THE INSTITUTE OF
Company Secretaries of India
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Statutory body under an Act of Parliament

Info Capsule

RESERVE BANK OF INDIA OUTLINES THE ACTION PLAN TO IMPLEMENT THE BANKING REGULATION (AMENDMENT) ORDINANCE, 2017[1]

The Reserve Bank of India outlined the steps taken and those on the anvil post the promulgation of the Banking Regulation (Amendment) Ordinance, 2017.

The amendments to the BR Act 1949, introduced through the Ordinance, and the notification issued thereafter by the Central Government empower RBI to issue directions to any banking company or banking companies to initiate insolvency resolution process in respect of a default, under the provisions of the Insolvency and Bankruptcy Code, 2016 (IBC). It also enables the Reserve Bank to issue directions with respect to stressed assets and specify one or more authorities or committees with such members as the Bank may appoint or approve for appointment to advise banking companies on resolution of stressed assets.

Immediately upon the promulgation of the Ordinance, the Reserve Bank issued a directive bringing the following changes to the existing regulations on dealing with stressed assets.

- It was clarified that a corrective action plan could include flexible restructuring, SDR and S4A.
- With a view to facilitating decision making in the JLF, consent required for approval of a proposal was changed to 60 percent by value instead of 75 percent earlier, while keeping that by number at 50 percent.
- Banks who were in the minority on the proposal approved by the JLF are required to either exit by complying with the substitution rules within the stipulated time or adhere to the decision of the JLF
- Participating banks have been mandated to implement the decision of JLF without any additional conditionality.
- The Boards of banks were advised to empower their executives to implement JLF decisions without further reference to them

It was made clear to the banks that non-adherence would invite enforcement actions.

Currently, the Oversight Committee (OC) comprises of two Members. It has been constituted by the IBA in consultation with RBI. It has been decided to reconstitute the OC under the aegis of the Reserve Bank and also enlarge it to include more Members so that the OC can constitute requisite benches to deal with the volume of cases referred to it. While the current Members will continue in the reconstituted OC, names of a few more will be announced soon. The Reserve Bank is planning to expand the scope of cases to be referred to the OC beyond those under S4A as required currently.

[1] Available at: https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=40518

The Reserve Bank is working on a framework to facilitate an objective and consistent decision making process with regard to cases that may be determined for reference for resolution under the IBC. Reserve Bank has already sought information on the current status of the large stressed assets from the banks. The RBI would also be constituting a Committee comprised majorly of its independent Board Members to advise it in this matter.

The current guidelines on restructuring are under examination for such modifications as may be necessary to resolve the large stressed assets in the banking system in a value optimising manner. The Reserve Bank envisages an important role for the credit rating agencies in the scheme of things and, with a view to preventing rating-shopping or any conflict of interest, is exploring the feasibility of rating assignments being determined by the Reserve Bank itself and paid for from a fund to be created out of contribution from the banks and the Reserve Bank.

The Reserve Bank notes that the proper exercise of the enhanced empowerment would require coordination with and cooperation from several stakeholders including banks, ARCs, rating agencies, IBBI and PE firms, to which end the Reserve Bank would be holding meetings in the near future with these stakeholders.

GOODS AND SERVICES TAX (GST) WILL LEAD TO LOWER TAX BURDEN IN SEVERAL COMMODITIES INCLUDING PACKAGED CEMENT, MEDICAMENTS, SMART PHONES, AND MEDICAL DEVICES, INCLUDING SURGICAL INSTRUMENTS[2]

The roll out of Goods and Services (GST) Tax will bring benefits to the consumers due to reduced tax rates on various commodities such as packaged cement, medicaments, smart phones, and medical devices, etc.

Packaged cement attracts central excise duty of 12.5% + Rs.125 PMT and standard VAT rate of 14.5%. At these rates, the present total tax incidence works out to more than 29%. If we include tax incidence on account of CST, octroi, entry tax, etc., the present total tax incidence would work out to more than 31%. As against this, the proposed GST rate for cement is 28%.

There will be lesser tax burden in case of **Medicaments, including Ayurvedic, Unani, Siddha, Homeopathic or Bio-chemic systems** also. Medicaments, in general, attract 6% central excise duty and 5% VAT. Further, CST, octroi, entry tax, etc. are also applicable in general. At these rates, the present total tax incidence works out to more than 13%. As against this, the proposed GST rate on medicines, including ayurvedic medicines, is 12%.

Smart phone attracts 2% central excise duty [1% excise duty + 1% NCCD]. VAT rates vary from State to State from 5% to 15%. Weighted average VAT rate on smart phones works out to about 12%. Thus, the present total tax incidence on smart phones works out to more than 13.5%. As against this, the proposed GST rate for smart phones is 12%.

Similarly, **medical devices, including surgical instruments**, in general attract 6% central excise duty and 5% VAT. Along with CST, octroi, entry tax, etc., the present total tax incidence on them works out to more than 13%. As against this, the proposed rate under GST is 12%.

Puja samagri* including *havan samagri will be under the Nil category. However, exact formulation for the same is yet to be finalized.

[2] Available at: http://pib.nic.in/newsite/erelease.aspx?relid=0

CENTRAL BOARD OF DIRECT TAXES (CBDT) SIGNS 2 UNILATERAL ADVANCE PRICING AGREEMENTS (APA) WITH INDIAN TAXPAYERS TAKING THE NUMBER OF APAS SIGNED IN THE CURRENT FINANCIAL YEAR TO FOUR[3]

The Central Board of Direct Taxes (CBDT) has entered into two Unilateral Advance Pricing Agreements (APA) on 04th May, 2017 and 11th May, 2017 respectively, with Indian taxpayers. One of the Agreements also has "Rollback" provision.

The two APAs signed pertain to chip design/development of embedded software and Information technology (software development) sectors of the economy. The number of APAs signed in the current financial year now is four. The CBDT expects more APAs to be signed in the near future. The progress of the APA Scheme strengthens the Government's commitment to foster a non-adversarial tax regime.

The APA Scheme endeavors to provide certainty to taxpayers in the domain of transfer pricing by specifying the methods of pricing and determining the arm's length price of international transactions in advance for the maximum of five future years. Further, the taxpayer has the option to roll-back the APA for four preceding years, as a result of which, total nine years of tax certainty is provided. Since its inception, the APA scheme has attracted tremendous interest among Multi National Enterprises (MNEs).

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[3] Available at: http://pib.nic.in/newsite/erelease.aspx?relid=0