PROFESSIONAL PROGRAMME

SUPPLEMENT
FOR
ADVANCED TAX LAWS AND PRACTICE

(OLD SYLLABUS)

(Relevant for students appearing in June, 2016 examination)

MODULE 3- PAPER 6

Students appearing in June 2016 Examination shall note the following:

1. Finance Act, 2015 is applicable.

2. Applicable Assessment year is 2016-17 (Previous Year 2015-16).

3. Since, Wealth Tax Act, 1957 has been abolished w.e.f. 1st April, 2016. The questions from the same will not be asked in examination from December 2015 session onwards.

4. Students are also required to update themselves on all the relevant Notifications, Circulars, Clarifications, etc. issued by the CBDT, CBEC & Central Government, on or before six months prior to the date of the examination.

The Supplement is to facilitate the students to acquaint themselves with the amendments in tax laws upto December, 2015, applicable for June, 2016 Examination. The students are advised to read their Study Material (2014 Edition) along with this Supplement.

In the event of any doubt, students may write to the Institute for clarifications at academics@icsi.edu

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MAJOR AMENDMENTS VIDE FINANCE ACT, 2015

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- Substituted new sections for sections 151 and 269SS;

- inserted new sections 9A, 32AD, 158AA, 192A, 194LBB, 206CB, 271FAB, 271GA, 271-I and 285A in the Income-tax Act, 1961;

- inserted Chapter XII-FB consisting of section 115UB in the Income-tax Act, 1961;

- repealed the Wealth-tax Act, 1957;

- amended sections 97, 98, 100 and 101 of the Finance (No.2) Act, 2004.

RATES OF TAX

- There is no change in the rate of personal income-tax and the rate of tax for companies in respect of income earned in the financial year 2015-16, assessable in the assessment year 2016-17.
- Surcharge to be levied @12% on individuals, HUFs, AOPs, BOIs, artificial juridical persons, firms, cooperative societies and local authorities having income exceeding Rs. 1 crore.
- Surcharge in the case of domestic companies having income exceeding Rs. 1 crore and upto Rs. 10 crore to be levied @ 7% and surcharge @ 12% to be levied on domestic companies having income exceeding Rs. 10 crore.
- In the case of foreign companies the surcharge continue to be levied @2% if the income exceeds Rs. 1 crore and is up to Rs. 10 crore, and @5% if the income exceeds Rs. 10 crore.
- Surcharge is to be levied @ 12% as against @10% on additional income-tax payable by companies on distribution of dividends and buyback of shares, or by mutual funds and securitisation trusts on distribution of income.
- The education cess on income-tax @ 2% and Secondary and Higher Education Cess @ 1% on tax be continued for the financial year 2015-16 for all taxpayers.

MEANING OF BUSINESS TRUST - SECTION 2(13A)

Business Trust means a trust registered as,— (i) an Infrastructure Investment Trust under the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992; or (ii) a Real Estate Investment Trust under the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992, and the units of which are required to be listed on recognised stock exchange in accordance with the aforesaid regulations;

RATIONALIZATION OF DEFINITION OF CHARITABLE PURPOSE- SECTION 2(15)

- 'Yoga' has been included as a specific category of activity in the definition of 'charitable purpose'

- The first proviso to clause (15) of section 2,*inter alia*, provides that advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for any consideration, irrespective of the nature of use or application, or retention, of the income from such activity. However, as per the second proviso, this restriction shall not apply if the aggregate value of the receipts from the activities referred above is 25 lakhs or less in the previous year.

  The institutions which, as part of genuine charitable activities, undertake activities like publishing books or holding program on yoga or other programs as part of actual carrying out of the objects which are of charitable nature were being put to hardship due to first and second proviso to section 2(15). Thus, Income tax Act has been amended to provide that the advancement of any other object of general public utility shall not be a charitable purpose**,** if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless,-

  (i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and

  (ii) the aggregate receipts from such activity or activities, during the previous year, do not exceed 20% of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year .

These amendments take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

AMENDMENTS REGARDING DETERMINATION OF RESIDENTIAL STATUS- SECTION 6

- It has been observed that in the case of foreign bound ships where the destination of the voyage is outside India, there was uncertainty with regard to the manner and basis of determination of the period of stay in India for crew members of such ships who are Indian citizens. Thus, the Income-tax Act has been amended to provide that in the case of an individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined in the manner and subject to such conditions as may be prescribed in the Income-tax Rules, 1962.

  Further, rule 126 of Income-tax Rules, 1962 notified vide S.O. No. 2240(E) dated 17th August, 2015 prescribes the manner for determination of the period of stay in India. This amendment takes effect retrospectively from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent assessment years.

- The provisions of section 6 has been amended vide Finance Act, 2015 to provide that a person being a company shall be said to be resident in India in any previous year, if-
    - it is an Indian company; or
    - its place of effective management, at any time in that year, is in India .

  Further, place of effective management has been defined to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made. These amendments will take effect from 1 April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

  The modification in the condition of residence in respect of company by including the concept of effective management would align the provisions of the Act with the Double Taxation Avoidance Agreements (DTAAs) entered into by India with other countries and would also be in line with international standards. It would also be a measure to deal with cases of creation of shell companies outside India but being controlled and managed from India.

CLARITY RELATING TO INDIRECT TRANSFER PROVISIONS- SECTION 9

Section 9 of the Act deal with income which are deemed to accrue or arise in India. Sub-section(1) of the said section creates a legal fiction that certain incomes shall be deemed to accrue or arise in India. Section 9 of the Act has been amended vide Fide Finance Act, 2015 in the following manner:-

(i) the share or interest of a foreign company or entity shall be deemed to derive its value substantially from the assets (whether tangible or intangible) located in India, if on the specified date, the value of Indian assets,-

(a) exceeds the amount of ten crore rupees ; and

(b) represents at least fifty per cent. of the value of all the assets owned by the company or entity.

(ii) value of an asset shall mean the fair market value of such asset without reduction of liabilities, if any, in respect of the asset.

(iii) the specified date of valuation shall be the date on which the accounting period of the company or entity, as the case may be, ends preceding the date of transfer.

(iv) however, if the book value of the assets of the company on the date of transfer exceeds by at least 15% of the book value of the assets as on the last balance sheet date preceding the date of transfer, then instead of the date mentioned in (iii) above, the date of transfer shall be the specified date of valuation.

(v) the manner of determination of fair market value of the Indian assets vis-a vis global assets of the foreign company shall be prescribed in the rules.

(vi) the taxation of gains arising on transfer of a share or interest deriving, directly or indirectly, its value substantially from assets located in India will be on proportional basis. The method for determination of proportionality are proposed to be provided in the rules.

(vii) the exemption shall be available to the transferor of a share of, or interest in, a foreign entity if he along with its associated enterprises,

(a) neither holds the right of control or management,

(b) nor holds voting power or share capital or interest exceeding five per cent. of the total voting power or total share capital, in the foreign company or entity directly holding the Indian assets (direct holding company).

(viii) in case the transfer is of shares or interest in a foreign entity which does not hold the Indian assets directly then the exemption shall be available to the transferor if he along with its associated enterprises,-

(a) neither holds the right of management or control in relation to such company or the entity,

(b) nor holds any rights in such company which would entitle it to either exercise control or management of the direct holding company or entity or entitle it to voting power exceeding five percent. in the direct holding company or entity.

(ix) exemption shall be available in respect of any transfer, subject to certain conditions ,in a scheme of amalgamation, of a capital asset, being a share of a foreign company which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the amalgamating foreign company to the amalgamated foreign company.

(x) exemption shall be available in respect of any transfer, subject to certain conditions, in a demerger, of a capital asset, being a share of a foreign company which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the demerged foreign company to the resulting foreign company.

(xi) there shall be a reporting obligation on Indian concern through or in which the Indian assets are held by the foreign company or the entity. The Indian entity shall be obligated to furnish information relating to the off-shore transaction having the effect of directly or indirectly modifying the ownership structure or control of the Indian company or entity. In case of any failure on the part of Indian concern in this regard a penalty shall be leviable. The proposed penalty shall be-

(a) a sum equal to two percent of the value of the transaction in respect of which such failure has taken place in case where such transaction had the effect of directly or indirectly transferring the right of management or

control in relation to the Indian concern; and
(b) a sum of five hundred thousand rupees in any other case.

These amendments are effective from 1st April, 2016 and accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

Section 9A has been inserted to provide clarity regarding certain activities which do not constitute business connection in India

AMENDMENTS IN THE PROVISIONS RELATING TO EXEMPT INCOME SECTION 10

- Following clauses have been inserted to exempt certain income:
  - Clause (11A) - any payment from an account, opened in accordance with the Sukanya Samriddhi Account Rules, 2014 made under the Government Savings Bank Act, 1873;
  - Clause (23C)(iiiaa)- any income of the Swachh Bharat Kosh, set up by the Central Government;
  - Clause (23C) (iiiaaa)-any income of the Clean Ganga Fund, set up by the Central Government;
  - Clause (23EE)- any specified income of such Core Settlement Guarantee Fund, set up by a recognised clearing corporation in accordance with the regulations, as the Central Government may, by notification in the Official Gazette, specify in this behalf
  - Clause (23FBA)- any income of an investment fund other than the income chargeable under the head "Profits and gains of business or profession";
  - Clause (23FBB)- any income referred to in section 115UB, accruing or arising to, or received by, a unit holder of an investment fund, being that proportion of income which is of the same nature as income chargeable under the head "Profits and gains of business or profession".
  - Clause (23FCA) -any income of a business trust, being a real estate investment trust, by way of renting or leasing or letting out any real estate asset owned directly by such business trust.

RATIONALISATION OF PROVISIONS OF SECTION 11 OF THE INCOME-TAX ACT RELATING TO ACCUMULATION OF INCOME BY CHARITABLE TRUSTS AND INSTITUTIONS

Under the provisions of section 11 of the Income-tax Act, the primary condition for grant of exemption to trust or institution in respect of income derived from property held under such trust is that the income derived from property held under trust should be applied for charitable purposes in India.

Where such income cannot be applied during the previous year, it has to be accumulated and applied for such purposes in accordance with various conditions provided in the section. While 15% of the income can be accumulated indefinitely by the trust or institution, 85% of income can only be accumulated for a period not exceeding 5 years subject to the conditions that such person submits the prescribed Form 10 to the Assessing Officer in this regard and the money so accumulated or set apart is invested or deposited in the specified forms or modes.

In order to remove the ambiguity regarding the period within which the assessee is required to furnish Form 10, the Income-tax Act has been amended to provide that the Form 10 shall be furnished before the due date of furnishing the return of income specified under section 139 of the Income-tax Act for the fund or institution. Thus, the benefit of accumulation would also not be available if:

- return of income is not furnished before the due date of furnishing the return of income; or
- Form is not submitted before the due date of furnishing the return

Also section 11 have also been amended to prescribe a format for exercise of option by the trust/institution for the purposes of clause (2) of the Explanation to sub-section (1) of section 11 of the Income-tax Act.

These amendments take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

DEPRECIATION RELATED PROVISIONS - SECTION 32 & 32AD

- Clarity on the allowance of the balance additional depreciation. Earlier, when the new Plant and Machinery acquired by an assessee (engaged in the business of manufacture or production of any article or thing or in the business of generation or generation and distribution of power) was put to use for less than 180 days in the Previous Year, the additional depreciation used to be restricted to 50%. The additional depreciation that got restricted on account of usage for less than 180 days in the previous year was not being considered/ allowed as the case may be in the subsequent Assessment Years.

  The Finance Act, 2015 provides that allowance for the additional depreciation which has not been allowed in the year of acquisition, shall be allowed in the year immediately succeeding the previous year. This is applicable with effect from AY 2016-17 and subsequent Assessment Year's.

- Additional investment allowance of an amount equal to 15% of the cost of new asset acquired and installed by an assessee is allowed, if—

  (a) he sets up an undertaking or enterprise for manufacture or production of any article or thing on or after 1st April, 2015 in any notified backward areas in the State of Andhra Pradesh and the State of Telangana; and
  (b) the new assets are acquired and installed for the purposes of the said undertaking or enterprise during the period beginning from the 1st April, 2015 to 31st March, 2020.

  This deduction shall be available over and above the existing deduction available under section 32AC of the Act. Accordingly, if an undertaking is set up in the notified backward areas in the States of Andhra Pradesh or Telangana by a company, it shall be eligible to claim deduction under the existing provisions of section 32AC of the Act as well as under the section 32AD if it fulfills the conditions (such as investment above a specified threshold) specified in the said section 32AC and conditions specified under this section.

CONDITIONS RELATING TO MAINTENANCE OF ACCOUNTS, AUDIT ETC TO BE FULFILLED BY THE APPROVED IN-HOUSE R&D FACILITY- SECTION 35(2AB)

Under section 35(2AB) of the Income-tax Act, weighted deduction of 200% is allowed to a company engaged in the business of biotechnology or manufacturing of any article or thing (except items specified in Schedule-XI) for the expenditure (not being expenditure in the nature of cost of any land or building) incurred on scientific research carried out in an approved in-house research and development facility.

In order to have a better and meaningful monitoring mechanism for weighted deduction allowed under section 35 (2AB) of the Income-tax Act, the provisions of section 35(2AB) of the Income-tax Act has been amended so as to provide that deduction under the said section shall be allowed if the company enters into an agreement with the prescribed authority for cooperation in such research and development facility and fulfils such conditions as may be prescribed with regard to maintenance and audit of accounts and also furnishes prescribed reports.

Further a reference of the Principal Chief Commissioner or Chief Commissioner is inserted in section 35(2AA) and section 35(2AB) of the Income-tax Act so as to provide that the report referred to therein may also be sent to the Principal Chief Commissioner or Chief Commissioner.

These amendments takes effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

ALIGNMENT OF PROVISIONS WITH THE PROVISIONS OF THE INCOME COMPUTATION AND DISCLOSURE STANDARDS (ICDS) - SECTION 36

- The proviso to clause (iii) of sub-section (1) of section 36 of the Income-tax Act provided for capitalisation of borrowing costs incurred for acquisition of assets for extension of existing business up to the date the asset is put to use. However, the provisions of ICDS-IX do not make any distinction between the asset acquired for extension of business or otherwise.

  In view of the above, the provisions of proviso to clause (iii) of sub-section (1) of section 36 of the Income-tax Act have been amended so as to provide that the borrowing cost incurred for acquisition of an asset shall be capitalised up to the date the asset is put to use without making any distinction as to whether an asset is acquired for extension of existing business or not.

- The provisions of the ICDS are applicable for computation of income and not for the purposes of maintenance of books of account. There may be cases where the income is recognised for computation of taxable income in accordance with the provisions of ICDS without recording the same in the books of account and such income may be required to be reversed in accordance with the provisions of the ICDS.

- For claiming bad debt, the provisions of section 36(1)(vii) of the Income-tax Act, *inter alia*, require that the amount should be written off in the accounts of the assessee. Therefore, the reversal of income in accordance with the provisions of the ICDS may not be allowable on the ground that same has not been written off in the accounts as per the provisions of section 36(1)(vii) of the Income-tax Act. In view of

this, a proviso has been inserted in section 36(1)(vii) of the Income-tax Act so as to provide that for claiming deduction under section 36(1)(vii) of the Income-tax Act, the income which have been recognised as per the provisions of ICDS without recording in the accounts and is required to be written off as irrecoverable as per the provisions of ICDS, shall be deemed to be written off as irrecoverable in the accounts.

These amendments take effect from 1st April, 2016 and would accordingly apply to assessment year 2016-17 and subsequent assessment years.

TAX NEUTRALITY ON MERGER OF SIMILAR SCHEMES OF MUTUAL FUNDS- SECTION 47 & 49

Securities and Exchange Board of India has been encouraging mutual funds to consolidate different schemes having similar features so as to have simple and fewer numbers of schemes. However, such mergers/consolidations are treated as transfer and capital gains are imposed on unit holders under the Income-tax Act.

- In order to facilitate consolidation of such schemes of mutual funds in the interest of the investors, tax neutrality has been provided to unit holders upon consolidation or merger of mutual fund schemes provided that the consolidation is of two or more schemes of an equity oriented fund or two or more schemes of a fund other than an equity oriented fund by amending section 47 of the Income-tax Act.

- Section 49 of the Income-tax Act has also been amended to provide that the cost of acquisition of
- the units in a consolidated scheme of a mutual fund shall be the cost of units in the consolidating scheme and period of holding of the units of the consolidated scheme shall include the period for which the units in consolidating schemes were held by the assessee.

These amendments take effect from 1st April, 2016 and accordingly apply, in relation to the assessment year 2016-17 and subsequent assessment years.

AMENDMENTS RELATING TO DEDUCTION- CHAPTER VI

- Sukanya Samriddhi Account Scheme has been notified vide Notification No. 9/2015, dated January 21, 2015 to qualify for deduction within the overall ceiling of Rs. 1,50,000 of Section 80C.
- In order to promote social security, sub-section (1) of section 80CCC has been amended to raise the limit of deduction under section 80CCC from one lakh rupees to one hundred and fifty thousand rupees, within the overall limit provided in section 80CCE.
- With a view to encourage people to contribute towards NPS, sub-section (1A) of section 80CCD has been omitted. The overall limit of one hundred and fifty thousand rupees under section 80CCE shall apply in respect of the contribution made in accordance with sub-section (1) of section 80CCD.
- In addition to the enhancement of the limit under section 80CCD(1), a new sub-section (1B) has been inserted in section 80CCD so as to provide for an additional deduction in respect of any amount paid, upto fifty thousand rupees for contributions made by any individual assessee under the NPS. The additional deduction of

Rs.50,000/- will be available whether or not any claim under sub-section (1) of section 80CCD has been made. Consequential amendments have also been made in sub-section (3) and subsection (4) of section 80CCD.

- The quantum of deduction allowed under Section 80D to individuals and HUF in respect of premium paid for health insurance had been fixed vide Finance Act, 2008 at Rs.15000/- and Rs.20,000/- for senior citizens. In view of continuous rise in the cost of medical expenditure, section 80D has been amended to raise the limit of deduction from **fifteen thousand rupees to twenty five thousand rupees**. The limit of deduction for senior citizens has been raised from **twenty thousand rupees to thirty thousand rupees.**
- Further, very senior citizens are often unable to get health insurance coverage and are therefore unable to take tax benefit under section 80D. Accordingly, as a welfare measure towards very senior citizens, section 80D has further been amended to provide that any payment upto Rs.30,000/- made on account of medical expenditure shall be allowed as a deduction under section 80D, in respect of a very senior citizen, if no payment has been made to keep in force an insurance on the health of such person. The aggregate deduction available to any individual who is a very senior citizen in respect of health insurance premia and the medical expenditure incurred for his family would, however, be limited to thirty thousand rupees.
- Section 80DD and section 80U have been amended to raise the limit of deduction in respect of a person with severe disability from one lakh rupees to one hundred and twenty five thousand rupees.
- Section 80DDB has been amended further to provide for a higher limit of deduction of upto eighty thousand rupees, for the expenditure incurred in respect of the medical treatment of a "very senior citizen".
- Under the provisions of section 80G of the Income-tax Act, **100% deduction shall be available in respect of contribution to:**
    - National Fund for Control of Drug Abuse
    - Swachh Bharat Kosh and Clean Ganga Fund
    - Clean Ganga Fund

  However, any sum spent on this account in pursuance of Corporate Social Responsibility under sub-section (5) of section 135 of the Companies Act, 2013, will not be eligible for deduction from the total income of the donor.
- With a view to encourage generation of employment, section 80JJAA has been amended to extend the benefit to all assessees having manufacturing units rather than restricting it to corporate assessees only. Further, in order to enable the smaller units to claim this incentive, the benefit under section 80JJAA has been extended to units employing 50 (instead of 100) regular workmen.

RAISING THE THRESHOLD FOR SPECIFIED DOMESTIC TRANSACTION--SECTION 92BA

The existing provisions of section 92BA of the Act define "specified domestic transaction" in case of an assessee to mean any of the specified transactions, not being an international transaction, where the aggregate of such transactions entered into by the assessee in the previous year exceeds a sum of five crore rupees.

In order to address the issue of compliance cost in case of small businesses on account of low threshold of five crores rupees, an amendment is made in section 92BA to provide that the aggregate of specified transactions entered into by the assessee in the previous year

should exceed a sum of **twenty crore rupees** for such transaction to be treated as 'specified domestic transaction'.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

DEFERMENT OF GAAR- SECTION 95

GAAR provisions had to come into effect from 1.04.2016. These provisions, therefore, had to be applicable to the income of the financial year 2015-16 (Assessment Year 2016-17) and subsequent years. However, the implementation of GAAR provisions was reviewed, concerns were expressed regarding certain aspects of GAAR and it has been proposed that implementation of GAAR be deferred by two years and GAAR provisions be made applicable to the income of the financial year 2017-18 (Assessment Year 2018-19) and subsequent years by amendment of the Act. Further, investments made up to 31.03.2017 are proposed to be protected from the applicability of GAAR by amendment in the relevant rules in this regard.

TAX RATE ON ROYALTY AND FTS PAYMENTS MADE TO NON-RESIDENTS SECTION 115A

In order to reduce the hardship faced by small entities due to high rate of tax of 25%, amendment has been made vide Finance Act, 2015 to reduce the rate of tax provided under section 115A on royalty and FTS payments made to non-residents to 10%. These amendments are effective from 1st April, 2016 and accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

RATIONALIZATION OF MAT PROVISIONS-SECTION 115JB

An amendment to the provisions of section 115JB has been made vide Finance Act, 2015 so as to provide that income from transactions in securities (other than short term capital gains arising on transactions on which securities transaction tax is not chargeable) arising to a Foreign Institutional Investor, shall be excluded from the chargeability of MAT and the profit corresponding to such income shall be reduced from the book profit. The expenditures, if any, debited to the profit and loss account, corresponding to such income (which is to be excluded from the MAT liability) are also added back to the book profit for the purpose of computation of MAT.

In view of the above, A new clause (iic)has been inserted in Explanation 1 so as to provide that the amount of income from transactions in securities, (other than short term capital gains arising on transactions on which securities transaction tax is not chargeable), accruing or arising to an assessee being a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act,1992,if any such amount is credited to the profit and loss account, shall be reduced from the book profit for the purposes of calculation of income-tax payable under the section. Further by inserting a new clause (fb) in Explanation 1, it has been provided that the book profit shall be increased by the amount or amounts of expenditure relatable to the above income. The amendments are effective from 1st April, 2016.

SETTLEMENT COMMISSION- SECTION 132B

Section 132B of the Income-tax Act, has been amended to provide that the asset seized under section 132 or requisitioned under section 132A may also be adjusted against the amount of liability arising on an application made before the Settlement Commission under sub-section (1) of section 245C of the Income-tax Act. The amendments have taken effect from 1st day of June, 2015.

FURNISHING OF RETURN OF INCOME-SECTION 139

- Under the provisions of section 139 of the said Act, all entities whose income were exempt under clause (23C) of section 10, other than those referred to in subclauses (iiiab) and (iiiac) of the said clause, are mandatorily required to furnish their return of income. The Income-tax Act has been amended to provide that entities covered under clauses (iiiab) and (iiiac) of clause (23C) of section 10 shall be mandatorily required to file their return of income.
- Section 139 has been amended to provide for furnishing of return of income by the beneficial owner or beneficiary of a foreign asset. The amendment also defines the term 'beneficial owner' to mean an individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person. The term 'beneficiary' has been defined to mean an individual who derives benefit from the asset during the previous year and the consideration for such asset has been provided by any person other than such beneficiary.

The above amendments are w.e.f. 1st April, 2016 and accordingly, applicable in relation to the assessment year 2016-17 and subsequent assessment years.

SIMPLIFICATION OF APPROVAL REGIME FOR ISSUE OF NOTICE FOR RE-ASSESSMENT-SECTION 151

In order to provide simplify the regime for the issue of notice for re-assessment, section 151 has been amended to provide that no notice under section 148 shall be issued by an assessing officer upto four years from the end of relevant assessment year without the approval of Joint Commissioner and beyond four years from the end of relevant assessment year without the approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner. This amendment has taken effect from 1st day of June, 2015.

ASSESSMENT OF INCOME OF A PERSON OTHER THAN THE PERSON IN WHOSE CASE SEARCH HAS BEEN INITIATED OR BOOKS OF ACCOUNT, OTHER DOCUMENTS OR ASSETS HAVE BEEN REQUISITIONED- SECTION 153C

Section 153C of the Income-tax Act relates to assessment of income of any person other than the person in whose case search has been conducted or requisition has been made. Disputes have arisen as to the interpretation of the words "belong to" in respect of a document as for instance when a given document seized from a person is a copy of the original document.

Accordingly, section 153C has been amended so as to provide that notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153 of the Income-tax Act, where the Assessing Officer is satisfied that any money, bullion, jewellery or other valuable article or thing belongs to, or any books of account or documents seized or requisitioned pertain to, or any information contained therein, relates

to, any person, other than the person referred to in section 153A of the Income-tax Act, then the books of account or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue notice and assess or reassess income of such other person in accordance with the provisions of section 153A. This amendment has taken effect from the 1st day of June, 2015.

PROCEDURE WHEN IN AN APPEAL BY REVENUE AN IDENTICAL QUESTION OF LAW IS PENDING BEFORE SUPREME COURT - SECTION 158AA

A new section 158AA is inserted in the Income-Tax Act by Finance Act, 2015 relating to procedure when in an appeal by revenue on an identical question of law is pending before Supreme Court. Sub-section (1) seeks to provide that where the Commissioner or Principal Commissioner is of the opinion that any question of law arising in the case of an assessee for any assessment year is identical with a question of law arising in his case for another assessment year which is pending before the Supreme Court, he may, instead of directing the Assessing Officer to file appeal to the Appellate Tribunal, direct the Assessing Officer to make an application to the Appellate Tribunal, stating that an appeal on the question of law arising in the relevant case may be filed when the decision on the question of law becomes final in the other case.

Sub-section (2) seeks to provide that the Commissioner or Principal Commissioner shall direct the Assessing Officer to make an application under subsection (1) only if an acceptance is received from the assessee to the effect that the question of law in the other case is identical to that arising in the relevant case; and in case no such acceptance is received, the Commissioner or Principal Commissioner shall proceed in accordance with the provisions contained in section 253 (2) or sec 253(2A).

Sub-section (3) seeks to provide that where the order of the Commissioner (Appeals) referred to in sub-section (1) is not in conformity with the final decision on the question of law in the other case, the Commissioner or Principal Commissioner may direct the Assessing Officer to appeal to the Appellate Tribunal against such order and, save as otherwise provided in this section, all other provisions of Part B of chapter XX shall apply accordingly.

RATIONALISATION OF PROVISIONS RELATING TO TDS/TCS

- The provisions of the section 194A(3)(v) of the Income-tax Act have been amended so as to expressly provide that the exemption provided from deduction of tax from payment of interest to members by a co-operative society under section 194A(3)(v) of the Income-tax Act shall not apply to the payment of interest on time deposits by the co-operative banks to its members. This amendment is effective from the prospective date of 1st June, 2015, the co-operative bank shall be required to deduct tax from the payment of interest on time deposits of its members, on or after the 1st June, 2015.

  However, the existing exemption provided under section 194A(3)(viia)(a) of the Income-tax Act to primary agricultural credit society or a primary credit society or a

cooperative land mortgage bank or a co-operative land development bank from deduction of tax in respect of interest paid on deposit shall continue to apply. Therefore, these cooperative credit societies/banks referred to in said clause (viia)(a) of section 194A(3) of the Income-tax Act shall not be required to deduct tax on interest payment to depositors even after the said amendment.

- The provisions of section 194A (3) of the Income-tax Act has been amended so as to provide that deduction of tax under section 194A of the Income-tax Act from interest payment on the compensation amount awarded by the Motor Accident Claim Tribunal compensation shall be made only at the time of payment, if the amount of such payment or aggregate amount of such payments during a financial year exceeds Rs.50,000/-.

- the provisions of section 194C(6) of the Income-tax Act have been amended so as to expressly provide that the relaxation under sub-section (6) of section 194C of the Income-tax Act for non-deduction of tax shall only be applicable to the payment in the nature of transport charges (whether paid by a person engaged in the business of transport or otherwise) made to a contractor who is engaged in the business of transport i.e. plying, hiring or leasing goods carriage and who is eligible to compute income as per the provisions of section 44AE of the Income-tax Act (i.e a person who is not owning more than 10 goods carriages at any time during the previous year) and who has also furnished a declaration to this effect along with his PAN, to the person paying such sum.

- Section 194LD has been amended to provide that the concessional rate of 5% withholding tax on interest payment under section 194LD will now be available on interest payable upto 30th June, 2017.

- No deduction shall be made under section 194-I of the Income-tax Act where the income by way of rent is credited or paid to a business trust, being a real estate investment trust, in respect of any real estate asset held directly by such REIT.

- The provisions of section 197A of the Income-tax Act has been amended so as to provide that the recipients of payments referred to in section 194DA of the Income-tax Act shall also be eligible for filing self-declaration in Form No.15G/15H for non-deduction of tax at source in accordance with the provisions of section 197A of the Income-tax Act.

- The obtaining of TAN creates a compliance burden for those individuals or Hindu Undivided Family (HUF) who are not liable for audit under section 44AB of the Income tax Act. For reducing the compliance burden for these types of deductors, the provisions of section 203A of the Income-tax Act have been amended so as to provide that the requirement of obtaining and quoting of TAN under section 203A of the Income-tax Act shall not apply to the notified deductors or collectors.

- The Income-tax Act contains detailed provisions for processing of TDS statements, however, there did not exist any provision for processing of TCS statement. As the mechanism of TCS statement is similar to TDS statement, a new section 206CB has been inserted in the Income-tax Act for enabling processing of TCS statements on the

lines of existing provision for processing of TDS statement contained in section 200A of the Income-tax Act. This newly inserted section also incorporates the mechanism for computation of fee payable under section 234E of the Income-tax Act for late furnishing of TCS statement.

- the provisions of section 220 of the Income-tax Act have been amended so as to provide that where interest is charged for any period under section 206C (7) of the Income-tax Act on the tax amount specified in the intimation issued under amended provision, then, no interest shall be charged under section 220(2) of the Income-tax Act on the same amount for the same period.

- In order to improve the reporting of payment of TDS/TCS made through book entry and to make existing mechanism enforceable, the provisions of sections 200 and 206C of the Income-tax Act have been amended so as to provide that where the tax deducted [including paid under section 192(1A)] / collected has been paid without the production of a challan, the PAO/ TO/CDDO or any other person by whatever name called who is responsible for crediting such sum to the credit of the Central Government, shall furnish within the prescribed time a prescribed statement for the prescribed period to the prescribed income-tax authority or the person authorised by such authority by verifying the same in the prescribed manner and setting forth particulars.

- To ensure compliance, provisions of section 272A of the Income-tax Act have also been amended to provide that a penalty of Rs.100/- for every day of default, subject to the limit of the amount deductible or collectible, shall be levied in case of failure to furnish the said statement.

- The provisions of section 192 of the Income-tax Act have been amended so as to provide that the person responsible for paying, for the purposes of estimating income of the assessee or computing tax deductible under section 192(1) of the Income-tax Act, shall obtain from the assessee evidence or proof or particulars of the prescribed claim (including claim for set-off of loss) under the provisions of the Income-tax Act in the prescribed form and manner.

- Section 192A has been inserted w.e.f 1.06.2015 to provide that trustees of RPFs shall, at the time of payment of the accumulated balance due to the employee, deduct tax at source at the rate of 10%, where the aggregate withdrawal is Rs. 30,000/- or more.

- The provisions of section 195 of the Income-tax Act have been amended so as to provide that the person responsible for paying any sum, whether chargeable to tax or not, to a non-resident, not being a company, or to a foreign company, shall be required to furnish the information of the prescribed sum in such form and manner as may be prescribed. Further, there was no provision for levying of penalty for non-submission/inaccurate submission of the prescribed information in respect of remittance to non-resident.

- For ensuring submission of accurate information in respect of remittance to nonresident, a new section 271-I has been inserted in the Income-tax Act to provide

that in case of non-furnishing of information or furnishing of incorrect information under subsection (6) of section 195 of the Income-tax Act, a penalty of one lakh rupees shall be levied

- Further, the provisions of section 273B of the Income-tax Act have been amended so as to provide that no penalty shall be imposable under this new provision if it is proved that there was reasonable cause for non-furnishing or incorrect furnishing of information under sub-section (6) of section 195 of the Income-tax Act.

AMENDMENTS IN PROCEDURAL PROVISONS

- Clause (3) of section 234B of the Income-tax Act has been amended so as to provide that the period for which the interest is to be computed will begin from the 1st day of April next following the financial year and end on the date of determination of total income under section 147 or section 153A.

- Sub-section (2A) has been inserted in section 234B of Income-tax Act so as to provide that where an application under sub-section (1) of section 245C for any assessment year has been made, the assessee shall be liable to pay simple interest at the rate of one per cent for every month or part of a month comprised in the period commencing on the 1st day of April of such assessment year and ending on the date of making such application, on the additional amount of income-tax referred to in that sub-section.

- It has also been provided that where as a result of an order of the Settlement Commission under sub-section (4) of section 245D for any assessment year, the amount of total income disclosed in the application under sub-section (1) of section 245C is increased, the assessee shall be liable to pay simple interest at the rate of one per cent for every month or part of a month comprised in the period commencing on the 1st day of April of such assessment year and ending on the date of such order, on the amount by which the tax on the total income determined on the basis of such order exceeds the tax on the total income disclosed in the application filed under sub-section (1) of section 245C.

- Accordingly, section 234B of the Income-tax Act has been amended so as to provide that where as a result of rectification order under sub-section (6B) of section 245D, the amount on which interest was payable under clause (b) of sub-section (2A) of section 234B is increased or reduced, the interest shall also be increased or reduced accordingly .

- sub-section (6B) of section 245D of the Income-tax Act has been amended so as to provide that the Settlement Commission may, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (4), at any time within a period of six months from the end of month in which the order was passed or, on an application made by the Principal Commissioner or Commissioner or the applicant before the end of period of six months from the end of month in which the order was passed, at any time within a period of six months from the end of month in which such application was made.

- With a view to provide for justification for grant of immunity from penalty and prosecution, sub-section (1) of section 245H of the Income-tax Act has been amended

to provide that the Settlement Commission while granting immunity from prosecution to any person shall record the reasons in writing in the order passed by it.

- Sub-section (1) of section 245HA of the Income-tax Act has been amended to provide that where in respect of any application made under section 245C, an order under sub-section (4) of section 245D has been passed without providing for the terms of settlement, the proceedings before the Settlement Commission shall abate on the day on which such order under sub-section (4) of section 245D was passed.

- Section 245K of the Income-tax Act has been amended to provide that any person 'related' to the person who has already approached the Settlement Commission once, also cannot approach the Settlement Commission subsequently.

- In order to widen the scope for eligibility, section 245-O has been amended to provide that a person from Indian legal Service who is, or is qualified to be, an Additional Secretary to the Government of India shall be qualified for appointment as a law Member.

- Considering the rise in number of cases before ITAT where total income of assessee exceeded five lakh rupees, sub-section (3) of section 255 of the Income-tax Act has been amended to provide that a single member bench may dispose of a case where the total income of assessee as computed by the Assessing Officer does not exceed fifteen lakh rupees. This amendment has taken effect from 1st day of June, 2015.

- In order to provide clarity, section 263 of the Income-tax Act has been amended to provide that an order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal Commissioner or Commissioner,— (a) the order is passed without making inquiries or verification which, should have been made; (b) the order is passed allowing any relief without inquiring into the claim; (c) the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or (d) the order has not been passed in accordance with any decision, prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person. This amendment has taken effect from 1st day of June, 2015.

MODE OF TAKING OR ACCEPTING CERTAIN LOANS, DEPOSITS AND SPECIFIED SUMS AND MODE OF REPAYMENT OF LOANS OR DEPOSITS AND SPECIFIED ADVANCES- SECTION 269SS, 269T, 271D AND 271E

In order to curb generation of black money by way of dealings in cash, section 269SS & Section 269T have been amended to provide that no person shall:

- accept from any person any loan or deposit or any sum of money, whether as advance or otherwise, in relation to transfer of an immovable property(specified sum) otherwise than by an account payee cheque or account payee bank draft or by electronic clearing system through a bank account, if the amount of such loan or deposit or such specified sum is twenty thousand rupees or more.

- shall repay any loan or deposit made with it or any specified advance received by it, otherwise than by an account payee cheque or account payee bank draft or by electronic clearing system through a bank account, if the amount or aggregate amount of loans or deposits or specified advances is twenty thousand rupees or more.
- Consequential amendments in section 271D and section 271E, to provide penalty for failure to comply with the amended provisions of section 269SS and 269T, respectively, have also been made.

These amendments are w.e.f. 1st day of June, 2015.

AMOUNT OF TAX SOUGHT TO BE EVADED FOR THE PURPOSES OF PENALTY FOR CONCEALMENT OF INCOME UNDER CLAUSE (III) OF SUB SECTION (1) OF SECTION 271

Tax paid under the provisions of section 115JB or 115JC over and above the tax liability arising under general provisions is available as credit for set off against future tax liability. Understatement of income and the tax liability thereon under general provisions results in larger amount of such credit becoming available to the assessee for set off in future years. Therefore, where concealment of income, as computed under the general provisions, has taken place, penalty under clause (c) of sub-section (1) of section 271 should be leviable even if the tax liability of the assessee for the year has been determined under provisions of section 115JB or 115JC of the Income-tax Act.

Accordingly, section 271 of the Income-tax Act has been amended so as to provide that the amount of tax sought to be evaded shall be the summation of tax sought to be evaded under the general provisions and the tax sought to be evaded under the provisions of section 115JB or 115JC of the Income-tax Act. However, if an amount of concealment of income on any issue is considered both under the general provisions and provisions of section 115JB or 115JC then such amount shall not be considered in computing tax sought to be evaded under provisions of section 115JB or 115JC.

Further, in a case where the provisions of section 115JB or 115JC are not applicable, the computation of tax sought to be evaded under the provisions of section 115JB or 115JC shall be ignored. This amendment is w.e.f. 1st April, 2016 and accordingly apply, in relation to the assessment year 2016-17 and subsequent assessment years.

CERTAIN ACCOUNTANTS NOT TO GIVE REPORTS/CERTIFICATES-SECTION 288

To ensure the independence of auditor, sub-section (3) of section 141 of the Companies Act, 2013 contains a list of certain persons who are not eligible for appointment as auditor. The audit/certification function under the Income-tax Act is mainly provided for protecting the interests of revenue. An auditor who is not independent cannot meaningfully discharge his function of protecting the interests of revenue.

Therefore, the provisions of section 288 of the Income-tax Act have been amended so as to provide that an auditor who is not eligible to be appointed as auditor of a company as per the provisions of sub-section (3) of section 141 of the Companies Act, 2013 shall not be eligible for carrying out any audit or furnishing of any report/certificate under any provisions of the Income-tax Act in respect of that company.

However, it is provided that the ineligibility for carrying out any audit or furnishing of any report/certificate in respect of an assessee shall not make an accountant ineligible for

attending income-tax proceeding referred to in sub-section (1) of section 288 of the Income-tax Act as authorised representative on behalf of that assessee.

It has been further provided that the person convicted by a court of an offence involving fraud shall not be eligible to act as authorised representative for a period of 10 years from the date of such conviction. These amendments are w.e.f. 1st June, 2015.

ENABLING THE BOARD TO NOTIFY RULES FOR GIVING FOREIGN TAX CREDIT- SECTION 295

Sub-section (2) of section 295 of the Income-tax Act has been amended to enable CBDT to prescribe the procedure for granting relief or deduction, as the case may be, of any income-tax paid in any country or specified territory outside India, under section 90, or under section 90A, or under section 91, against the income-tax payable under the Income-tax Act. The amendment have taken effect from 1st day of June, 2015.

AMENDMENTS RELATING TO GLOBAL DEPOSITORY RECEIPTS (GDRS)

The Depository Receipts Scheme, 2014 has been notified by the Department of Economic affairs (DEA) vide Notification F.No.9/1/2013–ECB dated 21st October, 2014. This scheme replaces "Issue of Foreign Currency Convertible Bonds and Ordinary Shares (through depository receipt mechanism) Scheme, 1993".

The current taxation scheme of income arising in respect of depository receipts under the Act is aligned with the earlier scheme which was limited to issue of Depository Receipts (DRs) based on the underlying shares of the company issued for this purpose i.e sponsored GDR or FCCB of the issuing company and where the company was either a listed company or was to list simultaneously. Besides, the holder of such DRs was a non-resident only.

As per the new scheme, DRs can be issued against the securities of listed, unlisted or private or public companies against underlying securities which can be debt instruments, shares or units etc; Further, both the sponsored issues and unsponsored deposits and acquisitions are permitted. DRs can be freely held and transferred by both residents and non-residents.

Since the tax benefits under the Act were intended to be provided in respect of sponsored GDRs and listed companies only, an amendment is made in the Act in order to continue the tax benefits only in respect of such GDRs as defined in the earlier depository scheme.

These amendments are effective from the 1st day of April, 2016 and accordingly, apply to the assessment year 2016-17 and subsequent assessment years.

INCOME TAX ACT, 1961

NOTIFICATION NO. 59/ 2015 DATED 6TH JULY, 2015- ENTITIES AUTHORISED TO ISSUE, TAX-FREE, SECURED, REDEEMABLE, NON-CONVERTIBLE BONDS DURING THE FINANCIAL YEAR 2015-16

In exercise of the powers conferred by item (h) of sub-clause (iv) (15) of section 10 of the Income-Tax Act, 1961 (43 of 1961), the Central Government has authorised the entities mentioned in the Table given below to issue, tax-free, secured, redeemable, non-convertible bonds during the financial year 2015-16, aggregating to amounts mentioned against respective entities subject to the conditions

Sl. No.	Entities	Allocated amount of bonds (₹ in crore)
(1)	(2)	(3)
1	National Highways Authority of India (NHAI)	24000
2	Indian Railways Finance Corporation (IRFC)	6000
3	Housing and Urban Development Corporation (HUDCO)	5000
4	Indian Renewable Energy Development Agency (IREDA)	2000
5	Power Finance Corporation Limited (PFC)	1000
6	Rural Electrification Corporation Limited (REC)	1000
7	NTPC Limited	1000

Conditions

Who can subscribe the bonds?

The following shall be eligible to subscribe to the bonds:

- Retail Individual Investors (RIIs);
- Qualified Institutional Buyers (QIBs);
- Corporates (including statutory corporations), trusts, partnership firms, Limited Liability Partnerships, co-operative banks, regional rural banks and other legal entities, subject to compliance with their respective Acts;
- High Networth Individuals (HNIs).

Note: It shall be mandatory for the subscribers to furnish their Permanent Account Number to the issuer of the bonds.

What shall be the tenure of the bonds?

The tenure of the bonds shall be for ten or fifteen or twenty years.

Issue expense and brokerage

The issue expense would include all expenses relating to the sue like brokerage, advertisement, printing, registration etc., the total expenses shall not exceed the following limits

- In the case of private placement - 0.25 per cent of the issue size
- In the case of public issue - 0 .65 per cent of the issue size

Rate of interest

There shall be a ceiling on the coupon rates based on the Government security (G-sec) rate;

the belowmentioned ceiling rates shall apply for annual payment of interest, in case the schedule of interest payments is altered to semi-annual, the interest rates shall be reduced by fifteen basis points:

Rating of the Issuer	Ceiling on the Interest Rate
AAA rated issuers	**RIIs-** The G Sec reference rate less fifty five basis points **Other investor segments-**The G-Sec reference rate less eighty basis points The higher rate of interest, applicable to RIIs, shall not be available in case the bonds are transferred by RIIs to non retail investors.
AA+ rated issuers	10 basis points above the rate for AAA rated entities
AA or AA- rated issuers	20 basis points above the ceiling rate for AAA rated entities

G-Sec Rate

The reference G-sec rate shall be the average of the base yield for equivalent maturity reported by Fixed Income Money Market and Derivative Association of India (FIMMDA) on a daily basis (working day) prevailing for two weeks ending on the Friday immediately preceding the filing of t e final prospectus with the Exchange or Registrar of Companies (ROC) in public issue and the Issue opening date in case of private placement;

Public issue

- At least 70% of the aggregate amount of bonds issued by each entity shall be raised through public issue;
- 40% of such public issue shall be earmarked for RIIs.

Private placement

- Shall adopt the book building approach as per regulation 11 of the Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations 2008, wherein bids shall be sought on the coupon rate subject to specified by the entity and the allotment shall be made at the price bid;
- the bonds shall be paid for and issued at a premium with a fixed coupon, to facilitate trading of the instrument under a single International Securities Identification Number (ISIN);
- the yield shall be computed based on the quoted price;
- the allotment shall be done for best price (lowest yield) thereof;
- the ceiling rate of the interest shall either be equal to or lower than that discussed above;
- while calling for bids, there shall be no limit on the number of arrangers who can bid for the issue.

Repayment of bonds

The issuer entity shall submit a financing plan to the Infra-Finance Section, Infrastructure Division, Department of Economic Affairs, within three months of closure of the issue, duly supported by a resolution of the respective entity's Board of Directors to demonstrate its ability to repay the borrowed funds on the repayment becoming due;

Selection of merchant bankers
(i) Merchant bankers shall be selected through competitive bidding process with transparent pre-qualification criteria and the final selection shall be based on financial bids;

(ii) the benefit under section 10 of the Income-tax Act, 1961 shall be admissible only if the holder of such bonds registers his/her or its name and the holding with the entity,
(iii) the issue of bonds shall be made in compliance with the public issue requirements specified in the Companies Act, 2013 and Securities and Exchange Board of India (Issue and Listing of Debt Securities),
Regulations, 2008, including inter-alia the filing of a prospectus with the Registrar of Companies, as applicable.

NOTIFICATION NO. 60/ 2015 DATED 24TH JULY, 2015- COST INFLATION INDEX FOR FINANCIAL YEAR 2015-16

In exercise of the powers conferred by clause (v) of the Explanation to section 48 of the Income-tax Act, 1961 (43 of 1961), the Central Government has prescribed '1081' as the Cost Inflation Index for the Financial year 2015-16

NOTIFICATION NO. 71/2015 DATED 17TH AUGUST, 2015

In exercise of the powers conferred by section 32 and section 32AD of the Income-tax Act, 1961 (43 of 1961), the Central Government has notified the following districts of the State of Bihar as backward areas under the first proviso to clause (iia) of sub-section (1) of section 32 and sub-section (1) of section 32AD, namely:

1. Patna	8. Aurangabad	15. Purnea
2. Nalanda	9. Nawada	16. Katihar
3. Bhojpur	10. Vaishali	17. Araria
4. Rohtas	11. Sheohar	18. Jamui
5. Kaimur	12. Samastipur	19. Lakhisarai
6. Gaya	13. Darbhanga	20. Supaul
7. Jehanabad	14. Madhubani	21. Muzaffarpur.

NOTIFICATION NO. 72/2015 DATED 24TH AUGUST, 2015

In exercise of the powers conferred by the clause (22B) of section 10 of the Income tax Act, 1961 (43 of 1961), the Central Government has specified the Press Trust of India Limited, New Delhi as a news agency set up in India solely for collection and distribution of news, for the purpose of the said clause for three assessment years 2016-17 to 2018-19.

CIRCULAR NO. 14/2015 DATED AUGUST 17TH 2015- CLARIFICATION REGARDING EXEMPTIONS UNDER SECTION 10(23C) (VI) & 10(23C) (VIA)

Sub Clause (vi) of Section 10 (23C) of the Income Tax Act, 1961 prescribes that, income of any university or other educational institutions, existing solely for educational purposes and not for the purpose of profit, shall be exempt from taxes if such entities are approved by the prescribed authorities. While granting the approval, the prescribed authority has to ensure that the university or educational institutions exists, 'solely for educational purposes and not for purposes of profit'.

When is the approval not required?
Approval of the prescribed authority is not required in case of universities or educational institutions which are:

- wholly or substantially financed by the Government [Sub Clause (iiiab) of Section 10(23C)]
- Aggregate Annual Receipts do not exceed INR 1 Crore [Sub Clause (iiiad) of Section 10(23C), read with rule 2BC]

What is the scope of enquiry while granting approval?
The prescribed authority, before approval may call for such documents, including audited annual accounts, or information as necessary in order to satisfy itself about the genuineness of the activities and also make such inquiries as it deems necessary.
Whether the prescribed authority is required only to review the nature, existence of the non-profit purpose and the genuineness of the applicant or also ensure the conditions prescribed in the proviso to Section 10(23C) while granting the approval ?
In the case of American Hotels and Lodging Association Educational Institute Vs. CBDT [301 ITR 86] 2008, the Apex Court has held that relevant authority should be satisfied about the "existence" of the institution during the "relevant previous year" solely for educational purposes and not for profit. Once this criterion is satisfied, the prescribed authority need not deny approval on the grounds, where compliance depends on events that have not taken place on date on which the application is made.

However, the prescribed authority may also review the conditions prescribed under Proviso to 10 (23C). It has also been clarified in the said judgement that the prescribed conditions can be gauged while monitoring the case and in the event of breach thereof, the approval can be withdrawn.

Is it necessary to obtain registration u/s 12AA while seeking approval or claiming exemption under Section 10 (23C)?
Obtaining prior registration before granting approval u/s 10 (23C) cannot be insisted upon. However, in case the institution has obtained registration u/s 12AA as well as approval u/s 10 (23C), if the registration is withdrawn at some point in time due to certain adverse findings, the withdrawal of approval shall NOT be automatic but will depend upon whether the adverse findings also impact the condition necessary to keep approval u/s 10(23C) alive.

Whether the generation of surplus out of the gross receipts would necessarily "breach" the threshold condition that the institution should exist 'solely for educational purposes and not for purposes of profit'?
Mere generation of surplus by institutions from year to year cannot be a basis for rejection of application u/s 10(23C)(vi) if it is used for educational purposes unless the accumulation is contrary to the manner prescribed under law. The Third Proviso to 10(23C)(vi) specifically provides that accumulation of income is permissible provided such accumulation is to be applied 'wholly and exclusively to the objects for which it is established'.

Does collection of amounts under different heads of fee from students Amounts collected by the institutions by way of application fee, examination fee, fee for issuing transfer certificates, subscription fee for library, etc. amount to profit making activities thereby leading to denial of exemption u/s 10(23C)(vi)?
No, the collection of small and reasonable fee amounts which are connected with imparting education and which do not violate any Central and State Regulation does not, in general, represent a profit making activity, unless the amount is in the nature of "capitation fee" charged directly or indirectly.

Can exemption be denied under the premise that the Managing Trustee has extraordinary powers to appoint or remove and also nominate their successors which may affect the nature of charitable activity of the trust?

There is no provision under the Act which calls for denial of exemption merely on the grounds of appointment or removal of Trustees, unless such appointment or removal results in the nature of activities of the trust getting modified or the trust no longer exists 'solely for educational purposes and not for purposes of profit'.

Similar principles would also apply to cases covered under section 10(23C)(via) of the Income Tax Act, 1961.

Circular No. 16/2015 dated 6th October, 2015- Non-applicability of Rule 9A of the Income Tax Rules, 1962 in the case of Abandoned Feature Films

The deduction in respect of the cost of production of a feature film certified for release by the Board of Film Censors in a previous year is provided in Rule 9A of Income Tax Rules, 1962.

In the case of abandoned films, however, since certificate of Board of Film Censors is not received, in some cases no deduction was allowed by applying Rule 9A of the Rules or by treating the expenditure as capital expenditure.

The matter has been examined in light of judicial decisions on this subject. The order of the Hon. Bombay High Court dated 28.1 .15 in ITA 310 of 2013 in the case of Venus Records and Tapes Pvt. Ltd. on this issue has been accepted and the aforesaid disputed issue has not been further contested. Consequently, it is clarified that Rule 9A does not apply to abandoned feature films and that the expenditure incurred on such abandoned feature films is not to be treated as a capital expenditure. The cost of production of an abandoned feature film, is to be treated as revenue expenditure and allowed as per the provisions of Section 37 of the Income Tax Act.

CIRCULAR NO. 17/2015 DATED 6TH OCTOBER, 2015 - MEASUREMENT OF THE DISTANCE FOR THE PURPOSE OF SECTION 2(14) (III)(B) OF THE INCOME-TAX ACT FOR THE PERIOD PRIOR TO ASSESSMENT YEAR 2014-15

"Agricultural Land" is excluded from the definition of capital asset as per section 2(14)(iii) of the Income-Tax Act based, inter-alia, on its proximity to a municipality or cantonment board.

The method of measuring the distance of the said land from the municipality, has given rise to considerable litigation. Although, the amendment by the Finance Act, 2013 w.e.f. 1.04.2014 prescribes the measurement of the distance to be taken aerially, ambiguity persists in respect of earlier periods.

The matter has been examined in light of judicial decisions on the subject. The Nagpur Bench of the Hon. Bombay High Court vide order dated 30.03.2015 in ITA 151 of 2013 in the case of Smt. Maltibai R Kadu has held that the amendment prescribing distance to be measured aerially, applies prospectively i.e. in relation to assessment year 2014-15 and subsequent assessment years. For the period prior to assessment year 2014-15, the High Court held that the distance between the municipal limit and the agricultural land is to be measured having regard to the shortest road distance.

CIRCULAR NO. 18/2015 DATED 2ND NOVEMBER, 2015 - INTEREST FROM NON-SLR SECURITIES OF BANKS

It has been brought to the notice of the Board that in the case of Banks, field officers are taking a view that, "expenses relatable to investment in non-SLR securities need to be disallowed u/s 57(i) of the Act as interest on non-SLR securities is income from other sources.

Clause (id) of sub-section (1) of Section 56 of the Act provides that income by way of interest on securities shall be chargeable to income-tax under the head "Income from Other Sources", if, the income is not chargeable to income-tax under the head "Profits and Gains of Business and Profession".

The matter has been examined in light of the judicial decisions on this issue. In the case of ClT Vs Nawanshahar Central Cooperative Bank Ltd. [2007] 160TAXMAN 48(SC), the Apex Court held that the investments made by a banking concern are part of the business of banking. Therefore, the income arising from such investments is attributable to the business of banking falling under the head "Profits and Gains of Business and Profession".

The abovementioned decision is equally applicable to all banks/commercial banks/co-operative societies to which Banking Regulation Act, 1949 applies.

CIRCULAR NO. 21/2015 DATED 10TH DECEMBER, 2015 - REVISION OF MONETARY LIMITS FOR FILING OF APPEALS BY THE DEPARTMENT BEFORE INCOME TAX APPELLATE TRIBUNAL AND HIGH COURTS AND SLP BEFORE SUPREME COURT WITH REFERENCE TO BOARD'S INSTRUCTION NO 5/2014 DATED 10.07.2014 – ISSUES UNDER SECTION 268A (1) OF THE INCOME-TAX ACT 1961

In supersession of the Board's instruction No 5/2014 dated 10.07.2014, it has been decided by the Board that departmental appeals may be filed on merits before Appellate Tribunal and High Courts and SLP before the Supreme Court keeping in view the monetary limits and conditions.

Revised Limits

Henceforth, appeals/ SLPs shall not be filed in cases where the tax effect does not exceed the monetary limits given hereunder: –

1. Before Appellate Tribunal - Rs. 10,00,000/-
2. Before High Court- Rs.20,00,000/-
3. Before Supreme Court- Rs. 25,00,000/-

It is clarified that an appeal should not be filed merely because the tax effect in a case exceeds the monetary limits prescribed above. Filing of appeal in such cases is to be decided on merits of the case.

Further, adverse judgments relating to the following issues should be contested on merits notwithstanding that the tax effect entailed is less than the specified monetary limits or there is no tax effect:

(a) Where the Constitutional validity of the provisions of an Act or Rule are under challenge, or

(b) Where Board's order, Notification, Instruction or Circular has been held to be illegal or ultra vires, or
(c) Where Revenue Audit objection in the case has been accepted by the Department, or
(d) Where the addition relates to undisclosed foreign assets/ bank accounts.

The specified monetary limits shall not apply to writ matters and direct tax matters other than Income tax. Filing of appeals in other Direct tax matters shall continue to be governed by relevant provisions of statute & rules.

Further, filing of appeal in cases of Income Tax, where the tax effect is not quantifiable or not involved, such as the case of registration of trusts or institutions under section 12 A of the IT Act, 1961, shall not be governed by the limits specified above and decision to file appeal in such cases may be taken on merits of a particular case.

Meaning and calculation of Tax Effect

Tax effect means the difference between the tax on the total income assessed and the tax that would have been chargeable had such total income been reduced by the amount of income in respect of the issues against which appeal is intended to be filed (hereinafter referred to as "disputed issues"). The tax will not include any interest thereon, except where chargeability of interest itself is in dispute.

In case the chargeability of interest is the issue under dispute, the amount of interest shall be the tax effect.

In cases where returned loss is reduced or assessed as income, the tax effect would include notional tax on disputed additions.

In case of penalty orders, the tax effect will mean quantum of penalty deleted or reduced in the order to be appealed against.

Tax Effect and Relevant Year

"In the past, a number of instances have come to the notice of the Board, whereby an assessee has claimed relief from the Tribunal or the Court only on the ground that the Department has implicitly accepted the decision of the Tribunal or Court in the case of the assessee for any other assessment year or in the case of any other assessee for the same or any other assessment year, by not filing an appeal on the same disputed issues. "

Appeals can be filed only with reference to the tax effect in the relevant assessment year. No appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the specified monetary limit. The Assessing Officer shall calculate the tax effect separately for every assessment year in respect of the disputed issues in the case of every assessee. lf, in the case of an assessee, the disputed issues arise in more than one assessment year, appeal, can be filed in respect of such assessment year or years in which the tax effect in respect of the disputed issues exceeds the specified monetary limit.

In a case where appeal before a Tribunal or a Court is not filed only on account of the tax effect being less than the specified monetary limit, the Commissioner of Income-tax shall specifically record that "*even though the decision is not acceptable, appeal is not being filed only on the consideration that the tax effect is less than the monetary limit specified in this instruction*". Further, in such cases, there will be no presumption that the Income-tax

Department has acquiesced in the decision on the disputed issues.
Accordingly, they should impress upon the Tribunal or the Court that such cases do not have any precedent value. As the evidence of not filing appeal due to this instruction may have to be produced in courts, the judicial folders in the office of CsIT must be maintained in a systemic manner for easy retrieval.

The Income-tax Department shall not be precluded from filing an appeal against the disputed issues in the case of the same assessee for any other assessment year, or in the case of any other assessee for the same or any other assessment year, if the tax effect exceeds the specified monetary limits.

Further, in case of a composite order of any High Court or appellate authority, which involves more than one assessment year and common issues in more than one assessment year, appeal shall be filed in respect of all such assessment years even if the 'tax effect' is less than the prescribed monetary limits in any of the year(s), if it is decided to file appeal in respect of the year(s) in which tax effect exceeds the monetary limit prescribed. In case where a composite order/ judgment involve more than one assessee, each assessee shall be dealt with separately.

This instruction will apply retrospectively to pending appeals and appeals to be filed henceforth in High Courts/ Tribunals. Pending appeals below the specified tax limits may be withdrawn/ not pressed. Appeals before the Supreme Court will be governed by the instructions on this subject, operative at the time when such appeal was filed.

CIRCULAR NO. 22/2015 DATED 17-12-2015- ALLOWABILITY OF EMPLOYER'S CONTRIBUTION TO FUNDS FOR THE WELFARE OF EMPLOYEES IN TERMS OF SECTION 43B (B) OF THE INCOME TAX ACT

As per section 43B of the Act certain deductions are admissible only on payment basis. It is observed by the Board that some field officers disallow employer's contributions to provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees, by invoking the provisions of section 43B of the Act, if it has been paid after the 'due dates', as per the relevant Acts.
The matter has been examined in light of the judicial decisions on this issue. In the case of Commissioner vs. Alom Extrusions Ltd, [2009] 185 TAXMAN 416 (SC), the Apex Court held that the amendments made in section 43B of the Act i.e, deletion of second proviso and amendment in the first proviso, being curative in the nature are retrospectively applicable from 01.04.1988. It further held that by deleting the second proviso to section 43B and by amending first proviso, the contributions to welfare funds have been brought at par with other duty, cess, fee, tax etc. Thus, the proviso is equally applicable to the welfare funds also. Therefore the deduction is allowable to employer assessee if he deposits the contributions to welfare funds on or before the due date of filing of return of income.
Accordingly, w.e.f . 01.04.1988 as per the Apex court judgment, no disallowances under section 43B if the employer deposits the dues in respect of employee welfare funds on or before the due dates as specified in section 139(1).

This Circular does not apply to employee welfare expenses governed by the provisions of section 36(1) (va) of the Income Tax Act.

CIRCULAR NO. 23/2015 DATED - 28TH DECEMBER, 2015 - TDS UNDER SECTION 194A OF THE ACT ON INTEREST ON FIXED DEPOSIT MADE ON DIRECTION OF COURTS

Section 194A of Income Tax Act, 1961 ("the Act") stipulates deductions of tax at source (TDS) on interest other than interest on securities if the aggregate of amount of such interest credited or paid to the account of the payee during the financial year exceeds the specified amount .

In the case **of** UCO Bank in Writ Petition No. 3563 of 2012 **and** CM No. 7517/2012 vide judgment dated 11/11/2014, the Hon'ble Delhi High Court has held that the provisions of section 194A do not apply to fixed deposits made in the name of Registrar General of the Court on the directions of the Court during the pendency of proceedings before the Court. In such cases, till the Court passes the appropriate orders in the matter, it is not known who the beneficiary of the fixed deposits will be. Amount and year of receipt is also unascertainable. The Hon'ble High Court thus held that the person who is ultimately granted the funds would be determined by orders that are passed subsequently. At that stage, undisputedly, tax would be required to be deducted at source to the credit of the recipient. The High Court has also quashed **Circular No. 8 of 2011.**

Accordingly, it is clarified that interest on FDRs made in the name of Registrar General of the Court or the depositor of the fund on the directions of the Court, will not be subject to TDS till the matter is decided by the Court. However, once the Court decides the ownership of the money lying in the fixed deposit, the provisions of section 194A will apply to the recipient of the income.

CIRCULAR NO. 24/2015 DATED 31.12.2015- RECORDING OF SATISFACTION NOTE UNDER SECTION 158BD/153C OF THE ACT

The CBDT has drawn attention to the verdict of the Supreme Court in CIT vs. Calcutta Knitwears 362 ITR 673 in which the stages at which the satisfaction note has to be prepared have been set out.

It clarifies that recording of a satisfaction note is a prerequisite and the satisfaction note must be prepared by the Assessing Officer before he transmits the record to the other Assessing Officer who has jurisdiction over such other person u/s 158BD.

The CBDT has further clarified that even if the Assessing Officer of the searched person and the "other person" is one and the same, then also he is required to record his satisfaction as has been held by the Courts.

CIRCULAR NO. 25/2015 DATED 31.12.2015- PENALTY U/S 271 (1)(C) WHEREIN ADDITIONS/DISALLOWANCES MADE UNDER NORMAL PROVISIONS OF THE INCOME TAX ACT, 1961 BUT TAX LEVIED UNDER MAT PROVISIONS U/S 115JB/115JC, FOR CASES PRIOR TO A.Y. 2016-17

Section 115JB and 115JC of the Act contains provisions relating to levy of Minimum Alternate Tax on Companies and Alternate Minimum Tax on person other than companies respectively.

Under clause (iii) of sub-section (1) of section 271 of the Act, penalty for concealment of income or furnishing inaccurate particulars of income is determined based on the "amount of tax sought to be evaded" which has been defined inter-alia, as the difference between the tax due on the income assessed and the tax which would have been chargeable had such total income been reduced by the amount of concealed income

Pointing out that pursuant to the judgement of the Delhi High Court in Nalwa Sons Investment Ltd 327 ITR 543 (Delhi) and the substitution of Explanation 4 of section 271 of the Act with prospective effect, it is now a settled position that prior to 01/04/2016, where the income tax payable on the total income as computed under the normal provisions of the Act is less than the tax payable on the book profits u/s 115JB of the Act, then penalty under 271(1)(c) of the Act is not attracted with reference to additions /disallowances made under normal provisions. T

he CBDT has clarified that in cases prior to 01/04/2016, if any adjustment is made in the income computed for the purpose of MAT, then the levy of penalty u/s 271(1)(c) of the Act, will depend on the nature of adjustment.

INCOME TAX RULES, 1962

NOTIFICATION NO. 61/ 2015 DATED 29TH JULY, 2015- THE INCOME-TAX (TENTH AMENDMENT) RULES, 2015

In exercise of the powers conferred by section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes has made the Income-tax **(Tenth Amendment)** Rules, 2015 and substituted new respective forms for FORM ITR-3, FORM ITR-4, FORM ITR-5, FORM ITR-6 and FORM ITR-7

This amendment shall be deemed to have come into force with effect from the 1st day of April,

NOTIFICATION NO. 62 DATED 7TH AUGUST, 2015- THE INCOME–TAX (11TH AMENDMENT) RULES, 2015

With respect to registration of persons, due diligence and maintenance of information, and the matters relating to statement of reportable accounts, CBDT has notified the Income–tax (11th Amendment) Rules, 2015 to insert **114F, 114G and 114H** in the Income-tax Rules, 1962 with effect from the date of publication of the notification in the Official Gazette.

'114F Definitions.- For the purpose of this rule and rules 114G and 114H,-

(1) "financial account" means an account (other than an excluded account) maintained by a financial institution, and includes-

(i) a depository account;

(ii) a custodial account;

(iii) in the case of an investment entity, any equity or debt interest in the financial institution.

(iv) in the case of a financial institution not described in sub-clause (iii), any equity or debt interest in the financial institution, if the class of interests was established with a purpose of avoiding reporting in accordance with rule 114G and, in case of a U.S. reportable account, if the value of the debt or equity interest is determined, directly or indirectly, primarily by reference to assets that give rise to U.S. source withholdable payments; and

(v) any cash value insurance contract and any annuity contract issued or maintained by a financial institution, other than a non-investment-linked, non-transferable immediate life annuity that is issued to an individual and monetises a pension or disability benefit provided under an account that is an excluded account.

Explanation to the sub-rule (1) defines, (a) "depository account", (b) "custodial account" , (c) "equity interest", (d) "insurance contract", (e) "annuity contract", (f) "cash value insurance contract", (g) "cash value"

(2) "financial asset" includes a security (for example, a share of stock in a corporation; partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust; note, bond, debenture, or other evidence of indebtedness), partnership interest, commodity, swap (for example, interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps, and similar agreements), insurance contract or annuity contract, or any interest (including a futures or forward contract or option) in a security, partnership interest, commodity, swap, insurance contract, or annuity contract:

Provided that "financial asset" shall not include a non-debt and direct interest in an immovable property;

(3) "financial institution" means a custodial institution, a depository institution, an investment entity, or a specified insurance company.

Explanation to the Sub-rule (3) defines (a) "custodial institution" , (b) "depository institution and (c) "investment entity"

(4) "non-participating financial institution" means a financial institution defined in clause (r) of Article 1 of the agreement between the Government of the Republic of India and the Government of the United States of America to improve international tax compliance and to implement Foreign Account Tax Compliance Act of the United States of America (herein after referred to as the FATCA agreement), but does not include,-

(a) an Indian financial institution; or

(b) other jurisdiction, being a jurisdiction that has in effect an agreement with the United States of America to facilitate the implementation of Foreign Account

(5) "non-reporting financial institution" means any financial institution that is,-

(a) a Governmental entity, International Organisation or Central Bank, other than with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a specified insurance company, custodial institution, or depository institution;

(b) a Treaty Qualified Retirement Fund; a Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; or a Pension Fund of a Governmental entity, International Organization or Central Bank;

(c) a non-public fund of the armed forces, Employees' State Insurance Fund, a gratuity fund or a provident fund;

(d) an entity that is an Indian financial institution only because it is an investment entity, provided that each direct holder of an equity interest in the entity is a financial institution referred to in sub-clauses (a) to (c), and each direct holder of a debt interest in such entity is either a depository institution (with respect to a loan made to such entity) or a financial institution referred to in sub-clauses (a) to (c);

(e) a qualified credit card issuer;

(f) an investment entity established in India that is a financial institution only because it,-

(I) renders investment advice to, and acts on behalf of; or

(II) manages portfolios for, and acts on behalf of; or

(III) executes trades on behalf of,

a customer for the purposes of investing, managing, or administering funds or securities deposited in the name of the customer with a financial institution other than a non-participating financial institution;

(g) an exempt collective investment vehicle;

(h) a trust established under any law for the time being in force to the extent that the trustee of the trust is a reporting financial institution and reports all information required to be reported under rule 114G with respect to all reportable accounts of the trust;

(i) a financial institution with a local client base;

(j) a local bank;

(k) a financial institution with only low-value accounts;
(l) sponsored investment entity and controlled foreign corporation, in case of any U.S. reportable account; or
(m) sponsored closely held investment vehicle, in case of any U.S. reportable account.

Explanation to this Sub-rule defines (A) "Governmental entity" , (B) "International Organisation", (C) "Central Bank", (D) "Treaty Qualified Retirement Fund", (E) "Broad Participation Retirement Fund", (F) "Narrow Participation Retirement Fund", (G) "Pension Fund of a Governmental entity, International Organisation or Central Bank", (H) "non-public fund of the armed forces", (I) "Employees' State Insurance Fund", (J) "gratuity fund" means a fund established under the Payment of Gratuity Act, 1972 (K) "provident fund", (L) "qualified credit card issuer", (M) "exempt collective investment vehicle", (N) "financial institution with a local client base", (O) "local bank", (P) "financial institution with only low-value accounts", (Q) "sponsored investment entity and controlled foreign corporation", (R) "sponsored, closely held investment vehicle"

(6) "reportable account" means a financial account which has been identified, pursuant to the due diligence procedures provided in rule 114H, as held by,-
(a) a reportable person; or
(b) an entity, not based in United Sates of America, with one or more controlling persons that is a specified U.S. person; or
(c) a passive non-financial entity with one or more controlling persons that is a person described in sub-clause (b) of clause (8) of this rule.

Explanation to this Sub-rule defines (A) "active non-financial entity", (B) "controlling person", (C) "non-financial entity", (D) "passive non-financial entity", (E) "related entity", (F) "passive income"

(7) "reporting financial institution" means,-
(a) a financial institution (other than a non-reporting financial institution) which is resident in India, but excludes any branch of such institution, that is located outside India; and
(b) any branch, of a financial institution (other than a non-reporting financial institution) which is not resident in India, if that branch is located in India;

(8) "reportable person" means,-
(a) one or more specified U.S. persons; or
(b) one or more persons other than,-
(i) a corporation, the stock of which is regularly traded on one or more established securities markets;
(ii) any corporation that is a related entity of a corporation mentioned in item (i);
(iii) a Governmental entity;
(iv) an International organisation;
(v) a Central bank; or
(vi) a financial institution,
that is a resident of any country or territory outside India (except the United States of America) under the tax laws of such country or territory or an estate of a decedent who was a resident of any country or territory outside India (except the United States of America) under the tax laws of such country or territory;

(9) “specified U.S. person” means a U.S. Person, other than the persons referred to in sub-clauses (i) to (xiii) of clause (ff) of Article 1 of the FATCA agreement;

(10) “U.S. person” means,-

(a) an individual, being a citizen or resident of the United States of America ;

(b) a partnership or corporation organized in the United States of America or under the laws of the United States of America or any State thereof;

(c) a trust if,-

(i) a court within the United States of America would have authority under applicable law to render orders or judgments concerning substantially all issues regarding administration of the trust; and

(ii) one or more U.S. persons have the authority to control all substantial decisions of the trust; or

(d) an estate of a decedent who was a citizen or resident of the United States of America;

(11) “U.S. reportable account” means a financial account maintained by a reporting financial institution and, pursuant to the due diligence procedures provided in rule 114H, is identified to be held by one or more specified U.S. persons or by an entity not based in the United States of America with one or more controlling persons which is a specified U.S. Person;

(12) “U.S. source withholdable payment” means any payment of interest (including any original issue discount), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income, if such payment is from sources within the United States of America:

Provided that a U.S. source withholdable payment shall not include any payment that is not treated as a withholdable payment in relevant Treasury Regulations of the United States of America;

(13) “withholding foreign partnership” means a foreign partnership that has entered into a withholding agreement with the United States of America in which it agrees to assume primary withholding responsibility for all payments which are made to it for its partners, beneficiaries or owners;

(14) “withholding foreign trust” means a foreign trust that has entered into a withholding agreement with the United States of America in which it agrees to assume primary withholding responsibility for all payments which are made to it for its partners, beneficiaries or owners.

114G. Information to be maintained and reported.

As per Sub-rule (1) of the Rule 114G, the following information shall be maintained and reported by a reporting financial institution in respect of each reportable account:

(a) the name, address, taxpayer identification number and date and place of birth (in the case of an individual) of each reportable person, that is an account holder of the account;

(b) in the case of any entity which is an account holder and which, after application of due diligence procedures prescribed in rule 114H, is identified as having one or more controlling

persons that is a reportable person,-

(i) the name and address of the entity, taxpayer identification number assigned to the entity by the country or territory of its residence; and

(ii) the name, address, date and place of birth of each such controlling person and taxpayer identification number assigned to such controlling person by the country or territory of his residence;

(c) the account number (or functional equivalent in the absence of an account number);

(d) the account balance or value (including, in the case of a cash value insurance contract or annuity contract, the cash value or surrender value) at the end of relevant calendar year or, if the account was closed during such year, immediately before closure;

(e) in the case of any custodial account,-

(i) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year; and

(ii) the total gross proceeds from the sale or redemption of financial assets paid or credited to the account during the calendar year with respect to which the reporting financial institution acted as a custodian, broker, nominee, or otherwise as an agent for the account holder;

(f) in the case of any depository account, the total gross amount of interest paid or credited to the account during the relevant calendar year;

(g) in the case of any account other than that referred to in clauses (e) or (f), the total gross amount paid or credited to the account holder with respect to the account during the relevant calendar year with respect to which the reporting financial institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the account holder during the relevant calendar year; and

(h) in the case of any account held by a non-participating financial institution, for calendar year 2015 and 2016, the name of each non-participating financial institution to which payments have been made and the aggregate amount of such payments:

Provided that the information to be reported,-

(i) with respect to calendar year 2014, is the information referred to in clauses (a), (b), (c) and (d), with regard to U.S. reportable accounts;

(ii) with respect to calendar year 2015, is the information referred to in clauses (a), (b), (c), (d), (f), (g), (h) and sub-clause (i) of clause (e), with regard to U.S. reportable accounts;

(iii) with respect to calendar year 2016, is the information referred to in clauses (a) to (h), with regard to all reportable accounts;

(iv) with respect to calendar year 2017 and subsequent years, is the information referred to in clauses (a) to (g), with regard to all reportable accounts:

Provided further that with respect to each U.S. reportable account which is maintained by a reporting financial institution as on the 30th June, 2014, the taxpayer identification number of any relevant person is not required to be reported if such taxpayer identification number is not in the records of the reporting financial institution.

Sub-rule (2) to rule 114G defines (a) “account holder” and (b) “taxpayer identification number”

(3) Where the person is a resident of more than one country or territory outside India under

the tax laws of such country or territory, the reporting financial institution shall maintain the taxpayer identification number in respect of each such country or territory.

(4) Notwithstanding anything contained in sub-rule (1), with respect to each reportable account which is a pre-existing account, the taxpayer identification number or date of birth is not required to be reported if such taxpayer identification number or date of birth is not in the records of the reporting financial institution:

Provided that the reporting financial institution shall obtain the taxpayer identification number and date of birth with respect to pre-existing accounts by the 31st December, 2016 and shall report it with respect to calendar year 2017 and subsequent years.

(5) Notwithstanding anything contained in sub-rule (1) and sub-rule (4), the taxpayer identification number is not required to be reported if,-

(i) a taxpayer identification number (including its functional equivalent) is not issued by the relevant country or territory outside India in which the person is resident for tax purposes or;

(ii) the domestic law of the relevant country or territory outside India does not require the collection of the taxpayer identification number issued by such country or territory.

(6) Notwithstanding anything contained in sub-rule (1), the place of birth is not required to be reported unless it is available in the electronically searchable data maintained by the reporting financial institution.

(7) The statement of reportable account required to be furnished under clause (k) of sub-section (1) of section 285BA shall be furnished by a reporting financial institution in respect of each account which has been identified, pursuant to due diligence procedure specified in rule 114H, as a reportable account:

Provided that where pursuant to such due diligence procedures no account is identified as a reportable account, a nil statement shall be furnished by the reporting financial institution.

(8) The statement referred to in sub-rule (7) shall be furnished in Form No. 61B for every calendar year by the 31st day of May following that year:

Provided that the statement pertaining to calendar year 2014 shall be furnished by the 31st day of August, 2015.

(9) (*a*) The statement referred to in sub-rule (7) shall be furnished to the Director of Income-tax (Intelligence and Criminal Investigation) or the Joint Director of Income-tax (Intelligence and Criminal Investigation) through online transmission of electronic data to a server designated for this purpose under the digital signature in accordance with the data structure specified in this regard by the Principal Director General of Income-tax (Systems).

(*b*) Principal Director General of Income Tax (Systems) shall specify the procedures, data structures and standards for ensuring secure capture and transmission of data, evolving and implementing appropriate security, archival and retrieval policies.

(10) *(a)* Every reporting financial institution shall communicate to the Principal Director General of Income-tax (Systems) the name, designation and communication details of the

Designated Director and the Principal Officer and obtain a registration number;

(*b*) The statement referred to in sub-rule (7) shall be signed, verified and furnished by the Designated Director of the reporting financial institution on the basis of information available with the institution:

Provided that where the reporting financial institution is a non-resident, the statement may be signed, verified and furnished by a person who holds a valid power of attorney from such Designated Director;

(c) It shall be the duty of every reporting financial institution, its Designated Director, Principal Officer and employees to observe the procedure and the manner of maintaining information as specified by its regulator.

(11)*(a)* The regulator referred to in clause (*c*) of sub-rule (10) shall issue instructions or guidelines to,-

(i) incorporate the requirements of reporting and due diligence procedure specified under rules 114F to 114H;

(ii) provide the procedure and manner of maintaining the information by the reporting financial institution; and

(iii) ensure the availability of the information referred to in sub-rule (1) with the reporting financial institution for meeting its reporting obligation, if such information is not maintained by it under any rule or regulation issued by the regulator.

(b) Every reporting financial institution shall maintain information in respect of financial accounts in accordance with the procedure and manner as may be specified by its regulator from time to time so as to enable reporting of information prescribed under this rule and perform due diligence procedure specified under rule 114H.

114H. Due diligence requirement.

(1) An account shall be treated as a reportable account beginning as on the date it is identified as such pursuant to the due diligence procedure specified in sub-rule (3) to sub-rule (8) and, unless otherwise provided, information with respect to a reportable account shall be reported annually in the calendar year following the calendar year to which the information relates.

Sub-rule (2) to Rule 114H defines (a) “documentary evidence”, (b) “high value account”, (c) “lower value account” , (d) “new account”, (e) “new entity account”, (f) “new individual account”, (g) “other reportable account”, (h) “pre-existing account”, (i) “pre-existing entity account”, (j) “pre-existing individual account” (k) how to determine a balance or value threshold.

Sub-rule (3) of the rule prescribes, the due diligence procedure for the purposes of identifying reportable accounts among pre-existing individual accounts

Sub-rule (4) prescribes the procedures for purposes of identifying reportable accounts among new individual accounts

Sub-rule (5) prescribes the procedures for purposes of identifying reportable accounts among pre-existing entity accounts

Sub-rule (6) prescribes the procedures for purposes of identifying reportable accounts and

accounts held by non-participating financial institutions among new entity accounts

Sub-rule (7) prescribes the additional procedures in implementing the due diligence requirement specified in sub-rules (1) to (6)

Sub-rule (8) prescribes the alternative procedures for the reporting financial institution in case of a U.S. reportable account opened on or after the 1st July, 2014 but before the date of entry into force of FATCA agreement, notwithstanding the due diligence procedures specified in sub-rule (4) or sub-rule (6) of this rule for new accounts.

NOTIFICATION 70/2015 DATED 17TH AUGUST, 2015- INCOME-TAX (TWELFTH AMENDMENT) RULES, 2015

The Central Board of Direct Taxes has notified the Income-tax (Twelfth Amendment) Rules, 2015 to insert rule 126, after rule 125 in Part XV of the Income-tax Rules, 1962 which shall come into force with retrospective effect from the 1st day of April, 2015.

126. Computation of period of stay in India in certain cases. –

(1). For the purposes of clause (1) of section 6, in case of an individual, being a citizen of India and a member of the crew of a ship, the period or periods of stay in India shall, in respect of an eligible voyage, not include the period computed in accordance with sub-rule (2).

(2). The period referred to in sub-rule (1) shall be the period beginning on the date entered into the Continuous Discharge Certificate in respect of joining the ship by the said individual for the eligible voyage and ending on the date entered into the Continuous Discharge Certificate in respect of signing off by that individual from the ship in respect of such voyage.

Explanation: For the purposes of this rule,-

(a) "Continuous Discharge Certificate" shall have the meaning assigned to it in the Merchant Shipping (Continuous Discharge Certificate-cum- Seafarer's Identity Document) Rules, 2001 made under the Merchant Shipping Act, 1958 (44 of 1958);

(b) "eligible voyage" shall mean a voyage undertaken by a ship engaged in the carriage of passengers or freight in international traffic where- (i) for the voyage having originated from any port in India, has as its destination any port outside India; and (ii) for the voyage having originated from any port outside India, has as its destination any port in India.'.

NOTIFICATION NO. 75/2015 DATED 23RD SEPTEMBER, 2015- INCOME-TAX (THIRTEENTH AMENDMENT) RULES TO AMEND THE INCOME-TAX RULES, 1962

In exercise of the powers conferred by section 295, read with clause (14) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes has notified the Income-tax (Thirteenth Amendment) Rules to insert the words "or deaf and dumb" after the words "who is blind" under column (2) relating to "name of allowance" against serial number 11 in the Table in rule 2BB (2).

The amendment shall come into force on the date of publication in the Official Gazette.

NOTIFICATION NO. 76/2015 DATED 29TH SEPTEMBER, 2015- INCOME-TAX (14TH AMENDMENT) RULES, 2015

The Central Board of Direct Taxes has notified the Income-tax (14th Amendment) Rules, 2015 to further to substitute following under rule 29C of the Income-tax Rules, 1962 which shall come into force on the 1st day of October, 2015.

29C. Declaration by person claiming receipt of certain incomes without deduction of tax.—

It prescribes that a declaration under sub-section (1) or under sub-section (1A) of section 197A shall be in Form No. 15G and declaration under sub-section (1C) of section 197A shall be in Form No. 15H either in paper form or electronically after duly verifying through an electronic process

The person responsible for paying any income of the nature referred to in sub-section (1) or sub-section (1A) or sub-section (1C) of section 197A, shall

- allot a unique identification number to each declaration received by him in Form No.15G and Form No.15H respectively during every quarter of the financial year in accordance with the prescribed procedures
- furnish the particulars of declaration received by him during any quarter of the financial year along with the unique identification number allotted by him under sub-rule (3) in the statement of deduction of tax of the said quarter in accordance with the prescribed provisions
- furnish the statement of deduction of tax referred to in rule 31A containing the particulars of declaration received by him during each quarter of the financial year along with the unique identification number allotted by him under sub-rule (3) in accordance with the prescribed provisions irrespective of the fact that no tax has been deducted in the said quarter.

Subject to the above provisions, an income-tax authority may, before the end of seven years from the end of the financial year in which the declaration has been received, require the person referred above to furnish or make available the declaration for the purposes of verification or any proceeding under the Act in accordance with the procedures, formats and standards specified by Principal Director General of Income tax (Systems)

The Principal Director General of Income-tax (Systems) shall

- specify the procedures, formats and standards for the purposes of furnishing and verification of the declaration, allotment of unique identification number and furnishing or making available the declaration to the income tax authority
- be responsible for the day-to-day administration in relation to the furnishing of the particulars of declaration
- make available the information of declaration furnished by the person referred to in sub-rule (3) to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner to whom the Assessing Officer having jurisdiction to assess the person who has furnished the declaration under sub-section (1) or under sub-section (1A) or under sub-section (1C) of section 197A is subordinate.”.

In Appendix-II of the said rules, for Form No.15G and Form No.15H, the new Forms Form No.15G and Form No.15H has been respectively substituted.

NOTIFICATION NO. 78/2015 DATED12TH OCTOBER, 2015 - INCOME-TAX (15TH AMENDMENT) RULES, 2015

The Central Board of Direct Taxes has notified the Income-tax (15th Amendment) Rules, 2015 to amend

Sub-rules (2) and (3) in the rule 11DD of the Income-tax Rules shall come into force on the date of publication in the Official Gazette.

Sub –rule (2)

"The prescription in respect of the diseases or ailments specified in sub-rule (1) shall be issued by the following specialists:-

(a) for diseases or ailments mentioned in clause (*i*) of sub-rule (1) - a Neurologist having a Doctorate of Medicine (D.M.) degree in Neurology or any equivalent degree, which is recognised by the Medical Council of India;

(b) for diseases or ailments mentioned in clause (*ii*) of sub-rule (1) - an Oncologist having a Doctorate of Medicine (D.M.) degree in Oncology or any equivalent degree which is recognised by the Medical Council of India;

(c) for diseases or ailments mentioned in clause (iii) of sub-rule (1) - any specialist having a post-graduate degree in General or Internal Medicine, or any equivalent degree which is recognised by the Medical Council of India;

(d) for diseases or ailments mentioned in clause (*iv*) of sub-rule (1) - a Nephrologist having a Doctorate of Medicine(D.M.) degree in Nephrology or a Urologist having a Master of Chirurgiae(M.Ch.) degree in Urology or any equivalent degree, which is recognised by the Medical Council of India;

(e) for diseases or ailments mentioned in clause (*v*) of sub-rule (1) – a specialist having a Doctorate of Medicine (D.M.) degree in Hematology or any equivalent degree, which is recognised by the Medical Council of India:

Provided that where in respect of any diseases or ailments specified in sub-rule (1), the patient is receiving the treatment in a Government hospital, the prescription may be issued by any specialist working full-time in that hospital and having a post-graduate degree in General or Internal Medicine or any equivalent degree, which is recognised by the Medical Council of India."

Sub-rule (3)

"The prescription referred to in sub-rule(2) shall contain the name and age of the patient, name of the disease or ailment along with the name, address, registration number and the qualification of the specialist issuing the prescription:

Provided that where the patient is receiving the treatment in a Government hospital, such prescription shall also contain the name and address of the Government hospital."

NOTIFICATION NO. 83/2015 DATED 19TH OCTOBER, 2015- THE INCOME-TAX (16TH AMENDMENT), RULES, 2015

The Central Board of Direct Taxes has notified the Income-tax (16th Amendment), Rules, 2015 to make following amendments in rule 10B and insert rule 10CA after rule 10C of the Income-tax Rules, 1962, which shall come into force on the date of their publication in the Official Gazette.

(I) in rule 10B

(i) in sub-rule (4),-

(a) after the words "relating to the financial year", the brackets, words, figures and letters "(hereafter in this rule and in rule 10 CA referred to as the 'current year')" shall be inserted;

(b) in the proviso, for the words "such financial year", the words "the current year " shall be substituted;

(c) after the proviso, the following proviso shall be inserted, namely:-

"Provided further that the first proviso shall not apply while analysing the comparability of an uncontrolled transaction with an international transaction or a specified domestic transaction, entered into on or after the 1st day of April, 2014.";

(ii) after sub-rule (4), the following sub-rule shall be inserted, namely:-

"(5) In a case where the most appropriate method for determination of the arm's length price of an international transaction or a specified domestic transaction, entered into on or after the 1st day of April, 2014, is the method specified in clause (b), clause (c) or clause (e) of sub-section (1) of section 92 C , then, notwithstanding anything contained in sub-rule (4), the data to be used for analysing the comparability of an uncontrolled transaction with an international transaction *or a specified domestic transaction* shall be,-

(i) the data relating to the current year ; or
(ii) the data relating to the financial year immediately preceding the current year, if the data relating to the current year is not available at the time of furnishing the return of income by the assessee , for the assessment year relevant to the current year:

Provided that where the data relating to the current year is subsequently available at the time of determination of arm's length price of an international transaction or a specified domestic transaction during the course of any assessment proceeding for the assessment year relevant to the current year, then, such data shall be used for such determination irrespective of the fact that the data was not available at the time of furnishing the return of income of the relevant assessment year.";

(II) after rule 10 C, the following rule and illustrations shall be inserted, namely

10 CA. Computation of arm's length price in certain cases

(1) Where in respect of an international transaction or a specified domestic transaction, the application of the most appropriate method referred to in sub-section (1) of section 92 C results in determination of more than one price, then the arm's length price in respect of such

international transaction or specified domestic transaction shall be computed in accordance with the provisions of this rule.

(2) A dataset shall be constructed by placing the prices referred to in sub-rule (1) in an ascending order and the arm's length price shall be determined on the basis of the dataset so constructed:

Provided that in a case referred to in clause (i) of sub-rule (5) of rule 10B, where the comparable uncontrolled transaction has been identified on the basis of data relating to the current year and the enterprise undertaking the said uncontrolled transaction, [not being the enterprise undertaking the international transaction or the specified domestic transaction referred to in sub-rule (1)], has in either or both of the two financial years immediately preceding the current year undertaken the same or similar comparable uncontrolled transaction then,-

(i) the most appropriate method used to determine the price of the comparable uncontrolled transaction undertaken in the current year shall be applied in similar manner to the comparable uncontrolled transaction or transactions undertaken in the aforesaid period and the price in respect of such uncontrolled transactions shall be determined; and

(ii) the weighted average of the prices, computed in accordance with the manner provided in sub-rule (3) , of the comparable uncontrolled transactions undertaken in the current year and in the aforesaid period preceding it shall be included in the dataset instead of the price referred to in sub-rule (1) :

Provided further that in a case referred to in clause (ii) of sub-rule (5) of rule 10B, where the comparable uncontrolled transaction has been identified on the basis of the data relating to the financial year immediately preceding the current year and the enterprise undertaking the said uncontrolled transaction, [not being the enterprise undertaking the international transaction or the specified domestic transaction referred to in sub-rule (1)], has in the financial year immediately preceding the said financial year undertaken the same or similar comparable uncontrolled transaction then, -

(i) the price in respect of such uncontrolled transaction shall be determined by applying the most appropriate method in a similar manner as it was applied to determine the price of the comparable uncontrolled transaction undertaken in the financial year immediately preceding the current year; and

(ii) the weighted average of the prices, computed in accordance with the manner provided in sub-rule (3) , of the comparable uncontrolled transactions undertaken in the aforesaid period of two years shall be included in the dataset instead of the price referred to in sub-rule (1):

Provided also that where the use of data relating to the current year in terms of the proviso to sub-rule (5) of rule 10 B establishes that,-

(i) the enterprise has not undertaken same or similar uncontrolled transaction during the current year ; or

(ii) the uncontrolled transaction undertaken by an enterprise in the current year is not a comparable uncontrolled transaction,

then, irrespective of the fact that such an enterprise had undertaken comparable uncontrolled transaction in the financial year immediately preceding the current year or the financial year

immediately preceding such financial year, the price of comparable uncontrolled transaction or the weighted average of the prices of the uncontrolled transactions, as the case may be, undertaken by such enterprise shall not be included in the dataset.

(3) Where an enterprise has undertaken comparable uncontrolled transactions in more than one financial year, then for the purposes of sub-rule (2) the weighted average of the prices of such transactions shall be computed in the following manner, namely:-

(i) where the prices have been determined using the method referred to in clause (b) of sub-rule (1) of rule 10 B , the weighted average of the prices shall be computed with weights being assigned to the quantum of sales which has been considered for arriving at the respective prices;

(ii) where the prices have been determined using the method referred to in clause (c) of sub-rule (1) of rule 10 B , the weighted average of the prices shall be computed with weights being assigned to the quantum of costs which has been considered for arriving at the respective prices ;

(iii) where the prices have been determined using the method referred to in clause (e) of sub-rule (1) of rule 10 B, the weighted average of the prices shall be computed with weights being assigned to the quantum of costs incurred or sales effected or assets employed or to be employed, or as the case may be, any other base which has been considered for arriving at the respective prices.

(4) Where the most appropriate method applied is a method other than the method referred to in clause (d) or clause (f) of sub-section (1) of section 92 C and the dataset constructed in accordance with sub-rule (2) consists of six or more entries, an arm’s length range beginning from the thirty-fifth percentile of the dataset and ending on the sixty-fifth percentile of the dataset shall be constructed and the arm’s length price shall be computed in accordance with sub-rule(5) and sub-rule (6).

(5) If the price at which the international transaction or the specified domestic transaction has actually been undertaken is within the range referred to in sub-rule (4), then, the price at which such international transaction or the specified domestic transaction has actually been undertaken shall be deemed to be the arm’s length price.

(6) If the price at which the international transaction or the specified domestic transaction has actually been undertaken is outside the arm's length range referred to in sub-rule (4), the arm’s length price shall be taken to be the median of the dataset.

(7) In a case where the provisions of sub-rule (4) are not applicable, the arm's length price shall be the arithmetical mean of all the values included in the dataset:

Provided that, if the variation between the arm's length price so determined and price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed such percentage not exceeding three percent. of the latter, as may be notified by the Central Government in the Official Gazette in this behalf, the price at which the international transaction or specified domestic transaction has actually been undertaken shall be deemed to be the arm's length price .

(8) For the purposes of this rule,-

(a) “the thirty-fifth percentile” of a dataset, having values arranged in an ascending order, shall be the lowest value in the dataset such that at least thirty five percent. of the values included in the dataset are equal to or less than such value :
Provided that, if the number of values that are equal to or less than the aforesaid value is a whole number , then the thirty-fifth percentile shall be the arithmetic mean of such value and the value immediately succeeding it in the dataset ;
(b) “the sixth-fifth percentile” of a dataset, having values arranged in an ascending order, shall be the lowest value in the dataset such that at least sixty five percent. of the values included in the dataset are equal to or less than such value:
Provided that, if the number of values that are equal to or less than the aforesaid value is a whole number , then the sixty-fifth percentile shall be the arithmetic mean of such value and the value immediately succeeding it in the dataset;
(c) “the median” of the dataset, having values arranged in an ascending order, shall be the lowest value in the dataset such that at least fifty percent of the values included in the dataset are equal to or less than such value :

Provided that, if the number of values that are equal to or less than the aforesaid value is a whole number , then the median shall be the arithmetic mean of such value and the value immediately succeeding it in the dataset.

NOTIFICATION NO. 84/2015 DATED THE 20TH OCTOBER. 2015- LNCOME-TAX (17TH AMENDMENT) RULES, 2015

The Central Board of Direct Taxes has made the lncome-tax (17th Amendment) Rules, 2015 to substitute sub-rules (1) and (2) sub-rules (1) and (2) of the Income-tax Rules, 1962 which shall come into force from the 14th day of May. 2015.

In the Income-tax Rules, 1962 in rule 2F for, the following sub-rules shall be substituted namely:-

Sub Rule (1) of 2F

The Infrastructure Debt Fund shall be set up as a Non-Banking Financial Company conforming to and satisfying the conditions provided by the Reserve Bank of India in the Infrastructure Debt Fund - Non-Banking Financial Companies (Reserve Bank) Directions, 2011, vide notification No, DNBS 233/CGM (US)-2011 dated the 21st November, 2011 as amended vide Notification No. DNBR.020/CGM (CDS)-2015 dated the 14th May, 2015

Sub Rule (2) of 2F

The funds of the Infrastructure Debt Fund shall be invested only in Post Commencement Operation Date Infrastructure Projects which have completed at least one year of satisfactory commercial operations that are-

(i) Public Private Partnership Projects and are party to tripartite agreement with the concessionaire and the project authority for ensuring compulsory buy out and termination payment;

(ii) Non-Public Private Partnership Projects and Public Private Partnership Projects without a project authority in sectors where there is no project authority"

NOTIFICATION NO. 89/2015 DATED 2ND DECEMBER, 2015-INCOME-TAX (18TH AMENDMENT) RULES, 2015

The Central Board of Direct Taxes has notified the Income-tax **(18th Amendment)** Rules, 2015 to insert rule 127 after rule 126 in the Income-tax Rules, 1962, which shall come into force on the date of publication in the Official Gazette.

127 "**Service of notice, summons, requisition, order and other communication.**

(1) For the purposes of sub-section (1) of section 282, the addresses (including the address for electronic mail or electronic mail message) to which a notice or summons or requisition or order or any other communication under the Act (hereafter in this rule referred to as "communication") may be delivered or transmitted shall be as per sub-rule (2).

(2) The addresses referred to in sub-rule (1) shall be-

(a) for communications delivered or transmitted in the manner provided in clause (a) or clause (b) of sub-section(1) of section 282; the address available in -

(i) the PAN database of the addressee; or
(ii) the income-tax return to which the communication relates; or
(iii) the last income-tax return furnished by the addressee; or
(iv) the website of Ministry of Corporate Affairs as address of the registered office in the case of a company

Provided that the communication shall not be delivered or transmitted to the address mentioned in item (i) to (iv) where the addressee furnishes in writing any other address for the purposes of communication to the income-tax authority or any person authorised by such authority issuing the communication;

(b) for communications delivered or transmitted electronically; email address-

(i) available in the income-tax return furnished by the addressee to which the communication relates; or
(ii) available in the last income-tax return furnished by the addressee; or
(iii) available on the website of Ministry of Corporate Affairs, in the case of a company,
(iv) made available by the addressee to the income-tax authority or any person authorised by such income-tax authority.

(3) The Principal Director General of Income-tax(Systems) or the Director General of Income-tax(Systems) shall specify the procedure, formats and standards for ensuring secure transmission of electronic communication and shall also be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to such communication."

NOTIFICATION NO. 90 DATED 8TH DECEMBER, 2015- INCOME-TAX (19TH AMENDMENT) RULES, 2015

The Central Board of Direct Taxes has notified the Income-tax (19th Amendment) Rules, 2015 to make following amendments in rule 10D,10THA, 10THB,10THC and 10THD of the Income-tax Rules, 1962 which shall come into force from the date of their publication in the Official Gazette.

In rule 10D, for sub-rule (2A), the following sub-rule has been substituted, namely:-

“(2A) Nothing contained in sub-rule (1), in so far as it relates to an eligible specified domestic transaction referred to in rule 10 THB , shall apply in a case of an eligible assessee mentioned in rule 10 THA and-

(a) the eligible assessee, referred to in clause (i) of rule 10THA, shall keep and maintain the following information and documents, namely:-

(i) a description of the ownership structure of the assessee enterprise with details of shares or other ownership interest held therein by other enterprises;
(ii) a broad description of the business of the assessee and the industry in which the assessee operates, and of the business of the associated enterprises with whom the assessee has transacted;
(iii) the nature and terms (including prices) of specified domestic transactions entered into with each associated enterprise and the quantum and value of each such transaction or class of such transaction;
(iv) a record of proceedings, if any, before the regulatory commission and orders of such commission relating to the specified domestic transaction;
(v) a record of the actual working carried out for determining the transfer price of the specified domestic transaction;
(vi) the assumptions, policies and price negotiations, if any, which have critically affected the determination of the transfer price; and
(vii) any other information, data or document, including information or data relating to the associated enterprise, which may be relevant for determination of the transfer price;

(b) the eligible assesse, referred to in clause (ii) of rule 10THA, shall keep and maintain the following information and documents, namely:-

(i) a description of the ownership structure of the assessee co-operative society with details of shares or other ownership interest held therein by the members;
(ii) description of members including their addresses and period of membership;
(iii) the nature and terms (including prices) of specified domestic transactions entered into with each member and the quantum and value of each such transaction or class of such transaction;
(iv) a record of the actual working carried out for determining the transfer price of the specified domestic transaction;
(v) the assumptions, policies and price negotiations, if any, which have critically affected the determination of the transfer price;
(vi) the documentation regarding price being routinely declared in transparent manner and being available in public domain; and
(vii) any other information, data or document which may be relevant for determination of the transfer price.”.

In rule 10THA of the said rules, for the words “and is a Government company engaged in the business of generation, transmission or distribution of electricity” , the following shall be substituted,
namely :-
“and-
(i) is a Government company engaged in the business of generation, transmission or distribution of electricity; or

(ii) is a co-operative society engaged in the business of procuring and marketing milk and milk products".

In rule 10THB of the said Rules, after clause (iii) the following clause shall be inserted, namely:-

"or (iv) purchase of milk or milk products by a co-operative society from its members.".

In sub-rule (2) of rule 10THC of the said rules, in the Table, after serial number 1 and entries relating
thereto, the following serial number and entries shall be inserted, namely:-
"2 Purchase of milk or milk products referred to in clause (iv) of rule 10THB.
The price of milk or milk products is determined at a rate which is fixed on the basis of the quality of milk, namely, fat content and Solid Not Fat (SNF) content of milk; and-
(a) the said rate is irrespective of,-

(i) the quantity of milk procured;
(ii) the percentage of shares held by the members in the co-operative society;
(iii) the voting power held by the members in the society; and

(b) such prices are routinely declared by the cooperative society in a transparent manner and are available in public domain.".

In sub-rule (1) of rule 10 THD of the said rules, after the second proviso, the following proviso shall be
inserted, namely:-
"Provided also that in respect of eligible specified domestic transactions, referred to in clause (iv) of
rule 10 THB, undertaken during the previous year relevant to the assessment year beginning on the
1st day of April, 2013 or beginning on the 1st day of April, 2014 or beginning on the 1st day of April,
2015, Form 3CEFB may be furnished by the assessee on or before the 31st day of December, 2015."

Notification No. 92 dated 11th December, 2015-Income-tax (20thAmendment) Rules, 2015
The Central Board of Direct Taxes has prescribed the Income-tax (20thAmendment) Rules, 2015.
to insert rule 12CB after the rule 12CA of the Income-tax Rules, 1962 which shall come into force from the date of their publication in the Official Gazette.

12CB. "**Statement under sub-section (7) of section 115UB.**
(1) The statement of income paid or credited by an investment fund to its unit holder shall be furnished by the person responsible for crediting or making payment of the income on behalf of an investment fund and the investment fund to the-

(i) unit holder by 30th day of June of the financial year following the previous year during which the income is paid or credited in Form No. 64C, duly verified by the person paying or crediting the
income on behalf of the investment fund in the manner indicated therein; and

(ii) Principal Commissioner or the Commissioner of Income-tax within whose jurisdiction the Principal office of the investment fund is situated by 30th day of November of the financial year following the previous year during which the income is paid or credited, electronically under digital signature, in Form No. 64D duly verified by an accountant in the manner indicated therein.

(2) The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems), as the case may be, shall specify the procedure for filing of Form No. 64D and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the statements of income paid or credited so furnished under this rule."

In Appendix-II, after the Form No. 64B, the Forms 64C and 64D have been inserted.

NOTIFICATION NO. 93 DATED 16TH DECEMBER, 2015-INCOME-TAX (21ST AMENDMENT) RULES, 2015

The Central Board of Direct Taxes has notified the Income-tax (21st Amendment) Rules, 2015 to amend rule 37BB of the Income-tax Rules, 1962, which shall come into force on the 1st day of April, 2016.

"37BB. Furnishing of information for payment to a non-resident, not being a company, or to a foreign company

The person responsible for paying to a non-resident, not being a company, or to a foreign company shall furnish following information:

For transactions	Furnish the following
For any sum chargeable under the provisions of the Act, if the amount of payment or the aggregate of such payments, made during the financial year does not exceed five lakh rupees	the information in Part A of Form No.15CA
For any sum chargeable under the provisions of the Act, for payments exceeding Rs. 5,00,000	the information: (a) in Part B of Form No.15CA after obtaining (I) a certificate from the Assessing Officer under section 197; or (II) an order from the Assessing Officer under sub-section (2) or sub-section (3) of section 195; (b) in Part C of Form No.15CA after obtaining a certificate in Form No. 15CB from an accountant as defined in the *Explanation* below sub-section (2) of section 288.
For any sum which is not chargeable under the provisions of the Act	the information in Part D of Form No.15CA

(3) Notwithstanding anything contained above, no information is required to be furnished for any sum which is not chargeable under the provisions of the Act, if,—

(i) the remittance is made by an individual and it does not require prior approval of Reserve Bank of India as per the provisions of section 5 of the Foreign Exchange

Management Act, 1999 read with Schedule III to the Foreign Exchange (Current Account Transaction) Rules, 2000; or

(ii) the remittance is of the nature specified below:

- Indian investment abroad- in equity capital (shares), debt securities, branches and wholly owned subsidiaries, subsidiaries and associates, real estate
- Loans extended to Non-Residents
- Advance payment against imports or payment towards imports-settlement of invoice
- Imports by diplomatic missions or imports below Rs.5,00,000-(For use by ECD offices)
- Intermediary trade
- Payment for operating expenses of Indian shipping companies operating abroad or Indian Airlines companies operating abroad
- Booking of passages abroad - Airlines companies

NOTIFICATION NO. 95 DATED 30TH DECEMBER, 2015- INCOME–TAX (22ND AMENDMENT) RULES, 2015

The Central Board of Direct Taxes has notified the Income–tax (22nd Amendment) Rules, 2015 to amend the Income-tax Rules by substituting existing rule 114B, 114C, 114D and 114E, with the following rules respectively Rules 114B, 114C and 114D and shall come into force from the 1st day of January, 2016 and rule 114E shall come into force from the 1st day of April, 2016.

"114B. Transactions in relation to which permanent account number is to be quoted in all documents for the purpose of clause (c) of sub-section (5) of section 139A

Every person shall quote his permanent account number in all documents pertaining to the transactions specified in the Table below, namely:

Sl.No.	Nature of transaction	Value of transaction
1.	Sale or purchase of a motor vehicle or vehicle, as defined in clause (28) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988) which requires registration by a registering authority under Chapter IV of that Act, other than two wheeled vehicles.	All such transactions.
2.	Opening an account other than a time-deposit referred to at Sl. No.12 and a Basic Savings Bank Deposit Account with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act).	All such transactions.
3.	Making an application to any banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act) or to any other company or institution, for issue of a credit or debit card.	All such transactions.
4.	Opening of a demat account with a depository, participant, custodian of securities or any other person registered under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992).	All such transactions.

5.	Payment to a hotel or restaurant against a bill or bills at any one time.	Payment in cash of an amount exceeding fifty thousand rupees.
6.	Payment in connection with travel to any foreign country or payment for purchase of any foreign currency at any one time.	Payment in cash of an amount exceeding fifty thousand rupees.
7.	Payment to a Mutual Fund for purchase of its units.	Amount exceeding fifty thousand rupees.
8.	Payment to a company or an institution for acquiring debentures or bonds issued by it.	Amount exceeding fifty thousand rupees.
9.	Payment to the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934) for acquiring bonds issued by it.	Amount exceeding fifty thousand rupees.
10.	Deposit with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act).	Deposits in cash exceeding fifty thousand rupees during any one day.
11.	Purchase of bank drafts or pay orders or banker's cheques from a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act).	Payment in cash for an amount exceeding fifty thousand rupees during any one day.
12.	A time deposit with, - *(i)* a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act); *(ii)* a Post Office; *(iii)* a Nidhi referred to in section 406 of the Companies Act, 2013 (18 of 2013); or *(iv)* a non-banking financial company which holds a certificate of registration under section 45-IA of the Reserve Bank of India Act, 1934 (2 of 1934), to hold or accept deposit from public.	Amount exceeding fifty thousand rupees or aggregating to more than five lakh rupees during a financial year.
13.	Payment for one or more pre-paid payment instruments, as defined in the policy guidelines for issuance and operation of pre-paid payment instruments issued by Reserve Bank of India under section 18 of the Payment and Settlement Systems Act, 2007 (51 of 2007), to a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act) or to any other company or institution.	Payment in cash or by way of a bank draft or pay order or banker's cheque of an amount aggregating to more than fifty thousand rupees in a financial year.
14.	Payment as life insurance premium to an insurer as defined in clause (9) of section 2 of the Insurance Act, 1938 (4 of 1938).	Amount aggregating to more than fifty thousand rupees in a financial year.
15.	A contract for sale or purchase of securities (other than shares) as defined in clause (*h*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).	Amount exceeding one lakh rupees per transaction.
16.	Sale or purchase, by any person, of shares of a company not	Amount exceeding one lakh

	listed in a recognised stock exchange.	rupees per transaction.
17.	Sale or purchase of any immovable property.	Amount exceeding ten lakh rupees or valued by stamp valuation authority referred to in section 50C of the Act at an amount exceeding ten lakh rupees.
18.	Sale or purchase, by any person, of goods or services of any nature other than those specified at Sl. No. 1 to 17 of this Table, if any.	Amount exceeding two lakh rupees per transaction:

Provided that where a person, entering into any transaction referred to in this rule, is a minor and who does not have any income chargeable to income-tax, he shall quote the permanent account number of his father or mother or guardian, as the case may be, in the document pertaining to the said transaction:
Provided further that any person who does not have a permanent account number and who enters into any transaction specified in this rule, he shall make a declaration in Form No.60 giving therein the particulars of such transaction:
Provided also that the provisions of this rule shall not apply to the following class or classes of persons, namely:-

(i) the Central Government, the State Governments and the Consular Offices;
(ii) the non-residents, in respect of certain transactions

Explanation to his rule defines (1) "payment in connection with travel", (2) "travel agent or tour operator" and (3) "time deposit"

114C. Verification of Permanent Account Number in transactions specified in rule 114B

(1) Any person being,—

(a) a registering officer or an Inspector-General appointed under the Registration Act, 1908;
(b) a person who sells the immovable property or motor vehicle;
(c) a manager or officer of a banking company or co-operative bank, as the case may be
(d) post master;
(e) intermediaries registered under sub-section (1) section 12 of the Securities and Exchange Board of India Act, 1992;
(f) a depository, participant, custodian of securities or any other person registered under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992
(g) the principal officer of a company
(h) the principal officer of an institution
(i) any trustee or any other person duly authorised by the trustee of a Mutual Fund
(j) an officer of the Reserve Bank of India, or of any agency bank authorised by the Reserve bank of India;
(k) a manager or officer of an insurer

who, in relation to a transaction specified in rule 114B, has received any document shall ensure after verification that Permanent Account Number has been duly and correctly mentioned therein or as the case may be, a declaration in Form 60 has been duly furnished with complete particulars.

(2) Any person, being a person raising bills, who, in relation to a transaction specified in the rule 114B has issued any document shall ensure after verification that permanent account number has been correctly furnished and the same shall be mentioned in such document, or as the case may be, a declaration in Form 60 has been duly furnished with complete particulars.

114D. Time and manner in which persons referred to in rule 114C shall furnish a statement containing particulars of Form No. 60

(1) Every person referred to in rule 114C and who is required to get his accounts audited under section 44AB of the Act, who has received any declaration in Form No. 60, on or after the 1st day of January, 2016, in relation to a transaction specified in rule 114B, shall-

(i) furnish a statement in Form No. 61 containing particulars of such declaration to the Director of Income-tax (Intelligence and Criminal Investigation) or the Joint Director of Income-tax (Intelligence and Criminal Investigation) through online transmission of electronic data to a server designated for this purpose and obtain an acknowledgement number; and

(ii) retain Form No. 60 for a period of six years from the end of the financial year in which the transaction was undertaken.

(2) The statement referred to in clause (i) of sub-rule (1) shall,-

(i) where the declarations are received by the 30th September, be furnished by the 31st October of that year; and

(ii) where the declarations are received by the 31st March, be furnished by the 30th April of the financial year immediately following the financial year in which the form is received.

(3) The statement referred to in clause (i) of sub-rule (1) shall be verified—

(a) in a case where the person furnishing the statement is an assessee as defined in clause (7) of section 2 of the Act, by a person specified in section 140 of the Act;

(b) in any other case, by the person referred to in rule 114C.

114E. Furnishing of statement of financial transaction

(1) The statement of financial transaction required to be furnished under sub-section (1) of section 285BA of the Act shall be furnished in respect of a financial year in Form No. 61A and shall be verified in the manner indicated therein.

(2) The statement referred to in sub-rule (1) shall be furnished by every person and in respect of all the transactions of the nature and value specified, which are registered or recorded by him on or after the 1st day of April, 2016.

INTERNATIONAL TAXATION

NOTIFICATION NO. 86 /2015 DATED 29TH OCTOBER, 2015

In exercise of the powers conferred by the third proviso to sub-section (2) of section 92C of the Income-tax Act, 1961 (43 of 1961) read with proviso to sub-rule (7) of rule 10CA of the Income-tax Rules, 1962, the Central Government has notified that where the variation between the arm's length price determined under section 92C and the price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed:

- one percent of the latter in respect of wholesale trading; and
- three percent of the latter in all other cases

The price at which the international transaction or specified domestic transaction has actually been undertaken shall be deemed to be the arm's length price for Assessment Year 2015-2016.

NOTIFICATION 63/2015 DATED 12TH AUGUST, 2015

The agreement between the Government of the Republic of India and the Government of the Republic of San Marino, for the exchange of information with respect to taxes was signed at Rome, on the 19th day of December, 2013; the said agreement shall have effect in the Union of India from the 29th day of August, 2014.

NOTIFICATION NO. 77/2015 DATED 30TH SEPTEMBER, 2015

An Inter-Governmental Agreement and Memorandum of Understanding (MoU) between the Government of the Republic of India and the Government of the United States of America to improve International Tax Compliance and to implement Foreign Account Tax Compliance Act of the United States of America was signed at New Delhi on the 9th day of July, 2015; the said Agreement, shall be given effect to in the Union of India with effect from the 31st August, 2015.

NOTIFICATION NO. 88/2015 DATED 1ST DECEMBER, 2015

An Agreement between the Government of the Republic of India and the Government of the Kingdom of Thailand for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income was signed in Thailand on the 29th day of June, 2015, the said Agreement entered into force on the 13th day of October, 2015, being the date of the later of the notifications of the completion of the procedures required by the respective laws for entry into force of the said Agreement, in accordance with paragraph 2 of Article 29 of the said Agreement;

And whereas, clause (a) of paragraph 3 of Article 29 of the said Agreement provides that the provisions of the Agreement shall have effect in India in respect of income derived in any fiscal year beginning on or after the first day of April following the calendar year in which the said Agreement enters into force; Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies that all the provisions of said Agreement, shall be given effect to in the Union of India.

NOTIFICATION NO. 94 DATED 21ST DECEMBER, 2015

An Agreement was entered into between the Government of the Republic of India and the Government of the Republic of Macedonia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income that was signed at Delhi on the 17th December, 2013, the date of entry into force of the said Agreement is the 12th September, 2014, being the date of the later of the notifications of completion of the procedures as required by the respective laws for entry into force of the said Agreement.

In exercise of the powers conferred by section 90 of the Income-tax Act, 1961, the Central Government has directed that all the provisions of the said Agreement between the Government of the Republic of India and the Government of the Republic of Macedonia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, as set out in the Annexure hereto, shall be given effect to in the Union of India from the first day of April, 2015.

THE BLACK MONEY (UNDISCLOSED FOREIGN INCOME AND ASSETS) AND IMPOSITION OF TAX ACT, 2015

The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 as passed by the Parliament received the assent of the President on the 26th of May 2015. The Act contains provisions to deal with the menace of black money stashed away abroad.

It, *inter alia*:

- levies tax on undisclosed assets held abroad by a person who is a resident in India at the rate of 30 percent of the value of such assets
- provides for a penalty equal to 90 percent of the value of such asset
- provides for rigorous imprisonment of three to ten years for willful attempt to evade tax in relation to a undisclosed foreign income or asset.

Chapter VI of the Act, comprising sections 59 to 72, provides for a one-time compliance opportunity for a limited period to persons who have any foreign assets which have hitherto not been disclosed for the purposes of Income-tax. The provisions regarding **compliance window are:**

A declaration under the aforesaid chapter can be made in respect of:

- undisclosed foreign assets of a person who is a resident other than not ordinarily resident in India within the meaning of clause (6) of section 6 of the Income-tax Act.
- undisclosed asset located outside India and acquired from income chargeable to tax under the Income-tax Act for any assessment year prior to the assessment year 2016-17 for which he had, *either* failed to furnish a return under section 139 of the Income-tax Act, *or* failed to disclose such income in a return furnished before the date of commencement of the Act, *or* such income had escaped assessment by reason of the omission or failure on the part of such person to make a return under the Income-tax Act or to disclose fully and truly all material facts necessary for the assessment or otherwise.

The person making a declaration under the provisions of the chapter would be liable to:

- pay tax at the rate of 30 percent of the value of such undisclosed asset.
- in addition, also be liable to pay penalty at the rate of 100% of such tax (i.e., a further 30% of the value of the asset as on the date of commencement of the Act).

Therefore, the declarant would be liable to pay a total of 60 percent of the value of the undisclosed asset declared by him. This special rate of tax and penalty specified in the compliance provisions will override any rate or rates specified under the provisions of the Income-tax Act or the Annual Finance Acts.

Time limits for declaration and making payment

A declaration under the Act can be made in Form 6 anytime on or after the date of commencement of the Act i.e. 1st July, 2015 but before a date to be notified by the Central Government. The declaration is to be filed with the Commissioner of Income-tax, Delhi. The declaration may also be filed online on the e-filing website of the Income Tax Department using the digital signature of the declarant.

The Central Government has notified 30th September, 2015 as the last date for making the declaration before the designated Principal Commissioner or Commissioner of Income Tax (PCIT/CIT) and 31st December, 2015 as the last date by which the tax and penalty shall be paid.)

Declaration to be signed by:

Status of the declarant	Declaration to be signed by:
Individual	• Individual; • person authorized by the declarant, where he is absent from India; • Guardian or other person competent to act on behalf of individual, where the individual is mentally incapacitated
HUF	• *Karta*; • Any other adult member of the HUF, where the *karta* is absent from India or is mentally incapacitated from attending to his affairs
Company	• Managing Director; • Any director. where for any unavoidable reason the managing director is not able to sign or there is no managing director
Firm	• Managing partner; • By any partner, not being a minor, where for any unavoidable reason the managing partner is not able to sign the declaration, or where there is no managing partner
Any other association	• Any member of the association or the principal officer.
Any other person	• The person or by some other person competent to act on his behalf

Declaration not eligible in certain cases

(i) As per the provisions of section 71 read with section 59 of the Act, no declaration under the compliance window can be made in respect of any undisclosed foreign asset acquired from income chargeable to tax under the Income-tax Act for assessment year 2015-16 or any earlier assessment year by a person who has been served upon notice under below mentioned provisions on or before 30th June 2015 (i.e. before the date of commencement of this Act.) in respect of such assessment year and the proceeding is pending before the Assessing Officer.

- notice under section 142; or
- notice under section 143(*2*); or
- notice under section 148; or
- notice under section 153A; or
- notice under section 153C

(ii) where a search has been conducted under section 132 or requisition has been made under section 132A or a survey has been carried out under section 133A of the Income-tax Act in a previous year and the time for issuance of a notice under section 143 (*2*) or section 153A or section 153C for the relevant assessment year has not expired.

(iii) where any information has been received by the competent authority on or before 30th June 2015 under an agreement entered into by the Central Government under section 90 or section 90A of the Income-tax Act in respect of such undisclosed asset.

(iv) A person in respect of whom proceedings for prosecution of any offence punishable under Chapter IX (offences relating to public servants) or Chapter XVII (offences against property) of the Indian Penal Code or under the Unlawful Activities (Prevention) Act or the

Prevention of Corruption Act are pending shall not be eligible to make declaration under Chapter VI.

In the form of declaration (Form 6) the declarant shall verify:

- *no such notice has been received by him on or before 30th June 2015.*
- *the facts stated above do not prevail in his case.*

Circumstances where declaration shall be invalid

(a) If the declarant fails to pay the entire amount of tax and penalty within the specified date, i.e., 31.12.2015;

(b) Where the declaration has been made by misrepresentation or suppression of facts or information.

Effect of Void Declaration

- A declaration shall be deemed never to have been made
- All the provisions of the Act, including penalties and prosecutions, shall apply accordingly
- Any tax or penalty paid in pursuance of the declaration shall, however, not be refundable under any circumstances.

Effect of valid declaration

Where a valid declaration has been made, the following consequences will follow:

(a) The amount of undisclosed investment in the asset declared shall not be included in the total income of the declarant under the Income-tax Act for any assessment year;

(b) The contents of the declaration shall not be admissible in evidence against the declarant in any penalty or prosecution proceedings under the Income-tax Act, the Wealth Tax Act, the Foreign Exchange Management Act, the Companies Act or the Customs Act;

(c) The value of asset declared in the declaration shall not be chargeable to Wealth Tax for any assessment year or years.

(d) Declaration of undisclosed foreign asset will not affect the finality of completed assessments. The declarant will not be entitled to claim re-assessment of any earlier year or revision of any order or any benefit or set off or relief in any appeal or proceedings under the Act or under Income-tax Act in respect of declared undisclosed asset located outside India or any tax paid thereon.

NOTIFICATION NO. 56/2015 DATED 1ST JULY, 2015 - THE BLACK MONEY (UNDISCLOSED FOREIGN INCOME AND ASSETS) AND IMPOSITION OF TAX ACT (REMOVAL OF DIFFICULTIES) ORDER, 2015

Sub-section (3) of section 1 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act provides that save as otherwise provided in the Act, the Act shall come into force on the 1st day of April, 2016;

It has been clarified that in sub-section (3) of section 1 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015), for the words, figures and letters "the 1st day of April, 2016", the words, figures and letters "the 1st day of July, 2015" shall be substituted. Since the Act received the assent of the President on 26th May, 2015 and therefore the provisions of this Act cannot be given effect prior to the 26th day of May, 2015 irrespective of the fact that the assessment year beginning on the 1st day of April, 2016 relates to the previous year commencing on the 1st day of April, 2015;

NOTIFICATION NO. 57/2015 DATED 1ST JULY, 2015 – SPECIFIED DATES UNDER THE BLACK MONEY (UNDISCLOSED FOREIGN INCOME AND ASSETS) AND IMPOSITION OF TAX ACT

In exercise of the powers conferred by section 59 and sub-section (1) of section 63 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, the Central Government appointed:

30th September, 2015	Date on or before which a person may make a declaration in respect of an undisclosed asset located outside India
31st December, 2015	Date on or before which a person shall pay the tax and penalty in respect of the undisclosed asset located outside India so declared

NOTIFICATION NO. 58/2015 DATED 2ND OF JULY, 2015 - THE BLACK MONEY (UNDISCLOSED FOREIGN INCOME AND ASSETS) AND IMPOSITION OF TAX RULES, 2015

In exercise of the powers conferred by sub-sections (1) and (2) of section 85 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, the Central Board of Direct Taxes with the approval of the Central Government has made the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Rules, 2015 which shall come into force on the date of their publication in the Official Gazette.

Fair market value

For the purposes of sub-section (2) of section 3 of the Act, the fair market value of the assets shall be determined in the following manner:

Asset	Fair Market Value
Bullion, jewellery or precious stone	the higher of: (I) its cost of acquisition; and (II) the price that it shall ordinarily fetch if sold in the open market on the valuation date for which the assessee may obtain a report from a valuer recognised by the Government of a country or specified territory outside India or any of its agencies for the purpose of valuation of bullion, jewellery or precious stone under any regulation or law
Archaeological collections, drawings, paintings, sculptures or any work of art	the higher of: (I) its cost of acquisition; and (II) the price that it shall ordinarily fetch if sold in the open market on the valuation date for which the assessee may obtain a report from a valuer recognised by the Government of a country or specified territory outside India or

(hereinafter referred to as artistic work)	any of its agencies for the purpose of valuation of artistic work under any regulation or law;
Quoted share and securities – where there is trading on valuation date	the higher of: (i) its cost of acquisition; and (ii) the price as determined in the following manner, namely:— (A) the average of the lowest and highest price of such shares and securities quoted on any established securities market on the valuation date; or
Quoted share and securities – where there is no trading on valuation date on any established securities market	the higher of: (i) its cost of acquisition; and (ii)the average of the lowest and highest price of such shares and securities on any established securities market on a date immediately preceding the valuation date when such shares and securities were traded on such securities market;
Unquoted equity shares	the higher of: (i) its cost of acquisition; and (ii) the value, on the valuation date, of such equity shares as determined in the following manner, namely:— the fair market value of unquoted equity shares = (A+B–L) x (PV), (PE) where, A= book value of all the assets (other than bullion, jewellery, precious stone, artistic work, shares, securities and immovable property) as reduced by,- (i) any amount of income-tax paid, if any, less the amount of income-tax refund claimed, if any, and (ii) any amount shown as asset including the unamortised amount of deferred expenditure which does not represent the value of any asset; B= fair market value of bullion, jewellery, precious stone, artistic work, shares, securities and immovable property as determined in the manner provided in this rule; L= book value of liabilities, but not including the following amounts, namely:- (i) the paid-up capital in respect of equity shares; (ii) the amount set apart for payment of dividends on preference shares and equity shares; (iii) reserves and surplus, by whatever name called, even if the resulting figure is negative, other than those set apart towards depreciation; (iv) any amount representing provision for taxation, other than amount of income-tax paid, if any, less the amount of income-tax claimed as refund, if any, to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto; (v) any amount representing provisions made for meeting liabilities, other than ascertained liabilities; (vi) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares; PE = total amount of paid up equity share capital as shown in the balance-sheet; PV= the paid up value of such equity shares;

Unquoted share and security other than equity share in a company	the higher of,- (i) its cost of acquisition; and (ii) the price that the share or security shall ordinarily fetch if sold in the open market on the valuation date for which the assessee may obtain a report from a valuer recognised by the Government of a country or specified territory outside India or any of its agencies for the purpose of valuation of share and security under any regulation or law;
An immovable property	the higher of,- (I) its cost of acquisition; and (II) the price that the property shall ordinarily fetch if sold in the open market on the valuation date for which the assessee may obtain a valuation report from a valuer recognised by the Government of a country or specified territory outside India in which the property is located or any of its agencies for the purpose of valuation of immovable property under any regulation or law;
An account with a bank	(I) the sum of all the deposits made in the account with the bank since the date of opening of the account; or (II) where a declaration of such account has been made under Chapter VI and the value of the account as computed under sub-clause (I) has been charged to tax and penalty under that Chapter, the sum of all the deposits made in the account with the bank since the date of such declaration: **Provided** that where any deposit is made from the proceeds of any withdrawal from the account, such deposit shall not be taken into consideration while computing the value of the account.
An interest of a person in a partnership firm or in an association of persons or a limited liability partnership of which he is a member	The net asset of the firm, association of persons or limited liability partnership on the valuation date shall first be determined and the portion of the net asset of the firm, association of persons or limited liability partnership as is equal to the amount of its capital shall be allocated among its partners or members in the proportion in which capital has been contributed by them and the residue of the net asset shall be allocated among the partners or members in accordance with the agreement of partnership or association for distribution of assets in the event of dissolution of the firm or association, or, in the absence of such agreement, in the proportion in which the partners or members are entitled to share profits and the sum total of the amount so allocated to a partner or member shall be treated as the value of the interest of that partner or member in the partnership or association. *Explanation*.- For the purposes of this clause the net asset of the firm, association of persons or limited liability partnership shall be (A + B – L), Where: A= book value of all the assets (other than bullion, jewellery, precious stone, artistic work, shares, securities and immovable property) as reduced by,- (i) any amount of income-tax paid, if any, less the amount of income-tax refund claimed, if any, and (ii) any amount shown as asset including the unamortised amount of deferred expenditure which does not represent the value of any asset; B= fair market value of bullion, jewellery, precious stone, artistic work, shares, securities and immovable property as determined in the manner provided in this rule; L= book value of liabilities, but not including the following amounts, namely:-

	(i) the paid-up capital in respect of equity shares; (ii) the amount set apart for payment of dividends on preference shares and equity shares; (iii) reserves and surplus, by whatever name called, even if the resulting figure is negative, other than those set apart towards depreciation; (iv) any amount representing provision for taxation, other than amount of income-tax paid, if any, less the amount of income-tax claimed as refund, if any, to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto; (v) any amount representing provisions made for meeting liabilities, other than ascertained liabilities; (vi) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares;
Any other asset	The higher of: (I) its cost of acquisition or the amount invested; and (II) the price that the asset would fetch if sold in the open market on the valuation date in an arm's-length transaction.

(2) Notwithstanding anything contained in the table above:

Asset	**Fair Market Value**
Where an asset (other than a bank account) was transferred before the valuation date	the higher of: (i) its cost of acquisition; and (ii) the sale price
where such asset was transferred without consideration or inadequate consideration before the valuation date	the higher of: (i) its cost of acquisition; and (ii) the fair market value on the date of transfer

(3)

Where a new asset has been acquired or made out of consideration received on account of transfer of an old asset or withdrawal from a bank account, then the fair market value of the old asset or the bank account, as the case may be	Fair market value, determined as per sub-rule (1); less amount of the consideration invested in the new asset.

(4) The fair market value of an asset determined in a currency permitted by the Reserve Bank of India under the Foreign Exchange Management Regulations, shall be converted into Indian currency as per the reference rate of the Reserve Bank of India on the date of valuation.

(5) Where the fair market value of an asset is determined in a currency other than the permitted currencies designated by the Reserve Bank of India, then, such value shall be converted into United States Dollar on the date of valuation as per the rate specified by the Central Bank of the country or jurisdiction in which the asset is located and such value in United States Dollar shall be converted into Indian currency as per the reference rate of the Reserve Bank of India on the date of valuation:

Provided that where the Central Bank of the country or jurisdiction in which the asset is located does not specify the rate of conversion from its local currency to United States Dollar then such rate shall be the one as specified by any other bank regulated under the laws of that country or jurisdiction.

Tax Authorities
For the purposes of section 8

- Assessing Officer,
- Joint Commissioner,
- Commissioner (Appeals),
- Commissioner or Principal Commissioner,
- Chief Commissioner or
- Principal Chief Commissioner.

For the purposes of clause (c) of sub-section (4) of section 78

- Principal Chief Commissioner
- Chief Commissioner
- Principal Commissioner
- Commissioner having jurisdiction over the case in the proceedings connected with which the tax practitioner is alleged to be guilty of misconduct.

Rounding off of income, value of asset and tax

For the purpose of section 79 the amount of undisclosed foreign income and asset computed in accordance with the Act and any amount payable or receivable by the assessee under the Act shall be ***rounded off to the nearest multiple of one hundred rupees or ten rupees, as the case may be***.

Various Forms under the Act

Form	**Purpose**
Form 1- Notice of Demand	Where any tax, interest or penalty is payable in consequence of any order passed under the provisions of the Act the Assessing Officer serves upon the assessee a notice of demand in specifying the sum so payable.
Form 2- Appeal to Commissioner (Appeals) under sub-section (1) of section 15	At the time of filing of the appeal the assessee must have paid the tax alongwith penalty and interest thereon on the amount of liability which has not been objected to by the assessee. The appeal must be: • Accompanied with the grounds of appeal • Accompanied with the form of verification verified by the person who is authorised to sign the return of income under section 140 of the Income-tax Act • Accompanied with a fee of ten thousand rupees.
Form 3- Appeal to Appellate Tribunal under sub-section (1) of section 18	An appeal to the Appellate Tribunal shall be: • Accompanied with the grounds of appeal • Accompanied with the form of verification appended thereto shall be signed by the person who is authorised to sign the return of income under section 140 of the Income-tax Act • Accompanied by a fee of twenty five thousand rupees.
Form 4- The memorandum of cross-objections under sub-section (4) of section 18 to the Appellate Tribunal	Where the memorandum of cross objection is made by the assessee, the grounds of cross-objections and the form of verification appended thereto shall be signed by the person specified who is authorised to sign the return of income under section 140 of the Income-tax Act

Form 5- Form of tax arrears under section 31 or section 33	A statement of tax arrears shall be drawn up by the Tax Recovery Officer
Form 6- Declaration of undisclosed asset located outside India under section 59	The assessee shall file the Declaration of undisclosed asset located outside India under section 59
Form 7- Acknowledgement of declaration filed	The Principal Commissioner or the Commissioner shall grant an acknowledgement to the declarant within fifteen days of the submission of proof of payment of tax alongwith penalty by the declarant under sub-section (2) of section 63 of the Act in respect of the undisclosed asset located outside India.

NOTIFICATION NO. 73/2015 DATED 24TH AUGUST, 2015

In exercise of the powers conferred by clause (b) of sub-section (4) of section 120 of the Income-tax Act, 1961 (43 of 1961) read with section 6 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, the Central Board of Direct Taxes hereby directs that the Additional Commissioners of Income-tax or the Joint Commissioners of Income-tax, as the case may be, shall exercise the powers and perform the functions of the Assessing Officers under the said Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, in respect of territorial areas or persons or classes of persons or incomes or classes of incomes or cases or classes of cases, in respect of which such Additional Commissioners of Income-tax or Joint Commissioners of Income-tax have been authorised by the Principal Chief Commissioner of Income-tax or the Chief Commissioner of Income-tax or the Director General of Income-tax or the Principal Commissioner of Income-tax or the Commissioner of Income-tax in pursuance to the directions of the Board under sub-section (1) and (2) of section 120 of the said Income-tax Act, 1961.

CIRCULAR NO. 13 OF 2015 DATED 6TH OF JULY, 2015 - FAQS ON THE BLACK MONEY (UNDISCLOSED FOREIGN INCOME AND ASSETS) AND IMPOSITION OF TAX ACT, 2015

CBEC has clarified the points raised by the stakeholders with respect to the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 by issue of a circular in the form of questions and answers as follows.-

Question: If firm has undisclosed foreign assets, can the partner file declaration in respect of such asset?

Answer: The declaration can be made by the firm which shall be signed by the person specified in sub-section (2) of section 62 of the Act. The partner cannot make a declaration in his name. However, the partner may file a declaration in respect of an undisclosed asset held by him.

Question: Where a company has undisclosed foreign assets, can it file a declaration under Chapter VI of the Act? If yes, then whether immunity would be granted to Directors of the company?

Answer: Yes, the company can file a declaration under Chapter VI of the Act. The Directors of the company shall not be liable for any offence under the Income-tax Act, Wealth-tax Act, FEMA, Companies Act and the Customs Act in respect of declaration made in the name of the company.

Question: Whether immunity in respect of declaration made under the scheme is provided in respect of Acts other than those mentioned in section 67 of the Act?

Answer: Section 67 provides immunity from prosecution under the five Acts viz. the Income-tax Act, Wealth-tax Act, FEMA, Companies Act and the Customs Act. It does not provide immunity from prosecution under any other Act. For example- if the undisclosed asset has been acquired out of the proceeds of sale of protected animals the person will not be eligible for immunity under the Wildlife (Protection) Act, 1972.

Question: Whether the person making the declaration will be provided immunity from the Prevention of Money Laundering Act (PMLA), 2002?

Answer: The offence under the PMLA arises while laundering money generated from the process or activity connected with the offences specified in the schedule to the PMLA. Therefore, the primary requirement under PMLA is commission of a scheduled offence. With the enactment of the Act, the offence of wilful attempt to evade tax under section 51 of the Act has become a scheduled offence under PMLA. However, where a declaration of an asset has been duly made under section 59 of the Act the provisions of section 51 will not be applicable in respect of that asset. Therefore, PMLA will not be applicable in respect of the scheduled offence of wilful attempt to evade tax under section 51 of the Act in respect of assets for which declaration is made under section 59 of the Act.

Question: Where an undisclosed foreign asset is declared under Chapter VI of the Act and tax and penalty is paid on its fair market value then will the declarant be liable for capital gains on sale of such asset in the future? If yes, then how will the capital gains in such case be computed?

Answer: Yes, the declarant will be liable for capital gains under the Income-tax Act on sale of such asset in future. As per the current provisions of the Income-tax Act, the capital gains is computed by deducting cost of acquisition from the sale price. However, since the asset will be taxed at its fair market value the cost of acquisition for the purpose of Capital Gains shall be the said fair market value and the period of holding shall start from the date of declaration of such asset under Chapter VI of the Act.

Question: Where a notice under section 142/ 143(2)/ 148/ 153A/ 153C of the Income-tax Act has been issued to a person for an assessment year will he be ineligible from voluntary declaration under section 59 of the Act?

Answer: The person will only be ineligible from declaration of those foreign assets which have been acquired during the year for which a notice under section 142/ 143(2)/ 148/ 153A/ 153C is issued and the proceeding is pending before the Assessing Officer. He is free to declare other foreign assets which have been acquired during other years for which no notice under above referred sections have been issued.

Question: As per section 71(d)(i), declaration cannot be made where an undisclosed asset has been acquired during any previous year relevant to an assessment year for which a notice under section 142, 143(2), 148, 153A or 153C of the Income-tax Act has been issued. If the notice has been issued but not served on the declarant then how will he come to know whether the notice has been issued?

Answer: The declarant will not be eligible for declaration under Chapter VI of the Act where an undisclosed asset has been acquired during any previous year relevant to any assessment year where a notice under section 142, 143(2), 148, 153A or 153C of the Income-tax Act has been issued and served on the declarant on or before 30th day of June, 2015. The declarant is required to file a declaration regarding receipt of any such notice in Form 6.

Question: Where an undisclosed foreign asset has been acquired partly during a previous year relevant to the assessment year which is pending for assessment and partly during other years not pending for assessment then whether such asset is eligible for declaration under Chapter VI of the Act?

Answer: In the case where proceedings are pending before an Assessing Officer in pursuance of a notice under section 142, 143(2), 148, 153A or 153C of the Income-tax Act served on or before 30-06-2015, the declarant may declare the undisclosed asset under Chapter VI of the Act. However, while computing the amount of declaration the investment made in the asset during the previous year relevant to the assessment year for which such notice is issued needs to be deducted from the fair market value of the asset for which the person shall provide a computation alongwith the declaration. Further, such investment which is deducted from the fair market value shall be assessable in the assessment of the relevant assessment year pending under the Income-tax Act and the person shall inform the Assessing Officer the investment made during the relevant year in such asset.

Also to clarify, where a notice under section 142, 143(2), 148, 153A or 153C of the Income-tax Act is issued on or after 30-06-2015, the declarant shall be eligible to declare full value of asset even if such asset (or part of such asset) is acquired in the previous year relevant to the assessment year for which such notice is issued.

Question: Can a declaration be made of undisclosed foreign assets which have been assessed to tax and the case is pending before an Appellate Authority?

Answer: As per section 65 of the Act, the declarant is not entitled to re-open any assessment or reassessment made under the Income-tax Act. Therefore, he is not entitled to avail the tax compliance in respect of those assets. However, he can voluntarily declare other undisclosed foreign assets which have been acquired or made from income not disclosed and consequently not assessed under the Income-tax Act.

Question: Can a person against whom a search/ survey operation has been initiated file voluntary declaration under Chapter VI of the Act?

Answer: (a) The person is not eligible to make a declaration under Chapter VI if a search has been initiated and the time for issuance of notice under section 153A has not expired, even if such notice for the relevant assessment year has not been issued. In this case, however, the person is eligible to file a declaration in respect of an undisclosed foreign asset acquired in any previous year in relation to an assessment year which is prior to assessment years relevant for the purpose of notice under section 153A.

(b) In case of survey operation the person is barred from making a declaration under Chapter VI in respect of an undisclosed asset acquired in the previous year in which the survey was conducted. The person is, however, eligible to make a declaration in respect of an undisclosed asset acquired in any other previous year.

Question: Where a search/ survey operation was conducted and the assessment has been completed but the undisclosed foreign asset was not taxed, then whether such asset can be declared under Chapter VI of the Act?

Answer: Yes, such undisclosed asset can be declared under Chapter VI of the Act.

Question No.12: Whether a person is barred from voluntary declaration under Chapter VI of the Act if any information has been received by the Government under DTAA?

Answer: As per section 71(d)(iii), the person cannot make a declaration of an undisclosed foreign asset where the Central Government has received an information in respect of such asset under the DTAA. The person is entitled for voluntary declaration in respect of other undisclosed foreign assets for which no information has been received.

Question: How would the person know that the Government has received information of an undisclosed foreign asset held by him which will make the declaration ineligible?

Answer: The person may not know that the Government has information about undisclosed foreign asset held by him if the same has not been communicated to him in any enquiry/proceeding under the Income-tax Act. After the person has filed a declaration, which is to be filed latest by 30th September, 2015, he will be issued intimation by the Principal Commissioner/Commissioner by 31th October, 2015, whether any information has been received by the Government and consequently whether he is eligible to make the payment on the declaration made. If no information has been received up to 30th June, 2015 by the Government in respect of such asset the person will be allowed a time upto 31st December, 2015 for payment of tax and penalty in respect of the declared asset.

There may be a case where person makes declaration in respect of 5 assets whereas the Government has information about only 1 asset. In such situation the person will be eligible to declare the balance 4 assets under Chapter VI of the Act. In such case the declarant, on receipt of intimation by the Principal Commissioner/Commissioner, shall revise the declaration made within 15 days of such receipt of

intimation to exclude the asset which is not eligible for declaration. Tax and penalty on the eligible assets under the Act shall be payable in respect of the revised declaration by 31st of December, 2015. In respect of the ineligible assets provisions of the Income-tax Act shall apply. (Please also see answer to question no. 15)

Question: What are the consequences if no declaration under Chapter VI of the Act is made in respect of undisclosed foreign assets acquired prior to the commencement of the Act?
Answer: As per section 72(c), where any asset has been acquired prior to the commencement of the Act and no declaration under Chapter VI of the Act is made then such asset shall be deemed to have been acquired in the year in which it comes to the notice of the Assessing Officer and the provisions of the Act shall apply accordingly.

Question: If a declaration of undisclosed foreign asset is made under Chapter VI of the Act and the same was found ineligible due to the reason that Government had prior information under DTAA then will the person be liable for consequences under the Act?
Answer: In respect of such assets which have been duly declared in good faith under the tax compliance but not found eligible, he shall not be hit by section 72(c) of the Act and no action lies in respect of such assets under the Act. However, such information may be used for the purpose of the Income-tax Act.

Question No.16: In respect of the undisclosed foreign assets referred to in answer to question No. 15 above, where the proceedings under the Income-tax Act are initiated, can the options of settlement commission etc. under the Income-tax Act be availed in respect of such assets?
Answer: All the provisions of the Income-tax Act shall be applicable in respect of those assets.

Question: A person has some undisclosed foreign assets. If he declares those assets in the Income-tax Return for assessment year 2015-16 or say 2014-15 (in belated return) then should he need to declare those assets in the voluntary tax compliance under Chapter VI of the Act?
Answer: As per the Act, the undisclosed foreign asset means an asset which is unaccounted/ the source of investment in such asset is not fully explainable. Since an asset reported in Schedule FA does not form part of computation of total income in the Income-tax Return and consequently does not get taxed, mere reporting of a foreign asset in Schedule FA of the Return does not mean that the source of investment in the asset has been explained. The foreign asset is liable to be taxed under the Act (whether reported in the return or not) if the source of investment in such asset is unexplained. Therefore, declaration should be made under Chapter VI of the Act in respect of all those foreign assets which are unaccounted/ the source of investment in such asset is not fully explainable.

Question: A person holds certain foreign assets which are fully explained and acquired out of tax paid income. However, he has not reported these assets in Schedule FA of the Income-tax Return in the past. Should he declare such assets under Chapter VI of the Act?
Answer: Since, these assets are fully explained they are not treated as undisclosed foreign assets and should not be declared under Chapter VI of the Act. However, if these assets are not reported in Schedule FA of the Income-tax Return for assessment year 2016-17 (relating to previous year 2015-16) or any subsequent assessment year by a person, being a resident (other than not ordinarily resident), then he shall be liable for penalty of Rs. 10 lakhs under section 43 of the Act. The penalty is, however, not applicable in respect of an asset being one or more foreign bank accounts having an aggregate balance not exceeding an amount equivalent to Rs. 5 lakhs at any time during the previous year.

Question: A person has a foreign bank account in which undisclosed income has been deposited over several years. He has spent the money in the account over these years and now it has a balance of only $500. Does he need to pay tax on this $500 under the declaration?
Answer: Section 59 of the Act provides for declaration of an undisclosed asset and not income. In this

case the Bank account is an undisclosed asset which may be declared. Tax on undisclosed asset is required to be paid on its fair market value. In case of a bank account the fair market value is the sum of all the deposits made in the account computed in accordance with Rule 3(1)(e). Therefore, tax and penalty needs to be paid on such fair market value and not on the balance as on date.

Question: A person held a foreign bank account for a limited period between 1994-95 and 1997-98 which was unexplained. Since such account was closed in 1997-98 does he need to declare the same under Chapter VI of the Act?

Answer: Section 59 of the Act provides that the declaration may be made of any undisclosed foreign asset which has been acquired from income which has not been charged to tax under the Income-tax Act. Since the investment in the bank account was unexplained and was from untaxed income the same may be declared under Chapter VI of the Act. The consequences of non-declaration may arise under the Act at any time in the future when the information of such account comes to the notice of the Assessing Officer.

Question: A person inherited a house property in 2003-04 from his father who is no more. Such property was acquired from unexplained sources of investment. The property was sold by the person in 2011-12. Does he need to declare such property under Chapter VI of the Act and if yes then, what will be the fair market value of such property for the purpose of declaration?

Answer: Since the property was from unexplained sources of investment the same may be declared under Chapter VI of the Act. However, the declaration in this case needs be made by the person who inherited the property in the capacity of legal representative of his father. The fair market value of the property in his case shall be higher of its cost of acquisition and the sale price as per Rule 3(2) of the Rules.

Question: A person acquired a house property in a foreign country during the year 2000-01 from unexplained sources of income. The property was sold in 2007-08 and the proceeds were deposited in a foreign bank account. Does he need to declare both the assets under Chapter VI of the Act and pay tax on both the assets?

Answer: The declaration may be made in respect of both the house property and the bank account at their fair market value. The fair market value of the house property shall be higher of its cost and the sale price, less amount deposited in bank account. If the cost price of the house property is higher the declarant will be required to pay tax and penalty on (cost price – sale price) of the house. If the sale price of the house property is higher the fair market value of the house property shall be nil as full amount was deposited in the bank account. The fair market value of the bank account shall be as determined under Rule 3(1)(e) and tax and penalty shall be paid on this amount. (Please also refer to the illustration under Rule 3(3) for computation of fair market value.)

Further, it is advisable to declare all the undisclosed foreign assets even if the fair market value as computed in accordance with Rule 3 comes to nil. This may avoid initiation of any inquiry under the Act in the future in case such asset comes to the notice of the Assessing Officer.

Question: A person is a non-resident. However, he was a resident of India earlier and had acquired foreign assets out of income chargeable to tax in India which was not declared in the return of income or no return was filed in respect of that income. Can that person file a declaration under Chapter VI of the Act?

Answer: Section 59 provides that a declaration may be made by any person of an undisclosed foreign asset acquired from income chargeable to tax under the Income-tax Act for any assessment year prior to assessment year 2016-17. Since the person was a resident in the year in which he had acquired foreign assets (which were undisclosed) out of income chargeable to tax in India, he is eligible to file a declaration under section 59 in respect of those assets under Chapter VI of the Act.

Question: A person is a resident now. However, he was a non-resident earlier when he had acquired

foreign assets (which he continues to hold now) out of income which was not chargeable to tax in India. Does the person need to file a declaration in respect of those assets under Chapter VI of the Act?
Answer: No. Those assets do not fall under the definition of undisclosed assets under the Act.

Question: If a person has 3 undisclosed foreign assets and declares only 2 of those under Chapter VI of the Act, then will he get immunity from the Act in respect of the 2 assets declared?
Answer: It is expected that one should declare all his undisclosed foreign assets. However, in such a case the person will get immunity under the provisions of the Act in respect of the two assets declared under Chapter VI of the Act and no immunity will be available in respect of the third asset which is not declared.

Question: A resident earned income outside India which has been deposited in his foreign bank account. The income was charged to tax in the foreign country when it was earned but the same was not declared in the return of income in India and consequently not taxed in India. Does he need to disclose such income under Chapter VI of the Act? Will he get credit of foreign tax paid?
Answer: Declaration under Chapter VI is to be made of an undisclosed foreign asset. In this case, the person being a resident of India, the foreign bank account needs to be declared under Chapter VI as it is an undisclosed asset and acquired from income chargeable to tax in India. The fair market value of the bank account shall be determined as per Rule 3(1)(e). No credit of foreign taxes paid shall be allowable in India as section 84 of the Act does not provide for application of sections 90(1)(a)/90(1)(b)/ 90A(1)(a)/ 90A(1)(b) of the Income-tax Act (relating to credit of foreign tax paid) to the Act. Further, section 73 of the Act does not allow agreement with foreign country for the purpose of granting relief in respect of tax chargeable under the Act.

Question: Can a person declare under Chapter VI his undisclosed foreign assets which have been acquired from money earned through corruption?
Answer: No. As per section 71(b) of the Act, Chapter VI shall not apply, *inter-alia*, in relation to prosecution of any offence punishable under the Prevention of Corruption Act, 1988. Therefore, declaration of such asset cannot be made under Chapter VI. However, if such a declaration is made and in an event it is found that the asset represented money earned through corruption it would amount to misrepresentation of facts and the declaration shall be void under section 68 of the Act. If a declaration is held as void, the provisions of the Act shall apply in respect of such asset as they apply in relation to any other undisclosed foreign asset.

Question: If a foreign asset has been acquired partly out of undisclosed income chargeable to tax and partly out of disclosed income/exempt income (tax paid income) then whether that foreign asset will be treated as undisclosed? Whether declaration under Chapter VI needs to be made in respect of such asset? If yes, what amount should be disclosed?
Answer: As per section 5 of the Act, in computing the value of an undisclosed foreign asset any income which has been assessed to tax under the Income-tax Act from which that asset is acquired shall be reduced from the value of the undisclosed foreign asset. Only part of the investment is such foreign asset is undisclosed (unexplained) hence declaration of such foreign asset may be made under Chapter VI of the Act. The amount of declaration shall be the fair market value of such asset as on 1st July, 2015 as reduced by the amount computed in accordance with section 5 of the Act.

Question: Whether for the purpose of declaration, the undisclosed foreign asset should be held by the declarant on the date of declaration?
Answer: No, there is no such requirement. The declaration may be made if the foreign asset was acquired out of undisclosed income even if the same has been disposed off and is not held by the declarant on the date of declaration.

Question:Whether at the time of declaration under Chapter VI, will the Principal Commissioner/Commissioner do any enquiry in respect of the declaration made?

Answer: After the declaration is made the Principal Commissioner/ Commissioner will enquire whether any information has been received by the competent authority in respect of the asset declared. Apart from this no other enquiry will be conducted by him at the time of declaration.

Question: A person is a beneficiary in a foreign asset. Is he eligible for declaration under section 59 of the Act?

Answer: As far as ownership is concerned, as per section 2(11) of the Act "undisclosed asset located outside India" means an asset held by the person in his name or in respect of which he is a beneficial owner. The definition of "beneficial owner" and "beneficiary" is provided in *Explanation* 4 and *Explanation* 5 to section 139(1) of the Income-tax Act, respectively (which is at variance with the determination of beneficial ownership provided under Rule 9(3) of the PMLA (Maintenance of Records) Rules, 2005). Therefore, for the purpose of the Act "beneficial owner" in respect of an asset means an individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person. Further, "beneficiary" in respect of an asset means an individual who derives benefit from the asset during the previous year and the consideration for such asset has been provided by any person other than such beneficiary. Therefore, as per the Act the beneficial owner is eligible for declaration under section 59 of the Act.

There may be a case where a person is listed as a beneficiary in a foreign asset, however, if he has provided consideration for the asset, directly or indirectly, he will be covered under the definition of beneficial owner for the purposes of the Act.

Question: A person was employed in a foreign country where he acquired or made an asset out of income earned in that country. Whether such asset is required to be declared under Chapter VI of the Act?

Answer: If the person, while he was a non-resident in India, acquired or made a foreign asset out of income which is not chargeable to tax in India, such asset shall not be an undisclosed asset under the Act.

However, if income was accrued or received in India while he was non-resident, such income is chargeable to tax in India. If such income was not disclosed in the return of income and the foreign asset was acquired from such income then the asset becomes undisclosed foreign asset and the person may declare such asset under Chapter VI of the Act.

CENTRAL EXCISE

Levy of /Exemption from Central Excise Duty

Rate of Excise Duty

The First Schedule to the Central Excise Tariff Act, 1985 has been amended vide finance act, 2013 to provide the following:

- Education Cess and Secondary & Higher Education Cess leviable on excisable goods have been fully exempted.
- The standard ad valorem rate of duty of excise (i.e. CENVAT) has been increased from 12% to 12.5%.

Charging of Excise Duty

Section 3A of the Central Excise Act, 1944, which empowers the Central Government to charge excise duty on the basis of capacity of production in respect of notified goods has been amended vide section 92 of the Finance Act, 2015 so as to insert an Explanation after Explanation 2, namely:—

"Explanation 3— For the purposes of sub-sections (2) and (3), the word "factor" includes "factors".'.

This has been done to provide that factor relevant to production includes factors relevant to production and enable the Central Government to specify more than one factor relevant to the production of such goods.

Retrospective Exemption

S.No.205A of notification No.12/2012-CE dated 17-3-2012 exempts railway or tramway track construction material of iron and steel from payment of excise duty on the value of rails, subject to condition that such rails have suffered excise duty and no credit of duty paid on them is taken under the CENVAT Credit Rules, 2004. This exemption has been made applicable retrospectively for the period from 17.03.2012 to 02.02.2014.

Recovery And Penal Provisions

Section 11A of the Central Excise Act, 1944 has been amended *vide* section 93 of the Finance Act, 2015 to omit and insert certain provisions.

Following has been omitted:

- sub-sections (5), (6) and (7) of section 11A
- the words, brackets and figure "or sub-section (5)", wherever they occur, in sub-sections (7A), (8) and clause (b) of sub-section (11)
- the words "on due date" in clause (b), in sub-clause (ii) in Explanation 1 to section 11A
- clause (c) in the Explanation 1 to section 11A

Following has been inserted:

- after sub-clause (v), the following sub-clause has been inserted, namely :—

  "(vi) in the case where only interest is to be recovered, the date of payment of duty to which such interest relates.";
- after sub-section (15), the following sub-section has been inserted, namely :—

  "(16) The provisions of this section shall not apply to a case where the liability of duty not paid or short-paid is self-assessed and declared as duty payable by the assessee in the periodic returns filed by him, and in such case, recovery of non-payment or short-payment of duty shall be made in such manner as may be prescribed.".

- for Explanation 2, the following Explanation has been substituted, namely :—

  "Explanation 2.— For the removal of doubts, it is hereby declared that any non-levy, short levy, non-payment, short-payment or erroneous refund where no show cause notice has been issued before the date on which the Finance Bill, 2015 receives the assent of the President, shall be governed by the provisions of section 11A as amended by the Finance Act, 2015.";

Thus, the above amendments, remove from the statute the category of cases where extended period of time applies but the transactions are recorded in the specified record; provide that the provisions of section 11A shall not apply to cases where the non-payment or short payment of duty is reflected in the periodic returns filed and that in such cases recovery of duty shall be made in such manner as may be prescribed in the rules.

In the Central Excise Act, for section 11AC relating to "Penalty for short-levy or non-levy of duty in certain cases", the following section has been substituted

"11AC. Penalty for short-levy or non-levy of duty in certain cases-

(1) The amount of penalty for non-levy or short-levy or non-payment or short-payment or erroneous refund shall be as follows:—

(a) where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, for any reason other than the reason of fraud or collusion or any wilful mis-statement or suppression of facts or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty, the person who is liable to pay duty as determined under sub-section (10) of section 11A shall also be liable to pay a penalty not exceeding ten per cent of the duty so determined or rupees five thousand, whichever is higher:

Provided that where such duty and interest payable under section 11AA is paid either before the issue of show cause notice or within thirty days of issue of show cause notice, no penalty shall be payable by the person liable to pay duty or the person who has paid the duty and all proceedings in respect of said duty and interest shall be deemed to be concluded;

(b) where any duty as determined under sub-section (10) of section 11A and the interest payable thereon under section 11AA in respect of transactions referred to in clause (a) is paid within thirty days of the date of communication of the order of the Central Excise Officer who has determined such duty, the amount of penalty liable to be paid by such person shall be twenty-five per cent of the penalty imposed, subject to the condition that such reduced penalty is also paid within the period so specified;

(c) where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, by reason of fraud or collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty, the person who is liable to pay duty as determined under sub-section (10) of section 11A shall also be liable to pay a penalty equal to the duty so determined:

Provided that in respect of the cases where the details relating to such transactions are recorded in the specified record for the period beginning with the 8th April, 2011 up to the date on which the Finance Bill, 2015 receives the assent of the President (both days inclusive), the penalty shall be fifty per cent of the duty so determined;

(d) where any duty demanded in a show cause notice and the interest payable thereon under section 11AA, issued in respect of transactions referred to in clause (c), is paid within thirty days of the communication of show cause notice, the amount of penalty liable to be paid by such person shall be fifteen per cent of the duty demanded, subject to the condition that such reduced penalty is also paid within the period so specified and all proceedings in respect of the said duty, interest and penalty shall be deemed to be concluded;

(e) where any duty as determined under sub-section (10) of section 11A and the interest payable thereon under section 11AA in respect of transactions referred to in clause (c) is paid within thirty days of the date of communication of the order of the Central Excise Officer who has determined such duty, the amount of penalty liable to be paid by such person shall be twenty-five per cent. of the duty so determined, subject to the condition that such reduced penalty is also paid within the period so specified.

(2) Where the appellate authority or tribunal or court modifies the amount of duty of excise determined by the Central Excise Officer under sub-section (10) of section 11A, then, the amount of penalty payable under clause (c) of sub-section (1) and the interest payable under section 11AA shall stand modified accordingly and after taking into account the amount of duty of excise so modified, the person who is liable to pay duty as determined under sub-section (10) of section 11A shall also be liable to pay such amount of penalty and interest so modified.

(3) Where the amount of duty or penalty is increased by the appellate authority or tribunal or court over the amount determined under sub-section (10) of section 11A by the Central Excise Officer, the time within which the interest and the reduced penalty is payable under clause (b) or clause (e) of sub-section (1) in relation to such increased amount of duty shall be counted from the date of the order of the appellate authority or tribunal or court.

Explanation 1- For the removal of doubts, it is hereby declared that—

(i) any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where no show cause notice has been issued before the date on which the Finance Bill, 2015 receives the assent of the President shall be governed by the provisions of section 11AC as amended by the Finance Act, 2015;

(ii) any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where show cause notice has been issued but an order determining duty under sub-section (10) of section 11A has not been passed before the date on which the Finance Bill, 2015 receives the assent of the President, shall be eligible to closure of proceedings on payment of duty and interest under the proviso to clause (a) of sub-section (1) or on payment of duty, interest and penalty under clause (d) of sub-section (1), subject to the condition that the payment of duty, interest and penalty, as the case may be, is made within thirty days from the date on which the Finance Bill, 2015 receives the assent of the President;

(iii) any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where an order determining duty under sub-section (10) of section 11A is passed after the date on which the Finance Bill, 2015 receives the assent of the President shall be eligible to payment of reduced penalty under clause (b) or clause (e) of sub-section (1), subject to the condition that the payment of duty, interest and penalty is made within thirty days of the communication of the order.

Explanation 2 – For the purposes of this section, the expression "specified records" means records maintained by the person chargeable with the duty in accordance with any law for the time being in force and includes computerised records.

This has been done to rationalize the penalty in various cases where any duty has not been paid, short levied or paid erroneously and no fraud or collusion or wilful mis-statement or suppression of facts or

contravention of any provision of the Act or rules with the intent to evade payment of excise duty is involved. This could be better understood by the table as given below:

Case	Penalty	Conditions
Case 1	not exceeding 10% of the duty so determined or Rs. 5000 whichever is higher	Duty has not been levied or paid or has been short levied or short paid or erroneously refunded. no fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of excise duty is involved.
Case 2	no penalty	Interest payable under section 11AA is paid either before issue of show cause notice or within 30 days of issue of show cause notice.
Case 3	25% of the penalty so imposed	Duty as determined under sub-section (10) of section 11A and interest payable thereon under section 11AA is paid within 30 days of the date of communication of order of the Central Excise Officer. such reduced penalty is also paid within 30 days of the date of communication of such order all proceedings in respect of said duty and interest shall be deemed to be concluded

In cases involving fraud or collusion or wilful mis-statement of suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of excise duty, in the following manner:-

Case	Penalty	Conditions
Case 1	50% of the duty so determined	Cases where the details relating to such transactions are recorded in the specified record for the period beginning with 8th April, 2011 and upto the date of assent to the Finance Bill, 2015. i.e. 14th May, 2015 (inclusive of both days).
Case 2	15% of the duty demanded	Duty and interest payable thereon under section 11AA is paid within 30 days of communication of show cause notice. such reduced penalty is also paid 30 days of communication of show cause notice and all proceedings in respect of said duty and interest shall be deemed to be concluded;
Case 3	25% of the duty so determined	Duty as determined under sub-section (10) of section 11A and interest payable thereon under section 11AA is paid within 30 days of the date of communication of order of the Central Excise Officer who has determined such duty.

The proviso to sub-section (3) of section 32 which provided that where a Member of the Central Board of Excise & Customs is appointed as the Chairman, Vice Chairman or Member of the Settlement Commission, he shall cease to be a member of the Board, has been omitted vide Section 95 of the Finance Act, 2015, as it has become redundant due to the amended Customs and Central Excise Settlement Commission (Recruitment and Conditions of Service of Chairman, Vice Chairman and Members) Rules, 2000 which prescribes that Members of the Board are not eligible to be Member of the Settlement Commission.

Sub-sections (4) and (5) of section 37 of Central Excise Act has been amended vide section 103 of the Finance Act, 2015 so as to increase the penalty from Rs. 2000 to Rs.5000.

Clause (c) of section 31 relating to the provisions of Settlement Commission

The above provision has been amended vide section 95 of the Finance Act, 2015 to delete the reference to "in any appeal or revision, as the case may be" so as to provide that when any proceeding is referred back, whether in appeal or revision or otherwise, by any court, Appellate Tribunal Authority or any other authority to the adjudicating authority for a fresh adjudication or decision, then such case shall not be entitled for settlement. Thus, now it be read as:

"case" means any proceeding under this Act or any other Act for the levy, assessment and collection of excise duty, pending before an adjudicating authority on the date on which an application under sub-section (1) of section 32E is made: Provided that when any proceeding is referred back, by any court, Appellate Tribunal or any other authority, to the adjudicating authority for a fresh adjudication or decision, as the case may be, then such proceeding shall not be deemed to be a proceeding pending within the meaning of this clause;

Certain Redundant provisions have been omitted:

- Section 32B of the Central excise Act has been amended vide section 96 of the Finance act, 2015 to substitute the words "the member" in place of ", as the case may be, such one of the Vice-chairmen,". This has been done so as to enable Vice Chairman or Member of the Settlement Commission to officiate as Chairman in the absence of the Chairman of the Settlement Commission.

- Sub-section (1A) to section 32E has been omitted vide Section 98 of the Finance Act, 2015. Section 32E (1A) provided that where applications have been made prior to 1st day of June 2007, and where no order under section 32F (1) has been made before said date or applicant has not paid the amount so ordered by the Settlement Commission within thirty days from 1st day of June 2007, his application shall be liable to be rejected. Thus, the said sub-section has become redundant and omitted.

- Sub-section (6) of section 32F has been amended so as to omit the phrase "in respect of an application filed on or before the 31st day of May, 2007, later than the 29th day of February, 2008 and in respect of application made on or after the 1st day of June, 2007". Section 32F (6) provided that in respect of the applications filed before 31stday of May, 2007, Settlement Commission shall pass the final order of settlement under sub-section (5) of section 32F latest by 29th February 2008 and in cases filed after 31st day of May, 2007, within nine months. Since all the applications filed before 31st day of May, 2007 shall have been necessarily disposed of by 29th day of 2008, the reference to the said dates have become redundant and thus the said phrase has been omitted vide section 99 of the Finance Act, 2015.

- Section 32H provided that Settlement Commission can reopen the completed proceedings in certain conditions. As per the first proviso to the said section no proceedings can be reopened after five years from the date of application, and as per second proviso to the said section Settlement Commission cannot reopen any proceedings in respect of an application made after 1st day of June 2007. Thus, Settlement Commission has no powers to reopen any completed proceedings after expiry of five years from 1st day of June 2007, thus making this section redundant. Therefore, this section has been omitted vide section 100 of the Finance Act, 2015

- Explanation to sub-section (1) of section 32K provided that in respect of the applications filed on or before 31st day of May 2007, Settlement Commission shall decide the applications as if the amendments made in the said section were not in force. Since all the applications filed by 31st day of May, 2007 have necessarily been disposed of by 29th day of February 2008, the said Explanation has become redundant and hence omitted vide section 101 of the Finance Act, 2015.

- Clauses (i) and (ii) of sub-section (1) of section 32O have been amended vide section 102 of the Finance Act, 2015 to omit the phrase "passed under sub-section (7) of the section 32F, as it stood immediately before the commencement of section 122 of the Finance Act, 2007 (22 of 2007) or sub-section (5) of the section 32F". Section 32O provides the situations in which the person in whose case the order has been passed by the Settlement Commission cannot again approach the Settlement Commission.

Notification No. 23/2014-Central Excise (N.T.), dated 6th August, 2014

In exercise of the powers conferred by sections 5A, 37, 37A and 37B of the Central Excise Act, 1944, (1 of 1944) and of all other powers enabling it in this behalf, the Central Government hereby directs that the references to the authorities specified in column (2) of the Table below, in the rules made or deemed to have been made under the said sections or in any other notifications, instructions, decisions, or orders, issued or made under the said sections or rules or under any other section of the said Act, shall, unless the context otherwise requires, be construed as references to the authorities specified in column (3) of the said Table, namely:-

Sl. No.	Existing reference	Substituted reference
(1)	(2)	(3)
1.	Chief Commissioner	Principal Chief Commissioner or Chief Commissioner, as the case may be
2.	Commissioner	Principal Commissioner or Commissioner, as the case may be

Notification No. 24 / 2014 – CE (N.T.), dated 12th August, 2014

In exercise of powers conferred by section 35FF of the Central Excise Act, 1944 (1 of 1944), the Central Government hereby fixes the rate of interest at six percent per annum for the purpose of the said Section.

Notification No. 25/2014-Central Excise (N.T.), dated 25th August, 2014

In the CENVAT Credit Rules, 2004, in rule 12AAA, after the words "first stage and second stage dealer", the words "provider of taxable service" has been inserted.

Notification No. 26/2014 – Central Excise (N.T.), dated 27th August, 2014

In the CENVAT Credit Rules, 2004, in rule 9, in sub-rule (1), after clause (f), the following clause has been inserted, namely:-

"(fa) a Service Tax Certificate for Transportation of goods by Rail (herein after referred to as STTG Certificate) issued by the Indian Railways, along with the photocopies of the railway receipts mentioned in the STTG certificate; or".

Notification No. 29 /2014-Central Excise (N.T.), the 16th September, 2014

In exercise of the powers conferred by section 37A of the Central Excise Act, 1944, with effect from 15th October, 2014, the Central Government has delegated the powers of the Central Board of Excise and Customs under rule 3 of the Central Excise Rules, 2002, to the Principal Chief Commissioner of Central Excise or the Chief Commissioner of Central Excise, to specify within his jurisdiction, the jurisdiction of a Commissioner of Central Excise (Appeals) or a Commissioner of Central Excise (Audit) and the jurisdiction of such Commissioner of Central Excise (Appeals) or Commissioner of Central Excise (Audit) shall be limited to the jurisdiction so specified.

Notification No. 02 / 2015 – Central Excise (N.T.), dated the 10th February, 2015

In exercise of the powers conferred by rule 3 of the Central Excise Rules , 2002, the Central Board of Excise and Customs has specified that the Principal Director General or the Director General of Central Excise Intelligence shall have jurisdiction as Principal Chief Commissioner or Chief Commissioner of Central Excise over the Principal Commissioners of Central Excise or the Commissioners of Central Excise , whose respective jurisdictions are specified in Table III(A) and III(B) of the notification no 27/2014- Central Excise (N.T) dated the 16th September, 2014 , for exercising the powers of the Central Board of Excise and Customs and for the purposes of assigning the cases for adjudication of show cause notices, delegated *vide* notification number 11/2007 – Central Excise (N.T) dated the 1st March, 2007.

Notification No. 6/2015-Central Excise (N.T.), dated the 1st March, 2015

In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 and section 94 of the Finance Act, 1994, the Central Government has made the following rules further to amend the CENVAT Credit Rules namely the CENVAT Credit (Amendment) Rules, 2015 and these came into force on the 1st day of March, 2015, save as otherwise provided in these rules. It provides for following amendments:

In rule 4

- in sub-rule (1), –
  - after the words "the provider of output service" , occurring at the end and before the first proviso, the words "or in the premises of the job worker, in case goods are sent directly to the job worker on the direction of the manufacturer or the provider of output service, as the case may be," has been inserted;

  - in the third proviso, for the words "six months", the words "one year" has been substituted;

- in sub-rule (2), in clause (a), after the words "for captive use within the factory," the words "or in the premises of the job worker, in case capital goods are sent directly to the job worker on the direction of the manufacturer or the provider of output service, as the case may be," has been inserted;

- in sub-rule (5), for clause (a), the following clause has been substituted, namely: –

  "(a) (i) The CENVAT credit on inputs shall be allowed even if any inputs as such or after being partially processed are sent to a job worker and from there subsequently sent to another job worker and likewise, for further processing, testing, repairing, re-conditioning or for the manufacture of intermediate goods necessary for the manufacture of final products or any other purpose, and it is established from the records, challans or memos or any other document produced by the manufacturer or the provider of output service taking the CENVAT credit that the inputs or the products produced therefrom are received back by the manufacturer or the provider of output service, as the case may be, within one hundred and eighty days of their being sent from the factory or premises of the provider of output service, as the case may be:

  Provided that credit shall also be allowed even if any inputs are directly sent to a job worker without their being first brought to the premises of the manufacturer or the provider of output service, as the case may be, and in such a case, the period of one hundred and eighty days shall be counted from the date of receipt of the inputs by the job worker;

  (ii) the CENVAT credit on capital goods shall be allowed even if any capital goods as such are sent to a job worker for further processing, testing, repair, re-conditioning or for the manufacture of intermediate goods necessary for the manufacture of final products or any other purpose, and it is established from the records, challans or memos or any other document produced by the manufacturer or the provider of output service taking the CENVAT credit that the capital goods are

received back by the manufacturer or the provider of output service, as the case may be, within two years of their being so sent:

Provided that credit shall be allowed even if any capital goods are directly sent to a job worker without their being first brought to the premises of the manufacturer or the provider of output service, as the case may be, and in such a case, the period of two years shall be counted from the date of receipt of the capital goods by the job worker;

(iii) if the inputs or capital goods, as the case may be, are not received back within the time specified under sub-clause (i) or (ii), as the case may be, by the manufacturer or the provider of output service, the manufacturer or the provider of output service shall pay an amount equivalent to the CENVAT credit attributable to the inputs or capital goods, as the case may be, by debiting the CENVAT credit or otherwise, but the manufacturer or the provider of output service may take the CENVAT credit again when the inputs or capital goods, as the case may be, are received back in the factory or in the premises of the provider of output service.";

- in sub-rule (7), –
  - for the first, second and third provisos, the following provisos has been substituted, with effect from the 1st day of April 2015, namely:-

    "Provided that in respect of input service where whole or part of the service tax is liable to be paid by the recipient of service, credit of service tax payable by the service recipient shall be allowed after such service tax is paid:"

    "Provided further that in case the payment of the value of input service and the service tax paid or payable as indicated in the invoice, bill or, as the case may be, challan referred to in rule 9 is not made within three months of the date of the invoice, bill or, as the case may be, challan, the manufacturer or the service provider who has taken credit on such input service, shall pay an amount equal to the CENVAT credit availed on such input service, except an amount equal to the CENVAT credit of the tax that is paid by the manufacturer or the service provider as recipient of service, and in case the said payment is made, the manufacturer or output service provider, as the case may be, shall be entitled to take the credit of the amount equivalent to the CENVAT credit paid earlier subject to the other provisions of these rules:";

  - in the sixth proviso, for the words "six months", the words "one year" has been substituted;

  - in the Explanations I and II, for the words "sub-rule", the word "rule" has been substituted.

In rule 5
in Explanation 1, after clause (1), the following clause has been inserted, namely:– "(1A) "export goods" means any goods which are to be taken out of India to a place outside India.".

In rule 6
in sub-rule (1), after the proviso, the following Explanations has been inserted, namely: –

"Explanation 1. – For the purposes of this rule, exempted goods or final products as defined in clauses (d) and (h) of rule 2 shall include non-excisable goods cleared for a consideration from the factory.

Explanation 2. – Value of non-excisable goods for the purposes of this rule, shall be the invoice value and where such invoice value is not available, such value shall be determined by using reasonable means consistent with the principles of valuation contained in the Excise Act and the rules made thereunder.".

In rule 9
in sub-rule (4), the following proviso has been inserted at the end, namely:–

"Provided that provisions of this sub-rule shall apply mutatis mutandis to an importer who issues an invoice on which CENVAT credit can be taken.".

In rule 12AAA

- after the words "restrictions on a manufacturer" , the words "registered importer," has been inserted.

- after the words "suspension of registration in case of" , the words "an importer or" has been inserted.

In rule 14
The following rule has been substituted, namely:—

"14. Recovery of CENVAT credit wrongly taken or erroneously refunded –
(1) (i) Where the CENVAT credit has been taken wrongly but not utilised, the same shall be recovered from the manufacturer or the provider of output service, as the case may be, and the provisions of section 11A of the Excise Act or section 73 of the Finance Act, 1994 (32 of 1994), as the case may be, shall apply mutatis mutandis for effecting such recoveries;

(ii) Where the CENVAT credit has been taken and utilised wrongly or has been erroneously refunded, the same shall be recovered along with interest from the manufacturer or the provider of output service, as the case may be, and the provisions of sections 11A and 11AA of the Excise Act or sections 73 and 75 of the Finance Act, 1994, as the case may be, shall apply mutatis mutandis for effecting such recoveries.

(2) For the purposes of sub-rule (1), all credits taken during a month shall be deemed to have been taken on the last day of the month and the utilisation thereof shall be deemed to have occurred in the following manner, namely: -

(i) the opening balance of the month has been utilised first;
(ii) credit admissible in terms of these rules taken during the month has been utilised next;
(iii) credit inadmissible in terms of these rules taken during the month has been utilised thereafter.

In rule 15
with effect from the date on which the Finance Bill, 2015 received the assent of the President i.e. 14th may, 2015 –

- in sub-rule (1), for the words "not exceeding the duty or service tax on such goods or services, as the case may be, or two thousand rupees, whichever is greater.", the words, brackets, figures and letters "in terms of clause (a) or clause (b) of subsection (1) of section 11AC of the Excise Act or sub-section (1) of section 76 of the Finance Act (32 of 1994), as the case may be" has been substituted;

- in sub-rule (2), for the words, figures and letters "section 11AC of the Excise Act." , the words, brackets, figures and letters "clause (c), clause (d) or clause (e) of sub-section (1) of section 11AC of the Excise Act." has been substituted; (c) in sub-rule (3), for the words and figures "penalty in

terms of the provisions of section 78" , the words brackets and figures "penalty in terms of the provisions of sub-section (1) of section 78" has been substituted.

Notification No. 8/2015–Central Excise (N.T.), dated the 1st March, 2015

In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944), the Central Government has made the following rules further to amend the Central Excise Rules, 2002, namely the Central Excise (Amendment) Rules, 2015 which came into force on the 1st day of March, 2015, save as otherwise provided in these rules:

In rule 8

In sub-rule (4), for the words, brackets and figure "and the interest under sub-rule (3)", the words, brackets, figure and letter "and mentioned in the return filed under these rules, the interest under sub-rule (3) and the penalty under sub-rule 3(A)" has been substituted.

In rule 10

after sub-rule (3), the following sub-rules has been inserted, namely: –

"(4) The records under this rule may be preserved in electronic form and every page of the record so preserved has been authenticated by means of a digital signature.

(5) The Board may, by notification, specify the conditions, safeguards and procedure to be followed by an assessee preserving digitally signed records.

In rule 11

- in sub-rule (2), after the proviso, the following provisos has been inserted, namely:–

"Provided further that if goods are directly sent to a job worker on the direction of a manufacturer or the provider of output service, the invoice shall also contain the details of the manufacturer or the provider of output service, as the case may be, as buyer and contain the details of job worker as the consignee:

Provided also that if the goods are directly sent to any person on the direction of the registered dealer, the invoice shall also contain the details of the registered dealer as the buyer and the person as the consignee, and that person shall take CENVAT credit on the basis of the registered dealer's invoice:

Provided also that if the goods imported under the cover of a bill of entry are sent directly to buyer's premises, the invoice issued by the importer shall mention that goods are sent directly from the place or port of import to the buyer's premises.;

- in sub-rule (7), after the words "to goods supplied by", the words "an importer who issues an invoice on which CENVAT credit can be taken, or" has been inserted;

- after sub-rule (7), the following sub-rules has been inserted, namely: –

"(8) An invoice issued under this rule by a manufacturer may be authenticated by means of a digital signature:

Provided that where the duplicate copy of the invoice meant for transporter is digitally signed, a hard copy of the duplicate copy of the invoice meant for transporter and self attested by the manufacturer shall be used for transport of goods.

(9) The Board may, by notification, specify the conditions, safeguards and procedure to be followed by an assessee using digitally signed invoice.

Explanation. – For the purposes of rule 10 and this rule, the expressions, "authenticate", "digital signature" and "electronic form" shall have the respective meanings as assigned to them in the Information Technology Act, 2000 (21 of 2000).

In rule 12
after sub-rule (5), the following sub-rule has been inserted, namely:–

"(6) Where any return or Annual Financial Information Statement or Annual Installed Capacity Statement referred to in this rule is submitted by the assessee after due date as specified for every return or statements, the assessee shall pay to the credit of the Central Government, an amount calculated at the rate of one hundred rupees per day subject to a maximum of twenty thousand rupees for the period of delay in submission of each such return or statement.".

In rule 12CCC

- after the words "restrictions on a manufacturer," , the words "a registered importer," has been inserted;

- after the words "suspension of registration in case of" , the words "an importer or," has been inserted.

In rule 17
after sub-rule (5), the following sub-rule has been inserted, namely:–

"(6) Where the return is submitted under sub-rule (3) by the assessee after the due date as mentioned in that sub-rule, the assessee shall pay to the credit of the Central Government, an amount calculated at the rate of one hundred rupees per day subject to a maximum of twenty thousand rupees for the period of delay in submission of each return.".

In rule 18
for the Explanation, the following Explanation has been substituted, namely:
"Explanation. – For the purposes of this rule, "export", with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India and includes shipment of goods as provision or stores for use on board a ship proceeding to a foreign port or supplied to a foreign going aircraft.".

In rule 22
in sub-rules (2) and (3), after the words "Every assessee," , the words "an importer who issues an invoice on which CENVAT credit can be taken," has been inserted.

In rule 25
in sub-rule (1), –

- after the words "registered person of a warehouse," the words "or an importer who issues an invoice on which CENVAT credit can be taken," has been inserted.

- in the long line, – (i) after the words "registered person of the warehouse," the words "or an importer who issues an invoice on which CENVAT credit can be taken," has been inserted; (ii) for the words "two thousand rupees" the words "five thousand rupees" has been substituted with effect from the date on which the Finance Bill, 2015, received the assent of the President i.e. 19th May, 2015.

Notification No.9/2015 - Central Excise (N.T.), dated the 1st March, 2015

In exercise of the powers conferred by section 37 of the Central Excise Act, 1944, the Central Government hereby makes the following rules further to amend the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001, namely Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Amendment Rules, 2015. These came into force from the 1st day of March, 2015.

In the rule 3, after sub-rule (3), the following proviso has been inserted, namely: –

"Provided that it shall be sufficient to provide a letter of undertaking by a manufacturer against whom no show cause notice has been issued under subsections (4) or (5) of section 11A of Central Excise Act, 1944 or where no action is proposed under any notification issued in pursuance of rule 12CCC of Central Excise Rules, 2002 or rule 12AAA of CENVAT Credit Rules, 2004.".

Notification No. 11/2015-Central Excise (N.T.), dated the 1st March, 2015

In exercise of the powers conferred by sub-clause (iii) of clause (c) of section 23A of the Central Excise Act, 1944 (1 of 1944), the Central Government has specified "resident firm" as class of persons for the purposes of the said sub-clause.

Explanation. - For the purposes of this notification,-

(a) "firm" shall have the meaning assigned to it in section 4 of the Indian Partnership Act, 1932 (9 of 1932) , and includes-

(iv) the limited liability partnership as defined in clause (n) of sub-section (1) of the section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009); or
(v) limited liability partnership which has no company as its partner; or
(vi) the sole proprietorship; or
(vii) One Person Company.

(b) (i) "sole proprietorship" means an individual who engages himself in an activity as defined in sub-clause (a) of section 23A of the Central Excise Act, 1944. (ii) "One Person Company" means as defined in clause (62) of section 2 of the Companies Act, 2013 (18 of 2013).

(c) "resident" shall have the meaning assigned to it in clause (42) of section 2 of the Income-tax Act, 1961 (43 of 1961) in so far as it applies to a resident firm.

Notification No. 1/2015-Clean Energy Cess, dated the 1st March, 2015

In exercise of the powers conferred by sub-section (7) of section 83 of the Finance Act, 2010 read with section 5A of the Central Excise Act, 1944, the Central Government, being satisfied that it is necessary in the public interest so to do, has exempted all goods leviable to the Clean Energy Cess under section 83 of the said Finance Act, from so much of the Clean Energy Cess leviable thereon under the Tenth Schedule to the said Finance Act, 2010, as is in excess of the amount calculated at the rate of Rs. 200 per tonne.

Notification No. 1/2015-M & TP, dated the 1st March, 2015

In exercise of the powers conferred by rule 8 of the Medicinal and Toilet Preparations (Excise Duties) Rules, 1956, the Central Government, being satisfied that it is necessary in the public interest so to do, made the following further amendment in the notification No. 2/2003-M&TP, dated the 1st March, 2003,

In the said notification, in the Table, in column (4), for the entry, "Twelve per cent. Ad valorem", wherever it occurs, the entry "Twelve and half per cent. ad valorem" has been substituted.

Notification No. 12/2015-Central Excise (N.T.), dated the 30th April, 2015

In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 and section 94 of the Finance Act, 1994, the Central Government has made the following rules further to amend the CENVAT Credit Rules, 2004, namely, the CENVAT Credit (Second Amendment) Rules, 2015 which came into force from the date of their publication in the Official Gazette.

In rule3, in sub-rule (7), in clause (b), after the second proviso, the following has been substituted, namely:-

"Provided also that the credit of Education Cess and Secondary and Higher Education Cess paid on inputs or capital goods received in the factory of manufacture of final product on or after the 1st day of March, 2015 can be utilized for payment of the duty of excise leviable under the First Schedule to the Excise Tariff Act:

Provided also that the credit of balance fifty per cent. Education Cess and Secondary and Higher Education Cess paid on capital goods received in the factory of manufacture of final product in the financial year 2014-15 can be utilized for payment of the duty of excise specified in the First Schedule to the Excise Tariff Act:

Provided also that the credit of Education Cess and Secondary and Higher Education Cess paid on input services received by the manufacturer of final product on or after the 1st day of March, 2015 can be utilized for payment of the duty of excise specified in the First Schedule to the Excise Tariff Act."

NOTIFICATION NO. 14/2015-CENTRAL EXCISE (N.T.) DATED, 1ST MARCH, 2015

In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 and section 94 of the Finance Act, 1994, the Central Government made the following rules further to amend the CENVAT Credit Rules, 2004 namely the CENVAT Credit (Third Amendment) Rules, 2015 and it came into force with effect from 1st of June, 2015.

In rule 6, in sub-rule (3), –

- in clause (i), after the words "goods and", the words "seven per cent. of value of the" has been inserted.
- in the second proviso, for the word "six", the word "seven" has been substituted.

NOTIFICATION NO. 18/2015-CENTRAL EXCISE (N.T.) DATED 6TH JULY, 2015

The Central Board of Excise and Customs has specified the following conditions, safeguards and procedures for issue of invoices, preserving records in electronic form and authentication of records and invoices by digital signatures, namely:-

- Every assessee proposing to use digital signature shall
    - use Class 2 or Class 3 Digital Signature Certificate duly issued by the Certifying Authority in India.
    - intimate the following details to the jurisdictional Deputy Commissioner or Assistant Commissioner of Central Excise, at least fifteen days in advance:-

1. name, e-mail id, office address and designation of the person authorised to use the digital signature certificate;
2. name of the Certifying Authority;
3. date of issue of digital certificate and validity of the digital signature with a copy of the certificate issued by the Certifying Authority along with the complete address of the said Authority:

Provided that in case of any change in the details submitted to the jurisdictional Deputy Commissioner or Assistant Commissioner, complete details shall be submitted afresh within fifteen days of such change.

- Every assessee already using digital signature shall intimate to the jurisdictional Deputy Commissioner or Assistant Commissioner of Central Excise the above details within fifteen days of issue of this notification.

- Every assessee who opts to maintain records in electronic form:
  - shall maintain separate electronic records for each factory or each service tax registration, if he has more than one factory or service tax registration
  - shall on request by a Central Excise Officer, produce the specified records in electronic form and invoices through e-mail or on a specified storage device in an electronically readable format for verification of the authenticity of the document and the request for such records and invoices shall be specified in the letter or e-mail by the Central Excise Officer.
  - shall ensure that appropriate backup of records in electronic form is maintained and preserved for a period of 5 years immediately after the financial year to which such records pertain.

- A Central Excise Officer, during an enquiry, investigation or audit, in accordance with the provisions of section 14 of the Central Excise Act, 1944 and as made applicable to Service Tax as per the provisions contained in section 83 of the Finance Act, 1994, may direct an assessee to furnish printouts of the records in electronic form and invoices and may resume printouts of such records and invoices after verifying the correctness of the same in electronic format; and after the print outs of such records in electronic form have been signed by the assessee or any other person authorised by the assessee in this regard, if so requested by such Central Excise Officer.

NOTIFICATION NO.19/2015-CENTRAL EXCISE (N.T.) DATED 18 SEPTEMBER, 2015

The Central Board of Excise and Customs has invested the officers specified in column (1) of the Table below, with the powers of the Central Excise Officer of the rank specified in column (2) of the said Table, in the jurisdiction specified in Notification No. 27/2014-Central Excise, dated the 16th September, 2014 namely:-

Central Excise Officer	Rank of the Central Excise Officer whose powers is to be exercised
All Principal Commissioners who have been given additional charge of a Chief Commissioner vide Office Order of the Central Board of Excise and	The Chief Commissioner

Customs No. 126/2015, dated the 20th August, 2015	

NOTIFICATION NO. 20/2015 -CENTRAL EXCISE (N.T.) DATED 24TH SEPTEMBER, 2015

The Central Board of Excise and Customs has notified the conditions, safeguards and procedures for supply of items like tags, labels, printed bags, stickers, belts, buttons and hangers (hereinafter referred as "specified goods") produced or manufactured in an Export Oriented Undertaking (hereinafter referred to as "EOU") and cleared without payment of duty to a Domestic Tariff Area (hereinafter referred to as "DTA") unit in terms of Para 6.09 (g) of Foreign Trade Policy, 2015-20, for the purpose of their exportation out of India (hereinafter referred as "specified purpose"), namely:-

Conditions:-

- the EOU shall furnish a general bond in the specified Form to the jurisdictional Deputy or Assistant Commissioner of Central Excise in a sum equal to the duty chargeable on the specified goods, with 5% Bank Guarantee or as cash security;
- the specified goods after being used for the specified purpose shall be exported within six months from the date on which such goods cleared from EOU or within such extended period as the Deputy or Assistant Commissioner of Central Excise may in any particular case allow;
- the shipping bill filed by the DTA exporter shall contain the name and I.E. Code of the DTA exporter along with the name and I.E. Code of the EOU as supporting manufacturer;
- the DTA exporter shall apply for export incentives based on the Freight On Board (FOB) value of the consignment exported minus the value of specified goods.

Procedure to be followed by EOU manufacturing the specified goods:-

- furnish a bond alongwith Bank Guarantee or cash security, as the case may be,
- clear goods without payment of duty to DTA manufacturer or as the case may be, processer;

The EOU shall ensure that the debit in bond account does not exceed the credit available therein at any point of time

Export of goods:-

(i) the DTA exporter shall export specified goods as part of export goods. The shipping bill shall also contain name and address of the EOU as supporting manufacturer, details of the specified goods, like their description, quantity, value, etc., and reference of invoice number under which the said specified goods were received from the EOU. The value of the specified goods should not be less than the value of these goods removed by EOU:

Provided that in case of shipping bill filed claiming the benefits under any export promotion scheme, the FOB value of consignment exported shall exclude the value of specified goods procured from EOU for the purpose of claiming such benefits;

(ii) the EOU will submit attested photocopy of the shipping bill (EP copy), Customs attested copy of invoice and self-attested photocopy of bill of lading or air way bill to the jurisdictional Central Excise and Customs Superintendent for verification of export of the specified goods. The said Superintendent of Central Excise having jurisdiction over EOU shall verify the details of export of the specified goods with reference to the document submitted by exporter;

(iii) the proof of export should be submitted by the EOU to the jurisdictional Central Excise Office within a period of six months from the date of clearance of goods from the EOU;

(iv) on submitting certification of export of specified goods and proof of payment received for the exported goods in which the said specified goods were contained such supplies of specified goods shall be taken into account for counting towards discharge of export obligation of the EOU by the Development Commissioner.

Recovery of duty in certain cases:-

Where the specified goods are not received by the DTA Unit or are not exported by the DTA exporter within the specified period or the extended period as permitted by the Assistant or Deputy Commissioner in charge of EOU, the EOU shall be liable to pay the duty leviable on such specified goods alongwith interest and penalty, if any, in accordance with the provisions of the Central Excise Act, 1944.

NOTIFICATION NO.22/2015-CENTRAL EXCISE (N.T.) DATED 29TH OCTOBER, 2015

The Central Government has made the CENVAT Credit (Fifth Amendment) Rules, 2015 further to amend the CENVAT Credit Rules, 2004 which shall come into force on the date of their publication in the Official Gazette.

in rule 3, in sub-rule (7), in clause (b), after the fifth proviso, the following proviso shall be inserted, namely:-

"Provided also that the credit of Education Cess and Secondary and Higher Education Cess paid on inputs or capital goods received in the premises of the provider of output service on or after the 1st day of June, 2015 can be utilized for payment of service tax on any output service:

Provided also that the credit of balance fifty percent Education Cess and Secondary and Higher Education Cess paid on capital goods received in the premises of the provider of output service in the financial year 2014-15 can be utilized for payment of service tax on any output service:

Provided also that the credit of Education Cess and Secondary and Higher Education Cess paid on input service in respect of which the invoice, bill, challan or Service Tax Certificate for Transportation of Goods by Rail (referred to in rule 9), as the case may be, is received by the provider of output service on or after the 1st day of June, 2015 can be utilized for payment of service tax on any output service.".

NOTIFICATION NO. 23 /2015-CENTRAL EXCISE (N.T.) DATED 30TH OCTOBER, 2015

The Central Board of Excise and Customs has made the following amendments further to the Notification No. 42/2001-Central Excise (N.T.), dated 26th June, 2001:-

In paragraph 2, in sub-paragraphs (ii) and (iii), after clause (a) occurring in both sub-paragraph , following proviso shall respectively be inserted, namely:-

Provided that where the nature of goods is such that the goods cannot be sealed in a package or a container such as coal or ore, etc., exemption from sealing of package or container may be granted by the Principal Chief Commissioner or Chief Commissioner of Central Excise subject to safeguard as may be specified by him in the permission.

The safeguards shall, inter-alia, include the following:-

- method of verification of quantity and quality of goods including testing of goods where necessary at the place of removal or despatch and at the port of export or SEZ, where the goods are received;
- no remission of duty shall be allowed for loss of goods within transit;

- permission shall be given on case to case basis for a specified period not exceeding one year at a time and may be withdrawn in case of misuse; and
- any additional safeguards as may be specified.

NOTIFICATION NO. 25 /2015- CENTRAL EXCISE (N.T) DATED 9TH DECEMBER, 2015

The Central Government has made the Central Excise (Second Amendment) Rules, 2015 further to amend the Central Excise Rules, 2002 which shall come into force on the date of their publication in the Official Gazette.

In rule 8, for sub-rule (1A), the following sub-rule shall be substituted, namely:–

"(1A) Notwithstanding anything contained in sub-rule (1), the duty on the clearances in the month of November, 2015, by an assessee in the State of Tamil Nadu, payable by the 5th or the 6th of the December, 2015, as the case may be, shall be paid by the 20th December, 2015."

In rule 12, after sub-rule (6), the following sub-rule shall be inserted, namely:–

"(7) The Central Board of Excise and Customs may, by an order extend the period specified in this rule by such period as deemed necessary under the circumstances of special nature to be specified therein.".

In rule 17, after sub-rule (3), the following proviso shall be inserted, namely:-

"Provided that the Central Board of Excise and Customs may, by an order extend the period by such period as deemed necessary under the circumstances of special nature to be specified therein.".

NOTIFICATION NO. 26/2015- CENTRAL EXCISE (N.T) DATED THE 18TH DECEMBER, 2015

The Central Government has made the Central Excise (Third Amendment) Rules, 2015further to amend the rule 8, in sub-rule (1A) of the Central Excise Rules, 2002 which shall come into force on the date of their publication in the Official Gazette.

In rule 8, in sub-rule (1A), for the words "State of Tamil Nadu", the words "State of Tamil Nadu and the Union Territory of Puducherry (except Yanam and Mahe)" shall be substituted.

NOTIFICATION NO. 27/2015 - CENTRAL EXCISE (N.T) DATED 31ST DECEMBER, 2015

The Central Government has made the CENVAT Credit (Sixth Amendment) Rules, 2015further to amend the CENVAT Credit Rules, 2004 which shall come into force on the date of their publication in the official Gazette.

In rule 9, in sub-rule (1), in clause (d), after the words " Foreign Post Office", the words "or, as the case may be, an Authorized Courier, registered with the Principal Commissioner of Customs or the Commissioner of Customs in-charge of the customs airport," shall be inserted.

NOTIFICATION NO. 34/2015 - CENTRAL EXCISE DATED 17TH JULY, 2015

The Central Government being satisfied that it is necessary in the public interest so to do, has made the following further amendment in the Notification No 30/2004-Central Excise, dated the 9th July, 2004

In the said notification, in the opening paragraph, for the proviso, the following proviso shall be substituted, namely:-

"Provided that the said excisable goods are manufactured from inputs on which appropriate duty of excise leviable under the First Schedule to the Central Excise Tariff Act or additional duty of customs under section 3 of the Customs Tariff Act, 1975 (51 of 1975) has been paid and no credit of such excise duty or additional duty of customs on inputs has been taken by the manufacturer of such goods (and not the buyer of such goods), under the provisions of the CENVAT Credit Rules, 2004.".

NOTIFICATION NO. 35/2015 - CENTRAL EXCISE DATED 17TH JULY, 2015

The Central Government being satisfied that it is necessary in the public interest so to do, has made the following further amendment in the Notification No. 1/2011-Central Excise, dated the 1st March, 2011

In the said notification, in the opening paragraph, for the proviso, the following proviso shall be substituted, namely:

"Provided that the said excisable goods are manufactured from inputs or by utilising input services on which appropriate duty of excise leviable under the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) or additional duty of customs under section 3 of the Customs Tariff Act, 1975 (51 of 1975) or service tax under section 66 of the Finance Act, 1994 (32 of 1994) has been paid and no credit of such excise duty or additional duty of customs on inputs or service tax on input services has been taken by the manufacturer of such goods (and not the buyer of such goods), under the provisions of the CENVAT Credit Rules, 2004.".

NOTIFICATION NO. 36/2015 - CENTRAL EXCISE DATED 17TH JULY, 2015

The Central Government being satisfied that it is necessary in the public interest so to do, has made the following further amendments in the Notification No. 12/2012-Central Excise, dated the 17th March, 2012

In the said notification, in the Annexure,-

a. for condition No. 16, and the entries relating thereto, the following shall be substituted, namely:-

If the said excisable goods are manufactured from inputs or capital goods on which appropriate duty of excise leviable under the First Schedule to the Excise Tariff Act or additional duty of customs under section 3 of the Customs Tariff Act, 1975 (51 of 1975) has been paid and no credit of such excise duty or additional duty of customs on inputs or capital goods has been taken by the manufacturer of such goods (and not the buyer of such goods) under rule 3 or rule 13 of the CENVAT Credit Rules, 2004

b. in Condition No. 20, in clause (a), for the existing entry the following entry shall be substituted namely:-

"the said excisable goods are manufactured from inputs on which appropriate duty of excise leviable under the First Schedule to the Excise Tariff Act or additional duty of customs under section 3 of the Customs Tariff Act, 1975 (51 of 1975) has been paid and no credit of such excise duty or additional duty of customs on inputs has been taken by the manufacturer of such goods (and not the buyer of such goods), under rule 3 or rule 13 of the CENVAT Credit Rules, 2004;";

c. for condition No. 25, and the entries relating thereto, the following shall be substituted, namely:-

If the said excisable goods are manufactured from inputs or by utilising input services on which appropriate duty of excise leviable under the First Schedule to the Excise Tariff Act or additional duty of customs under section 3 of the Customs Tariff Act, 1975 (51 of 1975) or service tax under section 66 of the Finance Act, 1994 (32 of 1994) has been paid and no credit of such excise duty or additional duty of customs on inputs or service tax on input services has been taken by the manufacturer of such goods (and not the buyer of such goods), under rule 3 or rule 13 of the CENVAT Credit Rules, 2004

(d) for condition No. 52A, and the entries relating thereto, the following shall be substituted, namely:

If the said excisable goods are manufactured from inputs or capital goods or by utilising input services on which appropriate duty of excise leviable under the First Schedule to the Excise Tariff Act or additional duty of customs under section 3 of the Customs Tariff Act, 1975 (51 of 1975) or service tax under section 66 of the Finance Act, 1994 (32 of 1994) has been paid and no credit of such excise duty or additional duty of customs on inputs or capital goods or service tax on input services has been taken by the manufacturer of such goods (and not the buyer of such goods), under rule 3 or rule 13 of the CENVAT Credit Rules, 2004

NOTIFICATION NO. 37/2015 - CENTRAL EXCISE DATED 21ST JULY, 2015

The Central Government being satisfied that it is necessary in the public interest so to do, has made the following further amendment in the Notification No. 30/2004-Central Excise, dated the 9th July, 2004

In the opening paragraph, after the proviso, the following Explanation shall be inserted, namely:

"Explanation.- For the purposes of this notification, appropriate duty or appropriate additional duty includes nil duty or concessional duty, whether or not read with any relevant exemption notification for the time being in force. ".

NOTIFICATION NO. 38/2015 - CENTRAL EXCISE DATED 21ST JULY, 2015

The Central Government being satisfied that it is necessary in the public interest so to do, has made the following further amendments in the Notification No. 1/2011-Central Excise, dated the 1st March, 2011

In the said notification, in the opening paragraph:

(A) in the proviso, for the word and figures "section 66", the word, figures and letter "section 66B" shall be substituted.

(B) after the proviso, the following Explanation shall be inserted, namely:

"Explanation.- For the purposes of this notification, appropriate duty or appropriate additional duty or appropriate service tax includes nil duty or nil service tax or concessional duty or concessional service tax, whether or not read with any relevant exemption notification for the time being in force.".

NOTIFICATION NO. 41/2015 - CENTRAL EXCISE DATED 17TH SEPTEMBER, 2015

The Central Government being satisfied that it is necessary in the public interest so to do, hereby makehas made the following further amendments in the Notification No. 12/2012-Central Excise, dated the 17thMarch, 2012

In the said notification, in the ANNEXURE, in Condition No. 52, under the column heading "Conditions":

(a) for clause (iii), the following clause shall be substituted, namely:-

"(iii) such ships or vessels carry containerised cargo namely, export-import cargo or empty containers or domestic cargo, between such ports;";

(b) for clause (iv), the following clause shall be substituted, namely:-

“(iv) such ships or vessels file an import manifest (IGM) or an export manifest (EGM), as the case may be, in each leg of the voyage;".

CIRCULAR NO. 1010/17/2015-CX DATED 23RD OCTOBER, 2015 -REVISED MONETARY LIMITS FOR ARREST IN CENTRAL EXCISE AND SERVICE TAX

With reference to the circular number 1009/16/2015-CX dated 23.10.2015 on the subject of prosecution under the Central Excise Act, 1944 and the Finance Act, 1994 (Service Tax cases). Revised monetary limits have been prescribed in the circular for launching prosecution.

Prosecution can now be launched where evasion of Central Excise duty or Service Tax or misuse of Cenvat Credit in relation to offences specified under sub-section (1) of Section 9 of the Central Excise Act, 1944 or sub-section (1) of section 89 of the Finance Act, 1994 is rupees one crore or more.

Consequently, it has been decided to revise the limits for arrests in Central Excise and Service tax. Henceforth, arrest of a person in relation to offences specified under clause (a) to (d) of sub-section (1) of Section 9 of the Central Excise Act, 1944 or under clause (i) or (ii) of sub-section (1) of section 89 of the Finance Act, 1994, may be made in cases where the evasion of Central Excise duty or Service Tax or the misuse of Cenvat Credit is equal to or more than rupees one crore. Central Excise circular no. 974/08/2013-CX and Service Tax circular no. 171/6 /2013-ST both dated 17-09-2013 stand amended accordingly.

CUSTOMS

Recovery And Penal Provisions

Section 28 of the Customs Act, 1962 related to "Recovery of duties not levied or short-levied or erroneously refunded" has been amended vide section 82 of the Finance Act, 2015 to provide following:

- in sub-section (2), the following proviso has been inserted, to provide that where there is no fraud, collusion, wilful mis-statement, suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of duty, no penalty shall be imposed subject to certain conditions, the proviso be read as:

"Provided that where notice under clause (a) of sub-section (1) has been served and the proper officer is of the opinion that the amount of duty along with interest payable thereon under section 28AA or the amount of interest, as the case may be, as specified in the notice, has been paid in full within thirty days from the date of receipt of the notice, no penalty shall be levied and the proceedings against such person or other persons to whom the said notice is served under clause (a) of sub-section (1) shall be deemed to be concluded.";

- in sub-section (5), for the words "twenty-five per cent", the words "fifteen per cent" has been substituted;

Thus, in cases involving fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of duty, the amount of penalty payable shall be 15% instead of the present 25%;

- after Explanation 2, the following Explanation has been inserted, namely:—

"Explanation 3.— For the removal of doubts, it is hereby declared that the proceedings in respect of any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where show cause notice has been issued under sub-section (1) or sub-section (4), as the case may be, but an order determining duty under sub-section (8) has not been passed before the date on which the Finance Bill, 2015 receives the assent of the President, shall, without prejudice to the provisions of sections 135, 135A and 140, as may be applicable, be deemed to be concluded, if the payment of duty, interest and penalty under the proviso to sub-section (2) or under sub-section (5), as the case may be, is made in full within thirty days from the date on which such assent is received.".

Thus, where a notice under clause (a) of sub-section (1) or sub-section (4) of section 28, has been served but an order determining duty under sub-section (8) has not been passed before the date on which the Finance Bill, 2015 received the assent of the President, i.e. 14th May, 2015 then, without prejudice to the provisions of sections 135, 135A and 140, as may be applicable, the proceedings in respect of such person or other persons to whom the notice is served shall be deemed to be concluded if the payment of duty, interest and penalty under the proviso to sub-section (2) or under sub-section (5), as the case may be, is made in full within 30 days from the date on which such assent is received.

Section 112 of the Customs Act, 1962 related to "Penalty for improper importation of goods, etc." has been amended vide section 83 of the Finance Act, 2015

Sub-clause (ii) in clause (b) of section 112, has been substituted and be read as:

"(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent of the duty sought to be evaded or five thousand rupees, whichever is higher:

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the penalty so determined;"

Section 114 of the Customs act, 1962 related to "Penalty for attempt to export goods improperly, etc" has been amended *vide* section 84 of the Customs Act, 1962

Clause (ii) in section 114 of the Customs Act has been substituted and be read as:

In the Customs Act, in section 114, for clause (ii), the following clause has been substituted, namely:—

"(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent of the duty sought to be evaded or five thousand rupees, whichever is higher:

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the penalty so determined;".

Settlement of Cases

Following sections/sub-sections of Customs Act has been omitted *vide* Section 85, 86, 87, 88, 89 and 90 of the Finance Act, 2015

- The words "in any appeal or revision, as the case may be," in the proviso in clause (b) of section 127A: so as to provide that when any proceeding is referred back, whether in appeal or revision or otherwise, by any court, Appellate Tribunal Authority or any other authority to the adjudicating authority for a fresh adjudication or decision, then such case shall not be entitled for settlement.
- Sub-section (1A) of section 127B: The actual operation of the said sub-section provided for the payments to be made within thirty days from 1st day of June 2007. The said provision has become redundant and been omitted.
- Sub-section (6) of section 127C: It provided that in respect of the applications filed before 31st day of May, 2007, Settlement Commission shall pass the final order of settlement under sub-section (5) of section 127C latest by 29th February 2008 and in cases filed after 31st day of May, 2007, within nine months. Since all the applications filed before 31st day of May, 2007 shall have been necessarily disposed of by 29th day of 2008, the reference to the said dates have become redundant and has been omitted.
- Section 127 E: It provided that Settlement Commission can reopen the completed proceedings in certain conditions. However, and as per second proviso to the said section Settlement Commission cannot

reopen any proceedings in respect of an application made after 1st day of June 2007. Thus, Settlement Commission has no powers to reopen any completed proceedings after expiry of five years from 1st day of June 2007. Therefore, this section has been omitted.

- Explanation to sub-section (1) of section 127H: It provided that in respect of the applications filed on or before 31st day of May 2007, Settlement Commission shall decide the applications as if the amendments made in the said section were not in force. Since all the applications filed by 31st day of May, 2007 have necessary been disposed of by 29th day of February 2008, the said explanation has become redundant. Hence, it has been omitted.
- The words, brackets, figures and letters "passed under sub-section (7) of section 127C, as it stood immediately before the commencement of section 102 of the Finance Act, 2007 (22 of 2007) or sub-section (5) of section 127C" in clause (i) of Section 127 (1): The, above phrase has become redundant and hence been omitted.
- The words, brackets, figures and letter "under said sub-section (7), as it stood immediately before the commencement of section 102 of the Finance Act, 2007 (22 of 2007) or sub-section (5) of section 127C" in clause (ii) of Section 127 (1): The, above phrase has become redundant and hence been omitted.

Notification No. 56/2014-Customs (N.T.), dated 6th August, 2014

In exercise of the powers conferred by sections 25, 151A, 156 and 157 of the Customs Act, 1962 (52 of 1962) and of all other powers enabling it in this behalf, the Central Government has directed that the references to the authorities specified in column (2) of the Table below, in the rules made or deemed to have been made under the said sections or in any other notifications, instructions, regulations, decisions, orders, issued or made under the said sections or rules or under any other section of the said Act, shall, unless the context otherwise requires, be construed as references to the authorities specified in column (3) of the said Table, namely:

Sl. No.	Existing reference	Substituted reference
(1)	(2)	(3)
1.	Chief Commissioner	Principal Chief Commissioner or Chief Commissioner, as the case may be
2.	Commissioner	Principal Commissioner or Commissioner, as the case may be

Notification No.70 / 2014 – Customs (N.T.) dated 12th August, 2014

In exercise of powers conferred by section 129EE of the Customs Act, 1962 (52 of 1962), the Central Government has fixed the rate of interest at six percent per annum for the purpose of the said Section.

Notification No. 109 /2014- Customs (N.T), dated 17th November, 2014

In the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995, in rule 7, in sub-rule (1), for the words “he may within three months”, the words “he may, except where a claim for drawback under rule 3 or rule 4 has been made, within three months” has been substituted.

Notification No. 20 / 2015- Customs (N.T), dated 10th February, 2015

In exercise of the powers conferred by section 75 of the Customs Act, 1962, section 37 of the Central Excise Act, 1944 and section 93A read with section 94 of the Finance Act, 1994, the Central Government made the following rules further to amend the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 namely the Customs, Central Excise Duties and Service Tax Drawback (Amendment) Rules, 2015 which came into force on 13th February, 2015.

In the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995,-

(i) in rule 3, in sub-rule (1), in the second proviso, in clause (v), the words and figures "on any of the goods falling within heading 1006 or", has been omitted;

(ii) in rule 6, in sub-rule (4), the words and figures "any of the goods falling within heading 1006 or on", has been omitted;

(iii) in rule 7, in sub-rule (5), the words and figures "any of the goods falling within heading 1006 or on", has been omitted.

Notification No. 27/2015–Customs (N.T.), dated 1st March, 2015

In exercise of the powers conferred by sub-clause (iii) of clause (c) of section 28E of the Customs Act, 1962 (52 of 1962), the Central Government has specified "resident firm" as class of persons for the purposes of the said sub-clause. Explanation - For the purposes of this notification,-

(a) "firm" shall have the meaning assigned to it in section 4 of the Indian Partnership Act, 1932 (9 of 1932) , and includes-

(i) the limited liability partnership as defined in clause (n) of sub-section (1) of the section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009); or

(ii) limited liability partnership which has no company as its partner; or

(iii) the sole proprietorship; or

(iv) One Person Company.

(b) (i) "sole proprietorship" means an individual who engages himself in an activity as defined in sub-clause (a) of section 28E of the Customs Act, 1962. (ii) "One Person Company" means as defined in clause (62) of section 2 of the Companies Act, 2013 (18 of 2013).

(c) "resident" shall have the meaning assigned to it in clause (42) of section 2 of the Income-tax Act, 1961 (43 of 1961) in so far as it applies to a resident firm.

Notification No. 29/2015 - Customs (N.T.) dated 10th March, 2015

In exercise of the powers conferred by sub-section (1) of section 5 of the Customs Tariff Act, 1975 (51 of 1975) and in supersession of the Customs Tariff [Determination of Origin of Products under the Duty Free Tariff Preference Scheme for Least Developed Countries] Rules, 2008, except as respects things done or omitted to be done before such supersession, the Central Government has made the Customs Tariff (Determination of Origin of Products under the Duty Free Tariff Preference Scheme for Least Developed Countries) Rules, 2015. They shall come into force on the date of their publication in the Official Gazette.

Notification No.62/2015 - Customs (N.T.) dated 17th June, 2015

In exercise of the powers conferred under section 157 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs made the following amendments to amend the Courier Imports and Exports (Clearance) Regulations,1998 *vide* the Courier Imports and Exports (Clearance) Amendment Regulations, 2015 which shall come into force on the date of their publication in the Official Gazette:

In regulation 2, in sub-regulation (2), in clause (e),-

- for the sub-clause (iii), the following has been substituted, namely:-

  "goods proposed to be exported under Duty Exemption Schemes, Export Promotion Capital Goods Scheme or any other similar export promotion schemes:

  Provided that this sub-clause shall not apply to goods notified in Appendix 3C of the Foreign Trade Policy (2015-2020), proposed to be exported from Chennai, Delhi and Mumbai airports under the Merchandise Exports from India Scheme (MEIS) in consignment of value upto rupees twenty five thousand and involving transaction in foreign exchange;";

- for the sub-clause (iv) , the following has been substituted, namely:-

  "goods, other than the goods specified in Appendix 3C of the Foreign Trade Policy (2015-2020), in respect of which the proper officer directs the filing of shipping bill or bill of export in the prescribed form;";

- the proviso to sub-clause (v) has been omitted.

In regulation 6, after sub-regulation (3) and before the existing proviso,

- the following proviso has been inserted, namely:-

  "Provided that for the goods specified in Appendix 3C of the Foreign Trade Policy (2015-2020), such entry shall be made in the form prescribed in the Shipping Bill and Bill of Export (Form) Regulations, 1991:";

- in the existing proviso, after the word "Provided'', the word "further" has been inserted.

In the Form Courier Shipping Bill-II (CSB-II) and (CBEx-II) in the Declaration, for clause (ii), the following has been substituted, namely:-

"(ii) I /We hereby declare that the goods for export as per this Shipping Bill include only bonafide commercial samples and prototypes of goods of a value not exceeding Rs. 50,000/- per consignment and bonafide gifts of articles for personal use of a value not exceeding Rs. 25,000/- per consignment and which are for the time being not subject to any prohibition or restriction on their export from India and on export of which no transfer of foreign exchange is involved".

Notifications regarding Implementation of schemes under FTP 2015-20

CBEC has also issued various Notifications regarding implementation of various schemes under Foreign Trade Policy 2015-2020: These are:

- 16/2015-Cus,dated 01-04-2015: Regarding implementation of EPCG Scheme under FTP 2015-2020
- 17/2015-Cus,dated 01-04-2015: Regarding implementation of Post Export EPCG Scheme under FTP 2015-2020
- 18/2015-Cus,dated 01-04-2015: Regarding implementation of Advance Authorisation Scheme under FTP 2015-2020

- 19/2015-Cus,dated 01-04-2015: Regarding implementation of Duty Free Import Authorisation Scheme under FTP 2015-2020
- 20/2015-Cus,dated 01-04-2015: Regarding implementation of Advance Authorisation Scheme for annual requirement under FTP 2015-2020
- 21/2015-Cus,dated 01-04-2015: Regarding implementation of Advance Authorisation Scheme for deemed export under FTP 2015-2020
- 22/2015-Cus,dated 01-04-2015: Regarding implementation of Advance Authorisation Scheme for export of prohibited goods under FTP 2015-2020.

Circular No. 01/15-Customs dated 12th January, 2015

Merging of Commercial invoice and packing list:

As per the extant Customs procedures for both import and export, an importer / exporter is required to submit a commercial invoice and packing list along with the Customs declaration form viz. Bill of Entry/Shipping Bill. Both commercial invoice and packing list are critical for Customs purposes as the former e*vide*nces the value of the import/ export goods while the latter facilitates examination of goods for ascertaining correctness of duty and quantity. However, there are many identical data fields in a commercial invoice and packing list. In this regard, it is seen that the following data fields / information are invariably contained in a packing list (other than the common data fields / details of commercial invoice):

- Description of Goods;
- Marks and Numbers;
- Quantity;
- Gross Weight;
- Net Weight;
- Number of Packages;
- Types of Packages (such as pallet, box, crates, drums etc.).

The Board has decided that as a measure of simplification, in case an importer/exporter submits a commercial invoice cum packing list that contain above mentioned data fields / information in addition to the details in a commercial invoice, a separate packing list should not be insisted upon by Customs. In other words, for Customs purposes a commercial invoice cum packing list (with details of marks and numbers as mentioned above) would suffice but if importer/exporter desires to give a separate packing list for some reason, the same would also be accepted, as at present.

Circular No. 04/2015-Customs, dated 20th January, 2015

Re-export of goods imported under bonafide mistake:

Circular No.100/2003–Cus., dated 28.11.2003 prescribes that permission for re-export of goods that are shipped contrary to instruction of the importer has to be granted by Commissioner of Customs.

References have been received in the Board that the current procedure for allowing re-export of goods that are imported under a bonafide mistake is being followed at Customs stations is time consuming and causes avoidable hardship to importer/airlines/consol agents. This is especially happening at air cargo complexes because numerous requests in respect of wrong shipments are to be dealt with here on daily basis. These references contain a request for a simpler procedure.

The matter was deliberated upon and there was consensus to prescribe a simplified and uniform procedure which may obviate delays in cases warranting the grant of permission to re-export. A view emerged that a solution lies in delegating the powers to permit re-export to the Customs Officers in accordance with their powers of adjudication.

The matter has been examined by the Board. Requests for re-export of imported goods may be received when the said goods are destined for elsewhere but which are inadvertently imported at a particular Customs station. With a view to expedite decision-making in respect of re-export of such goods, the Board has decided that the permission for re-export may be granted on merit by the officer concerned as per the adjudication powers. In regard to the adjudication powers, a reference may be made to Section 122 of the Customs Act, 1962 and Circular No.24/2011-Cus., dated 31.05.2011. Thus, Circular No 100/2003-Cus., dated 28.11.2003 stands modified to the above extent.

Circular No. 05/2015-Customs, dated 28th January, 2015

Collection of anti-dumping duty beyond the validity period:

Since, the Directorate General of Anti Dumping and Allied Duties (DGAD) had not initiated any sunset review, the levy under notification (No.100/2005-Customs) could not have been extended (for one year) in terms of the 2nd Proviso to Section 9A (5) of the Customs Tariff Act, which reads as under:

"Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to conclusion before such expiry, the anti-dumping duty may continue to remain in force pending the outcome of such a review for a further period not exceeding one year.

However, reportedly field formations were still collecting anti-dumping duty. It was in this context that the Circular No.28/2011- Customs dated 8th July 2011 was issued so as to clarify that in such cases, definitive/final anti-dumping duty can be collected only for a period of five years from the date of its imposition.

In view of the above, Para 3 of the Circular No.28/2011- Customs dated 8th July 2011 is substituted as under:

"From a plain reading of this provision it is e*vide*nt that definitive/final anti-dumping duty can be collected only for a period of five years from the date of its imposition. Generally by virtue of sub-section (2) of section 9A of the Customs tariff Act, 1975, the anti-dumping duty levied in pursuance of final findings of the Directorate General of Anti-Dumping and Allied Duties (DGAD) is effective for a period of five years from the date of imposition of provisional duty except in cases where the DGAD initiates a review before expiry of such five year period. In cases where the DGAD has not initiated any sunset review before the expiry of aforesaid five years, no anti-dumping duty can be collected beyond the period of five years from the date of its imposition."

Circular No. 10/2015-Customs, dated 31st March, 2015

Usage of Digital Signature Certificate in Remote EDI filing (RES) of Customs Documents:

The Government has prioritized trade facilitation and created an environment for ease of doing business. In continuation of this approach it has now been decided to allow the electronic submission of *digitally signed* Customs process documents viz. Bills of Entry, Shipping Bills, Import General Manifest (IGM), Export General Manifest (EGM) and Consol General Manifest (CGM).

It is imperative to ensure the integrity of the said documents. Implementation of digital signature provides a solution. The facility of digitally signing the documents that are filed electronically would provide the necessary assurance regarding the integrity and non-repudiation of these documents. This shall also enhance the acceptability of such documents by other agencies.

Accordingly, the Board has decided that with effect from **01.04.2015** importers, exporters, customs brokers, shipping lines, airlines or their agents shall be given the facility to use Digital Signature Certificate for filing Customs process documents viz. Bills of Entry, Shipping Bills, IGM (General Declaration and Cargo Declaration), EGM (General Declaration), CGM through Remote EDI System (RES)**.** For the present, the facility of using digital signatures is optional for all users.

In this context it may be noted that CBEC's Circular No.42/2005-Cus., dated 24.11.2005 mandates that the importers, who are recognized under the Accredited Client Programme (ACP), shall file Bills of Entries using digital signatures. However, this requirement has not been enforced so far. With the introduction of the general facility of electronic filing of digitally signed Customs process documents, the ACP importers shall be required to mandatorily file Bills of Entry with digital signature w.e.f. **01.05.2015**.

NOTIFICATION NO. 03 /2016-CENTRAL EXCISE DATED 22ND JANUARY, 2016.

The Central Government, being satisfied that it is necessary in the public interest so to do, has made the following further amendments in the Notifications specified below:-

Notification	Amendments
56/2002-Central Excise, dated the 14th November, 2002	In the said notification,- (a) in paragraph 3, (i) in clause (a), after the figures, letters and words, "14th day of June, 2002", the words, figures and letters "but not later than the 31st day of March, 2016" shall be inserted; (ii) in sub- clause (i) of clause (b), after the figures, letters and words, "14th day of June, 2002", the words, figures and letters, "but not later than the 31st day of March, 2016" shall be inserted; (iii) in sub- clause (ii) of clause (b), after the figures, letters and words, "14th day of June, 2002", the words, figures and letters, "but not later than the 31st day of March, 2016" shall be inserted; (b) after paragraph (4), the following paragraph shall be inserted, namely:- "5. The exemption contained in this notification shall not apply to such goods which have been subjected to only one or more of the following processes, namely, preservation during storage, cleaning operations, packing or repacking of such goods in a unit container or labeling or re-labelling of containers, sorting, declaration or alteration of retail sale price and have not been subjected to any other process or processes amounting to manufacture in the State of Jammu and Kashmir.".
57/2002-Central Excise, dated the 14th November, 2002	In the said notification,- (a) in paragraph 3,- (i) in clause (a), after the figures, letters and words, "14th day of June, 2002", the words, figures and letters "but not

	later than the 31st day of March, 2016" shall be inserted; (ii) in sub-clause (i) of clause (b), after the figures, letters and words, "14th day of June, 2002", the words, figures and letters, "but not later than the 31st day of March, 2016" shall be inserted; (iii) in sub-clause (ii) of clause (b), after the figures, letters and words, "14th day of June, 2002", the words, figures and letters, "but not later than the 31st day of March, 2016" shall be inserted and (b) after paragraph (4), the following paragraph shall be inserted, namely:- "5. The exemption contained in this notification shall not apply to such goods which have been subjected to only one or more of the following processes, namely, preservation during storage, cleaning operations, packing or repacking of such goods in a unit container or labeling or re-labelling of containers, sorting, declaration or alteration of retail sale price and have not been subjected to any other process or processes amounting to manufacture in the State of Jammu and Kashmir.".

NOTIFICATION NO. 109/2015-CUSTOMS (N. T.) DATED 16TH NOVEMBER, 2015

The Central Government has made the Customs, Central Excise Duties and Service Tax Drawback (Second Amendment) Rules, 2015 further to amend the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 which shall come into force on 23rd November, 2015

Following shall be omitted

- in rule 3, in sub-rule (1), in the second proviso, clause (v)
- in rule 6, sub-rule (4)
- in rule 7, sub-rule (5)

In rule 7, in sub-rule (3), following shall be substituted

- for the words “Where the manufacturer or exporter desires that he may be granted drawback provisionally”, the words “Provisional drawback amount, as may be specified by the Central Government, shall be paid by the proper officer of Customs and where the manufacturer or exporter desires that he may be granted further drawback provisionally” shall be substituted,

- for the words “applications made under that rule and the grant of provisional drawback”, the words “applications made under that rule along with details of provisional drawback already paid and the grant of further provisional drawback” shall be substituted;

NOTIFICATION NO. 149/2015 - CUSTOMS (N.T.) DATED 29TH DECEMBER, 2015

The Central Government has rescinded the Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002, published by Notification No. 34/2002-NT-CUSTOMS, dated the 11th June, 2002, except as respects things done or omitted to be done before such rescission.

NOTIFICATION NO. 76/2015-CUSTOMS (N.T.) DATED THE 18TH AUGUST, 2015-

In exercise of powers conferred by clause (a) of section 81 of the Customs Act, 1962, the Central Board of Excise and Customs has made the **Customs Baggage Declaration (Amendment) Regulations, 2015** further to amend the Customs Baggage Declaration Regulations, 2013, which shall come into force on the date of their publication in the Official Gazette.

In the Customs Baggage Declaration Regulations, 2013, in Form 1

In sl. no. 10,

(a) in item (vii), for the letters and figures "Rs.10,000", the letters and figures "Rs.25,000" shall be substituted;

(b) after item (ix), "(x) Flat Panel (LCD/LED/Plasma) Television Yes/No" shall be inserted.

Under the heading "IMPORTANT INFORMATION", under sub-heading "Customs Duty Free Allowance", in the Table, in third column relating to "Duty Free Allowance":

(a) for the letters and figure "Rs.35,000", the letters and figure "Rs.45,000" shall be substituted;
(b) for the figures "200,#50 and 250", the figure "100,#25 and 125' shall respectively be substituted.

NOTIFICATION NO.61/2015-CUSTOMS DATED 30TH DECEMBER, 2015

The Central Government, being satisfied that it is necessary in the public interest so to do, has made the following further amendment in the Notification No.12/2012-Customs, dated the 17th March, 2012:

"After the Table, in the proviso, clauses (ab) and (ad) shall be omitted."

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