



WHITESPAN
A d v i s o r y

WINS

(WHITESPAN INFORMATION AND NEWS SERVICES)

A GATEWAY TO KNOWLEDGE

Monthly Newsletter

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MAA FOUNDATION Activities



Maa Foundation organized various events including the projects undertaken under CSR initiatives, such as Distribution of sweets and woolen caps, organizing students workshops, communication skill programs and Slum area development programs.

FROM THE CHIEF EDITOR'S PEN

“When I let go of what I am, I become what I might be.” – Lao Tzu

It gives us immense satisfaction to share the 70th Edition of “WINS – e-newsletter” for February 2023, covering legal updates released during the month of January 2023, articles shared by respected professionals, Case Laws and compliance calendar for the month of February 2023.

In this issue, we have covered the following:

1. Corporate Updates from MCA, RBI, SEBI, CBEC, CBDT and other miscellaneous laws
2. Articles on:
 - i. Timelines, preservation period and signing requirement of various statutory registers under the Companies Act, 2013
 - ii. Some Recent Judgement with Summary Analysis
 - iii. Disclosure of Material Litigations, Necessary: SEBI
3. Case Laws
4. Compliance checklist for the month of February **2023**.

Trust, WINS not only helps you to keep yourself updated, but also saves your time with crisp summary, in the form of Editor's Quick Take.

My sincere gratitude to each one of you for sparing your precious time in reading this newsletter and sharing your valuable feedback. Your suggestions and ideas have been a source of inspiration for us and have motivated and guided us to scout for better contents, every month, in timely manner. We take this opportunity to invite articles on topics of professional interest. Please ensure that the article is original, written in good style and adds value for the readers.

You may reach to us at vinayshukla@whitespan.in or [+91 9810 624 262](tel:+919810624262)

With warm regards,

TEAM WINS (Whitespan Information and News Services)
January 31, 2022

OUR EDITORIAL BOARD COMPRISES THE FOLLOWING PROFESSIONALS

1. **Mr. Vinay Shukla**, a fellow member of The Institute of Company Secretaries of India (ICSI), a graduate in Law, Commerce and Management and the co-founder of WsA having more than thirty years' experience in wide spectrum of corporate functions.
2. **Ms. Jaya Yadav**, a practicing company secretary based at Gurgaon is a fellow member of The Institute of Company Secretaries of India (ICSI) and a graduate in Law and Commerce from Delhi University.
3. **Ms. Trishna Choudhary** an associate member of The Institute of Company Secretaries of India (ICSI) and a graduate in Commerce from Delhi University.
4. **Ms. Divya Shukla**, a practicing advocate enrolled in the Bar Council of Delhi and a graduate in Law and Commerce from Christ University, Bengaluru.
5. **Mr. Shubham Tyagi**, a practicing advocate enrolled in the Bar Council of Delhi and a graduate in Law and Commerce from Delhi University.

Ministry of Corporate Affairs (MCA)

1. Release Plan of 45 Company e-form in MCA 21 Version 3.0-reg.

Date of General Circular: January 09, 2023

Effective Date – January 09, 2023

Link:

<https://www.mca.gov.in/bin/dms/getdocument?mds=xHxXexcBmc5%252Bd%252FsJEZzXiw%253D%253D&type=open>

MCA has launched version 3 portal for filing and other facilities that were available on the MCA Version 2 portal both for Companies and LLPs. MCA had released the plan for 45 company e-Forms that were to be rolled out from the Version 2 portal of MCA as per notification dated 26th December 2022. As per the notification, below e-Forms were not available on MCA 21 Version-2 from 7th January 2023 to 22nd January 2023 and accordingly, MCA had allowed an extension of 15 days without levy of additional fees for the forms for which due date was falling between 7th January 2023 to 22nd January 2023.

S. No	Form No.
1	DIR-12/ DIR-11/ DIR-3/ DIR-3C/ DIR-5/ DIR-6/ DIR-9/ DIR-10
2	INC-12/ INC-18/ INC-20/ INC-20A/ INC-22/ INC-23/ INC-24/ INC-27/ INC-28/ INC-4/ INC-6
3	MGT-14/ MGT-3
4	MR-1/ MR-2/
5	NDH-4/ NDH-1/ NDH-2/ NDH-3
6	SH-7/ SH-11/ SH-8/ SH-9/
7	GNL-3/ GNL-2/ GNL-4
8	PAS-6/ PAS-2
9	AOC-5
10	FC-1/ FC-2/ FC-3/ FC-4
11	MSC-1/ MSC-3/ MSC-4
12	RD-1

2. Filing of Forms GNL-2 (Filing of Prospectus related documents) and MGT-14 (Filing of resolutions relating to Prospectus related documents) due to migration from version 2 to Version 3 in MCA 21 Portal from 7th January to 22nd January 2023

Date of Notification : January 09, 2023

Effective Date – January 09, 2023

Link: <https://www.mca.gov.in/bin/dms/getdocument?mcs=WsznZ2ZG2R%252BWuZ7rNx7pWA%253D%253D&type=open>

MCA vide its notification dated 09th January 2023 in view of the migration of e-Forms from Version 2 portal to Version 3 portal provided the facility of physical filing of e-Forms GNL-2 (Filing of Prospectus related documents) and MGT-14 (Filing of resolutions relating to Prospectus related documents). Further MCA clarified that once the online facility is available, the same needs to be submitted on MCA-21 Portal along with necessary fees. The filing of above-mentioned forms was required to be accompanied by an undertaking from the company filing the forms that once the filing of the same is enabled on Version 3 portal of MCA the company will file the relevant form in electronic mode along with the necessary fees applicable as per Companies Rules.

3. Companies (Registration of Offices and Fee) Amendment Rules, 2023

Date of Notification : January 20, 2023

Effective Date - January 23, 2023

Link: <https://e-book.icsi.edu/Default.aspx?page=notification>

MCA vide its notification dated 20th January 2023 has inserted new rule 8A i.e., Signing of Forms to the Companies (Registration Offices and Fees) Rules, 2014.

Rule 8A – Signing of forms- e-forms wherever applicable shall be signed by Insolvency resolution professional or liquidator of companies under insolvency or liquidation, as the case may be, and filed with the Registrar along with the fee as mentioned in Table annexed these rules.

Further, Forms GNL-2 (Form for submission of documents with the Registrar), GNL-3 (Particulars of person(s) charged for the purpose of sub clause (iii) or (iv) of clause 60 of section 2) and GNL-4 (Form for filing Addendum for rectification of defects or incompleteness) have been substituted.

4. Companies (Appointment and Qualification of Directors) Amendment Rules, 2023

Date of Notification : January 20, 2023

Effective Date - January 23, 2023

Link: <https://www.mca.gov.in/bin/dms/getdocument?mds=KOPgOjylxvDtUW18%252BOESSA%253D%253D&type=open>

MCA vide its notification dated 20th January 2023 amended the Companies (Appointment and Qualification of Directors) Rules, 2014 by inserting the following sub-rule to rule 14 i.e. Disqualification of Directors Sub-section (2) of [Section 164](#)

Sub-Rule 1A – Whenever a Company receives the information in form DIR-8, Company shall within 30 days of such receipt file for DIR 9 with the Registrar.

Sub-Rule 5 - Any application for removal of disqualification of directors shall be made in [Form DIR-10](#) and filed before the regional director.

Further, following forms shall be substituted DIR 3, DIR 3C, DIR 5, DIR 6, DIR 8, DIR 9, DIR 10, DIR 11 and DIR 12.

5. The Companies (Incorporation) Amendment Rules, 2023

Date of Notification : January 19, 2023

Effective Date - January 23, 2023

Link: <https://www.mca.gov.in/bin/dms/getdocument?mids=%252B2chuXzJhqM06syQwotdiw%253D%253D&type=open>

MCA vide its notification dated January 19, 2023 amended the Companies (Incorporation) Rules, 2014 by notifying the Companies (Incorporation) Amendment Rules, 2023.

Key highlights of the above amendment are:

1. Rule 4 -Nomination by the Subscriber or Member of One Person Company Name of the nominee to be mentioned in the memorandum of One Person Company and such nomination details along with consent of such nominee shall be filled in Form No. INC-32 (SPICe+) as a declaration.
2. Rule 6 - Conversion of One Person Company into a Public company or a Private company The company shall file an application in e-Form No. INC-6 for its conversion into Private or Public Company, other than under section 8 of the Act, along with fees as provided in the Companies (Registration Office and Fees) Rules, 2014 with altered e-MOA and e-AOA and on on being satisfied that the requirements have been complied with, the Registrar after examining the latest audited financial statement shall approve the form and issue certificate.
3. Rule 7 - Conversion of private company into One Person Company The company shall file an application in Form No.INC.6 for its conversion into One Person Company along with fees as provided in in the Companies (Registration offices and fees) Rules, 2014, by attaching the following documents, namely:-

- (i) Altered e-MOA and e-AOA
 - (ii) Copy of NOC of every creditor with the application of conversion
 - (iii) Affidavit of director confirmation that all the members of the company have given their consent for conversion
4. Rule 33 - Alteration of Articles : For effecting the conversion of a public company into a private company, Service Request Number (SRN) of Form No. RD- 1, pertaining to order of the Regional Director approving the alteration, shall be mentioned in Form No. INC-27 to be filed with Registrar along with fee together with the altered e-Memorandum of Association and eArticle of Association within fifteen days from the date of receipt of the order from the Regional Director.
5. E-Forms as mentioned below have been substituted: RUN, INC-4,INC-6, INC-9, INC-12, INC-13, INC-18, INC-20, INC-20A, INC-22, INC-23, INC-24, INC-27, INC-28, INC-31, SPICE+ (INC-32), INC-33, INC-34, INC-35 and RD-1

6. The Companies (Share Capital and Debentures) Amendment Rules, 2023

Date of Notification : January 21, 2023

Effective Date : January 23, 2023

Link: <https://www.mca.gov.in/bin/dms/getdocument?mcs=%252BMu3w53AFpZ0lGDqn PK8Kw%253D%253D&type=open>

MCA vide its notification dated on January 21, 2023, notified the Companies (Share Capital and Debentures) Amendment Rules, 2023 by amending the Companies (Share Capital and Debenture) Rules, 2014.

In Rule 17 which states “Buy-back of shares or other securities”

(a) For sub-rule (14), the following sub-rule shall be substituted namely: -

"(14) There shall be a declaration with the return filed with the Registrar in Form No. SH.11, signed by two directors of the company including the managing director, if any, certifying that the buy-back of securities has been made in compliance with the provisions of the Act and the rules made thereunder";

(b) In the Annexure the following forms shall be substituted namely: -

(i) Form No. SH-7 which states “Notice to Registrar of any alteration of share capital” Form No. SH-8 which states “Letter of Offer” and Form No. SH-9 which states “Declaration of Solvency”.

7. The Companies (Prospectus and Allotment of Securities) Amendment Rules, 2023

Date of Notification : January 20, 2023

Effective Date : January 23, 2023

Link: <https://www.mca.gov.in/bin/dms/getdocument?mds=a4r89hvUpe 4unaFIE9fhBw%253D%253D&type=open>

MCA Vide its Notification dated January 20, 2023, notified the Companies (Prospectus and Allotment of Securities) Amendment Rules, 2023 by amending the Companies (Prospectus and Allotment of Securities) Rules, 2014.

The following has been stated namely: -

Rule 12 which states “Return of Allotment” the following sub-rule has been omitted namely: -

“(6) In the case of the issue of bonus shares, a copy of the resolution passed in the general meeting authorizing the issue of such shares shall be attached to the Form PAS-3.”

The following forms have been substituted namely: -

1. Form PAS-2
2. Form PAS-3
3. Form PAS-6

8. The Companies (Registration of Foreign Companies) Amendment Rules, 2023

Date of Notification : January 20, 2023

Effective Date - January 23, 2023

Link: <https://www.mca.gov.in/bin/dms/getdocument?mids=AUCAKkFj6qD9VsQT1arCcQ%253D%253D&type=open>

MCA vide its notification dated on January 20, 2023 notified the Companies (Registration of Foreign Companies) Amendment Rules, 2023 by amending the Companies (Registration of Foreign Companies) Rules, 2014.

Key highlights of the above amendment are:

- a. Rule 3 - Particulars Relating to Directors and Secretary to be Furnished to the Registrar by Foreign Companies
- b. The list of directors and secretary or equivalent (by whatever name called) of the foreign company shall also contain the particulars regarding father's name or mother's name or spouse's name each of the persons included in such list along with the other required information.
- c. 2. E-Forms as mentioned below have been substituted
- d. FORM FC-1, FORM FC-2, FORM FC-3 and FORM FC-4, Form No. FC-1

9. The Companies (Management and Administration) Amendment Rules, 2023

Date of Notification : January 21, 2023

Effective Date - January 23, 2023

Link: <https://www.mca.gov.in/bin/dms/getdocument?mcs=KzknWVtaIXfLUIGhXKWBjw%253D%253D&type=open>

MCA vide its notification dated January 21, 2023 notified Companies (Management and Administration) Amendment Rules, 2023 by amending the [Companies \(Management and Administration\) Rules, 2014](#).

Key highlights of the amendment are:

- a. Form MGT- 3 relating to Notice of situation or change of situation or discontinuation of situation, of place where foreign register shall be kept, has been substituted.
- b. Form MGT- 14 relating to Filing of Resolutions and agreements to the Registrar, has been substituted.

10. The Companies (Accounts) Amendment Rules, 2023

Date of Notification : January 20, 2023

Effective Date - January 23, 2023

Link: <https://www.mca.gov.in/bin/dms/getdocument?mcs=URBkg00QEvExHY9sW1CZbQ%253D%253D&type=open>

MCA vide its notification dated January 20, 2023, issued the Companies (Accounts) Amendment Rules, 2023 to further amend the Companies (Accounts) Rules, 2014. Form No. AOC-5 has been substituted.



11. The Companies (Authorised to Register) Amendment Rules, 2023

Date of Notification : January 19, 2023

Effective Date - January 23, 2023

Link: <https://www.mca.gov.in/bin/dms/getdocument?mds=XkFRyiRIeiGKtDK0myJS9w%253D%253D&type=open>

The Ministry of Corporate Affairs (MCA) on January 19, 2023 notified the Companies (Authorised to Register) Amendment Rules, 2023 by amending the Companies (Authorised to Register) Rules, 2014.

As per the amendment, No Objection Certificate from secured creditor along-with charge holder, if applicable will be required to be submitted in addition to the other required documents in case of an application by a Limited Liability Partnership or firm for registration as a company limited by shares, in case of an application by a Limited Liability Partnership or firm for registration as a company limited by guarantee or as an unlimited company, In case of an application by a society for registration as a company limited by guarantee under section 8 and in case of an application by a trust for registration as a company limited by guarantee under section 8.

12. The Companies (Miscellaneous) Amendments Rules,2023 to further amend the Companies (Miscellaneous) Rules, 2014.

Date of Notification : January 19, 2023

Effective Date - January 23, 2023

Link:

<https://www.mca.gov.in/bin/dms/getdocument?mds=jLOhNY%252F5Oyn3AHEbkASjzw%253D%253D&type=open>

MCA vide its notification dated January 19, 2023, notified the Companies (Miscellaneous) Amendments Rules,2023 by amending the Companies (Miscellaneous) Rules, 2014. Forms No. MSC-1, MSC-3, and MSC-4 have been substituted.

13. The Companies (Appointment and Qualification of Directors) Amendment Rules, 2023.

Date of Notification : January 19, 2023

Effective Date - January 23, 2023

Link: <https://www.mca.gov.in/bin/dms/getdocument?mds=5gAUSA0m%252FLmgaQtCZdCS2Q%253D%253D&type=open>

MCA vide its notification dated on January 19, 2023, issued the Companies (Appointment and Qualification of Directors) (Amendment) Rules, 2023 to further amend the Companies (Appointment and Qualification of Directors) Rules, 2014.

The following has been amended namely: -

- In Rule 14 which states “Disqualification of directors under sub-section (2) of section 164” the following has been inserted namely: -

“(1A) Whenever a company receives the information in Form DIR-8, company shall, within thirty days of such receipt, file Form DIR-9 with the Registrar”

- The following Forms have been substituted namely: -

1. DIR-3	2. DIR-3C	3. DIR-5	4. DIR-6	5. DIR-8
6. DIR-9	7. DIR-10	8. DIR-11	9. DIR-12	

Securities Exchange Board of India (SEBI)

1. Relaxation from compliance with certain provisions of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

Date of Circular: January 05, 2023

Effective date: January 05, 2023

Link: https://www.sebi.gov.in/legal/circulars/jan-2023/relaxation-from-compliance-with-certain-provisions-of-the-sebi-listing-obligations-and-disclosure-requirements-regulations-2015_67041.html

SEBI vide its circular dated 5th January 2023, provided relaxations to listed entities who have listed its specified securities on the stock exchange regarding, regulation 36(1)(c) and regulation 47. As per Regulation 36(1)(c) and 47 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 the listed entity must send hard copies of its annual report to the shareholders who demand the same and further the notice of AGM shall include the web-link of the Annual Report through which the shareholders can have access to the full annual report respectively.

SEBI allowed relaxation to the listed entities of regulation 36(1)(c) for dispatching the hard copy of annual report and other documents to the shareholders who have not registered their email address dated May 12, 2020. This relaxation was further extended by SEBI vide its circular dated: May 13, 2022, till the duration of 31st December 2022. After considering the representations received for the further extension from listed entities SEBI has granted relaxation for the same till September 30, 2023.

2. Limited relaxation – dispatch of physical copies of financial statements etc. – Regulation 58 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

Date of Circular: January 05, 2023

Effective date: January 05, 2023

Link: https://www.sebi.gov.in/legal/circulars/jan-2023/limited-relaxation-dispatch-of-physical-copies-of-financial-statements-etc-regulation-58-of-sebi-listing-obligations-and-disclosure-requirements-regulations-2015_67033.html

SEBI, vide circular no. SEBI/HO/CFD/CMD1/CIR/P/2020/79 dated May 12, 2020, had interalia relaxed the requirements specified in regulation 36(1)(b) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“LODR Regulations”) relating to dispatching hard copy of the statement containing salient features of all the documents as prescribed in section 136 of the Companies Act, 2013 (financial statements, Board’s report, Auditor’s report etc.), to those shareholders who have not registered their email addresses. The said relaxation was initially extended till December 31, 2021 and was subsequently extended upto December 31, 2022, vide SEBI circular no. SEBI/HO/CFD/CMD2/CIR/P/2022/62 dated May 13, 2022 (“SEBI Circular”).

The said date now stands extended to September 30, 2023 subject to the following:

- a. To send hard copy of full annual reports to those shareholders who request for the same
- b. The notice of AGM published by advertisement in terms of regulation 47 of the LODR Regulations shall disclose the web-link to the annual report so as to enable shareholders to have access to the full annual report.

Reserve Bank of India (RBI)

1. Foreign Investment in India - Rationalisation of reporting in Single Master Form (SMF) on FIRMS Portal

Date of Circular – January 04, 2023

Effective Date –

Link: https://rbi.org.in/Scripts/BS_CircularIndexDisplay.aspx?Id=12433

RBI vide its circular dated on January 04, 2023, issued a notification regarding the Foreign Investment in India – Rationalization of reporting in Single Master Form (SMF) on FIRMS Portal. The following changes are being implemented:

1. The forms submitted on the portal will be auto-acknowledged. The AD banks shall verify the same within five working days based on the uploaded documents, as specified.
2. In cases of delayed reporting, the AD banks shall either advise the Late Submission Fee (LSF) to the applicants, which will be computed by the system or advise for compounding of contravention, as the case may be.

The salient features of the changes made in the system are given in [Annex](#) for ready reference. For detailed guidelines, the FIRMS manual available at <https://firms.rbi.org.in> may be referred to, and the version of manual available at the portal will have the finality in case of any mismatch.

Auto-acknowledgement of SMF in FIRMS and online calculation of LSF

The forms submitted in FIRMS will now be processed as detailed below:

All forms submitted with the requisite documents will be auto-acknowledged on the FIRMS portal with a time stamp and an auto-generated e-mail will be sent to the applicant.

- i. The forms submitted within prescribed timelines, will be verified by the AD banks based on the uploaded mandatory documents and ensure that the same are in compliance with the extant guidelines.
- ii. The system would identify the delay in reporting, if any.
- iii. For forms filed with a delay less than or equal to three years, the AD banks will approve the same, subject to payment of LSF.
- iv. The LSF will be computed by the system and an e-mail will be sent to the applicant and the concerned Regional Office (RO) of RBI specifying the amount and the timeline within which it is to be paid to the concerned RO of RBI.
- v. Once the LSF amount is realised, the concerned RO will update the status in the FIRMS portal and the updated status will be communicated to the applicant through a system generated e-mail, which can also be viewed in the FIRMS portal.
- vi. The AD bank will approve the forms filed with a delay greater than three years, subject to compounding of contravention. The applicant may thereafter approach RBI with their application for compounding.
- vii. The remarks of the AD Bank for rejection of forms, if any, will be communicated to the applicant through a system generated e-mail and the same can also be viewed in the FIRMS portal.

Central Board of Direct Taxes (CBDT)

1. Extension of time limit for compliance to be made for claiming any exemption under Section 54 to 54GB of the Income-tax Act,1961 (' Act') in view of the then-Covid-19 pandemic -reg.

Date of Circular: January 06, 2023

Effective Date:

Link: <https://incometaxindia.gov.in/communications/circular/circular-1-2023.pdf>

CBDT vide its circular **dated January 06, 2023** extended the time limit for compliance to be made for claiming any exemption under section 54 to 54GB of the Income Act, 1961.

Section 54 of the Income Tax Act relates to capital gains tax and availing exemption from sale of residential property by either purchasing another residential property or investing in specified bonds and instruments. The exemption is available to individuals and HUFs. The residential property has to be purchased either one year prior to the sale of the previous property or within 2 years after the sale. In case of construction of a new property, there is a three year window to avail the exemption.

The CBDT had vide Circular No.12 of 2021 dated June 25, 2021 provided relaxation in respect of certain compliances to be made by taxpayers including inter alia investment, deposit, payment, acquisition, purchase, construction or such other action, by whatever name called, for the purpose of claiming any exemption under the provisions contained in Section 54 to 54GB of the Income-tax Act, 1961. By point 7 of the Circular it was provided that the aforementioned compliances for which the last date of such compliance fell between April 01, 2021 to September 29, 2021 (both days inclusive), may be completed on or before September 30, 2021.

In view of the representations received and on further consideration of the then-prevailing COVID-19 pandemic and resultant restrictions imposed, causing genuine hardship faced by taxpayers in making the aforementioned compliances under the Act, the CBDT, in exercise of its power under Section 119 of the Act, hereby provides that the compliances to be made by the taxpayers such as investment, deposit, payment, acquisition, purchase, construction or such other action, by whatever name called, for the purpose of claiming any exemption under the provisions contained in Section 54 to 54 GB of the Act, for which the last date of such compliance falls between April 01, 2021 to February 28, 2022 (both days inclusive), may be completed on or before March 31, 2023.

2. SYNOPSIS OF BUDGET 2023

Personal Income Tax

1. Rebate for income upto 7 lakhs u/s 87A in the new tax regime
2. New tax regime from
 - 0-3 lakhs nil
 - 3-6 lakhs- 5%
 - 6-9 lakhs 10%
 - 9-12 lakhs 15%
 - 12-15 lakhs 20%
 - Above 15 lakhs- 30 %
3. Standard deduction for new tax regime for Rs. 15.5 lakhs or more -52,500
4. Reduction of highest surcharge from 37% to 25% on new income tax regime
5. Limit on tax exemption for leave encashment is increased from 3,00,000 to 25,00,000
6. New income tax regime default regime

Direct Taxes

1. Common IT form and grievance redressal system
2. MSME - avail benefit of presumptive taxation increased to 44AD to 3 crores Professionals u/s 44ADA - 75 lakhs
Provided receipt in cash doesn't exceed 5%
3. TDS only on payment for deduction

3. Co-operatives tax -15% Higher limit of 2 lakh per member for cash deposit in agricultural banks Higher limit of Rs. 3 crores on TDS for cooperative societies
4. Startups To avail startup benefits from 31-03-2023 to 31-03-2024
5. 100 new joint commissioners for appeal
6. S.54 to S.54F capped at 10 crores
7. TDS on Online gaming –
8. TDS 30% to 20% on taxable portion of EPF
9. Extending funds for GIFT and IFSC

Indirect Taxes

1. Customs duty on goods of textiles, toys, bicycle reduced from 21 to 13%
2. To promote Green Mobility - basic customs duty concession for lithium ion battery
3. To promote Electronics manufacture- relief on customs duty for camera lens and lithium battery
4. Television - TV panels customs duty reduced
5. Electric kitchen chimney to reduce inverted duty structure from 7.5 to 15 percent
6. Benefit for ethanol blending program and acid program and epichlorohydrine
7. Marine Products- to promote exports - shrimps, etc. Duty on shrimpfeed reduced
8. Basic Customs duty reduced for seeds in manufacture for diamonds
9. Customs duty to increase in silver bars
10. Cigarettes - increased tax

Miscellaneous Laws

1. “IP Mitra” for Startups in patents, trademarks, and designs under the extended Scheme for Facilitating Start-Ups Intellectual Property Protection (SIPP)

Date of update: January 19, 2023

Link: <https://www.ipindia.gov.in/newsdetail.htm?871>

The Office of the Controller General of Patents, Designs and Trademarks has issued a press release on January 19, 2023 for the introduction of IP Mitra for Startups in patents, trademarks, and designs for Startups in patents, trademarks, and designs under the Scheme for Facilitating Start-Ups Intellectual Property Protection (SIPP) wherein IP Mitra can help the intended entrepreneurs in a variety of ways.

IP Mitra can help the intended entrepreneurs in a variety of ways. Some of which are as follows:

- assist in filing, support & facilitate in processing of IP applications
- dispense expert advice on various legal aspects of Intellectual Property.
- broaden one’s IP portfolio and
- enable stakeholders for new ventures in IP world through their experiences and skills.

Pertinently, SIPP scheme has been extended for an additional three years to increase its effectiveness in the light of the knowledge gathered from its initial deployment. The structure of reimbursement to IP Mitra for facilitation of startups has also been revised in extended SIPP scheme.

The SIPP program’s mission is to encourage and protect the innovative and creative efforts of startups by securing their ownership of their original works. With the help of IP Mitra, startups can look forward to much simpler time creating and directing innovative technology and successfully marketing them to fuel the growth of the Indian economy.

Accordingly, provisions have been made in e-filing portals of Patents, Designs & Trade Marks for receiving requests for onboarding of eligible entities as empanelled IP Mitra (facilitators). Some of key aspects of this onboarding facility are as follows:

1. Office of CGPDTM will publish the list of such empanelled “IP Mitra” on its website as and when the requests are found eligible.
2. Existing “facilitators” are also required to submit their requests through e-filing portals.
3. Separate requests are to be submitted for Patents, Designs & Trade Marks through the respective e-filing portals.
4. Reimbursement of fees under SIPP shall be entertained only for empanelled “IP Mitra” who has submitted the online application for startups through respective e-filing portals unless approved by CGPDTM under exceptional conditions.
5. While submitting the on-boarding request for “IP Mitra”, eligible entities should ensure their personal and contact details i.e. Agent/Advocate/Certificate no., email address; mobile etc. should be upto-date in e-filing portals.

2. Supersession of the previous Public Notice dated December 26, 2022

Date of public Notice : January 16, 2023

Link: https://www.ipindia.gov.in/writereaddata/Portal/News/869_1_Public_Note_3.pdf

The Office of the Controller General of Patents, Designs and Trademarks has issued Public Notice on January 16, 2023 to suppress its previous Public Notice dated 26th December, 2022 on this issue. A large number of patent applications with or without pre-grant oppositions as well as post-grant opposition matters against the grant of patents are awaiting final disposal. In order to speed-up the disposal of such long pending matters, it has been decided to streamline the issues relating to hearings and adjournments, keeping in view the larger public interest involved and also the benefits of Patent rights conferred by Chapter VIII of the Patents Act, 1970 (Act).

As per a combined reading of rule 129 and the proviso to rule 129A, at least ten working days is the inner limit and thirty days is the outer limit vis-à-vis hearings and adjournments.

The stakeholders are hereby informed that in matters where minor procedural issues are involved, this Office will endeavor to offer a shorter time period, while in substantive matters related to analysis of prior arts, claim construction etc., a longer period would be offered in accordance with the Act and Rules.

It is also clarified that

- (i) in accordance with the principles of natural justice, a fair opportunity to defend would be given to the parties; and
- (ii) adverse action would not be taken solely on the basis of this Public Notice.

Article 1

Timelines, preservation period and signing requirement of various statutory registers under the Companies Act, 2013

For an organization to function efficiently and adhere to the statutory requirements, it is essential to maintain certain records and registers. Maintaining such records and registers are important for fulfilling statutory, disclosure, statistical, and MIS purposes.

Maintaining such records helps in ensuring that the operations of an organization are systematic. Companies Act, 2013 requires every company to keep and maintain at its registered head office books of accounts and relevant documents and the financial statements for each financial year that provide a true and fair picture of the company's state of affairs which includes its branch offices and other offices.

Statutory Registers-Timelines, preservation period and signing requirement of various statutory registers under the Companies Act, 2013:

S.No	Name of Register	Relevant Section and Rules under the Companies Act, 2013	Time period for entries in the Register	Signing/ Authentication	Preservation of Register
1.	Register of Members in form MGT-1	Section 88 (1) and Rule 3 (1) of the Companies (Management and Administration) Rules, 2014	The entries in the registers maintained under section 88 shall be made within 7days after the Board of Directors or its duly constituted committee approves the allotment or transfer of shares, debentures or any other securities, as the case may be. [Rule 5(1)]	The entries in these registers shall be authenticated by the Company Secretary of the company or by any other person authorised by the Board for the purpose, and the date of the board resolution authorising the same shall be mentioned. [Rule 8(1)]	The register of members along with the index shall be preserved permanently. [Rule 15(1)]

S.No	Name of Register	Relevant Section and Rules under the Companies Act, 2013	Time period for entries in the Register	Signing/ Authentication	Preservation of Register
2.	Register of Debenture holders and register of any other security holders in form MGT-2	Section 88 (1) and Rule 3 (1) of the Companies (Management and Administration) Rules, 2014	The entries in the registers maintained under section 88 shall be made within 7days after the Board of Directors or its duly constituted committee approves the allotment or transfer of shares, debentures or any other securities, as the case may be. [Rule 5(1)]	The entries in these registers shall be authenticated by the Company Secretary of the company or by any other person authorised by the Board for the purpose, and the date of the board resolution authorising the same shall be mentioned. [Rule 8(1)]	The register of debenture holders or any other security holders along with the index shall be preserved for a period of 8 years from the date of redemption of debentures or securities, as the case may be. [Rule 15(2)]
3	Foreign Register of Members, Debenture holders, other security holders or beneficial owners residing outside India in form MGT-3	Section 88(4) and Rule 7 of the Companies (Management and Administration) Rules, 2014		The entries in the foreign register shall be authenticated by the Company Secretary of the company or person authorised by the Board by appending his signature to each entry. [Rule 8(2)]	The foreign register of members shall be preserved permanently, unless it is discontinued and all the entries are transferred to any other foreign register or to the principal register. Foreign register of debenture holders or any other security holders shall be preserved for a period of 8 years from the date of redemption of such debentures or securities. [Rule 15(4)]

S.No	Name of Register	Relevant Section and Rules under the Companies Act, 2013	Time period for entries in the Register	Signing/ Authentication	Preservation of Register
4	Register of Renewed and Duplicate Share Certificate in Form No. SH-2	Section 46 (3) and Rule 6 of the Companies (Share Capital and Debentures) Rules, 2014	The particulars of every share certificate issued shall be entered forthwith. [Rule 6(3)]	The entries in the register shall be authenticated by the Company Secretary or such other person as may be authorised by the Board for the purposes of sealing and signing the share certificate under the provisions of sub-rule (3)	This register shall be preserved permanently. [Rule 6(3)] of rule 5. [Rule 6(3)]
5	Register of Sweat Equity Shares in Form No. SH-3	Section 54 and Rule 8 (14) of the Companies (Share Capital and Debentures) Rules, 2014	The particulars of Sweat Equity Shares issued under section 54 shall be entered forthwith. [Rule 8(14)]	The entries in the register shall be authenticated by the Company Secretary or by any person authorized by the Board for the purpose. [Rule 8(14)]	Preservation period not prescribed. The Register should be preserved permanently
6	Register of Employee Stock Options in Form No. SH-6	Section 62 and Rule 12 (10) of the Companies (Share Capital and Debentures) Rules, 2014	The company shall forthwith enter therein the particulars of option granted under clause (b) of sub-section (1) of section 62. [Rule 12(10)]	The entries in the register shall be authenticated by the Company Secretary of the company or by any other person authorized by the Board for the purpose. [Rule 12(10)]	Preservation period not prescribed. The Register should be preserved permanently.

S.No	Name of Register	Relevant Section and Rules under the Companies Act, 2013	Time period for entries in the Register	Signing/ Authentication	Preservation of Register
7	Register of Shares or Securities Bought Back in Form No. SH-10	Section 68 and Rule 17 (12) of the Companies (Share Capital and Debentures) Rules, 2014	-	The entries in the register shall be authenticated by the Secretary of the Company or by any person authorized by the Board for the purpose. [Rule 17(12)]	Preservation period not prescribed. The Register should be preserved permanently.
8	Register of Directors and KMPs	Section 170(1) and Rule 17 of the Companies (Appointment and Qualification of Directors) Rules, 2014	-	-	Preservation period not prescribed. The Register should be preserved permanently
9	Register of Deposits	Section 73 and Rule 14 of the Companies (Acceptance of Deposits) Rules, 2014	The entries shall be made within 7 days from the date of issuance of the receipt. [Rule 14(2)]	The entries in the register shall be authenticated by a Director or Secretary of the company or by any other officer authorised by the Board for this purpose. [Rule 14(2)]	The register shall be preserved for a period of not less than 8 years from the financial year in which the latest entry is made in the register. [Rule 14(3)]

S.No	Name of Register	Relevant Section and Rules under the Companies Act, 2013	Time period for entries in the Register	Signing/ Authentication	Preservation of Register
10	Register of Charges in Form No. CHG7	Section 85 and Rule 10 of the Companies (Registration of Charges) Rules, 2014	The entries in the register of charges shall be made forthwith after the creation, modification or satisfaction of charge, as the case may be. [Rule 10(2)]	Entries in the register shall be authenticated by a Director or the Secretary of the company or any other person authorised by the Board for the purpose. [Rule 10(3)]	The register of charges shall be preserved permanently and the instrument creating a charge or modification thereon shall be preserved for a period of 8 years from the date of satisfaction of charge by the company. [Rule 10(4)]
11	Register of Loans/Guarantee/Security and Acquisition made by the company in Form No. MBP-2	Section 186 and Rule 12 of the Companies (Meeting of Board and its Powers) Rules, 2014	The entries in the register shall be made chronologically in respect of each such transaction within 7 days of making such loan or giving guarantee or providing security or making acquisition. [Rule 12(2)]	The entries in the register shall be authenticated by the Company Secretary of the company or by any other person authorised by the Board for the purpose. [Rule 12(4)]	The register shall be preserved permanently. [Rule 12(3)]
12	Register of Contracts or Arrangements in which Directors are interested in Form No. MBP-4	Section 189 and Rule 16 of the Companies (Meeting of Board and its Powers) Rules, 2014	The entries in the register shall be made at forthwith. [Rule 16(2)]	The entries in the register shall be authenticated by the Company Secretary of the company or by any other person authorised by the Board for the purpose. [Rule 16(2)]	The register shall be preserved permanently. [Rule 16(3)]

S.No	Name of Register	Relevant Section and Rules under the Companies Act, 2013	Time period for entries in the Register	Signing/ Authentication	Preservation of Register
13	Register of Investments not held in its own name in Form No. MBP-3	Section 187 and Rule 14 of the Companies (Meeting of Board and its Powers) Rules, 2014	Every company shall, from the date of its registration, maintain a register in Form MBP 3 and enter therein, chronologically, the particulars of investments in shares or other securities beneficially held by the company but which are not held in its own name and the company shall also record the reasons for not holding the investments in its own name and the relationship or contract under which the investment is held in the name of any other person. [Rule 14(1)]	The entries in the register shall be authenticated by the Company Secretary of the company or by any other person authorised by the Board for the purpose. [Rule 14(4)]	The register shall be preserved permanently. [Rule 14(3)]

*Note- Reference may be taken from Rule 5(3) of the of the Companies (Management and Administration) Rules, 2014]

Where the sections and rules are silent about the signing requirement of a statutory register under the Companies Act, given the functions and duties of the Company Secretaries under the Companies Act, it is advisable that the same may be authenticated by the Company Secretary. In case of any difficulty, the Board may authorise a person to authenticate any such register(s).

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Article 2

SOME RECENT JUDGEMENT WITH SUMMARY ANALYSIS

Gujarat HC Quashes Income Tax Demand of Rs. 101 Cr on account of Violation of Natural Justice Principles:

Map Refoils India Ltd. Versus National Faceless E-Assessment Center (CA No. 16261 of 2021)

Facts: 1. The case of the petitioner was taken under scrutiny and assessment under the E-assessment Scheme, 2019, and a notice under Section 143(2) was issued. The notices under Section 142(1), along with detailed questionnaires, were also issued. In response to notices, the petitioner and assessee submitted their replies from time to time.

2. The department passed the final assessment order, making huge additions without providing an opportunity to hear from the petitioner on the basis of new material that was never mentioned in the draft assessment order or any of the earlier notices.

3. The assessee urged that neither any material nor information from any inquiry made after the draft assessment order was made available to assess any time before the receipt of the final assessment order, which is in complete violation of the provisions of Section 144B. The draft assessment order and final assessment order are different. The major thrust for making additions is the inquiry made after the draft assessment order, which was never made available to the assessee even when the opportunity was required to be given to the assessee as per the express provisions of Section 144B.

Hon Gujarat HC held as below:

1. As per the provisions of Section 144B(7), in case of a variation prejudicial to the assessee as proposed in the draft assessment order, the assessee is entitled to request a personal hearing, which, upon such request,

- may be provided by the authority if the case of the assessee is covered by the circumstances provided therein in the exercise of powers under Sub Clause (h) of Clause (xii) of Section 144B(7) of the Act, 1961.
2. The court quashed the order of assessment passed by the respondent under Section 143(3) read with Section 144B and demanded notice under Section 156

Interest exp can be allowed U/S 36(1)(iii) in case of borrowings for a construction project:

Keystone Realtors Pvt Ltd (2022 TAXSCAN (ITAT) 1916)

Facts:

1. The assessee is engaged in the business of construction and development of real estate. During the year, the assessee incurred finance cost of Rs. 108 crores out of which Rs. 6 crores was allocated to those contracts of which construction has been completed and the balance interest of Rs. 102 crores was debited to the profit and loss account and not capitalised to work in progress (WIP).
2. The AO passed an order under section 143(3) of the Income Tax Act and held that there is a direct nexus between the borrowed fund and the projects undertaken and therefore the interest of the respective project fund can be attributed to the respective project on actual basis and the same should not be claimed as an expenditure.
3. The AO disallowed the interest of Rs. 102 crores as revenue expenditure and further increased the closing WIP. The CIT(A) also dismissed the appeal filed by the assessee.

ITAT Mumbai held as below:

1. It is pertinent to note that the allowability of any deduction is to be decided based on the provisions of the Income Tax Act.
2. In the present case, since the funds were borrowed for the purpose of projects undertaken by the assessee, therefore, the interest paid on such borrowing is allowable under section 36(1)(iii) of the Income Tax Act.
3. Accordingly, the AO is directed to grant the deduction under section 36(1)(iii) of the Income Tax Act in respect of the interest expenditure claimed by the assessee.

Amount shown in 26AS aken into consideration even when the TDS certificate indicates a higher receipt

PRINCIPAL COMMISSIONER OF INCOME TAX, SILIGURI VERSUS SMT. NIRMALI BHADRA, No.- ITAT/233/2022 GA/2/2022

HELD THAT:- We find that the Tribunal had done an elaborate fact finding exercise and has pointed out as to how the assessing officer erroneously relied upon only the figures mentioned in the TDS certificate and ignored Form No.26AS – HELD

Simply because there is difference in the claim of assessee in respect of TDS credit and the corresponding income, the AO has made the addition which cannot be accepted when the Form 26AS gives a different picture, which also assessee has no control; and 26AS Forms are generated by the Income-tax department and the

come close to the assessee's contention. Therefore, opinion the assessee's income should be taken as Rs.3,95,030/-, which is shown in Form 26AS (downloaded from the Income tax Department website) and she should be given TDS credit of only Rs.39,569/- as reflected in the Form 26AS. We direct the AO to adopt these figures and compute the taxable income of assessee accordingly as per law.

In this appeal, the above factual position is not being disputed by the revenue.

Thus, we are of the clear view that there is no substantial question of law much less substantial question of law arising in this appeal for consideration.

The CBDT has exempted non-resident Indians (NRIs) without permanent account numbers (PANs) from e-filing Form 10F up to March 2023.

The notification No. 03/2022, dated July 16, 2022, issued by the Directorate of Income Tax (Systems), New Delhi, mandated the furnishing of Form 10F electronically.

On consideration of the practical challenge being faced by non-resident (NR) taxpayers not having PAN in making compliance as per the notification, and with a view to mitigate genuine hardship to taxpayers, it has been decided by the Competent Authority that the category of Non-resident taxpayers who are not having PAN and not required to have PAN as per relevant provisions of the Income-tax Act, 1961 read with Income-tax Rules, 1962, are exempted from mandatory electronic filing of Form 10 F till 31 March 2023.

Notification: F. No. DGIT(S)-ADG(S)-3/e-Filing Notification/Forms/2022/9227

ITAT quashes the tax demand of Rs 5,872 Cr on a demerger transaction of Grasim Grasim Industries Ltd (ITA Nos. 1935/MUM/2020 & 41/MUM/2021)

Facts:

1. In 2017, the Ahmedabad bench of NCLT approved the merger of Aditya Birla Nuvo Ltd. with Grasim Industries. And in the second step, demerger of financial services business, housed under Nuvo, to Aditya Birla Capital. The second part of the transaction came under scrutiny.
2. The AO had held that the demerger of the company failed to comply with Section 2(19 AA) of the Income Tax Act that require the undertaking to be transferred as a going concern. It was a mere transfer of assets and liabilities and the demerged entity does not constitute an undertaking itself.
3. Also the value of shares allotted by Aditya Birla Capital to shareholders of Grasim in exchange of the financial services business should be considered as deemed dividend u/s 2(22)(a) of the Act and must be taxed as such.
4. The AO had directed Grasim to deposit the tax demand of Rs 5,872.13 crore.

ITAT held as below:

1. The magnitude of financial assets held by the merged entity is testimony to the fact that the financial business was existing in the demerged entity. There is no dispute that assets and liabilities of the company have been transferred to the demerged entity. The demerged entity is in fact a core investment company which has been hived off.
2. The allegations of the authorities that dividend distribution tax must be levied on the demerged entity also does not hold as it is not applicable to any distribution of shares pursuant to demerger.

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Article 3

DISCLOSURE OF MATERIAL LITIGATIONS, NECESSARY: SEBI

A multitude of organizations going public through the open market route has seen a tremendous rise in these past few years. This golden era has proven to be a boon for the Indian economy, where in every year there is an upward trend of companies going public and becoming unicorns. Going public, as glorious as it sounds is not easy, and for good reason. To protect the interest of investors and the market itself, SEBI has consistently been making stringent changes and amendments to its policies.

One such change was The SEBI ICDR Regulations, amendment of 2022. ICDR Regulations have been streamlined into perfecting the chaotic quandary it was before.

In its latest amendment of 2022, one such key aspect of the regulations has been explained further, namely, disclosure of litigations.

SEBI, in its guidelines have clarified that

1.the Company is required to disclose in the Draft of Letter of offer for Red Herring Prospectus or say FPO following outstanding:

“(i) criminal proceedings (ALL) ;

(ii) actions by statutory or regulatory authorities (ALL);

(iii) taxation matters (indirect and direct taxes) (ALL); and

(iv) other pending material litigation (defined below at pt 2. And at pt. 3 for directors), involving our Company, our directors, our promoters, and our group companies. (MATERIAL ONLY)”

2.SEBI LODR (Listing Obligations and Disclosure Requirement) 30(4):-

material litigation: - “For the purposes of determining outstanding material litigation(s) involving the Company, five per cent (5%) of the profit after tax as per the latest audited financial statement, for the entire financial year, is to be considered as the appropriate threshold for determination of material litigations of the Company.

The Company has identified material litigation matters on the following parameters: For outstanding litigation which may, or may, not have any impact on the future revenues of our Company:

- (a) where the aggregate amount involved in such individual litigation exceeds five per cent (5%) of the profit after tax as per the latest audited financial statement, for the entire financial year;
- (b) where the decision in one case is likely to affect the decision in similar cases, even though the amount involved in an individual litigation may not exceed five per cent (5%) of the profit after tax and amount involved in all such cases taken together exceeds five per cent (5%) of the profit after tax as per the latest audited financial statement, for the entire financial year; and
- (c) outstanding litigation which may not meet the parameters set out in (a) or (b) above, but if such litigation has an adverse outcome, it would materially and adversely affect the operations or financial position of our Company.”

3. Director’s material litigation :- “For the purposes of determining material litigation(s) involving our Directors, all outstanding litigation involving each Director shall be considered and if any such litigation has an adverse outcome and therefore, would materially and adversely affect the reputation, operations or financial position of the Company, it shall be considered as material litigation and accordingly, each of our directors shall identify and provide information relating to such outstanding litigation involving themselves.”

4.Regarding material litigation’s governing provisions-

“57(2)b of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 - Part E Schedule VIII (Governing provisions) and SEBI LODR (Listing Obligations and Disclosure Requirement)”

SEBI LODR (Listing Obligations and Disclosure Requirement) 30(4):-

“The listed entity shall consider the following criteria for determination of materiality of events/ information:

the omission of an event or information, which is likely to result in discontinuity or alteration of event or information already available publicly; or

the omission of an event or information is likely to result in significant market reaction if the said omission came to light later.

In case where the criteria specified in sub-clauses (a) and (b) are not applicable, an event/information may be treated as being material if in the opinion of the board of directors of listed entity, the event / information is considered material.

The listed entity shall frame a policy for determination of materiality, based on criteria specified in this sub-regulation, duly approved by its board of directors, which shall be disclosed on its website.”

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Please feel free to contact the undersigned in case you require any further information/ clarification on the above article

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Case Laws

CASE LAWS

1. In **Vivek Narayan Sharma vs Union of India** the Supreme Court (4:1) held that the demonetisation cannot be held invalid merely because some citizens have suffered through hardships or that the decision was taken in a hasty manner. The contention that the impugned notification is liable to be set aside on the ground that it caused hardship to individual/citizens will hold no water. The individual interests must yield to the larger public interest sought to be achieved by impugned Notification.
2. In **Deepak Gaba vs State of Uttar Pradesh** the Supreme Court held that a mere dispute on monetary demand does not attract the offence of criminal breach of trust under Section 405 IPC.
3. In **M/s. Muthoot Leasing and Finance Ltd. and Anr. Vs. Commissioner of Income Tax** the Supreme Court held that non-banking finance and leasing companies are not liable to pay tax on the interest component included in the hire-purchase instalment paid under the hire purchase agreement.
4. In **Indian Medicines Pharmaceuticals Corporation Ltd vs Kerala Ayurvedic Co Operative Society Ltd** the Supreme Court has observed that the State does not have absolute discretion while spending public money, the Supreme Court reiterated that government contracts must be ordinarily awarded through tender process. As the process of inviting tenders ensures a level playing field or competing entities, the departure from the tender route "must not be unreasonable or discriminatory", the Court said, while finding fault with the State of Uttar Pradesh for giving a purchase order for Ayurvedic medicines without inviting tender.

5. In **Kotak Mahindra Bank Limited vs Girnar Corrugators Pvt. Ltd** the Supreme Court observed that the dues under Micro, Small and Medium Enterprises Development Act, 2006 would not prevail over the SARFAESI Act.

The Supreme Court further observed that:

"The object and purpose of the enactment of SARFAESI Act is required to be considered. SARFAESI Act has been enacted to regulate securitization and reconstruction of financial assets and enforcement of security interest and to provide for a central debts of security interest created on property rights, and for matters connected therewith or incidental thereto. Therefore, SARFAESI Act has been enacted providing specific mechanism / provision for the financial assets and security interest. It is a special legislation for enforcement of security interest which is created in favour of the secured creditor – financial institution. Therefore, in absence of any specific provision for priority of the dues under MSMED Act, if the submission on behalf of respondent No.1 for the dues under MSMED Act would prevail over the SARFAESI Act, then in that case, not only the object and purpose of special enactment / SARFAESI Act would be frustrated, even the later enactment by way of insertion of Section 26E of the SARFAESI Act would be frustrated. If the submission on behalf of respondent No.1 is accepted, then in that case, Section 26E of the SARFAESI Act would become nugatory and would become otiose and/or redundant. Any other contrary view would be defeating the provision of Section 26E of the SARFAESI Act and also the object and purpose of the SARFAESI Act."

6. In **State Bank of India & Ors. versus Kamal Kishore Prasad**, the Supreme Court Bench has held that when the first dismissal order against a person in service is in force, irrespective of all pending litigations or his age of superannuation, he cannot be deemed to be continuing in service.

Compliance Checklist



COMPLIANCE CALENDAR FOR FEBRUARY 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

Income Tax Related Compliances

- Due date for deposit of Tax deducted/collected for the month of January 2023. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan.
- Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB, 194M, in the month of December, 2022
- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of January, 2023 has been paid without the production of a challan
- Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending December 31, 2022

FEMA Related Compliances

- Reporting of actual transactions of External Commercial Borrowings (ECB) through AD Bank under FEMA

RBI Related Compliances

- Monthly return (NBS-6) on exposure to capital market
- Monthly statement of short term dynamic liquidity in Form ALM-I

Economic, Industrial & Labour Law Related Compliance

- Monthly payment of PF (Non-Corporate)
- File Monthly Return (Form No.5) for employees leaving / joining during the Previous Month
- File monthly return of employees entitled for membership of Insurance Fund (Form No.2(IF))
- File monthly Return for members of Insurance Fund leaving service during the previous month (Form No.3(IF))
- File monthly return of members joining service during the previous month (Form No.F4(PS))

GST Related Compliance

- GSTR 1 (Monthly) for January
- GSTR 3B for January (Monthly)
- GST Challan Payment if no sufficient ITC for Jan (for all Quarterly Filers)

*1st March is due date for MGT-7 for the Company conduct AGM on 31st December 2022

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