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FINANCE

1.0 Cabinet Approves changes in Foreign Direct Investment (FDI) Policy

Coal Mining Activities - 100% Foreign Direct Investment (FDI) under automatic route has been allowed for sale of coal, for coal mining activities including associated processing infrastructure. Earlier, 100 FDI was allowed only for coal & lignite mining for captive consumption by power projects, iron & steel, cement units and setting up coal processing plants like washeries subject to various conditions, applicable laws and regulations.

Contract Manufacturing – The Cabinet has approved 100% FDI under automatic route in contract manufacturing. Earlier, FDI policy provided for 100% FDI under automatic route in manufacturing sector, however there was no specific provision for Contract Manufacturing in the Policy.

Single Brand Retail Trading (SBRT) - The Cabinet has eased pre requirement of opening of Brick and Motor store for SBRT entity to start Online Trade. It has now approved that the retail trading through online trade can also be undertaken prior to opening of brick and mortar stores, subject to the condition that the

entity opens brick and mortar stores within 2 years from date of start of online retail.

The Cabinet has also eased sourcing norms for Single Brand Retail Trading entity. Now all procurements made from India by the SBRT entity for that single brand shall be counted towards local sourcing, irrespective of whether the goods procured are sold in India or exported.

The Cabinet has allowed sourcing of goods from India for global operations directly by the entity undertaking SBRT or its group companies (resident or non-resident), or indirectly by them through a third party under a legally tenable agreement.

The Cabinet has approved that entire sourcing from India for global operations shall be considered towards local sourcing requirement.

Digital Media - The Cabinet has permitted 26% FDI under Automatic route for uploading/ streaming of News & Current Affairs through Digital Media, on the lines of print media. The Current FDI policy allows 49% FDI under approval route in Up-linking of 'News & Current Affairs' TV Channels

2.0 The Code on Wages, 2019

The Code on Wages, 2019 received the assent of the President on August 08, 2019. The Code replaces the following four laws:

- The Payment of Wages Act 1936
- The Minimum Wages Act, 1948
- The Payment of Bonus Act, 1965
- The Equal Remuneration Act, 1976.

The Code prohibits employers from paying wages less than the minimum wages. Minimum wages are to be notified by the central or state governments.

The central or state government may fix the number of hours that constitute a normal working day. In case employees work in excess of a normal working day, they will be entitled to overtime wage, which must be at least twice the normal rate of wages.

The Code prohibits gender discrimination in matters related to wages and recruitment of employees for the same work or work of similar nature.

The Code further specifies penalties for offences committed by an employer, such as paying less than the due wages or for contravening any provision of the Code. Penalties vary depending on the nature of offence, with the maximum penalty being imprisonment for three months along with a fine of up to rupees one lakh rupees.

3.0 Homebuyers' rights as financial creditors

The Hon'ble Supreme Court upheld changes to the Insolvency and Bankruptcy Code (IBC) that allows homebuyers to initiate proceedings under the law against real estate developers in case they default on debt repayments, putting them on par with financial creditors.

The Hon'ble Supreme Court further said this would be in addition to the existing remedies available to the Homebuyers before consumer court or the Real Estate Regulatory Authority.

Corporate Laws

1.0 Clarification on Appointed Date and Acquisition Date

The Ministry of Corporate Affairs has issued detailed clarification vide Circular dated August 21, 2019, with respect to Appointed date in case of scheme of merger/ amalgamation. Few important points of the clarification are as below:

- Appointed date identified under the scheme shall be deemed to be the 'Acquisition Date' and date of transfer of control for the purpose of conforming to accounting standards.
- Appointed Date may be a specific calendar date or may be tied to the occurrence of an event such as grant of license by a competent authority or fulfilment of any preconditions agreed upon by the parties, or meeting any

other requirements as agreed upon between the parties, etc., which are relevant to the scheme.

- where Appointed date is chosen as a specific calendar date, it may precede the date of filing of the application for a scheme of merger/ amalgamation in NCLT.
- In case of event based Appointed Date, it should have to be indicated in the scheme itself upon the occurrence of which the scheme would become effective.
- In case of such event-based date being a date subsequent to the date of filing the order with the Registrar under section 232(5), the company shall file an intimation of the same with the Registrar within 30 days of such scheme coming into force.

2.0 Amendment in CSR Activities

The Ministry of Corporate Affairs allaying industry concerns has said violations of CSR norms under the Companies law will be treated only as a civil liability and not as a criminal offence. The corporate affairs ministry has informed that it would review the sections concerned under the Companies Act, 2013.

3.0 IEPF Amendment Rules, 2019

The Ministry of Corporate Affairs have notified Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Second Amendment Rules, 2019. All

the provisions of the Rules have come in force on August 20, 2019, except provisions of Rule 6 (i), 6 (iv), 6 (v), 6(vi), 6(vii) and 6 (viii), which will come in effect from September 20, 2019.

4.0 Reminder for filing of KYC of Directors

The Ministry of Corporate Affairs has issued circular and informed that every person who has already filed DIR-3 KYC will only be required to complete KYC through a simple web-based verification service, with pre-filled data based on the records in the registry.

The Last date for filing of DIR KYC WEB is September 30, 2019.

Companies (Amendment) Act, 2019

1.0 Dematerialization of Securities

The Companies Amendment act provides power to Central Government to notify such class of Unlisted Companies on whom Dematerialization of Securities can be made applicable, thus bringing even a Private Company under its ambit if notified. Earlier Section 29 of Companies Act, 2013 only provided such requirements for Public Companies.

2.0 Matters to be stated in prospectus

The requirement of registration of prospectus with the Registrar of Companies has been done away with and only requirement provided is of filing with the Registrar.

3.0 CSR Provisions

The Amendment Act provides for applicability of CSR provisions for companies who have not completed three financial years since incorporation, for these companies the amount of CSR contribution shall be 2% of Net Profit made by the Company in the immediately preceding financial year.

It further provides that unless the unspent amount relates to any ongoing project, The Unspent amount must be transferred to a Fund specified in Schedule VII, within a period of six months of the expiry of the financial year.

4.0 Significant Beneficial Ownership

The responsibility has been imposed on the company to identify an individual who is a significant beneficial owner and cause such individual to make a declaration and comply with these provisions. Failure to take necessary steps has been made punishable.

5.0 Commencement of Business

The Amendment Act reintroduces the concept of filing of Declaration of commencement within 180 days of incorporation before commencement of Business. It further requires every subscriber to memorandum to pay the value of shares agreed and file a declaration in this regard.

6.0 Consequence of termination or modification of certain agreements

The person who is not a fit and proper person pursuant to section 242 shall not hold the

office of a director or any other office connected with the conduct and management of the affairs of any company for a period of five years from the date of the decision of the Tribunal. However Central Government may, with the leave of the Tribunal, permit such person to hold any such office before the expiry of the said period of five years.

The person so removed from the office of a director or any other office connected with the conduct and management of the affairs of the company shall not be entitled to, or be paid, any compensation for the loss or termination of office.

7.0 Penalty and Fines

16 sections of the Companies Act, 2013 are amended to modify the punishment as provided in the said sections from fine to monetary penalties to lessen the burden upon the Special Courts.

8.0 Penalty for repeated default

New Section 454A have been notified which provides Penalty for repeated defaults by a company or an officer of a company or any other person having already been subjected to a penalty within a period of three years from the date of order imposing such penalty for the same default.

9.0 Penalty Under Section 447

The Penalty provided under section 447 of the Companies Act, 2013 have been enhanced from 25 lakh to 50 Lakh rupees.

1.0 Extension to trading members from pledging certain securities of clients

The Securities and Exchange Board of India have vide Circular dated June 20, 2019 barred Trading members from pledging to banks and NBFCs the securities of clients lying in certain accounts even with their authorisation by putting in place stricter norms with effect from September 01, 2019. However, SEBI have relaxed the restriction vide Circular dated August 29, 2019 and provided one month extension and the restrictions will now be applicable to the Trading members with effect from October 01, 2019.

2.0 Automated issuance of SCORES ID by SEBI

The Securities and Exchange Board of India have vide Circular dated August 02, 2019, Automated issuance of SCORES ID for all new SEBI registered intermediaries. Earlier all listed companies and SEBI registered intermediaries (excluding Stock Brokers and Depository Participants) were required to send their details as per Form-A and Form-B. SCORES User ID and password details shall be sent to all new SEBI registered intermediaries, through an auto-generated e-mail, upon completion of process of online grant of registration by SEBI. However, Listed companies shall continue to follow the current process for obtaining SCORES user id and password as the automation is currently only for SEBI Registered Intermediaries.

3.0 Enhanced disclosure for Encumbrance by Promoter of listed companies

The Securities and Exchange Board of India have vide Circular dated August 07, 2019 prescribe additional disclosure requirements under Regulation 31(1) read with Regulation 28(3) of Takeover Regulations for promoters of every listed company for encumbrance, If the combined encumbrance by the promoter along with persons acting in concert(PACS) exceeds 50 % of their shareholding in the company or 20 % of the total share capital of the company.

The Circular further provides that if the existing combined encumbrance by the promoter along with PACS with him is either 50% or more of their shareholding in the company or 20% or more of the total share capital of the company as on September 30, 2019, he shall specifically make first disclosure on detailed reasons for encumbrance in the format prescribed by October 04, 2019.

The disclosure on reasons for encumbrance shall be made to every stock exchange where the shares of the company are listed and to the listed company by the promoter. Listed company shall disclose the contents received on their websites within two working days of receipt of such disclosure.

4.0 Permissible investments by AIFs operating in IFSC

The Securities and Exchange Board of India vide circular dated August 09, 2019 has decided to harmonize the provisions governing investments by AIFs incorporated in IFSC with those provisions regarding investments applicable for domestic AIFs. Accordingly, AIFs incorporated in IFSC shall be permitted to make investments as per the provisions of the SEBI (Alternative Investment Fund) Regulations, 2012, and the guidelines and circulars issued thereunder, including the operating guidelines for AIFs in IFSC.

Taxation

1.0 Extension for filing GST annual returns

The government has extended the last date for furnishing of annual return in the Form GSTR-9/ Form GSTR-9A and reconciliation statement in the Form GSTR-9C for the financial year 2017-18 from August 31, 2019 to November 30, 2019.

2.0 Simplified process for assessment of Start-Ups

The Central Board of Direct Taxes (CBDT) has issued circular dated August 07, 2019 and laid down the following procedure:

- No Verification will be done by an assessing officer if a start-up has been recognised by the Department for Promotion of Industry and Internal

Trade (DPIIT) and the case is selected under limited scrutiny for Single Issue.

- For limited scrutiny with multiple issues or under complete scrutiny including the issue u/s 56(2)(viib) of Recognised Start-ups, the issue of applicability of section 56 (2)(viib) will not be pursued during the assessment proceedings.
- For start-ups which are not recognised by the DPIIT, then too the inquiry by the Assessing officer would be carried out only after the approval of a supervisory officer.

3.0 Consolidated circular for assessment of Start-ups

The Central Board of Direct Taxes (CBDT) has issued Consolidated circular for assessment of Startups dated August 30, 2019 in order to provide hassle-free tax environment to the Startups specifying the following:

- The Manner of Assessment will be same as specified in circular dated August 07, 2019. (Refer Point 2.0)
- It provides time limit for completion of pending assessment for startups by AOs by September 30, 2019 for limited scrutiny with Single Issue and October 30, 2019 for limited scrutiny with Multiple Issues and for cases which requires obtaining approval of the supervisory authorities.

4.0 TDS on Cash withdrawal

The provision for 2 per cent tax deduction at source (TDS) on cash withdrawals of over Rs 1 crore will come into effect from September 01, 2019. The Central Board of Direct Taxes (CBDT) further said that if a person has already withdrawn Rs 1 crore or more in cash up to August 31, 2019, in the current fiscal, the two per cent TDS shall apply on all subsequent cash withdrawals.

However, since the threshold of Rs 1 crore is with respect to the previous year, calculation of amount of cash withdrawal for triggering deduction under section 194N of the Finance Act shall be counted from April 01, 2019.

5.0 Finance Act, 2019

The Finance Bill, 2019 received the assent of the President on August 01, 2019.

6.0 Notification of Legacy Dispute Resolution Scheme

The Central Board of Indirect Tax and Customs (CBIC) has issued the Sabka Vishwas

(Legacy Dispute Resolution) Scheme Rules, 2019 vide Notification dated August 21, 2019. The Scheme shall come in force from September 01, 2019.

7.0 Extension of Due Date for GSTR 3B for July 2019

Due date for GSTR-3B for the month of July 2019 is extended till September 20, 2019 for taxpayers having a principal place of business in Jammu and Kashmir and certain specified districts of Bihar, Gujarat, Karnataka, Kerala, Maharashtra, Odisha, and Uttarakhand.

8.0 Blocking of E-way Bill

The CBIC has again extended the applicable date for blocking and unblocking of E-way Bills as per Rule 138E of CGST Rules from August 21, 2019 to November 21, 2019.

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