

Info Capsule

ORDINANCE {BANKING REGULATION (AMENDMENT) ORDINANCE, 2017} HAS BEEN PROMULGATED, AUTHORISING RBI TO ISSUE DIRECTIONS TO ANY BANKING COMPANY TO INITIATE INSOLVENCY RESOLUTION PROCESS IN RESPECT OF A DEFAULT, UNDER THE PROVISIONS OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 (IBC)¹

An Ordinance {Banking Regulation (Amendment) Ordinance, 2017} has been promulgated on May 4, 2017 authorising RBI to issue directions to any banking company 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.

The Overseeing Committee (OC) has been brought under the aegis of the Reserve Bank and the membership of the same has been enlarged to five. The reconstituted OC has been mandated to review resolution of cases where the aggregate exposure of the banking sector to the borrowing entity is greater than Rs.500 crore.

An Internal Advisory Committee (IAC) was constituted by Reserve Bank of India, which arrived at an objective, non-discretionary criterion for referring accounts for resolution under IBC. In particular, the IAC recommended for IBC reference of all accounts with fund and non-fund based outstanding amount greater than Rs.5000 crore, with 60% or more classified as non-performing by banks as of March 31, 2016.

Accordingly, Reserve Bank of India has issued directions to certain banks for referring 12 accounts, qualifying under the aforesaid criteria, to initiate insolvency process under the Insolvency and Bankruptcy Code, 2016. As regards the other non-performing accounts which do not qualify under the above criteria, the IAC recommended that banks should finalize a resolution plan within six months. In cases where a viable resolution plan is not agreed upon within six months, banks should be required to file for insolvency proceedings under the IBC.

SUBSTANTIVE REFORMS IN LABOUR SECTOR²

Reforms in labour laws are an ongoing process to update legislative system to address the need of the hour and to make them more effective and contemporary to the emerging economic and industrial scenario. The Second National Commission on Labour has recommended that the existing Labour Laws should be broadly grouped into four or five Labour Codes on functional basis. Accordingly, the Ministry has taken steps for drafting four Labour Codes on Wages; Industrial Relations; Social Security & Welfare; and Safety and Working Conditions respectively, by

¹ Available at: <http://pib.nic.in/newsite/erelease.aspx>

² Available at: <http://pib.nic.in/newsite/erelease.aspx>

simplifying, amalgamating and rationalizing the relevant provisions of the existing Central Labour Laws. Ministry of Labour & Employment has also notified "Ease of Compliance to maintain Registers under various Labour Laws Rules, 2017" on February 21, 2017 which has in effect replaced the 56 Registers/Forms prescribed under 9 Central Laws and Rules made there under into 5 common Registers/Forms.

This will save efforts, costs and lessen the compliance burden by various establishments. These legislative initiatives will not only streamline compliance for establishments but also improve the wage security, job security and social security of the workers.

CABINET APPROVES MOC IN RESPECT OF TAX MATTERS BETWEEN INDIA AND BRICS COUNTRIES - BRAZIL, RUSSIA, CHINA AND SOUTH AFRICA³

The Union Cabinet chaired by the Prime Minister Shri Narendra Modi has given the approval for the signing of Memorandum of Cooperation (MOC) in respect of tax matters between India and the Revenue administrations of BRICS countries namely, Brazil, Russian Federation, China and South Africa

Objective:

The MoC aims to further promote cooperation amongst the BRICS Revenue administrations in international forum on common areas of interest in tax matters and in the area of capacity building and knowledge sharing. It envisages regular interaction amongst the heads of Revenue administration of BRICS countries to continue discussion on common areas of interest and strive towards convergence of views and meeting of the Experts on tax matters to discuss the contemporary issues in areas of international tax. In addition, the MoC accords confidentiality and protection to information exchanged under this MoC.

Impact:

The MoC will stimulate effective cooperation in tax matters. The collective stand of BRICS countries can prove to be beneficial not only to these countries but also to other developing countries in the long run in tax matters being steered by the G20.

Background:

The Heads of Revenue of the BRICS countries have been meeting regularly to discuss the potential areas of cooperation in tax matters and to exchange opinions and views based on the existing commitment to openness, solidarity, equality, mutual understanding, inclusiveness and mutually beneficial cooperation, as stated in the Goa Declaration issued on October 16, 2016. The BRICS countries have identified four areas of mutual interest on which understanding and cooperation can be further strengthened. The heads of Revenue of BRICS countries in their meeting held on the sidelines of FTA plenary at Beijing, China in May, 2016 decided to sign a MoC outlining these areas of cooperation.

CABINET APPROVES CENTRAL GOODS AND SERVICES TAX (AMENDMENT) BILL, 2017⁴

The Union Cabinet chaired by Prime Minister Shri Narendra Modi has given its ex-post facto approval for the promulgation of the Central Goods and Services Tax (Extension to Jammu & Kashmir) Ordinance, 2017 and replacement of the Ordinance by the Central Goods and Services Tax (Amendment) Bill, 2017.

The Ordinance has extended the provisions of the Central Goods and Services Tax Act, 2017 referred to as (CGST Act) to the State of Jammu & Kashmir.

³ Available at: <http://pib.nic.in/newsite/erelease.aspx>

⁴ Available at <http://pib.nic.in/newsite/erelease.aspx>

The Ordinance has been promulgated on July 8, 2017 and the Central Goods and Services Tax (Amendment) Bill, 2017 will be tabled in the current session of the Parliament.

CABINET APPROVES INTEGRATED GOODS AND SERVICES TAX (AMENDMENT) BILL, 2017⁵

The Union Cabinet chaired by Prime Minister Shri Narendra Modi has given its ex-post facto approval for the promulgation of the Integrated Goods and Services Tax (Extension to Jammu & Kashmir) Ordinance, 2017 and replacement of the Ordinance by the Integrated Goods and Services Tax (Amendment) Bill, 2017.

The Ordinance has extended the provisions of the Integrated Goods and Services Tax Act, 2017 referred to as (IGST Act) to the State of Jammu & Kashmir.

The Ordinance has been promulgated on July 8, 2017 and the Integrated Goods and Services Tax (Amendment) Bill, 2017 will be tabled in the current session of the Parliament.

FM: ORGANIZED TRADERS AND UNORGANIZED SELLERS IN TEXTILE SECTOR HAVE NOT BEEN AFFECTED BY THE GOODS AND SERVICES TAX (GST)⁶

In reply to a Starred Question in Rajya Sabha today, the Union Minister for Finance, Defence and Corporate Affairs, Shri Arun Jaitley said that the organized traders and unorganized sellers in Textile Sector have not been affected by the Goods and Services Tax (GST).

Shri Jaitley said that the GST rate structure for the textile sector was discussed in detail in the GST Council Meeting held on June 3, 2017, wherein the Council recommended the detailed rate structure for the textile sector. Accordingly, the GST rates for the textile sector have been notified as under:

S. No.	Type of fibre/filament	GST rate			
		Fibre	Yarn	Fabrics*	Garments and made ups**
1.	Silk	Nil	5%	5%	5% / 12%
2.	Wool	Nil	5%	5%	5% / 12%
3.	Cotton	5%	5%	5%	5% / 12%
4.	Other vegetable fibres	Nil / 5%	5%	5%	5% / 12%
5.	Manmade fibres / filaments	18%	18%	5%	5% / 12%

* - 5% GST rate with no refund of unutilized input tax credit.

** - (i) 5% GST rate for garments / made ups of sale value not exceeding Rs.1000 per piece.

(ii) 12% GST rate for garments / made ups of sale value exceeding Rs.1000 per piece.

⁵ Available at <http://pib.nic.in/newsite/erelease.aspx>

⁶ Available at: <http://pib.nic.in/newsite/erelease.aspx>

Thus, the GST rate structure for the Textiles Sector enables ease of classification and determination of rate.

The main demand of the textile traders is not to put any tax on fabrics. However, the same cannot be accepted because of the following reasons:

- Nil GST on fabrics will break the input tax credit chain and then the garments / made ups manufacturers will not be able to get the credit of tax on previous stages
- Nil GST on fabrics will result in zero rating of imported fabrics, while domestic fabrics will continue to bear the burden of input taxes.
- Generally, the GST rates are equal or lower than the pre-GST tax incidence. And therefore,

It is not correct to say that textiles sector was never taxed in independent India. In fact, during 2003-04, the entire textiles sector was subjected to central excise duty. Necessary steps have been taken to facilitate taxpayers to take GST registration.

GST Sewa Kendras have been set-up in various centres to handhold the taxpayers and to provide all necessary guidance regarding GST compliance.

Team ICSI

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