to ensure swift action in respect of Benami properties.

The Department is committed to continue its concerted drive against black money and action against Benami transactions will continue to be intensified.

Source: <http://pib.gov.in/PressReleseDetail.aspx?PRID=1515958>

MINISTRY OF CORPORATE AFFAIRS

THE CENTRAL GOVERNMENT NOTIFIES THE COMPANIES (AMENDMENT) ACT, 2017

The Central Government notified the Companies (Amendment) Act, 2017 (Amendment Act) on 3rd January, 2018. The provisions of this Amendment Act shall come into force on the date or dates as the Central Government may appoint by notification(s) in the Official Gazette. A few provisions in the Amendment Act have important bearing on the working of the Insolvency and Bankruptcy Code, 2016 (Code).

Section 53 of the Companies Act, 2013 prohibited issuance of shares at a discount. The Amendment Act now allows companies to issue shares at a discount to its creditors when its debt is converted into shares in pursuance of any statutory resolution plan such as resolution plan under the Code or debt restructuring scheme.

Section 197 of the Companies Act, 2013 required approval of the company in a general meeting for payment of managerial remuneration in excess of 11 percent of the net profits. The Amendment Act now requires that where a company has defaulted in payment of dues to any bank or public financial institution or non-convertible debenture holders or any other secured creditor, the prior approval of the bank or public financial institution concerned or the non-convertible debenture holders or other secured creditor, as the case may be, for such payment of managerial remuneration shall be obtained by the company before obtaining the approval in the general meeting.

Section 247 of the Companies Act, 2013 prohibited a registered valuer from undertaking valuation of any assets in which he has a direct or indirect interest or becomes so interested at any time during or after the valuation of assets. The Amendment Act now prohibits a registered valuer from undertaking valuation of any asset in which he has direct or indirect interest or becomes so interested at any time during three years prior to his appointment as valuer or three years after valuation of assets was conducted by him.

Source: <http://pib.gov.in/PressReleseDetail.aspx?PRID=1515958>

CCI ISSUES ORDER AGAINST NAIR COAL SERVICES PVT. LTD., KARAM CHAND THAPAR & BROS (CS) LTD. AND NARESH KUMAR & CO. PVT. LTD. FOR RIGGING BIDS AND DIVIDING MARKET BY FORMING HARD CORE CARTEL IN RESPECT OF TENDERS FLOATED BY MAHAGENCO FOR PROCURING COAL LIASONING SERVICES

The Competition Commission of India (CCI) has found Nair Coal Services Pvt. Ltd., Karam Chand Thapar & Bros (CS) Ltd. and Naresh Kumar & Co. Pvt. Ltd. to be in contravention of the provisions of Section 3(1) read with Section 3(3)(c) and Section 3(3)(d) of the Competition Act, 2002 for acting in a collusive and concerted manner which eliminated and lessened the competition besides manipulating the bidding

process in respect of the tenders floated by Maharashtra State Power Generation Co. Ltd. (MAHAGENCO) for award of contract of coal liasoning work for its various thermal power stations.

Taking a serious view of the collusive conduct of coal liasoning agents, CCI opined that the case fell in the category of hard core cartels as the parties reached an agreement to submit collusive tenders and to divide the markets which warranted the matter to be dealt with utmost severity. Accordingly, CCI invoked the stringent provision of the law which enables it to impose a higher penalty in case of agreements entered into by cartels. Hence, a penalty at the rate of 2 times of the total profits earned from provision of coal liasoning services to all power generators for continuance of the cartel for 2010-11 to 2012-13 years was imposed upon the parties. Resultantly, CCI has imposed a penalty of Rs. 7.16 crore, Rs. 111.60 crore and Rs. 16.92 crore upon NCSL, KCT and NKC for the anti-competitive conduct. Besides, a cease and desist order was also issued against the above companies.

CCI has also deprecated the conduct of the Informant in breaching the confidentiality and sanctity of the inquiry by circulating copies of the investigation report to B.S.N Joshi & Sons Ltd.- a rival of the Opposite Parties – who, in turn, forwarded copies thereof to various authorities.

The Order was passed on 10.01.2018 in Case No. 61 of 2013 and a copy thereof has been uploaded on the website of CCI at www.cci.gov.in.

Source: <http://pib.gov.in/PressReleaseDetail.aspx?PRID=1515958>

MINISTRY OF COMMERCE AND INDUSTRY

FDI POLICY FURTHER LIBERALIZED IN KEY SECTORS CABINET APPROVES AMENDMENTS IN FDI POLICY

- 100% FDI under automatic route for Single Brand Retail Trading
- 100% FDI under automatic route in Construction Development
- Foreign airlines allowed to invest up to 49% under approval route in Air India
- FIIs/FPIs allowed to invest in Power Exchanges through primary market
- Definition of 'medical devices' amended in the FDI Policy

The Union Cabinet chaired by the Prime Minister Shri Narendra Modi, has given its approval to a number of amendments in the FDI Policy. These are intended to liberalise and simplify the FDI policy so as to provide ease of doing business in the country. In turn, it will lead to larger FDI inflows contributing to growth of investment, income and employment.

The details of Amendment in FDI Policy are mentioned in the link stated below.

Source: <http://pib.gov.in/PressReleaseDetail.aspx?PRID=1515958>

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

RELAXATION IN THE PROVISIONS RELATING TO LEVY OF MINIMUM ALTERNATE TAX IN CASE OF COMPANIES AGAINST WHOM AN APPLICATION FOR CORPORATE INSOLVENCY RESOLUTION PROCESS HAS BEEN ADMITTED UNDER THE INSOLVENCY AND BANKRUPTCY CODE, 2016

The existing provisions of section 115JB of the Income Tax Act, 1961 ('the Act'), interalia, provide, that, for the purpose of levy of Minimum Alternate Tax in case of a company, the amount of loss brought forward or unabsorbed depreciation, whichever is less as per books of account shall be reduced from the book profit.

In this regards, representations have been received from various stakeholders that the companies against whom an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under section 7 or section 9 or section 10 of the Insolvency and Bankruptcy Code, 2016, are

facing hardships due to restriction in allowance of brought forward loss for computation of book profit under section 115JB of the Act.

With a view to minimize the genuine hardship faced by such companies, it has been decided, that with effect from Assessment Year 2018-2019 (i.e. Financial Year 2017-2018), in case of a company, against whom an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under section 7 or section 9 or section 10 of the Insolvency and Bankruptcy Code, 2016, the amount of total loss brought forward (including unabsorbed depreciation) shall be allowed to be reduced from the book profit for the purposes of levy of MAT under section 115JB of the Act.

Source: http://ibbi.gov.in/webadmin/pdf/whatsnew/2018/Jan/CBDT_MAT_2018-01-06%2023:31:15.pdf

SECURITIES AND EXCHANGE BOARD OF INDIA

PREVENTION OF UNAUTHORIZED TRADING BY STOCK BROKERS

1. SEBI vide circular No. CIR/HO/MIRSD/MIRSD2/CIR/P/2017/108 dated September 26, 2017 had prescribed guidelines for prevention of unauthorized trading by stock brokers and issued subsequent clarifications vide CIR/HO/MIRSD/MIRSD2/CIR/P/2017/124 dated November 30, 2017.
2. SEBI has now received representations from BSE Brokers Forum and Association of National Exchanges Members of India, expressing difficulties faced by stock brokers in the implementation of the aforesaid circulars and seeking extension for the implementation of the same
3. In view of the above, it has been decided to make the aforesaid circulars effective from April 01, 2018. Other provisions shall remain unchanged and no further extension shall be granted for the implementation of the said circulars.
4. The Stock Exchanges are directed to:
 - a. bring the provisions of this circular to the notice of the Stock Brokers and also disseminate the same on their websites
 - b. make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the above directions in co-ordination with one another to achieve uniformity in approach
 - c. communicate to SEBI, the status of the implementation of the provisions of this circular in their Monthly Development Reports.
5. This circular is issued in exercise of the powers conferred by Section 11 (1) of Securities and Exchange Board of India Act, 1992 to protect the interest of investors in securities and to promote the development of, and to regulate, the securities market

Source: https://www.sebi.gov.in/legal/circulars/jan-2018/prevention-of-unauthorized-trading-by-stock-brokers_37363.html

Your suggestions are invited regarding improvement of the format of the newsletter and its relevance to your work.

You may send your suggestions at sujoy@asalegal.in

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