

Info Capsule

Wednesday
May 05, 2021

President : CS Nagendra D. Rao

Vice President : CS Devendra V. Deshpande

❖ **Banking & Insurance**

Priority Sector Lending (PSL) - On-lending by Small Finance Banks (SFBs) to NBFC-MFIs (May 05, 2021)

In view of the fresh challenges brought on by the COVID-19 pandemic and to address the emergent liquidity position of smaller MFIs, it has been decided by the RBI to allow PSL classification to the fresh credit extended by SFBs to registered NBFC-MFIs and other MFIs (Societies, Trusts etc.) which are members of RBI recognised 'Self-Regulatory Organisation' of the sector and which have a 'gross loan portfolio' of upto ₹500 crore as on March 31, 2021, for the purpose of on-lending to individuals. Bank credit as above will be permitted up to 10% of the bank's total priority sector portfolio as on 31 March, 2021. The above dispensation shall be valid upto March 31, 2022. However, loans thus disbursed will continue to be classified under Priority Sector till the date of repayment/maturity whichever is earlier.

For details:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12081&Mode=0>



**THE INSTITUTE OF
Company Secretaries of India**

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)

❖ **Securities Laws and Capital Markets**

SEBI Order

- **In the matter of Aakruti Nirmitti Limited (May 04, 2021)**
SEBI directed Aakruti Nirmitti Limited (Aakruti) along with two individuals to refund, to the investors, the money collected by the company, during their tenure as Managing Director / Joint Managing Director of Aakruti, through the issuance of equity shares (including the application money collected from investors during their respective period tenure of Managing Director, till date, pending allotment of securities, if any), with an interest of 15% per annum. Further, Aakruti is directed not to access the securities market by issuing prospectus, offer document or advertisement soliciting money from the public and is further restrained from buying, selling, or otherwise dealing in the securities market till the expiry of one year from the date of completion of refunds to investors.

For details:

https://www.sebi.gov.in/enforcement/orders/may-2021/order-in-the-matter-of-aakruti-nirmiti-limited_50046.html

SEBI News

- **SEBI drops ombudsman concept for securities market (May 05, 2021)**

The Securities and Exchange Board of India (SEBI) has done away with the concept of ombudsman for the securities market because of legal issues.

The regulator said it does not have the power to adjudicate dispute between entities. "SEBI Act does not expressly empower the Board to award compensation and therefore, SEBI may not empower an ombudsman to award compensation through delegated legislation," SEBI said in an internal note. The regulator said as per rules, the ombudsman need not be a judicial authority. Therefore, it is doubtful as to whether such a non-judicial authority would be entitled to award compensation.

For details:

<https://economictimes.indiatimes.com/markets/stocks/news/sebi-drops-ombudsman-concept-for-securities-mkt/articleshow/82394062.cms>

❖ **Direct Tax**

Thresholds for the purposes of Significant Economic Presence - Rule 11UD (Notification No. 41 Dated May 03, 2021)

The Central Board of Direct Taxes has notified the Income-tax (13th Amendment) Rules, 2021 which shall come into force from 1st April 2022. Through this amendment a new rule 11UD has been inserted which notifies the threshold for significant economic presence. As per the new rule, for the thresholds “the amount of aggregate of payments arising from transaction or transactions in respect of any goods, services or property carried out by a non-resident with any person in India, including provision of download of data or software in India during the previous year, shall be two crore rupees.” Further, the number of users with whom systematic and continuous business activities are solicited or who are engaged in interaction shall be three lakhs.

For details:

https://www.incometaxindia.gov.in/communications/notification/notification_41_2021.pdf

❖ **International Business News**

India, China to lead developing Asia rebound: ADB (May 5, 2021)

South Asia will record the fastest economic recovery this year, with the Asian Development Bank (ADB) predicting an expansion of 9.5 per cent after a 6 percent contraction in 2020, buoyed by India’s economic revival, Khaleej Times reported.

India and China are expected to lead an economic rebound in vast developing Asia, the Asian Development Bank predicted on April 28, 2021 raising its growth forecast for the whole 45-nation region.

For details:

https://akipress.com/news:657807:India,_China_to_lead_developing_Asia_rebound_ADB/

❖ **Terminology for Today**

Shewhart Cycle

The Shewhart Cycle is most often a circle with no beginning or end, meaning that the continuous improvement processes of business never stop. The cycle has four stages: planning (when one identifies an opportunity and create a plan), doing (to test the plan on a small scale), checking (to evaluate the benefit of the plan), and acting (implementing the plan on a larger scale and then monitoring results).

❖ **Pronouncement**

April 22, 2021

In re Bowring Institute

GST AAR Karnataka

Goods and Services Tax (GST) not applicable on Membership Subscription Fees collected from Members of the Club

Facts of the case:

The appellant, Bowring Institute is a club and a non-profit organization established by the British in the year 1868 as a literary and scientific society. The members contribute by way of subscription fees and infrastructure development fund which is used for the purposes of provision of services and goods and a reading room, library, chambers for accommodating family and guests, a bar and sports facilities.

The appellant sought the advance ruling on the issue whether the amount collected as membership subscription fees paid by the members of the applicant towards facilities provided by the applicant are liable as supply of service under GST.

Another issue raised was whether the amount collected as infrastructure development fund for the development and maintenance of the facilities provided by the applicant are liable as supply of service under GST?

Judgment:

The Karnataka Authority of Advance Ruling (AAR) ruled that the GST is not applicable on membership subscription fees collected from members of the club. The Authority noted that by virtue of Section 1 of Finance Act, 2021, the amendment brought in Section 7 of CGST Act, 2017 by way of Section 108 of Finance Act, 2021, will only come into effect on the date when Central Govt. notifies the same and then the same will be notified with the corresponding amendments passed by the respective States and Union territories in respective SGST/ UTGST Act.

For details:

<https://gst.kar.nic.in/Documents/General/BowringInstitute26042021.pdf>

❖ **Market Watch**

Stock Market Indices as on 05.05.2021

S & P BSE Sensex	48677.55 (+424.04)
Nifty 50	14617.85 (+121.35)

Foreign Exchange Rates as on 04.05.2021

(<https://www.geojit.com/currency-futures/rbi-reference-rate>)

INR / 1 USD	INR / 1GBP	INR / 1 EUR	INR/ 1 JPY
74.16	102.86	89.33	0.68

❖ **Labour Laws**

- **Labour Ministry Seeks Feedback on Draft Rules on Trade Unions Under Industrial Relation Code (May 4, 2021)**

The Ministry of Labour and Employment on Tuesday, May 04, 2021 sought public feedback on draft rules for recognition of trade unions and disputes related to those under the Industrial Relations Code 2020. The Industrial Relations Code 2020 was passed by Parliament in the Budget session which concluded in March this year.

The various rules under it were finalised but could not be notified yet. According to the notification, the draft Industrial Relations (Central) Recognition of Negotiating Union or Negotiating Council and Adjudication of Disputes of Trade Unions Rules, 2021 would be firmed up within 30 days from May 04, 2020. The rules provide for criteria for recognising a registered trade union of workers as the sole negotiating union of workers.

For details:

www.businessworld.in/article/Labour-Ministry-Seeks-Feedback-On-Draft-Rules-On-Trade-Unions-Under-IR-Code/05-05-2021-388683/

<https://egazette.nic.in/WriteReadData/2021/226832.pdf>

- **Aadhaar mandatory for all workers to avail social security benefits (May 03, 2021)**

The ministry of Labour and Employment appointed May 03, 2021 as the date on which the provisions of section 142 Social Security Code shall come into force.

Section 142 provides for establishing the identity of an employee or an unorganised worker or any other person through Aadhaar number for seeking benefits and availing services under the Social Security Code, 2020.

As per the Code, the Aadhaar registration is mandatory for all workers seeking benefit from the government in either kind or cash. These would also include medical and sickness benefit, pension, gratuity, maternity benefit or any other benefit or for withdrawal of fund.

For details:

<https://economictimes.indiatimes.com/news/economy/policy/aadhaar-mandatory-for-all-workers-to-avail-social-security-benefits/articleshow/82401711.cms>

<https://www.outlookindia.com/newscroll/labour-min-gets-mandate-to-seek-aadhaar-from-beneficiaries-under-social-security-code/2077411>

<https://egazette.nic.in/WriteReadData/2021/226829.pdf>

❖ Ministry of Corporate Affairs

Clarification on spending of CSR funds for 'creating health infrastructure for COVID care', 'establishment of medical oxygen generation and storage plants' etc. (May 05, 2021)

In continuation to General Circular No. 10/2020 dated March 23, 2020, the MCA has further clarified that spending of CSR funds for 'creating health infrastructure for COVID care', 'establishment of medical oxygen generation and storage plants', 'manufacturing and supply of Oxygen concentrators, ventilators, cylinders and other medical equipment for countering COVID-19' or similar such activities are eligible CSR activities under item nos. (i) and (xii) of Schedule VII of the Companies Act, 2013 relating to promotion of health care, including preventive health care, and, disaster management respectively.

The companies including Government companies may undertake the activities or projects or programmes using CSR funds, directly by themselves or in collaboration as shared responsibility with other companies, subject to fulfillment of Companies (CSR Policy) Rules, 2014 and the guidelines issued by the MCA from time to time.

For details:

http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo9_05052021.pdf

Prepared by Directorate of Academics

For any suggestions, please write to academics@icsi.edu, or call at 01204082116

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