



# Info Capsule

## **MINISTRY OF CORPORATE AFFAIRS ISSUES FRESH NOTIFICATIONS<sup>1</sup>**

**Wherein, the Central Government intends to provide clarity on the applicability of the threshold exemption limits to all forms of combinations; Clarity on the methodology to be adopted for calculating the relevant assets and turnover of the target when only a portion or segment or business of one enterprise is being combined with another.**

The Ministry of Corporate Affairs (MCA) has undertaken a major reform in the regulation of combinations under the Competition Act, bringing India in line with the global practice. The Act which was passed by Parliament in 2002 had initially provided for notice of combinations to be given by enterprises, as per Section 5 of the Act, on a voluntary basis. However, this Section was amended in 2007 making the notice mandatory.

In 2011, in response to concerns expressed by various stake holders, the Government had issued a notification exempting an enterprise, whose control, shares, voting rights or assets are being acquired has either assets of the value of not more than Rs. 250 crores in India or turnover of not more than Rs. 750 crores in India from the applicability of Section 5 of the Competition Act, 2002, for a period of 5 years. These limits were enhanced to Rs. 350 crores and Rs. 1000 crores, respectively, in March, 2016.

It was, however, noted by the Government that the said notification was being applied to Combinations which resulted only from acquisition but was not extended to Merger/Amalgamation and Acquiring of Control Cases. It was also noted that where only a segment/portion/business of an enterprise was being combined with another enterprise, the relevant assets and turnovers attributable to the target segment/portion/business were not being considered and instead the transferor's total assets and turnover were being considered for determining the applicability of the exemption.

Stakeholders had been voicing their concerns over the issue and in keeping with the Government's principle of Minimum Government and Maximum Governance, the Ministry has issued fresh notifications No. S.O. 988 (E) and No. S.O. 989(E) dated 27.03.2017 wherein, the Central Government intends to provide

- (i) Clarity on the applicability of the threshold exemption limits to all forms of combinations as referred under Section 5 of the Act.
- (ii) Clarity on the methodology to be adopted for calculating the relevant assets and turnover of the target when only a portion or segment or business of one enterprise is being combined with another.

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<sup>1</sup> Available at: <http://pib.nic.in/newsite/erelease.aspx?relid=0>

With the issue of these notifications, combinations falling within the threshold limits would not require to be filed before the Competition Commission of India. The reform is in pursuance of the Government's objective of promoting Ease of Doing Business in the country and is expected to make India a more attractive destination for Foreign Direct Investment. The notification is expected to enable greater freedom to industry in taking legitimate business decisions towards further accelerating India's economic growth.

### **SOUTH ASIA SUBREGIONAL ECONOMIC COOPERATION (SASEC) FACILITATING TRADE FOR SPEEDIER CLEARANCES WITH REDUCED TRANSACTION COSTS AND GREATER PREDICTABILITY FOR TRADE<sup>2</sup>**

- South Asia Subregional Economic Cooperation (SASEC) is facilitating trade guided by the SASEC Trade Facilitation Strategic Framework (2014–2018) in the sub-region through various projects. The key projects underway in the region include, among others: (i) formulation and implementation of new Customs laws and regulations; (ii) strengthening of automated Customs systems; (iii) implementing provisions of the Revised Kyoto Convention (RKC) such as on pre-arrival processing, risk management and post-clearance audit; (iv) developing trade portals for better transparency; and (v) establishing trusted trader programs, which assure facilitation to those with proven record of compliance.
- The RKC is the legal instrument of the World Customs Organization (WCO) that aims to simplify and harmonize international customs procedures globally, in order to achieve faster, more predictable and efficient customs clearances.
- Considering the progress made by India in the above areas, the Asian Development Bank (ADB) has been partnering with Indian Customs for sharing best practices and technical expertise with other countries under the SASEC umbrella.
- This form of South-South collaboration will support harmonizing the systems and processes within the sub-region thereby creating a conducive environment for intra-regional trade in SASEC to flourish.
- The through-transport arrangements being finalized among Bangladesh, Bhutan, India and Nepal (BBIN) is an initiative that would help in seamless cross-border movement of vehicles/cargo among identified corridors bringing down transaction costs and delays and easing the border congestion.
- ADB is also supporting India to develop integrated solutions for enhancing their logistics efficiency, covering the infrastructure and connectivity needed, as well as a logistics facilitation model that would enable faster and more efficient vehicle/cargo movement. This project would also cover international cargo, providing options for cargo clearance (e.g., at inland/ dry ports, bonded warehouses, etc.) enabling traders to manage their supply chain efficiently and decongesting ports.
- ADB has been following a consultative process in working with private sector stakeholders for raising awareness and building their capacity and to make sure their views are reflected in designing the national trade facilitation initiatives.

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<sup>2</sup> Available at: <http://pib.nic.in/newsite/erelease.aspx?relid=0>

- All of these efforts are expected to lead to speedier clearances with reduced transaction costs and greater predictability for trade.
- These will also improve compliance levels and more efficient allocation and use of resources by the regulatory agencies in the sub-region, which will ultimately lead to enhanced trade activity and improved economic competitiveness of the SASEC sub-region.
- The trade facilitation actions under SASEC are guided by the SASEC Trade Facilitation Strategic Framework (2014–2018), adopted by the SASEC members in March 2014, across its priority areas of: (i) Customs modernization/ harmonization, (ii) standards and conformity assessment, (iii) cross-border facilities improvement, (iv) through transport facilitation, and (v) institution/ capacity building.
- Under the Framework, various initiatives are underway to ensure that measures in relation to import, export and transit are efficient, proportionate, non-discriminatory, transparent and predictable and, to the extent possible, based on International standards and instruments.
- Established in 2001, the SASEC program is a project-based partnership to promote regional prosperity by improving cross-border connectivity, boosting trade among member countries and strengthening regional economic cooperation.
- The Asian Development Bank is the secretariat and lead financier of the program, which to date has supported a total of 46 projects worth about \$9.2 billion in transport, trade facilitation, energy, information and communications technology (ICT) and economic corridor development.

### **GOODS & SERVICES TAX<sup>3</sup>**

The 13th sitting of the GST Council will take place on Friday in the backdrop of four key Goods and Services Tax (GST) Bills — the Centre GST, the Union Territory GST, the Integrated GST, and the compensation law — getting Parliamentary nod.

At the Council meetings, the Centre and the States finalise draft rules for various aspects of the GST and review the preparedness for the roll out of the new tax regime. At the meeting the Council will finalise rules on four issues relating to composition, transition, valuation and input tax credit.

The Council is also likely to review the preparedness for the introduction of the GST, including that of the administration and migration of assesseees to the GST Network.

#### ***Team ICSI***

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<sup>3</sup> Available at: <http://www.thehindubusinessline.com/economy/policy/gst-council-to-finalise-draft-rules-today/article9608571.ece>