



Mr. Prashanth Kumar Gupta, Co-Founder of KMG Group is a member of The Institute of Company Secretaries of India and a Law Graduate.

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FINANCE

1.0 RBI withdraws circular asking banks to declare exposure to IL&FS

The Reserve Bank of India (RBI) has withdrawn its circular asking banks and financial institutions to declare details of their exposure and provisions related to the crisis-hit IL&FS. The National Company Law Appellate Tribunal (NCLAT) had allowed banks to declare their defaulting accounts of Infrastructure Leasing & Financial Services (IL&FS) and its group companies as non-performing assets.

2.0 RBI extends relaxed norms for NBFC loan securitisation till December 31, 2019

Non-banking financial companies (NBFCs) have been permitted to securitise loans of over five-year maturity after holding them for six months on their books. Earlier, they were supposed to hold it for at least a year. The Reserve Bank of India has decided to extend the dispensation provided till December 31, 2019.

3.0 Distribution of final proceeds after IBC resolution to be decided by judiciary

Judicial proceedings will decide whether final decision on distribution of proceeds of a resolution plan under the bankruptcy law will be in the hands of committee of creditors, Shri. MS Sahoo, bankruptcy board chairperson has stated. Distribution of proceeds under resolution plans has become a major issue in the insolvency proceedings.

Corporate Laws

1.0 Clarification on Name Approval

The Ministry of Corporate Affairs has issued Companies (Incorporation) Fifth Amendment Rules, 2019, which replaces and elaborates Rule 8, Rule 8A and Rule 8B pertaining to Names which resemble too nearly with name of existing company, Undesirable names and names requiring Government approvals.

2.0 Government notifies thresholds for filing class action lawsuits

The Ministry of Corporate Affairs has made amendments to the National Company Law Tribunal Rules, 2016 under the Companies Act, 2013 providing that an application for class action suit under Section 245 of the Companies Act can be filed by a member or members representing five per cent of the

total members of a company or 100 members of a company, whichever is less.

The same criteria will also be applicable for depositors of deposit-taking companies.

In case of an unlisted company, a member or members holding at least five per cent of the issued share capital can file for class action. For listed companies, the threshold would be two per cent.

3.0 Clarification on Filing of ADT 1

Many Companies were facing issues relating to filing of e-form ACTIVE as they had filed ADT-1 forms for appointment of auditors for the financial year starting from 2014-15 to 2018-19 as an attachment with E-form GNL-2 during the period from April 01, 2014 to October 20, 2014 as the E-form ADT 1 were not available for filing.

MCA has now permitted re-filing of ADT-1 to such companies for the said period (up to 2018-19) without Fees/Late Fees. Once ADT-1 is re-filed in such cases and duly approved, the details of Auditors would get pre-filled in the ACTIVE form.

4.0 Marking of Directors as Director of ACTIVE non-compliant company

Where a company fails to file the E-form ACTIVE within the period specified, the Director Identification Number (DIN) allotted to its existing directors, shall be marked as "Director of ACTIVE non-compliant company.

5.0 Format for Reconciliation of Share Capital Audit Report specified

The Ministry of Corporate Affairs has specified New Format of Reconciliation of Share Capital Audit Report, which is to be submitted by Unlisted Public Companies within 60 days of conclusion of each half year duly certified by a company secretary in practice or chartered accountant in practice.

6.0 Reminder for filing of Active Form INC 22A

The Ministry of Corporate affairs has clarified that the last date for filing ACTIVE(INC-22A) expires on June 15, 2019 and that no further extension would be provided.

TAXATION

1.0 Valuation on the basis of DCF method is valid for a loss-making company

The fact that the company is lossmaking does not mean that shares cannot be allotted at premium. The DCF method is a recognised method though it is not an exact science and can never be done with arithmetic precision an Income Tax Appellate Tribunal has ruled.

The decision will help the assessee(s) other than registered Startups, who have obtained valuation report following DCF and are under scrutiny by the Tax Department.

2.0 Extension of last date for exercise of option for Real Estate Promoters

Builders have been given the option to either continue in 12 per cent Goods and Services Tax

(GST) slab with ITC (8 per cent for affordable housing), or opt for 5 per cent GST rate (1 per cent for affordable housing) without ITC and communicate to their respective jurisdictional officers the same by May 20, 2019.

The concessional rate, which came into effect from April 1, was set at 1% for affordable houses and 5% for others, which was earlier specified at 8% and 12%, respectively. Developers of under-construction projects could opt for the new or previous rate by exercising this option before May 20, 2019.

3.0 Revised Return may be filed beyond the Period specified under Section 139 (5) of Income Tax Act, 1961

The Hon'ble High Court of Madras has in one of its judgement clarified that Section 139(5) of the Income Tax Act, 1961 is not applicable for cases where revised returns of income have been filed pursuant to approval of scheme of arrangement and amalgamation by the Competent Court/NCLT.

The Circular No.9 of 2015 issued under Income Tax Act 1961 is not applicable for filing of revised returns of income pursuant to a scheme of arrangement and amalgamation approved by the Court under Section 391 of the Companies Act, 2013 and further there is no mandatory requirement of filing Revised Income Tax return in electronic form in such cases.

4.0 GST and GAAR reporting in tax audit report deferred to March 31, 2020

The reporting under clause 30C and clause 44 of the Tax Audit Report shall be kept in abeyance till March 31, 2020. It clarifies that all income tax audit reports need not include details on Goods and Service Tax (GST) and General Anti-Avoidance Rules (GAAR) till March 2020.

Business who have turnover of more than One crore (or Two crore in case of presumptive taxation) and professionals with gross receipts of more than Fifty lakh have to comply with the tax audit requirements.

5.0 Condonation for Delay in filing of Form 10B by Trust and Institutions

CBDT has decided to condone the delay in filing of audit report in Form 10B by the trusts or institutions for the Assessment Years 2016-17 and 2017-18 subject to fulfilment of conditions.

Form 10B is specified as per Rule 17B of Income Tax Rules and is necessary to be filed under section 12A where the total income of the trust or institution (without giving effect to provisions of section 11 and section 12 of the Income Tax Act 1961) exceeds maximum amount not chargeable to tax.

6.0 New format for TDS certificate in Form 16

CBDT has notified a new format for TDS certificate in accordance with Section 203 of the Income Tax Act 1961 requiring a detailed break up of Tax-exempt allowances paid to the employee and also of all tax breakups claimed by them. Simultaneously changes have been

made in the TDS return to be filed by the companies to cross verify the same.

7.0 Offline Tools Prototype of New GST Returns released

The prototype for New GST Return Forms Normal, Sahaj and Sugam has been released. FAQ's have also been released on Annexure 1 and Annexure 2 to these forms.

8.0 Kerala Flood Cess to be imposed on Intra State Supplies in Kerala

The government of Kerala has notified that Kerala Flood cess shall be applicable from June 01 2019.

The government of Kerala has also notified the rules for the levy, collection and return submission procedures in relation to Kerala Flood Cess.

9.0 Due date for Filing GSTR 1 extended for Cyclone effected areas of Orissa

The due date of filing GSTR 1 for the month of April, 2019 for taxpayers having aggregate turnover more than 1.5 Crores has been extended to 10th June, 2019 and the due date of GSTR 3B for the month of April, 2019 for has been extended to June 20, 2019.

SEBI

1.0 FPI can now invest in municipal bonds

Securities and Exchange Board of India (SEBI) has allowed investment by foreign portfolio investors (FPI) in municipal bonds.

The Circular of SEBI was pending in the matter as Reserve Bank of India has already permitted FPIs to invest in municipal bonds as a measure to broaden access of non-resident investors to debt instruments in the country.

2.0 Reporting of Artificial Intelligence (AI) and Machine Learning (ML) Systems by Mutual Funds

Registered mutual funds using Artificial Intelligence and Machine Learning based applications or systems should make submissions on its usage Quarterly within fifteen calendar days from the expiry of the quarter to Association of Mutual Funds in India (AMFI) with effect from quarter ending June 2019.

AMFI shall further consolidate the information's received and submit to it Securities and Exchange Board of India within thirty calendar days of the expiry of the quarter, starting from quarter ending June 2019.

3.0 Mutual Funds to participate in Exchange Traded Commodity Derivatives

The Securities and Exchange Board of India has allowed mutual funds to participate in exchange-traded commodity derivatives (ETCD) for hedging their Exposure subject to fulfilment of conditions in terms of the SEBI Circular dated May 21, 2019.

MFs cannot trade in derivatives of sensitive commodities. MFs cannot invest in physical goods except in gold through ETFs etc

4.0 Participation of Portfolio Managers in Commodity Derivatives Market in India

SEBI has Allowed Portfolio Managers to participate in Exchange Traded Commodity Derivatives (ETCD) on behalf of their clients. Portfolio Managers need to appoint a SEBI registered Custodian before dealing in ETCD and fulfilment of condition as stated in the SEBI Circular dated May 22, 2019.

5.0 Enhancement of disclosure norms for listed debt securities

SEBI has enhanced disclosure norms for Debenture Trustees(DTs) providing for Disclosure of compensation arrangement with clients by DTs on their websites , Calendar of interest/ redemptions, due and paid, to be displayed on the website of DT(s) for the financial year, Furnishing of updated list of debenture holders to the DTs by Issuers/ Registrars to an Issue and Share Transfer Agent (RTA) and Additional covenants in case of privately placed issues etc.

6.0 Submission of financial results to Debentures Trustees

Listed Entities which have their equity shares and debt securities listed, must submit a copy of the financial results to Debenture Trustees on the same day as submitted to stock exchanges.

Further the listed entity shall submit with seven days a certificate signed by debenture trustee that it has taken note of the contents as per Regulation 52(4).

KMG Advisors Pvt Ltd, Legal & Tax Consultants

KPG & Associates, Company Secretaries

Our Offices:

D- 306, FF, Sushant Shopping Arcade, Gurgaon 122002

AG 87, 1st Floor, Shalimar Bagh, New Delhi 110088

A – 24, 1st Floor, Shri Mahavir Gaushala complex, KK Road, Raipur
142, Krishna Vihar, Gopalpura Bypass Jaipur 302015

Email ID – Info@kmgadvisors.in, info@kmpartners.in

Landline – 0124 4037309

Jain & Aggarwal, Chartered Accountants

KM & Partners, Law Offices

- Haryana

- Delhi

- Chhattisgarh

- Rajasthan