

# Info Capsule

Monday  
March 15, 2021

President : CS Nagendra D. Rao

Vice President : CS Devendra V. Deshpande

## ❖ Indirect Tax

### Goods and Services Tax

#### • Clarification on Refund related issues - Circular No. 147/03/2021 - GST (March 12, 2021)

There is no restriction under 3rd proviso to Rule 89(1) of CGST Rules, 2017 on recipient of deemed export supply, claiming refund of tax paid on such deemed export supply, on availment of ITC on the tax paid on such supply. Therefore, the para 41 of Circular No. 125/44/2019-GST dated November 18, 2019 is modified to remove the restriction of non-availment of ITC by the recipient of deemed export supplies on the invoices, for which refund has been claimed by such recipient.

For details:

[https://www.cbic.gov.in/resources/htdocs-cbec/gst/Circular\\_Refund\\_147.pdf](https://www.cbic.gov.in/resources/htdocs-cbec/gst/Circular_Refund_147.pdf)



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## ❖ Securities Laws and Capital Markets

### • News

#### Finance Ministry asks SEBI to withdraw AT1 rule

The Finance Ministry has asked the markets regulator to withdraw a rule that sought to treat banks' additional tier 1 (AT1) bonds as having 100-year maturity, making investments in them one of the riskiest, as the government feared a sell-off in these securities would make it tougher for banks to raise capital.

SEBI's circular dated 10<sup>th</sup> March 2021 generated apprehension in the mutual fund industry that the changes would result in a revaluation of such bonds, leading to a spike in yields. While AT1 bonds have no fixed maturity, banks have the option, but no obligation, to buy them back at specified dates. Mutual funds have treated these dates, typically not more than 10 years, as maturity dates. Treating them as 100-year bonds would make them way riskier as longer-term bonds carry greater interest rate risk.

For detail: <https://www.livemint.com/mutual-fund/mf-news/finance-ministry-asks-sebi-to-withdraw-circular-on-at1-bonds-11615527337514.html>

## ❖ Direct Tax

### • CBDT notifies Amendment in FORM NO. 12BA under Income Tax Rules, 1962 (Notification No. 15 Dated March 11, 2021)

The Central Board of Direct Taxes (CBDT) notified the amendment in FORM NO. 12BA under Income-tax Rules, 1962. The notification amended Form 12BA which is a detailed statement showing particulars of perquisites, other fringe benefits or amenities and profits in lieu of salary with value thereof.

For details:

[https://incometaxindia.gov.in/communications/notification/notification\\_15\\_2021.pdf](https://incometaxindia.gov.in/communications/notification/notification_15_2021.pdf)

- **CBDT amends Income Tax Rules to set up Taxpayer Data Collection (Notification No. 16 Dated March 12, 2021)**

The Central Board of Direct Taxes (CBDT) amended the Income Tax Rules to set up taxpayer data collection. The change brought out by the Income Tax (4th Amendment) Rules, 2021, is effective from 12th March, 2021.

The sub-rule 5A inserted for the purposes of pre-filling the return of income, a statement of a financial transaction relating to capital gains on transfer of listed securities or units of mutual funds, dividend income, and interest income. The idea is to get information about large transactions by the taxpayer that will be used in preparing pre-filled income tax return.

*For details:*

[https://incometaxindia.gov.in/communications/notification/notification\\_16\\_2021.pdf](https://incometaxindia.gov.in/communications/notification/notification_16_2021.pdf)

## ❖ **Banking and Insurance**

- **RBI rejects Yes Bank's ARC plan, cites conflict of interest (March 15, 2021)**

The Reserve Bank of India (RBI) has rejected Yes Bank Ltd.'s application to set up an Asset Reconstruction Company (ARC) to warehouse bad loans citing a conflict of interest. Yes Bank sought approval to launch the ARC in September and was expected to operationalize it within six months of securing clearance.

*For details:*

<https://www.livemint.com/industry/banking/rbi-rejects-yes-bank-s-proposal-to-set-up-arc-11615722649056.html>

- **Rising retail loans help bank credit grow 6.6%; deposits surge 12% (March 15, 2021)**

Bank credit rose by 6.63 % to Rs 107.75 lakh crore and deposits grew by 12.06 % to Rs. 149.34 lakh crore in the fortnight ended February 26, as per Reserve Bank of India (RBI) data.

*For details:*

<https://indianexpress.com/article/business/banking-and-finance/rising-retail-loans-help-bank-credit-grow-6-6-deposits-surge-12-7228533/>

- **Not all windows closed for cryptocurrencies (March 15, 2021)**

Union Minister for Finance, Nirmala Sitharaman might not shut all doors for cryptocurrencies as the cabinet is formulating a note to decide on the next steps.

*For details:*

<https://bfsi.economictimes.indiatimes.com/news/fintech/not-all-windows-closed-for-cryptocurrencies-says-nirmala-sitharaman/81504654>

## ❖ **Business and Economics News**

### • **Asset monetisation target for states may be set at Rs 3 trillion (March 15, 2021)**

The national asset monetisation pipeline may set a target of Rs 3 trillion for states to monetise their assets over the next four to five years. States are being nudged by the central government and the NITI Aayog, and are being made aware of models they can use to monetise assets.

They are toll-operate-transfer, operate-maintain-transfer, infrastructure (infra) investment trusts, and real estate investment trusts.

*For details:*

[https://www.business-standard.com/article/economy-policy/asset-monetisation-target-for-states-may-be-set-at-rs-3-trillion-121031500021\\_1.html#:~:text=The%20national%20asset%20monetisation%20pipeline,can%20use%20to%20monetise%20assets.](https://www.business-standard.com/article/economy-policy/asset-monetisation-target-for-states-may-be-set-at-rs-3-trillion-121031500021_1.html#:~:text=The%20national%20asset%20monetisation%20pipeline,can%20use%20to%20monetise%20assets.)

### • **Government should earmark 10% of CSR for skill development: L&T's A M Naik (March 15, 2021)**

A M Naik, group chairman of Larsen and Toubro (L&T) and also chairman of National Skill Development Corporation (NSDC), acknowledges realising Prime Minister Narendra Modi's vision of making India the skill capital of the world will not be easy. But he is undeterred by the challenge.

*For details:*

[https://www.business-standard.com/article/companies/govt-should-earmark-10-of-csr-for-skill-development-l-t-s-a-m-naik-121031500016\\_1.html#:~:text=%C2%ABBack-Govt%20should%](https://www.business-standard.com/article/companies/govt-should-earmark-10-of-csr-for-skill-development-l-t-s-a-m-naik-121031500016_1.html#:~:text=%C2%ABBack-Govt%20should%20)

## ❖ **Terminology for today**

### **Asset Monetization**

Asset Monetization involves creation of new sources of revenue by unlocking of value of hitherto unutilized or underutilized public assets. Internationally, it is recognized that public assets are a significant resource for all economies. Monetizing these assets that Government's control, including n Public corporations, is widely held to be a very important but inadequately explored public finance option for managing public resources.

## ❖ **Market Watch**

<b>Stock Market Indices as on 15.03.2021</b>	
S & P BSE Sensex	50395.08 (-397.00)
Nifty 50	14929.50 (-101.45)

<b>Foreign Exchange Rates as on 12.03.2021</b> <i>(https://www.fbil.org.in/#/home)</i>			
<b>INR / 1 USD</b>	<b>INR / 1 GBP</b>	<b>INR / 1 EUR</b>	<b>INR/ 1 JPY</b>
72.6845	101.4739	86.8812	.6677

## ❖ Pronouncement

March 08, 2021	BA Continuum India Pvt. Ltd. (Appellant) vs Union of India and others (Respondent)	Bombay High Court
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### Telephone & E-mails cannot substitute personal hearing

#### Facts of the case:

The Appellant is a company incorporated under the Companies Act, 1956. It is engaged in the business of providing information technology and information technology enabled services to customers located outside India. The Appellant requested for personal hearing post-filing of reply. Due to technical glitches on the GSTN portal, the appellant was initially not able to file its replies on the portal.

#### Judgment:

The Bombay High Court while remanding the matter to the original GST authority for a fresh decision ruled that the Telephone and Emails can not replace personal hearing.

The expression 'opportunity of being heard' is not an expression of empty formality. It is a part of the well-recognized principle of *audi alteram partem* which forms the fulcrum of natural justice and is central to fair procedure. The principle is that no one should be condemned unheard.

When the law requires that no application for refund shall be rejected without giving an applicant an opportunity of being heard, the same cannot be substituted by telephonic conversations and exchange of e-mails. This is more so in the case of a claim for refund where no time-limit is fixed *vis-a-vis* rejection of claim. Under sub-section (7) of section 54 of CGST Act, 2017, a time-limit of 60 days is prescribed for making of an order allowing claim of refund; but that period of 60 days would commence from the date of receipt of the application *complete in all respects* without there being a corresponding provision for rejection of application not complete in all respects.

Admittedly in this case, no hearing was granted to the petitioner. Impugned orders, therefore, would be in violation of the *proviso* to sub-rule (3) of rule 92 of the CGST Rules and also in violation of the principles of natural justice.

For details : <https://bombayhighcourt.nic.in/generatenewauth.php?bhcp=cGF0aD0uL3dyaXRlcmVhZGRhdGEvZGF0YS9qdWRnZW1lbnRzLzlwMjEvJmZuYW1lPUYyNTYwMDAwMzI2NDIwMjBfNi5wZGYmc21mbGFnPU4mcmp1ZGRhdGU9JnVwbG9hZGR0PTA4LzAzLzlwMjEmc3Bhc3NwaHJhc2U9MTEwMzIxMTYzNTA4>

### Prepared by Directorate of Academics

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