

Circulars/Notifications

Given below are the important Circulars and Notifications issued by the CBDT, CBEC and FEMA during the last month for information and use of members. Readers are requested to use the citation/website or weblink to access the full text of desired circular/notification. You are requested to please submit your feedback and suggestions on the column at eboard@icai.in

DIRECT TAXES



(Matter on Direct Taxes has been contributed by the Direct Taxes Committee of the ICAI)

I. NOTIFICATIONS

1. Amendments to the Tax Return Preparer Scheme, 2006 as notified u/s. 139B- Notification No. 4/2018, dated 19-

01-2018

Section 139B provides that for the purpose of enabling any specified class or classes of persons in preparing and furnishing returns of income, the CBDT may, without prejudice to the provisions of Section 139, frame a Scheme, by notification in the Official Gazette, providing that such persons may furnish their returns of income through a Tax Return Preparer authorised to act as such under the Scheme. Accordingly, vide Notification No. 358/2006 dated 28.11.2006, the CBDT had notified the "Tax Return Preparer Scheme, 2006". Later on, the said scheme was amended vide Notification No. 84/2010 dated 22.11.2010. Vide this notification, the said scheme is further amended so as to widen the scope of the Scheme.

Educational Qualification for Tax Return Preparers

So far, an individual who had a graduation degree from a recognised Indian University in the fields of Business Administration or Management or Commerce or Economics or Law or Mathematics or Statistics was alone eligible to act as Tax Return Preparer. Now, any individual, who holds a bachelor degree from a recognised Indian University or institution, or has passed the intermediate level examination conducted by the Institute of Chartered Accountants of India or the Institute of Company Secretaries of India or the Institute of Certified Management Accountants of India, would be eligible to act as Tax Return Preparer.

Age criteria and application fees

Applications can now be invited from applicants

who have the requisite educational qualifications or have appeared in the final year examination of the qualifying examination. The earlier upper age cap of 35 years has now been increased to 45 years. However, now there would be a minimum age criterion of 21 years as on the 1st day of October of the year immediately preceding the date on which applications are invited. Application fee has been raised from ₹100 to ₹250.

Procedure for enrolling persons to act as Tax Return Preparers

The Partner Organisation shall enroll the persons who qualify the test for enrolment for each training center separately. However, a person shall not be enrolled unless he makes a non-refundable deposit of ₹750 (as against the earlier requirement of making a deposit of ₹1,000, which was refundable if the person was declared successful in the examination) and he produces a proof of having passed the qualifying examination.

Increase in incentive to Tax Return Preparers

The maximum disbursement which the CBDT can authorise the Research Centre or Partner Organisation to make to a tax return preparer, indicated as a % of tax paid on the income declared in the return of income which has been prepared and furnished by him, has been increased. However, such disbursement cannot exceed the fixed amount of disbursement for any person in relation to an eligible year. This fixed amount has also been increased in relation to each eligible year.

Eligible Assessment Year	Maximum disbursement to a TRP as a % of tax paid on income declared in the return of income prepared and furnished by him		Maximum amount of disbursement for any eligible person	
	Existing %	Revised %	Existing	Revised
First Eligible Assessment Year	3%	5%	₹1,000	₹5,000

Eligible Assessment Year	Maximum disbursement to a TRP as a % of tax paid on income declared in the return of income prepared and furnished by him		Maximum amount of disbursement for any eligible person	
	Existing %	Revised %	Existing	Revised
Second Eligible Assessment Year	2%	3%	₹1,000	₹3,000
Third Eligible Assessment Year	1%	2%	₹1,000	₹2,000

This Notification shall come into force from the date of its publication in the Official Gazette.

The complete text of the above Notifications can be downloaded from the link below: <http://www.incometaxindia.gov.in/Pages/communications/notifications.aspx>

II. CIRCULARS

1. Explanatory Notes to the Provisions of the Finance Act, 2017 - Circular No. 2/2018, dated 15-2-2018

Explanatory notes to the provisions of Finance Act, 2017 as assented by President on 31st March, 2017 have been given by way of this circular. This circular thus explains the substance of the direct tax provisions of the Act contained in the Finance Act, 2017.

The detailed circulars can be downloaded from the link below: <http://www.incometaxindia.gov.in/Pages/communications/circulars.aspx>

III. PRESS RELEASES/INSTRUCTIONS/OFFICE MEMORANDUM

1. Issuance of Frequently Asked Questions (FAQs) regarding taxation of long-term capital gains proposed in Finance Bill, 2018 – Press Release, dated 4-2-2018

Under the existing regime, long term capital gains arising from transfer of long term capital assets, being equity shares of a company or a unit of equity oriented fund or a unit of business trust, is exempt from income tax under Section 10(38). However, transactions in such long-term capital assets are liable to securities transaction tax (STT).

The Finance Bill, 2018 proposes to withdraw the exemption under Section 10(38) and to introduce new Section 112A so as to provide that long-term

capital gains arising from transfer of such long-term capital asset exceeding one lakh rupees will be taxed at a concessional rate of 10 percent.

Since the introduction of the Finance Bill, 2018 on 1.2.2018, several queries have been raised in different fora on various issues relating to the proposed new tax regime for taxation of long-term capital gains. The CBDT has issued responses to these queries in the form of Frequently Asked Questions (FAQs) dated 4.2.2018 which have been uploaded on www.incometaxindia.gov.in.

2. Determination of fair market value of unquoted equity shares of 'Start Up' companies under Section 56(2)(viib) read with Rule 11UA(2) – F.No. 173/14/2018-ITA.1, dated 6-2-2018

Section 56(2)(viib) provides that where a closely held company issues its shares at a price which is more than its fair market value, the amount received in excess of fair market value will be charged to tax in the hands of the company as income from other sources. *Explanation* to Section 56(2)(viib) prescribes various methods for valuation of fair market value of shares of the closely held company. Among the various options for valuation of fair market value, one of the methods prescribed is based on fair market value of the unquoted equity shares as determined by a merchant banker or an accountant as per the Discounted Free Cash Flow Method.

In recent times, Section 56(2)(viib) is being invoked in case of 'Start Up' companies by the Assessing Officers which has otherwise raised a genuine investment on the basis of their 'idea', It has been submitted that in tax-assessments, 'Start Up' companies invariably submit a valuation report from a merchant banker or an accountant based on Discounted Free Cash Flow Method as prescribed in Rule 11UA(2)(b). However, in assessments, such reports are not being accepted and rejected/modified by the Assessing Officers by treating them as based upon abnormal valuations resulting in additions being made u/s. 56(2)(viib) in cases of 'Start Up' companies.

In view of the aforesaid, it has been decided by the CBDT that in case of 'Start Up' companies which fall within the definition given in Notification of DIPP, Min. of Commerce & Industry, in G.S.R. 501(E) dated 23.05.2017, if additions have been made by the Assessing Officer under Section 56(2)(viib) after modifying/rejecting the valuation so

furnished under Rule 11UA(2), no coercive measure to recover the outstanding demand would be taken. Further, in all such cases which are pending with the Commissioner (Appeals), the CBDT has directed that necessary administrative steps be taken for expeditious disposal of appeals, preferably by 31st March, 2018.

3. Indian Advance Pricing Agreement regime moves forward with signing of five UAPAs and two BAPAs by CBDT in January, 2018 – Press Release, dated 7-2-2018

The CBDT has entered into five Unilateral Advance Pricing Agreements (UAPA) and two Bilateral Advance Pricing Agreements (BAPA) during the month of January, 2018. With the signing of these Agreements, the total number of APAs entered into by the CBDT has gone up to 196. This includes 178 Unilateral APAs and 18 Bilateral APAs. In the current financial year, a total of 44 APAs (7 Bilateral and 37 Unilateral) have been signed till date.

The 2 Bilateral Agreements signed in the month of January, 2018, *inter alia*, include the first BAPA signed with USA.

The 7 APAs entered into during January, 2018 pertain to various sectors of the economy like Banking, Insurance, Investment Advisory, Information Technology, Chemicals and Engineering. The international transactions covered in these agreements include provision of IT enabled services, provision of software development services, contract manufacturing, payment of royalty, sale of goods, etc.

The progress of the APA scheme strengthens the Government's resolve of fostering a non-adversarial tax regime. The Indian APA programme has been appreciated nationally and internationally for being able to address complex transfer pricing issues in a fair and transparent manner.

4. Conduct of Assessment Proceedings in scrutiny cases electronically—Instruction No. 01/2018, dated 12-2-2018

Section 2(23C) applicable from 1.6.2016 provides that "hearing" includes communication of data and documents through electronic mode. Accordingly to facilitate conduct of assessment proceedings electronically, vide letter dated 23.6.17, the CBDT had issued a revised format of notice(s) under Section 143(2). Para 3 of these notice(s) provided that assessment proceedings in cases selected for

scrutiny would be conducted electronically in 'E-Proceeding' facility through assessee's account in E-filing website of Income-tax Department.

In accordance with the procedure outlined in revised Section 143(2) notice(s) for conduct of assessment proceedings electronically, it is directed by the CBDT that except for search related assessments, proceedings in other pending scrutiny assessment cases shall be conducted only through the 'E-Proceeding' functionality in ITBA/E-filing. However, in cases where the concerned assessee objects to conduct of assessment proceedings electronically through the 'E-Proceeding' facility, such cases, for the time-being, may be kept on hold.

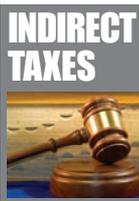
Further, considering the situation that some of the stations have limited bandwidth, being VSAT stations and stations with limited capacity where bandwidth is in the process of being upgraded, it has been decided by the CBDT that till 31.03.18, such stations, in accordance with target stipulated in Central Action Plan for financial year 2017-18, may undertake and complete only ten percent scrutiny cases (which are getting barred by limitation on 31.12.18) having the potential to effect recovery during the current year itself. The list of such stations shall be specified by the PDGIT(Systems). Accordingly, at these stations, till 31.03.18, the assessment proceedings in cases to be completed as per Central Action Plan target, may be conducted manually if e-assessment is not possible. It is reiterated that at other stations covered under para above, subject to exceptions mentioned therein, the assessments would be conducted electronically only.

Some of the important procedural aspects while conducting assessment proceedings through 'E-Proceeding' are as under:

- (i) Enquiry before assessment in electronic mode: For enquiries before assessment in terms of Section 142(1)(ii), notice shall be issued electronically and delivered upon the assessee in his 'E-Filing' account. While filing the response electronically in compliance with notice under Section 142(1)(ii), the concerned assessee shall verify it in the manner prescribed under Rule 14.
- (ii) Use of digital signature by Assessing Officer: All departmental orders/communications / notices being issued to the assessee through the

'e-Proceeding' facility are to be signed digitally by the AO.

- (iii) Time for compliance: Online submissions may be filed till the office hours on the date stipulated for compliance.
- (iv) Availability of facility for electronic submission of documents in time barring situation or where case has been finally heard by the Assessing Officer: The facility for electronic submission of documents through 'E-Proceeding' shall be automatically closed seven days before the time barring date. In other situations, upon completion of proceedings, before passing the final order, the concerned Assessing Officer, on his volition, shall close the e-submission facility after mentioning in electronic order sheet that 'hearing has been concluded'. However, if required, in exceptional circumstances, the concerned Assessing Officer may enable further filing of submissions electronically under intimation to the Range Head in ITBA.
- (v) In assessment proceedings being carried out through the 'E-Proceeding' facility, a particular proceeding may take place manually in following situation(s):
- where manual books of accounts or original documents have to be examined;
 - where AO invokes provisions of Section 131 or a notice is issued for carrying out third party enquiries/investigations;
 - where examination of witness is required to be made by the concerned assessee or the Department;
 - where a show-cause notice contemplating any adverse view is issued by the AO and assessee requests for personal hearing to explain the matter.
- (vi) Maintenance of 'Record' in the context of 'E-Proceeding': In cases being assessed through 'E-Proceeding', from now on, as far as possible, case-records as well as note sheet of proceedings shall be maintained electronically.



(Matter on Indirect Taxes has been contributed by the Indirect Taxes Committee of the ICAI)

GOODS & SERVICES TAX

1. Collection of Revenue from Indirect Taxes

Post introduction of GST, Central Revenue from

Indirect Taxes has been estimated to be increased sharply for the Budget Estimates 2018-19.

(In ₹ crores)

	Actuals 2016-2017	Revised Estimates 2017-2018	Budget Estimates 2018-2019
Goods & Service Tax (GST)	-	4.46 Lacs	7.46 Lacs
Customs	2.25 Lacs	1.35 Lacs	1.12 Lacs
Excise	3.80 Lacs	2.76 Lacs	2.59 Lacs
Service Tax	2.54 Lacs	0.79 Lacs	-
Total TAX REVENUE	8.62 Lacs	9.37 Lacs	11.18 Lacs
% increase		8.8%	19.31% *

**% increased over RE 17-18*

2. Clarifications regarding GST on College Hostel Mess Fees

The Central Government vide *Circular No. 28/02/2018-GST dated 08th January, 2018* has clarified that supply of food or drink provided by a mess or canteen is taxable at 5% without Input Tax Credit irrespective of the fact that service is provided by the educational institution itself or the institution outsources the activity to an outside contractor.

However, Corrigendum to *Circular No. 28/02/2018-GST dated 08th January, 2018* has clarified that catering service when provided by an educational institute is exempt under Notification no. 12/2017-Central Tax (Rate). However, if the catering services are provided by anyone other than the educational institution, then it is a supply of service and attracts GST of 5% provided that credit of input tax charged on goods and services used in supplying the service has not been taken.

[Circular No. 28/02/2018-GST dated 08th January 2018; Corrigendum to Circular No. 28/02/2018-GST dated 08th January 2018]

3. Central Goods and Service Tax (Amendment) Rules, 2018

The Central Government vide *Notification No. 3/2018-Central Tax dated 23rd January, 2018* has amended Central Goods and Service Tax Rules, 2017. Following amendments have been made in the Rules:

- Substitution in Rule 3:** In rule 3, in sub-rule (3A), for the words "90 days", the words "180 days" shall be substituted.

Earlier, a person who has been granted registration on a provisional basis under Rule 24 or who has been granted certificate of registration under sub-rule (1) of Rule 10 shall furnish the statement in FORM GST ITC-03 in accordance with the provisions of sub-rule (4) of Rule 44 within a period of 90 days from the day on which such person commences to pay tax under Section 10. Now it can be furnished within a period of 180 days.

- **Substitution in Rule 7:** This substitution has been effective from 1st January, 2018

Sl. No.	Category of registered persons	Rate of tax (Earlier)	Rate of tax (Substituted)
1.	Manufacturers, other than manufacturers of such goods as may be notified by the Government	1%	0.5% of the turnover in the state or union territory
2	Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II	2.5%	2.5% of the turnover in the state or union territory

- **Omission in Rule 20:** The proviso which restricts to apply for cancellation of registration by a person who had registered voluntarily, before the expiry of a period of one year from the effective date of registration has been omitted. Therefore, now voluntary registered person can apply for cancellation even before the expiry of 1 year from registration.
- **Substitution in Rule 24:** In sub-rule (4), for the figures, letters and word "31st December, 2017", the figures, letters and word "31st March, 2018" shall be substituted

3	Any other supplier eligible for composition levy under Section 10 and the provisions of this Chapter	0.5%	0.5% of the turnover of taxable supplies
---	--	------	--

Earlier, this rule provides that the person registered under any of the existing laws, who is not liable to be registered under the Act may, on or before 31st December, 2017 at his option, submit an application electronically in FORM GST REG-29 for the cancellation of registration. Now person can apply for cancellation upto 31st March, 2018.

- **Insertion of 31A in Rule 31:**
31A. Value of supply in case of lottery, betting, gambling and horse racing which provides the

manner to determine value of supply of lottery which is as follows:

Sl No.	Type of Lottery	Value of supply
1.	Lottery run by State Government	100/112
2.	Lottery authorised by State Government	100/28
3.	Actionable claim in the form of chance to win in betting gambling or horse racing in a Race Club	100% of the face value of the bet or the amount paid into the totalisator.

- **Substitution in Rule 43:** Explanation to Rule 43 has been substituted to clarify that the aggregate value of exempt supplies shall exclude:
 1. Value of Supply of services having place of supply in Nepal or Bhutan, against payment in Indian Rupees.
 2. Value of services by way of accepting deposits, extending loans, or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution.
 3. The value of supply of services by way of transportation of goods by a vessel from the customs station of clearance in India to a place outside India.
- **Insertion of Sub-rule (1A) in Rule 54:**
(1A) (a) A registered person, having the same PAN and State code as an Input Service Distributor, may issue an invoice or, as the case may be, a credit or debit note to transfer the credit of common input services to the Input Service Distributor, which shall contain the specified details like name, GSTN, Signature etc.
- **Insertion of Rule 55A in Rule 55:**
55A. Tax Invoice or bill of supply to accompany transport of goods.
The person-in-charge of the conveyance shall carry a copy of the tax invoice or the bill of supply issued in accordance with the provisions of Rules 46, 46A or 49 in a case where such person is not required to carry an e-way bill under these rules.
- **Substitution of sub-rule 4A & 4B in Rule 89:**
Following sub-rules shall be substituted with effect from 23rd October, 2017:
(4A) In the case of supplies received on which the supplier has availed the benefit notification No. 48/2017-Central Tax dated 18th October,

2017(Supply of goods deemed as export), refund of input tax credit, availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, shall be granted.

(4B) In the case of supplies received on which the supplier has availed the benefit of Notification No. 40/2017-Central Tax (Rate) dated the 23rd October, 2017 or Notification No. 41/2017-Integrated Tax (Rate) dated the 23rd October, or Notification No. 78/2017- Customs dated the 13th October, 2017 or Notification No. 79/2017-Customs dated the 13th October, 2017 or all of them, refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted.

- **Substitution in Rule 138:** Following amendments would have effect from 1st February, 2018:
 1. Insertion in Rule 138 has been made to provide that Person who is required to furnish information in Part A of Form GST EWB-01, electronically on the common portal now shall furnish such other information also as may be required at the common portal and a unique number will be generated on the said portal.
 2. Explanation 2 has been added to Rule 138 to provide that the consignment value of goods shall be the value, determined in accordance with the provisions of Section 15, declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and also includes the central tax, state or union territory tax, integrated tax and cess charged, if any, in the document.
 3. Proviso to sub-rule 2 of Rule 138 has been inserted to provide that where the goods are transported by railways or by air or vessel, the e-way bill shall be generated by the registered person, being the supplier or the recipient, who shall furnish, on the common portal, the
 - (a) Information in Part B of FORM GST EWB-01; and
 - (b) The serial number and date of the Railway Receipt or the Air Consignment

Note or Bill of Lading, as the case may be.

4. Sub-rule 5 has been amended to provide that where the goods are transferred from one conveyance to another, the consignor or the recipient or the transporter shall, before such transfer and further movement of goods, update the details of conveyance in the E-way bill. Earlier only transporter was allowed to update the same.
5. Sub-rule 5A has been inserted to provide that the consignor or the recipient, who has furnished the information in Part-A of FORM GST EWB-01, or the transporter, may assign the e-way bill number to another registered transporter for updating the information in Part-B of FORM GST EWB-01 for further movement of consignment. Provided that once the details of the conveyance have been updated by the transporter, the consignor or recipient, as the case maybe, who has furnished the information, shall not be allowed to assign the e-way bill number to another transporter.
6. Proviso to sub-rule 7 has been inserted to provide that where the goods to be transported are supplied through an e-commerce operator, the information in Part A of FORM GST EWB-01 may be furnished by such ecommerce operator.
7. Proviso to sub-rule 9 has been inserted to provide that the unique number generated under sub-rule (1) shall be valid for 72 hours for updation of Part B of FORM GST EWB-01.
8. Sub-rule 11 has been amended to provide that the details of E-way bill generated shall be made available to the
 - (a) supplier, if registered, where the information in Part A of FORM GST EWB-01 has been furnished by the recipient or the transporter; or
 - (b) recipient, if registered, where the information in Part A of FORM GST EWB-01 has been furnished by the supplier or the transporter,
 Earlier, these details were made available to recipient only who communicates his acceptance or rejection of the consignment covered by the e-way bill.

9. Insertion of clause (e), (f), (g) in sub-rule 14 has been made to provide that no e-way bill is required to be generated -
- where the goods, other than de-oiled cake, being transported are specified in the Schedule appended to Notification No. 2/2017- Central tax (Rate) dated the 28th June, 2017
 - where the goods being transported are alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel; and
 - Where the goods being transported are treated as no supply under Schedule III of the Act.

[Notification No. 3/2018 – Central Tax dated 23rd January, 2018]

4. Postponement of E-Way Bill Rules

The Central Government vide *Notification No. 11/2018- Central Tax dated 2nd February, 2018* hereby rescind the *Notification No. 74/2017 – Central Tax dated the 29th December, 2017* and therefore the date of implementation of E-way bill rules have been deferred. This would however not alter the things done or omitted to be done before such rescission.

[Notification No. 11/2018- Central Tax dated 2nd February, 2018]

5. Reduction in Late Fees

The Central Government vide *Notification No. 4/2018- Central Tax dated 23rd January, 2018; Notification No. 5/2018- Central Tax dated 23rd January, 2018; Notification No. 6/2018- Central Tax dated 23rd January, 2018; Notification No. 7/2018- Central Tax dated 23rd January, 2018* has notified that the late fee payable by any registered person for failure to furnish the following Forms has been reduced to ₹50/- or ₹20/- based on the type of return filed by assessee.

S. no.	Form	Nil return Filers	Others
1.	FORM GSTR 1 (supply details)	₹20 per day	₹50 per day
2.	FORM GSTR-5 (Non-resident taxable person)	₹20 per day	₹50 per day

S. no.	Form	Nil return Filers	Others
3.	FORM GSTR-5A (OIDAR)	₹20 per day	₹50 per day
4.	FORM GSTR-6 (Input Service Distributor)	₹50 per day	₹50 per day

[Notification No. 4/2018- Central Tax dated 23rd January, 2018; Notification No. 5/2018- Central Tax dated 23rd January, 2018; Notification No. 6/2018- Central Tax dated 23rd January, 2018; Notification No. 7/2018- Central Tax dated 23rd January, 2018]

6. Extension in time limit for furnishing the return by an ISD

The Central Government vide *Notification No. 8/2018- Central Tax dated 23rd January, 2018* has notified that the time limit for furnishing the return by an Input Service Distributor in Form GSTR-6 for the month of July, 2017 to February, 2018 has been extended to 31st March, 2018.

[Notification No. 8/2018- Central Tax dated 23rd January, 2018]

7. Electronic Portal for furnishing of returns and E-way bill.

The Central Government vide *Notification No. 9/2018- Central Tax dated 23rd January, 2018* notified www.gst.gov.in as the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns and computation and settlement of integrated tax and www.ewaybillgst.gov.in as the Common Goods and Services Tax Electronic Portal for furnishing electronic way bill. This notification shall be deemed to have come into force with effect from the 16th day of January, 2018.

[Notification no. 9/2018 – Central Tax dated 23rd January, 2018]

8. Recipient is liable to pay tax on renting service received from Government

The Central Government vide *Notification no. 3/2018- Central Tax dated 25th January, 2018* has notified that service by way of renting of immovable property when provided by the Central Government, State Government, Union territory or local authority to a person registered under the Central Goods and Services Tax Act, 2017 than

registered person is the person liable to pay tax under reverse charge.

[Notification No. 3/2018- Central Tax dated 25th January, 2018]

9. Liability to pay central tax shall arise at the time when the developer or construction company transfer possession

The Central Government vide *Notification No. 4/2018-Central Tax (Rate) dated 25th January, 2018* has notified that in case of supply of development rights to a developer or in case of supply of construction service to supplier of development rights the liability to pay central tax on supply of services shall arise at the time when the developer, builder, construction company or any other registered person, as the case may be, transfers possession or the right in the constructed complex, building or civil structure, to the person supplying the development rights by entering into a conveyance deed or similar instrument (for example allotment letter).

[Notification No. 4/2018- Central Tax (Rate) dated 25th January, 2018]

10. Exemption on Intra-state supply of service by way of grant of license to explore or mine petroleum

The Central Government vide *Notification No. 5/2018- Central Tax (Rate) dated 25th January, 2018* has exempted the intra-State supply of services by way of grant of license or lease to explore or mine petroleum crude or natural gas or both, from so much of the central tax as is leviable on the consideration paid to the Central Government in the form of Central Government's share of profit petroleum as defined in the contract entered into by the Central Government in this behalf.

[Notification No. 5/2018- Central Tax (Rate) dated 25th January, 2018]

11. Power to issue show cause notice

The Central Government vide *Circular No. 31/05/2018-GST dated 9th February, 2018* has clarified the monetary limits up to which the functions in relation to issue of show cause notices and orders can be exercised by the proper officers.

Sl. No.	Officer of Central Tax	Monetary limit of the amount of central tax (including cess) not paid or short paid or erroneously refunded or input tax credit of central tax wrongly availed or utilised for issuance of show cause notices and passing of orders under sections 73 and 74 of CGST Act	Monetary limit of the amount of integrated tax (including cess) not paid or short paid or erroneously refunded or input tax credit of integrated tax wrongly availed or utilised for issuance of show cause notices and passing of orders under sections 73 and 74 of CGST Act made applicable to matters in relation to integrated tax vide section 20 of the IGST Act	Monetary limit of the amount of central tax and integrated tax (including cess) not paid or short paid or erroneously refunded or input tax credit of central tax and integrated tax wrongly availed or utilised for issuance of show cause notices and passing of orders under sections 73 and 74 of CGST Act made applicable to integrated tax vide section 20 of the IGST Act
(1)	(2)	(3)	(4)	(5)
1.	Superintendent of Central Tax	Not exceeding ₹10 lakhs	Not exceeding ₹20 lakhs	Not exceeding ₹20 lakhs
2.	Deputy or Assistant Commissioner of Central Tax	Above ₹10 lakhs and not exceeding ₹1 crore	Above ₹20 lakhs and not exceeding ₹2 crores	Above ₹20 lakhs and not exceeding ₹2 crores
3.	Additional or Joint Commissioner of Central Tax	Above ₹1 crore without any limit	Above ₹2 crores without any limit	Above ₹2 crores without any limit

[Circular No. 31/05/2018-GST dated 9th February, 2018]

12. GST data reveals 50% increase in number of Indirect Taxpayers Economic Survey says-Maharashtra, Gujarat, Karnataka, Tamil Nadu & Telangana account for 70% of India's exports India's internal trade in goods and services is 60 percent of GDP.

A preliminary analysis of the Goods and Services Tax (GST) data reveals that there has been a 50% increase in the number of indirect taxpayers, besides a large increase in voluntary registrations, especially by small enterprises that buy from large enterprises and want to avail themselves of Input Tax Credits (ITC).

The Economic Survey 2017-18 presented in Parliament by the Union Minister of Finance and Corporate Affairs, Shri Arun Jaitley informs that as on December 2017, there were 9.8 million unique GST registrants slightly more than the total Indirect Tax registrants under the old system (where many taxpayers were registered under several taxes).

Therefore, adjusting the base for double and triple counting, the GST has increased the number of unique indirect taxpayers by more than 50 percent – a substantial 3.4 million. The profile of new filers is interesting of their total turnover, business-to-consumer (B2C) transactions account for only 17 percent of the total. The bulk of transactions are business-to-business (B2B) and exports, which account for 30-34 percent a piece.

There are about 1.7 million registrants who were below the threshold limit (and hence not obliged to register) who nevertheless chose to do so. Indeed, out of the total estimated 71 million non-agriculture enterprises, it is estimated that around 13 percent are registered under the GST. Maharashtra, UP, Tamil Nadu and Gujarat are the States with the greatest number of GST registrants. UP and West Bengal have been large increases in the number of tax registrants compared to the old tax regime. It also underlines that the distribution of the GST base among the States is closely linked to the size of their economies, allaying fears of major producing States that the shift to the new system would undermine their tax collections.

Dwelling on the subject of International Trade, Inter-State Trade and Economic Prosperity, the Survey points-out for the first time in India's history that five States-Maharashtra, Gujarat, Karnataka, Tamil Nadu and Telangana account for

70% of India's exports. New data on the international exports of states suggests a strong correlation between export performance and States' standard of living. Last year Survey had estimated that India's Inter-State trade in goods was between 30 and 50 percent of GDP. But the GST data suggests that India's internal trade in goods and services (excludes non-GST goods and services) is actually even higher and is about 60 percent of GDP.

The survey based on new GST data also provides a close look at the firm-level exports and states that India's exports are unusual in that the largest firms account for a much smaller share of exports than in other comparable countries. Export concentration by firms is much lower in India than in the US, Germany, Brazil, or Mexico. The top one percent of firms accounted for 72, 68, 67 and 55 percent of exports in Brazil, Germany, Mexico, and USA respectively but only 38 percent in the case of India. Similarly, the top 5 percent accounted for 91, 86, 91 and 74 percent in those countries, compared with 59 percent in India and the top 25 percent of firms accounted for 99, 98, 99 and 93 percent in those countries, as opposed to 82 percent in India.

Referring to India's formal sector, especially formal non-farm payroll, the Survey says it is substantially greater than currently believed. Formality defined in terms of social security provision yields an estimate of formal sector payroll of about 31 percent of the non-agricultural work force; formality defined in terms of being part of the GST net suggests a formal sector payroll share of 53 percent.

The Chapter titled "A New, Exciting Bird's-Eye View of the Indian Economy Through the GST" sums up that most of the discussions in the run-up to the GST centered on the size of the tax base, and its implications for the Revenue Neutral Rate (RNR). The RNR Committee had estimated a base of ₹68.8 lakh crore and the GST Council had estimated a base of ₹65.8 lakh crore. Current data suggest that the GST tax base (excluding exports) is ₹65-70 lakh crore, broadly similar to these two previous estimates. Based on the average collections in the first few months, the implied weighted average collection rate (incidence) is about 15.6 percent. So, as estimated by the RNR committee, the single tax rate that would preserve revenue neutrality is between 15 to 16 percent.

[PIB Release ID: 175977]



(Matter on FEMA has been contributed by CA. Manoj Shah, Mumbai and CA. Hinesh Doshi, Mumbai)

(A.) Gist of some Compounding Orders passed by Reserve Bank of India

Sr. No.	Subject Matter	Contraventions Compounded
1.	ECB related–FEMA Notification No. 3	<ul style="list-style-type: none"> ➤ Company is engaged in providing educational services rendered through non-technical colleges, schools, universities and other institutions raised loans in foreign currency from its foreign equity holder in 2004 to 2013. ➤ Since company was engaged in providing educational services, at the time of raising loans it was not eligible to raise loan which led to contravention. ➤ It further utilised ECB proceeds as working capital for expansion of business which was a non-permissible end use at the time of raising loan. ➤ It contravened condition that drawdown shall be made only after obtaining Loan Registration Number. ➤ The borrower company also did not adhere to reporting requirements as prescribed by RBI
2.	ECB related–FEMA Notification No. 3	<ul style="list-style-type: none"> ➤ Company is engaged in business of generation and supply of electricity and other allied activities raised interest free loan from one of its non-resident directors in 2007. ➤ Company raised loan from persons other than entities eligible to give loans, was not an eligible lender. ➤ Company utilised the ECB proceeds for non- permissible end uses. ➤ It contravened condition that drawdown shall be made only after obtaining Loan Registration Number. ➤ The borrower company did not adhere to reporting requirements as prescribed by RBI.
3.	Overseas Direct Investment related–FEMA Notification No. 120	<ul style="list-style-type: none"> ➤ Company set up WOS in Switzerland in 2012. However, the investment was made through bank other than designated AD bank of the company which was in contravention of Regulation 6(2) of FEMA Notification No. 120. As per said regulation, all transactions related to investment in one WOS have to be routed through the same branch of the same bank.
4.	Downstream Investment–FEMA Notification No. 20	<ul style="list-style-type: none"> ➤ Company is a WOS of Mauritius company. It made downstream investment in another Indian company. ➤ Company was of view that the activities for the downstream company falls under Miscellaneous Service category and therefore any direct or indirect foreign investment was under automatic route. ➤ However, Government of India, Ministry of Finance, FIPB, DEA observed that activities of downstream company fell under ‘Other Financial Services’ and any downstream investment therefore required prior approval which was not obtained by the Company.
5.	Liberalised Remittance Scheme and Section 3(b) and 10(6) of FEMA 1999	<ul style="list-style-type: none"> ➤ Individual purchased shares of Indian company from foreign company using funds remitted under LRS held in resident individual’s overseas account. ➤ This resulted in contravention of Section 3(b) and Section 10(6) of FEMA 1999. ➤ The individual had purchased shares from funds held in his overseas accounts. These funds were initially remitted by individual under LRS with declaration that they will be used for investment in shares overseas. ➤ There was contravention of Section 3(b) with reference to use of foreign exchange acquired by a person other than authorised person for purposes which is not permissible under the Act.
6.	Branch Office – FEMA Notification No. 22	<ul style="list-style-type: none"> ➤ The branch office (BO) of a foreign company had ceased to carry its activities in 2005. However, still it kept temporary term deposits from 2013 to 2015 with Indian bank. ➤ AD can allow branch office to keep funds in term deposits out of surplus funds for period not exceeding 6 months based on undertaking of BO that it will be used for business in India within 3 months of maturity of such deposit. ➤ However, keeping deposit after such BO ceases to carry any activity was contravention of Regulation 6(i) of FEMA Notification 22.