

## **DIRECT TAX**

### **News**

#### **Deadline for Income Tax Return filing extended to August 31, 2019**



The Finance Ministry has extended the deadline for filing of Income Tax Returns to August 31.

Initially, the last date was July 31. The July 31 deadline was set for most individuals and HUFs. The Central Board of Direct Taxes (CBDT) extends the 'due date' for filing of Income Tax Returns from July 31, 2019 to August 31, 2019 in respect of the said categories of taxpayers.

#### **IFSC boost: CBDT gives compliance relief to non-resident investors**

Non-resident individuals and foreign companies have now been given a compliance relief as part of the government's efforts to attract more investment fund activity in the International Financial Services Centre (IFSC) located in India. These class of persons have been exempted from filing income tax returns so long as they meet two conditions.

#### **Dismiss appeals on basis of merit, not absentia: Madras HC to ITAT**

The Madras High Court has asked the tax tribunal not to dismiss appeals merely because a taxpayer failed to make an appearance before its bench, and instead take a proper decision based on the merits of the case. Experts said the judgment will set a precedent in several cases as the Income Tax Appellate Tribunal (ITAT) currently dismisses almost all appeals against tax claims if the affected taxpayer is not able to present his case at the hearing.

#### **ITR Filing: Income tax return filing process simplified; Big relief in LTCG**

Reporting LTCG details while filing the income tax return (ITR) for the assessment year 2019-20 has now been simplified for all those taxpayers who have to report long-term capital gains (LTCG), especially from equity shares and equity mutual funds. The LTCG tax on such equity investments was re-introduced for the FY 2018-19 and reporting capital gains in the ITR forms appeared challenging to most taxpayers. To report the LTCG, the assessee was required to provide a separate

computation of capital gains for each scrip (equity share) or units of mutual fund sold during the year and the aggregated amount should be provided. However, CBDT has clarified that the assessee will now have the option to either enter the scrip wise details of long term capital gains or enter the self-calculated aggregate value of long term capital gains directly under respective items without entering scrip wise details. As a taxpayer, now one may exercise either option based on one's convenience.

### **Notifications**

#### **Notification No. 51/2019, dated 4th July, 2019**

In supersession of Gazette Notification No.2726(E) dated 17.08.2016, the Central Government in exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961(43 of 1961), hereby notifies for the purposes of the said clause, 'National Skill Development Corporation' (PAN AACCN8680L), a body constituted by the Central Government, in respect of the specified income stated in the notification arising to that body. This notification shall be deemed to have been applied for the assessment year 2017-2018, 2018-2019, 2019-2020 and shall apply with respect to the assessment years 2020-2021 and 2021-2022.

#### **Notification No. 52/2019, dated 4th July, 2019**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Chhattisgarh Building and Other Construction Workers' Welfare Board' (PAN AAALC0598F), a Board constituted by the Government of Chhattisgarh, in respect of the following specified income arising to that Board, as (a) Worker's welfare cess; (b) Registration fees; and (c) Interest earned on (a) and (b). This notification shall apply with respect to the assessment year 2019-2020, 2020-2021, 2021-2022, 2022-2023 and 2023-2024.

#### **Notification No. 53/2019, dated 16th July, 2019**

It is hereby notified that the organization M/s National Centre for Cell Science, has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of section 35 of the Income-tax Act, 1961, read with Rules 5C and 5D of the Income-tax Rules, 1962 (said Rules), from Assessment year 2019-20 onwards in the category of 'Scientific Research Association'.

**Notification No. 54/2019, dated 17th July, 2019**

The preamble of the Agreement shall be replaced by the following:

"The Government of the Republic of India and the Government of the People's Republic of China, Desiring to further develop their economic relationship and to enhance their cooperation in tax matters, Intending to eliminate double taxation with respect to taxes on income without creating opportunities for nontaxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third States).



**Notification No. 55/2019, dated 26th July, 2019**

SECTION 139(1): The Central Government, hereby exempts the following class of persons, (subject to the conditions), from furnishing a return of income under section 139(1) of the said Act from Assessment Year 2019-20 onwards, namely:-

Class of persons. –

- (i) a non-resident, not being a company; or
- (ii) a foreign company,

Who have any income chargeable under the said Act during a previous-year from any investment in an investment fund set up in an International Financial Services Centre (IFSC) located in India.

**Circular No.14/2019, dated 3rd July, 2019**

Clarification regarding taxability of income earned by a non-resident investor from off-shore investments routed through an Alternate Investment Fund-reg The incidence of tax arising from off-shore investment made by a non-resident investor through the AIFs would depend on determination of status of income of non-resident investor as per provisions of section 5(2) of the Income-tax Act, 1961 (Act). As per section 5(2) of the Act, the income of a person who is non-resident, is liable to be taxed in India if it is received or is deemed to be received in India in such year by or on behalf of such person; or accrues or arises or is deemed to accrue or arise to him in India.

**Circular No.15/2019, dated 12th July, 2019**

Issues in respect of payment of third installment under the Income Declaration Scheme, 2016-clarification on certain procedural issues under section 195 of the Income Disclosure Scheme, 2016 read with section 119 of the Income-tax Act, 1961-reg.- Bank Holidays towards the due-date for the third installment: A clarification has been sought by the stakeholders regarding the third installment stating that since 30th September, 2017 was a closed national holiday, the Board hereby directs that all payments made/effectuated by the declarants on 3rd October, 2017 shall also be deemed to have been paid by the due date for the third installment i.e. 30th September, 2017.

**Case Law**

**Share premium cannot be considered as unexplained cash credit only the same is not commensurate with the income and financial strength of the assessee**

**Janani Infrastructure Pvt. Ltd vs. ACIT (ITAT Bangalore) 2019 (8) TMI 558 - ITAT Bangalore**

S. 68 Bogus Share Capital Premium: The test of human probabilities cannot be applied to business



transactions. Share premium is collected as per the understanding between the parties. The AO cannot treat the share premium as unexplained cash credit only because the same is not commensurate with the income and financial strength of the assessee. The AO cannot reach this conclusion without further investigation and bringing material on record. Thus honorable bench deleted the addition made by the AO.

**If appeal against levy of penalty for concealment of income is allowed and has become final than quashing of prosecution is final**

**System India Castings vs. PCIT (Chhattisgarh High Court) CRMP no. 2075 of 2018 Chhattisgarh High court**

The subject matter of the complaint being concealment of income arrived at on the basis of the finding of the assessing officer, if the Tribunal has set aside the order of concealment and penalties, there is no concealment in the eye of law and, therefore, the prosecution cannot be proceeded with by the complainant and further proceedings will be illegal and without jurisdiction.

**Simultaneous initiation of rectification proceedings u/s 154 and Reopening of assessment u/s 147 /148**

**M/s Chand Industry versus ITO, Ward II (2), Faridabad. 2019 (7) TMI 1218 - ITAT Delhi**

Initiation of rectification proceedings u/s 154 by the AO and simultaneously initiating the reopening of assessment proceedings u/s 147/148 of the Act on the same reasons, particularly when there is no failure on the part of the assessee to fully and truly disclose all material facts necessary for assessment, are not sustainable in the eyes of law and as such consequent assessment framed u/s 143 (3)/148 of the Act is liable to be quashed.

**Set-off of long term capital loss on sale of mutual funds can be done from gain on property**

**ATLAS COPCO (INDIA) Limited Versus ACIT, Circle-8, Pune and (Vice-Versa) 2019 (7) TMI 1082 - ITAT Pune**

AO set off against the long term capital gain on sale of shares of REL instead of long term capital gain on sale of property as claimed by the assessee. It has been held that once the assessee has determined its long term capital gain income in a particular manner which has sanction of section 70, the AO cannot disturb such calculation merely

because it is less remunerative from the angle of determination of tax. Set off its long term capital loss from the sale of mutual funds against the long term capital gain from transfer of Mulund property is absolutely permissible u/s 70(3) of the Act.

**The failure to issue a notice u/s 143(2) renders the assessment order void even if the assessee has participated in the proceedings. S. 292BB does not save complete absence of notice.**

**CIT vs. Laxman Das Khandelwal (Supreme Court) [2019] 108 Taxmann.com 183 (SC)**

According to Section 292BB of the Act, if the assessee had participated in the proceedings, by way of legal fiction, notice would be deemed to be valid even if there be infractions as detailed in said Section. The scope of the provision is to make service of notice having certain infirmities to be proper and valid if there was requisite participation on part of the assessee. It is, however, to be noted that the Section does not save complete absence of notice. For Section 292BB to apply, the notice must have emanated from the department. It is only the infirmities in the manner of service of notice that the Section seeks to cure. The Section is not intended to cure complete absence of notice itself

### **BENAMI LAW**

#### **Amendment**

#### **Insertion of New Section 54A**

With a view to ensure compliance with the summons issued and information required to be furnished under the PBPT Act, a new section 54A has been introduced in the PBPT Act so as to provide for levy of penalty of rupees twenty five thousand for failure to comply with the summons issued or to furnish information under section 19 or section 21 respectively of the PBPT Act. (w.e.f. 1st September, 2019)

### **INSOLVENCY AND BANKRUPTCY CODE**

**Defaulting educational institutions: Trusts, societies should be brought under IBC, says Indian Bank chief**

Public sector Indian Bank requested the Insolvency and Bankruptcy Board of India to ensure that trusts and societies are brought under the IBC for taking up resolution of defaulting educational institutions.

Participating in a workshop organised by IBBI jointly with city-based Indian Bank, its Managing Director and CEO Padmaja Chunduru voiced concern over the delay in admission of cases, and said the minimum default amount of ₹ 1 lakh should be enhanced, among others, a press release said here.

Requested IBBI to ensure that trusts and societies are brought within the ambit of the Insolvency and Bankruptcy Code (IBC) for taking resolution of defaulting educational institutions.

IBBI Chairperson M S Sahoo said IBBI has appointed 30 new judicial members to strengthen the judiciary, besides speedy disposal of pending cases.

[Source – The Hindu Business Line]

### **GST**

#### **News**

#### **Recommendation of 36th GST Council Meeting**

- The GST rate on all electric vehicles be reduced from 12% to 5%.
- The GST rate on charger or charging stations for Electric vehicles be reduced from 18% to 5%.
- Last date for filing of intimation, in FORM GST CMP-02 to be extended from 31.07.2019 to 30.09.2019.
- Composition taxpayers are required to make quarterly tax payment in GST CMP 08 and file GSTR-4 annually. [Source-Business Standard]

*Recommendation of 36th GST Council Meeting*



#### **Interest to apply only on net cash liability of unpaid GST**

The present rate of interest on the delayed payment of tax liability is 18% per annum on unpaid GST. Such interest is charged on all modes of payment of tax, even when actual cash has not been paid, but input tax credit has been used instead. But Now Interest will now be charged on only that portion of the GST liability which is paid by debiting the electronic cash ledger.

[Source- Economics Times]

#### **Cheque-bounce charge to attract GST, rules AAAR**

Charges levied in case of cheque bounce will attract Goods & Services Tax (GST), says a ruling by Maharashtra's Appellate Authority for Advance Ruling (AAAR). AAR ruled that such charges collected by the applicant amounts to the supply of services and, hence, will be liable to GST.

[Source—The Hindu Business line]

#### **GST watchdog detects invoice fraud to the tune of ₹7,600 crore**

The agency has found that the accused had set up 90 fake firms to issue bogus invoices, without actually supplying goods. Fake invoices of over ₹7,600 crore with a GST component of ₹600 crore have been detected in the current case. These are used by other firms to either wrongly claim input tax credit, or to inflate costs to evade income tax.

[Source-Livemint]

#### **Rahul Bose's Rs 442 bananas cost JW Marriott Rs 25,000; GST penalty on 5-star hotel**

Chandigarh Excise and Taxation Department sent a show-cause notice to the city's JW Marriott hotel for levying GST on two bananas served to actor Rahul Bose, the department has now slapped the hotel with Rs 25,000 fine for illegally collecting tax on the exempted item. [Source-Financial express]

#### **Delhi HC Directs The GST Commissioner To Allow A Taxpayer To Rectify Errors Made In The TRAN-1 Form.**

Delhi High Court has directed the GST Commissioner to allow a company which had made an error in filing the TRAN-1 form online to rectify the same immediately. The court has asked the authority to either open the online portal so as

to enable the Petitioner to again file the rectified TRAN-I Form electronically or accept the manually filed TRAN-I Form with the correction on or before 31st July, 2019. [Source- Live Law]

#### **GSTN releases offline tool of new GST return for trial run**

Goods and Services Tax Network (GSTN) on July 30 released trial version of offline tools of GST forms related to supply of goods and services. The offline tools have been released for Annexure of supplies (GST ANX-1) and Annexure of Inward Supplies (GST ANX-2). All the outward supplies will be detailed in GST ANX-1 while GST ANX-2 will contain details of inward supplies auto-populated mainly from the suppliers' GST ANX-1.

[Source- Moneycontrol]

#### **Notifications**

##### **Notification No. 33/2019 – Central Tax dated 18th July, 2019**

Seeks to carry out changes in the CGST Rules, 2017 which includes.

- FORM GST EWB-05 notified for Application for unblocking of the facility for generation of E-Way Bill.
- FORM GST EWB – 06 notified for Order for permitting / rejecting application for unblocking of the facility for generation of E-Way Bill
- Tenure of Anti-Profiteering Authority enhanced to four years

##### **Notification No. 34/2019 – Central Tax dated 18th July, 2019**

Due date for furnishing the Quarterly Statement by Composition taxpayers for purpose of payment of tax in said FORM GST CMP-08, for the quarter April, 2019 to June, 2019 shall be the 31st day July, 2019

##### **Notification No. 35/2019 – Central Tax dated 29th July, 2019**

Due date for furnishing the Quarterly Statement by Composition taxpayers for purpose of payment of tax in said FORM GST CMP-08, for the quarter April, 2019 to June, 2019 shall be the 31st day August, 2019

##### **Notification No. 12/2019-Central Tax (Rate)/12/2019-Integrated Tax (Rate), dated. 31st July, 2019**

Seeks to reduce the GST rate on Electric Vehicles, and charger or charging stations for Electric vehicles.

##### **Notification No. 13/2019-Central Tax (Rate), dated. 31st July, 2019**

Seeks to exempt the hiring of Electric buses by local authorities from GST.

#### **Circulars**

##### **Circular No. 107/2019-dated 18th July, 2019**

Seeks to clarify various doubts related to supply of Information Technology enabled Services (ITeS services). Information Technology enabled Services (ITeS services), though not defined under the GST law, have been defined under the sub-rule (e) of rule 10 TA of the Income-tax Rules, 1962 which

pertains to Safe Harbour Rules for international transactions.

##### **Circular No. 108/2019-dated 18th July, 2019**

Seeks to clarify issues regarding procedure to be followed in respect of goods sent / taken out of India for exhibition or on consignment basis for export promotion. The activity of sending / taking the goods out of India for exhibition or on consignment basis for export promotion (except when such activity satisfy the tests laid down in Schedule I of the CGST Act) do not constitute supply. The registered person dealing in specified goods shall maintain a record of such goods as per the format at Annexure to this Circular No. 108/27/2019-GST.

##### **Circular No. 109/2019-dated 22nd July, 2019**

Residential Welfare Society shall be required to pay GST on monthly subscription/ contribution charged from its members, only if such subscription is more than Rs. 7500/- per month per member and the annual aggregate turnover of RWA by way of supplying of services and goods is also Rs. 20 lakhs or more.

#### **Case law**

##### **Compensation and interest towards substantial delay in making payment of refund of Integrated Tax paid on export of goods.**

##### **Saraf Natural Stone v/s Union of India**

Where writ-applicants are seeking compensation and interest towards substantial delay in making payment of refund of Integrated Tax paid on export of goods in terms of section 16 of IGST Act, 2017 and Rules made there under mutatis mutandis read with provisions relating to refund of CGST Act, 2017, since respondents have not explained in any manner issue of delay as raised by writ-applicants by filing any reply, writ-applicants are entitled to 9 per cent per annum interest from date of filing of GSTR-03.

[Source- CBIC]

##### **If no Reduction in GST rates computer monitor of '19.5' inchesthen benefit of ITC not required to be transferred (NAA)**

##### **Rahul Sharma v/s. H P India Sales (P.)Ltd.**

Where applicant alleged profiteering by respondent in respect of 'HP V202b 19.5 inch Computer Monitor' supplied by him, on ground that GST rate was reduced from 28 per cent to 18 per cent with effect from 1-1-2019, vide Notification No. 24/2018-Central Tax (Rate) dated 31-12-2018 on said product but respondent did not pass on benefit of reduction in GST rate to recipients by way of commensurate reduction in price, since rate reduction from 28 per cent to 18 per cent was only effective in case of 'Computer Monitors of size ranging between 20 inches to 32 inches', and there was no reduction in tax rate of computer monitor of '19.5' inches, anti-profiteering provisions were not applicable.

[Source- CBIC]

#### **RERA**

##### **UP RERA**

##### **Cancellation of Registered Projects and other orders**

##### **Cancellation by Supreme Court:**

The Supreme Court has cancelled the registration of Amrapali Group under Real Estate (Regulation and Development) Act, 2016 on July 23, 2019 and directed National



Building Construction Corporation to take over its pending construction projects in Greater Noida and Noida in pursuance to Section 8 of the Act.

The bench of Justices found that Amrapali group had siphoned off homebuyers money with the connivance of Greater Noida and Noida authorities. The NBCC will complete the stalled Amrapali projects, with its commission fixed at 8 percentage. Homebuyers have to deposit remaining amount in escrow amount.

The Greater Noida Authority told the apex court Amrapali Group had five projects under its jurisdiction. Of this, four were vacant land and without any construction. Of the Rs 3,400 crore outstanding dues, the authority had received only Rs 363 crore from Amrapali Group.

Homebuyers had filed several pleas seeking possession of around 42,000 flats booked in Amrapali Group projects. [Source: Livelaw]

#### **Order for Forensic Audit:**

UP-RERA ordered forensic audit of all 21 projects of Three C Projects which it has registered or is developing along with other builders.

The authority has decided that further action will be taken once empanelled auditors of RERA submit their audit report. The report is to be submitted within two months. It has appointed officials of Noida and Greater Noida authority along with executive engineer of UP-RERA as the auditors.

[Source- Economic Times]

#### **Changes that took place in UPRERA from 1st July 2019 till 15th Aug.**

- UPRERA introduces new feature in updating quarterly updates. The photos and videos of each and every activities are also required to be uploaded at the time of filling Quarterly reports. (dt. 02.07.2019)
- Lucknow Development Authority has been asked to pay to its allottees the entire amount paid by them plus the interest @ SBI- MCLR+1% within 45 days of the order due to delay in giving possession by the LDA. (dt. 13.07.2019)
- Supreme Court cancels RERA Registration of all projects of Amrapali Group, asks NBCC to take over the all the Noida projects.
  - UP RERA has imposed Rs 1 Lakh fine on 252 projects whose promoters have failed to give quarterly targets.
  - UPRERA had also imposed Rs 2 Lakh fine on promoters of 800 projects who have not defined quarterly targets. (dt. 23.07.2019)
- UPRERA Chairman, Rajiv Kumar spoke exclusively on RERA System in Zee UP, UK real estate conclave. (dt. 06.08.2019)
- i) UPRERA Chairman Shri Rajeev Kumar, Secretary Abrar Ahmad other members of Authority had a meeting with PSU's and Private

Bank Senior Officials regarding Escrow Account Mechanism.

ii) UPRERA Chairman issued a statement regarding Escrow Account Mechanism. According to the Authority " The current process of maintaining a collection account by builders to get all deposits before transferring the mandatory 70 percent of the money into escrow account is wrong".The realtors then transfer the remaining 30 percent of the money to third account operated by them for appropriating for purposes other than construction and land cost. According to the authority, "This practice is apparently wrong. The promoters have to receive all the amount in the Escrow Account and only the money left after utilising 70 percent of the money for construction and land cost should be allowed to be withdrawn for a purpose other than construction and land cost. It is re-emphasized that this 70:30 percent ratio has to be maintained from the inception of the project." (dt. 07.08.2019)

- UPRERA seizes bank accounts and assets of Lucknow- based builder. (dt. 10.08.2019)
- Soon UPRERA will introduce a help desk to solve out the queries of public. (dt. 13.08.2019)

#### **RAJASTHAN RERA**

**Order no. 4(1) RJ/RERA/2017/D-3080 dated 16.08.2019 issued by Rajasthan RERA. Major highlights of which are as follows-**

1. **Standard Fees @ Rs.20/- per sq.mtr.** in addition to the registration fees shall be levied on **registration of all new projects** except plotted development w.e.f. 01.09.2019.
2. If **application for registration of on going projects filed on or before 31.12.2019, penalty equal to 4 times of registration fees** shall be levied. Further w.e.f. 01.09.2019 Standard Fees equal to 2 times registration fees shall also be levied.
3. W.e.f. 01.09.2019 On application for **extension of registration of project prior to the expiry of registration granted**, fees equal to 50 percent of registration fees shall be payable along with a **standard fee equal to 50 percent of registration fees.**
4. On application for extension of registration of the project after the expiry of registration granted following shall be payable- (a) 50 percent of registration fees as fees for extension (b) Penalty equal to registration fees and (c) Standard Fee equal to registration fees if delay is upto 30 days, Standard Fee equal to 2 times registration fees if delay is upto 90 days, Standard Fee equal to 3 times registration fees if delay is beyond 90 days.
5. **Delay processing charges @ Rs.1000/- per day** subject to **maximum of 5 percent of registration fees** are payable in case of delay in hardcopy submissions for registration of project.
6. In case of transfer of a registered project to a new promoter Comprehensive Modification Fee equal to registration fee and standard fee as a new project shall be levied.

In case of minute changes in name of the promoter and other promoter details Comprehensive Modification Fee of Rs. 5,000 as levied earlier shall be payable.

\*All provisions related to the Standard Fee shall be effective from 01.09.2019.

\*All other provisions shall come into force with immediate effect.

The above fees shall be effective from 1st Sep. 2019 onwards. Developers are advised to file necessary documents (as applicable) before 1st Sep to save charges.

#### **Case law**

**Rajasthan RERA Authority has jurisdiction over only such new or on-going projects that are either registered or liable to be registered under RERA Act. If the project is outside the scope of RERA Act then it will be outside the jurisdiction of the Authority and no complaint will be entertained**

**Gore Raj Samrat vs Geeta Pradhan & Ramesh Chandra Pradhan, Complaint No. RAJ-RERA-C-2018-2150 order dated 04.07.2019**

The Rajasthan Real Estate Authority presided by Shri Nihal Chand Goel and Shri Rakesh Jain held that the complainant is not maintainable by relying on 'Rahul Arora vs. Royal Living Homes Pvt. Ltd.', as the Act covers within its scope, not all past projects, but only on-going projects, besides new projects; and since the project is not an on-going project in terms of Explanation to Rule 4 of the Rules, or a new project, it is not liable to be registered under the Act. It was contended by the non-complainants that out of a total of 492 plots in the project, sale deeds in respect of 309 plots have been executed before the commencement of the Act on 01.05.2017 and hence 62.8 per cent sale deeds have been executed before the 1st May 2017 therefore, the project is not required to be registered with the Authority and complainant complaint cannot be heard by the Authority.

[Rajasthan RERA]

**Authority is not the appropriate forum for settlement of disputes between the land owner and the promoter or between partners in business**

**Raghunath Prasad Jain Vs Arihant Dream Infra Projects Ltd., RAJ-RERA-C-2017-2105, order dated 12.06.2019**

The Rajasthan Real Estate Authority presided by Shri Nihal Chand Goel and Shri Rakesh Jain held that the promoter has no obligation towards the land owner or his partners in business. All the obligations of the promoter enumerated under the Act are either towards the allottees or towards the Authority, but there is no obligation the promoter has towards the land owner or his partners in business. And, the Authority is competent only to deal with violations or contraventions of the Act. Thus, the Authority is not the appropriate forum for settlement of disputes between the land owner and the promoter or between partners in business; and this complaint of the land owner against the promoter is not maintainable under the Act.

In this case, the agreement for sale executed between the allottees and the non-complainant, it was promised to deliver the possession of the project by October, 2016. Promoters challenged the maintainability of the complainant as it has been wrongly invoked under RERA as the complainant is not an allottee, but the land owner and business partner, who has been duly shown as a co-promoter in the application for registration filed before the Authority, under his consent. The Act provides for remedial action for the allottees or customers being buyers of the developed property; and the disputes inter-se between the developer and the owner of land are not under the ambit and jurisdiction of RERA

**If the developer is not building the project as promised in the brochure, the Authority directed the promoter to complete the project as promised in brochure and rectify the mistake and also for compensation they can approach the Adjudicating Authority**

**Pawan Beniwal and Kavita Vs Parsvnath Developers Ltd., the Authority in its order dated 20.06.2019**

The Rajasthan Real Estate Authority presided by Shri Nihal Chand Goel and Shri Rakesh Jain held that the Allottee/complainant contended that the developer is not developing these flats as per their brochure in that they have converted the lawn of the flat into a common facility area by making five sewerage manholes in the back yard. The issue has not been resolved despite complaints made to the non-complainant. Even as per para 1(a) of the Agreement, it is clear that a lawn was supposed to be part of these flats at ground floor, but no lawn has been developed.

The competent Authority issued the following directions:

(i) The non-complainant shall cover the manholes and develop the back yard/ rear set back into a proper lawn; (ii) The complainants shall take possession of the their respective floors; and then point out the difficulties and deficiencies in workmanship, quality or provision of services to the promoter to rectify such difficulties and deficiencies, at no cost to the complainants, within 30 days thereof; (iii) If, before or after giving possession, the non-complainant does not comply with the directions given hereinbefore, the complainants will be at liberty to approach the Adjudicating Officer for relief under section 14(3) of the Act. Besides this, the complainants will also be at liberty to approach the Adjudicating Officer for relief of compensation under section 12 and section 18(1) of the Act.

**If anyone of the ingredient of the twin ingredients of Section 3(2) (a) i.e when area is less than 500 sq. mtr. or the number of apartment does not exceed 8, is satisfied then the project shall be exempted from registration**

**M/s Geetanjali Aman Constructions vs Hrishikesh Ramesh Paranj Pe and Ors. Complaint No. SC1 0000672 and SC1 0000691**

The Bench of Indira Jain J. Chairperson, Sumant Kolhe, Member (J), S.S. Sandhu, Member

(A) of the Mumbai RERA Tribunal, held by the ratio of 2:1 that only one condition need to be satisfied under section 3(2) of the RERA Act which states that no registration is required in those project where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases. It was held principal question that needs to be addressed in this appeal revolves around the interpretation of word “or” used in clause (a) of Section 3(2) of RERA.

The crux is whether “or” has to be read conjunctively or disjunctively. Needless to state that need to interpret the provisions of law would arise only when there is ambiguity left or a doubt is created in understanding the provisions. In our view in understanding the provision of law what should be done when the words are clear and unambiguous is to give the words that meaning which they convey plainly, irrespective of the consequence. [Source-Maha RERA]

**If reasons of delay are beyond the control of promoter and possession could not be given to the allottees as per due date mentioned in agreement, promoter should be saddled with interest to the extent of 50% of delay**

**Minal Anil BhosaleVs M/S Shri Prakash Creative BuildconJv., Appeal No-10452**

The bench of Sumant M Kohle of the Mumbai RERA Tribunal, observed that Promoter launched the project namely Le-Regalia Nasik in the year 2014. Allottees booked flat for total agreed price of Rs.39,50,000/- was fixed and registered agreement for sale was executed by both the parties on 19.10.2014 in which Promoter agreed to hand over the possession of the flat within 15 months i.e. on or before January, 2016. Project was incomplete on 01.07.2017, promoter registered the said project with Maha RERA Authority and extended the time line of completion of project up to 30.06.2018. it was held that there is a delay of 29 months i.e. from January, 2016 to June, 2018 for handing over the possession of the flat. Considering clause 14 of an agreement which permits extension of period for giving possession for genuine reasons that are beyond the control of the promoter and promoter should be saddled to pay the interest to the extent of 50% of delay i.e. delay for 15 months so, promoter shall pay the interest for a period of delayed possession of 15 months up to June, 2019.

## **CORPORATE LAWS & OTHER COMMERCIAL POLICIES**

### **Amendment to Significant Beneficial Ownership Rules**

In exercise of the powers conferred by sub-sections (1) and (2) of section 469 read with section 90 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Significant Beneficial Owners) Rules, 2018, namely:-

- (1) These rules may be called the Companies (Significant Beneficial Owners) second Amendment Rules, 2019.
- (2) They shall come into force on the date of their publication in the Official Gazette.
- (3) Form BEN-2 shall be substituted [Source- MCA]

### **Amendment for Nidhi Company**

MCA notifies Nidhi (Amendment) Rules, 2019 and notified new Form NDH-4 i.e Form for filing an application for a declaration as Nidhi Company and for updating of status by Nidhi's which shall come into force with effect from 15 August, 2019.

[Source- MCA]

### **The Companies (Appointment and Qualification of Directors) Third Amendment Rules, 2019 have been notified w.e.f 25th July 2019.**

As per the said notification:

1. E-Form DIR-3 KYC is to be filed by an individual who holds DIN and is filing his KYC details for the first time or by the DIN holder who has already filed his KYC once in eform DIR-3 KYC but wants to update his details.
2. Web service DIR-3-KYC-WEB is to be used by the DIN holder who has submitted DIR-3 KYC E-form in the previous financial year and no update is required in his details.

[Source- MCA]

### **New amendments make it impossible for companies to escape CSR responsibility**

The Union cabinet has approved changes to the Companies Act of 2013 that make it mandatory for companies to create a ring-fenced escrow account for corporate social responsibility expenditure and transfer unused funds to the National CSR Fund.

The changes also seek to extend dematerialisation of shares to all companies in a phased manner. The Cabinet also extended the term of the Finance Commission by a month to November 30 and expanded its terms of reference to address concerns regarding funds for defence and internal security. [Source- Economic Times]

### **SEBI**

### **SEBI has mandated that the second phase of Unified Payments Interface (UPI) mechanism as an alternative for retail investors to buy shares in a public issue will be effective from 1 July.**

With the implementation of the second phase, the existing process of submitting the bid-cum-application form with the intermediary and the movement of application forms from intermediaries to self-certified syndicate banks for blocking funds will be discontinued. In Phase II, the existing timeline of T 6 days will continue, for a period of 3 months or floating of 5 main board public issues, whichever is later. The implementation of Phase III shall continue unchanged, from the date of completion of Phase II. Applications through UPI in IPOs can be made only through the SCSBs / mobile applications (apps) whose name appears on the SEBI website. An investor shall ensure that when applying in IPO using UPI, the name of his Bank appears in the list of SCSBs displayed on the SEBI website which are live on UPI.

[Source- SEBI]

## **SEBI provides new format for compliance report on corporate governance**

SEBI came out with a new format for compliance report on corporate governance to be submitted by listed companies to stock exchanges. In a circular, the regulator prescribed new format for disclosures to be made on quarterly basis, annual basis for the whole of financial year and within six months from end of financial year that can be submitted along with second quarter report. "In view of the revised timelines under the amended regulations, the circular shall come into force with effect from the quarter ended September 30, 2019". The regulator, in September 2015, had asked listed companies to submit compliance report on corporate governance in a prescribed format with disclosures pertaining to composition of board of directors as well as the committees and their respective meetings, among others. [Source- SEBI]

## **BANKING**

### **RBI launches medium-term strategy framework Utkarsh 2022**

RBI Governor Shaktikanta Das launched Utkarsh 2022, the central banks' medium-term strategy framework, in line with evolving macro-economic environment. The framework has been launched to achieve excellence in the performance of RBI's mandates and strengthening the trust of citizens and other institutions. The Reserve Bank of India said its management attaches high importance to 'Utkarsh 2022' and will periodically monitor its implementation and progress through a sub-committee of the Central Board.

## **MSME**

### **Loan portal for MSMEs**

A portal [www.psbloansin59minutes.com](http://www.psbloansin59minutes.com) has been launched by a public limited company, 'Online PSB loans Ltd' in which SIDBI & other public sector banks hold majority stake. The portal facilitates in-principle approval of loans for MSMEs in 59 minutes by various banks.

A separate Scheme has also been launched under which 2% interest subvention on fresh or incremental loan upto Rs.1 crore is provided to MSMEs having valid GSTN number and UdyogAadhar Number. [Source – PIB]

### **MSME Schemes: Using the Credit Guarantee Scheme to fund your business**

**Run by:** Ministry of MSME. Government of India and SIDBI

**Applicable to:** Existing and new MSMEs

The Credit Guarantee Scheme offers unsecured loan facilities to MSME businesses. MSME businesses can avail term loans or working capital loans under the scheme. Salient features of the scheme include the following. These loans would be collateral free and would not require MSMEs to pledge any security or arrange for third party guarantee for availing credit. If the MSME, which has availed a loan under the Credit Guarantee Scheme, becomes sick due to reasons beyond the control of the organisation, the lender also provides rehabilitation facility to such MSMEs. This assistance is provided under the guarantee

scheme. Loans up to Rs 50 lakh is allowed to individual MSMEs [Source- Economic Times]

## **MISCELLANEOUS**

### **Skill development ministry's flagship scheme to focus on new age skills**

The skill development and entrepreneurship ministry may recast its flagship skilling programme following the announcement in the Union budget regarding focus on new age skills to help youths get jobs overseas and to cope with changing job roles in India. The government plans to put in place structures and incentives that would enable skilling in new age technologies across sectors under the PradhanMantriKaushalVikasYojana (PMKVY). [Source- Economic Times]

### **Ministry of Housing and Urban Affairs**

Ministry of Housing and Urban Affairs (MHUA) released the draft Model Tenancy Act, 2019, which aims to regulate rental housing by a market-oriented approach.

The Model Act lays down the obligations of tenants and landlords, and provides for an adjudication mechanism for disputes. It is intended to be an Act "to balance the interests of owner and tenant by establishing an adjudicating mechanism for speedy dispute redressal and to establish Rent Court and Rent Tribunal to hear appeals and for matters connected" to rental housing. The Act mandates that no person will let or take any rental premises without an agreement in writing, in both urban and rural areas. Within two months of executing such an agreement, the landowner and tenant are required to intimate the Rent Authority, who will issue a unique identification number to both parties. Agreements can be submitted through a dedicated digital platform.

[Source- Taxguru]

### **SIDBI introduces web-based application system for contribution from Fund of Funds for Startups**

Small Industries Development Bank of India (SIDBI), has introduced a web-based application system for contribution from Fund of Funds for Startups (FFS). Applications for contribution from various Alternative Investment Funds (AIFs) will now be accepted online and the status of the same shall be accessible to applicants. [Source- ET]

#### **ABOUT SRNG ADVISORS LLP**

SRNG Advisors is a LLP providing advisory services catering to the needs of its clients across the country. SRNG offers a wide range of specialized, multidisciplinary professional services that meet immediate as well as long term needs of any business. Our multidisciplinary team of dedicated professionals is well equipped with the requisite business and technical skills, experience and knowledge base to deliver customized solution to our clients across industries.

#### **FOR SUBSCRIPTION OF NEWSLETTER AND REGULAR UPDATES, CONTACT:**

- ☑ : DC -2, 8<sup>th</sup> Floor, Signature Tower, Lalkothi, Jaipur-15 (Raj.)
- 📞 : +91-9358812012
- ✉ : [info@srngadvisors.com](mailto:info@srngadvisors.com)
- 🌐 : [www.srngadvisors.com](http://www.srngadvisors.com)

**DISCLAIMER:** This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, SRNG, its members, employees and agents accept no liability, and disclaim all responsibility, for the consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it.