

WEEKLY UPDATES ON COMPANY LAW, SEBI, RBI AND IBC

Week 13 – March 25 to March 31, 2019

1

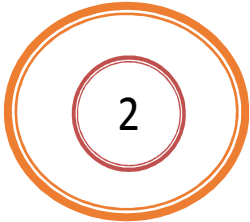
Companies Act 2013 during the week

Rules - 0; Circulars - 0; Notifications – 3; Orders- 0; Important Notices - 0

S. No	Date of Issue	Rules/Circular/ Notification/Order	Contents thereof	Gist thereof
1	29.03.2019	Notification	Companies (Incorporation) Third Amendment Rule, 2019 dated 29.03.2019	The application for incorporation of a company under rule 3U shall be accompanied by e-form AGILE (INC 35) containing an application for registration of the following numbers, namely. (a) GSTIN with effect from 31 st March, 2019 (b) EPFO with effect from 8th April, 2019 (c) ESIC with effect from 15 th April, 2019
2	30.03.2019	Notification	Companies (Indian Accounting Standards) Amendment Rules,	The Central Government, in consultation with the National Financial Reporting Authority, made rules

			2019 dated 30.03.2019	further to amend the Companies (Indian Accounting Standards) Rules, 2015.
3	30.03.2019	Notification	Companies (Indian Accounting Standards) Second Amendment Rules, 2019 dated 30.03.2019	Amendment has been carried out for the following: <ul style="list-style-type: none"> 1. Uncertainty over income tax treatments 2. Transition for Prepayment Features with Negative Compensation 3. Determination of taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates

S. No	NEWS ON MINISTRY OF CORPORATE AFFAIRS
1	IND AS 116, Leases shall be applicable with effect from 01 st April, 2019 and necessary notification for the same shall be issued in due course after complying with the necessary procedure.
2	The application (SPICe) for incorporation of a company shall be accompanied by a linked e-form AGILE (Application for registration of the Goods and Services Tax Identification Number (GSTIN), Employees' State Insurance Corporation (ESIC) registration plus Employees' Provident Fund Organisation (EPFO) registration) with effect from 31 st March 2019, as notified vide the Companies (Incorporation) Third Amendment Rules, 2019 dated 29 th March 2019.



SEBI during the week

Act -0; Rules -0; Regulations-0; General Orders – 0; Guidelines- 0;

Master Circulars-0; Circulars – 3; Press Release –2; Others -0;

S.No	Date of Issue	Act/rules/circulars....	Subject & Link	Gist thereof
1	25.03.2019	Circular	Review of Commission, Expenses, Disclosure norms etc. - Mutual Fund	<p>Review was carried out on the following:</p> <ol style="list-style-type: none"> 1. Limitation on Fees and Expenses – Regulation 52of SEBI (Mutual Fund) Regulations 1996 2. Distributor Commission 3. Additional TER of 30 bps for penetration in B-30 cities 4. Total Expense Ratio (TER) –Change and Disclosure 5. NoEntry Load on Systematic Investment Plans (SIPs) 6. Borrowing costs 7. Disclosure of scheme performance 8. Clarification on miscellaneous expenses

2	26.03.2019	Circular	Guidelines for Business Continuity Plan (BCP) and Disaster Recovery (DR) of Market Infrastructure Institutions (MIIs)	<p>Guidelines on the following has been issued:</p> <ol style="list-style-type: none"> 1. Modified framework for BCP and DR 2. Configuration of DRS/NS with PDC 3. DR drills and testing 4. BCP-DP policy document <p>This circular shall supersede earlier circulars dated April 13, 2012 and dated June 22, 2012 issued on BCP-DR Policy</p>
3	27.03.2019	Press Release	SEBI Board Meeting	<p>Decisions on the following were taken:</p> <ol style="list-style-type: none"> 1. Consultation Paper on Self Regulatory Organizations in Securities market 2. Amendments to SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 –payment relating to royalty and brand usage <p>Payments made to related parties towards brand usage or royalty are to be considered material if the transaction(s) exceed 2% of the annual consolidated turnover of the listed entity during a financial year.</p> <p>This requires approval of the shareholders. This provision which was to come into effect from April 1, 2019 has been deferred for three months i.e. till June 30, 2019.</p>

				3. Budget Estimates for the Financial Year 2019-2020
4	27.03.2019	Press Release	Transfer of securities held in physical mode - clarification	<p>The Board, on March 28, 2018, decided that except in case of transmission or transposition of securities, requests for effecting transfer of securities shall not be processed unless the securities are held in dematerialized form with a depository. This measure shall come into effect from April 01, 2019.</p> <ol style="list-style-type: none"> 1. The above decision does not prohibit the investor from holding the shares in physical form; Investors have the option of holding shares in physical form even after April 01, 2019. 2. Any investor who is desirous of transferring shares (which are held in physical form) after April 01, 2019 can do so only after the shares are dematerialized. 3. The transfer deed(s) once lodged prior to deadline and returned due to deficiency in the document may be re-lodged for transfer even after the deadline of April 01, 2019. <p>The above Board decision is not applicable for dematerialization of shares, transmission (i.e.</p>

				transfer of title of shares by way of inheritance / succession) and transposition (i.e. re-arrangement / interchanging of the order of name of shareholders) cases.
5	29.03.2019	Circular	Procedure and formats for limited review / audit report of the listed entity and those entities whose accounts are to be consolidated with the listed entity	<p>The Statutory auditor of a listed entity shall undertake a limited review of the audit of all the entities/companies whose accounts are to be consolidated with the listed entity as per AS 21 in accordance with guidelines issued by the Board on this matter. Consequently,</p> <ol style="list-style-type: none"> 1. all listed entities whose equity shares and convertible securities are listed on a recognised stock exchange, 2. the statutory auditors of such entities, 3. all entities whose accounts are to be consolidated with the listed entity and 4. the statutory auditors of entities whose accounts are to be consolidated with the listed entity <p>(Referred to as 'parties to the limited review 'for easy reference), shall, with respect to the aforesaid sub-regulation as applicable, comply with the following: Procedure: The parties to the limited review shall, as applicable, follow the procedure as</p>

				given at Annex 1 to this Circular.
--	--	--	--	------------------------------------

S. No	NEWS ON SECURITIES EXCHANGE BOARD OF INDIA
1	<p>With an aim to thwart financial frauds, regulator SEBI has sought powers to conduct inspection of books of accounts of listed companies for contravention of any securities law and also to take direct action against the fraudsters.</p> <p>Besides, SEBI has proposed a heavy penalty for altering, destroying, mutilating, concealing or falsifying records and documents or other tangible objects with an intent to obstruct, impede or influence a legal investigation.</p>
2	<p>A Securities and Exchange Board of India (SEBI) panel headed by former Reserve Bank of India deputy governor HR Khan is set to recommend liberalisation of investment caps for foreign portfolio investors. At present, foreigners can own up to 24 per cent in a listed Indian company with any further increase requiring approval from the firm's board.</p> <p>The panel is considering to propose removal of the 24 per cent restriction and making the different sectoral caps under foreign direct investment (FDI) rules as the new ceiling. This will give companies room to raise money from foreign investors while improving India's weightage on the MSCI Index.</p>

3

RBI during the week

Notifications -5; Master Directions –0; Master Circulars – 0; Circular - 0;

Press Release – 0;

S.No	Date of Issue	Notifications/Master Directors/Master Circulars	Subject & Link	Gist thereof
1	26.03.2019	Notification	Master Direction - External Commercial Borrowings, Trade Credits and Structured Obligations	<p>Various provisions in respect of these two types of borrowings are included in the following Regulations framed under FEMA:</p> <ol style="list-style-type: none"> 1. Foreign Exchange Management (Borrowing and Lending) Regulations, 2018 dated December 17, 2018, as amended from time to time; and 2. Foreign Exchange Management (Guarantees) Regulations, as amended from time to time.

2	27.03.2019	Notification	Non-resident Participation in Rupee Interest Rate Derivatives Markets (Reserve Bank) Directions, 2019	These Directions shall be applicable to Rupee interest rate derivative transactions in India, undertaken on recognized stock exchanges, electronic trading platforms (ETP) and Over-the-Counter (OTC) markets to the extent stated in the directions.
3	27.03.2019	Notification	Investment by Foreign Portfolio Investors (FPI) in Government Securities Medium Term Framework	Revision of investment Limits for 2019-2020 has been announced.
4	28.03.2019	Notification	Establishment of Branch Office (BO) / Liaison Office (LO) / Project Office (PO) or any other place of business in India by foreign entities	<p>For opening of a BO/LO/PO or any other place of business in India, where the principal business of the applicant falls in the Defence, Telecom, Private Security and Information and Broadcasting sector, no prior approval of the Reserve Bank of India shall be required, if Government approval or license/permission by the concerned Ministry/Regulator has already been granted.</p> <p>Further, in the case of proposal for opening a PO relating to defence sector, no separate reference or approval of Government of India shall be required if the said non-resident applicant has been awarded a contract by/entered into an agreement with the Ministry of Defence or Service Headquarters or Defence Public Sector Undertakings.</p>

				<p>It is clarified that the term “permission” used in the Notification does not include general permission, if any, available under Foreign Direct Investment in the automatic route, in respect of the above four sectors.</p> <p>All other provisions of the BO/LO/PO policy shall remain unchanged.</p>
5	28.03.2019	Notification	<p>Foreign Exchange Management (Deposit) Regulations, 2016 - Opening of NRO Accounts by Long Term Visa (LTV) holders, changes related to Special Non-Resident Rupee (SNRR) Account and Escrow Account</p>	<p>The FEM (Deposit) (Amendment) Regulations 2018 i.e FEMA 5(R)(1) have since been notified by the Government of India vide GSR No 1093(E) dated November 9, 2018 necessitating changes to the extant instructions.</p>

4

IBC during the week
Notifications -0; Master Directions –0; Master Circulars – 0; Circular - 0;
Press Release – 2;

S.No	Date of Issue	Notifications/Master Directors/Master Circulars	Subject & Link	Gist thereof
1	26.03.2019	Press Release	Guidelines for Appointment of Insolvency Professionals as Administrators under the Securities and Exchange Board of India (Appointment of Administrator and Procedure for Refunding to the Investors) Regulations, 2018	<p>Extract from the circular:-</p> <p><i>“The Securities and Exchange Board of India (Appointment of Administrator and Procedure for Refunding to the Investors) Regulations, 2018, (Regulations) provide for appointment of Insolvency Professionals (IPs) as Administrators for the purposes specified therein.</i></p> <p><i>The IBBI and the SEBI have mutually agreed upon to use a Panel of IPs for appointment as Administrators for effective implementation of the Regulations. The IBBI shall prepare a Panel of IPs</i></p>

				<p><i>keeping in view the requirements of SEBI and the Regulations and the SEBI shall appoint the IPs from the Panel as Administrators, as per its requirement in accordance with the Regulations. A Panel shall be valid for six months and a new Panel will replace the earlier Panel every six months. For example, the first panel under these Guidelines will be valid for appointments during April - September, 2019, the next panel will be valid for appointments during October- March, 2020, and so on.”</i></p>
2	26.03.2019	Press Release	Circular with regard to EOI from IPs	<p>(In tandem with the above mentioned circular)</p> <p>Extract from the circular:-</p> <p><i>“.....An email has been sent to your ID registered with the Board, seeking EOI for appointment as an Administrator during the period of 10th April 2019 to 30th September 2019 (6 months) as per the said Guidelines.</i></p> <p><i>In this connection it is advised that the EOI to act as an Administrator be submitted through online mode only by accessing http://ibbi.gov.in/sebi/ which shall be available till 2nd April, 2019.</i></p>

S. No	NEWS ON INSOLVENCY AND BANKRUPTCY CODE
1	<p>British Airways, Postal Life Insurance and Philips India are among the about 100 entities that have sought to be part of the resolution process of Infrastructure Leasing & Financial Services as financial creditors. The companies said that their provident funds have invested in the bankrupt IL&FS and contend that they stand to suffer grave injury, which would be detrimental to public interest if they were excluded from the process.</p> <p>“Around 100 intervening petitions have been filed in the National Companies Law Appellate Tribunal to allow them to be party in the IL&FS case,”</p>
2	<p>Lenders of Amtek Auto sought permission from the NCLAT to conduct a second round of bidding for the debt-ridden auto component maker after the highest bidder UK-based Liberty House backed out.</p>
3	<p>The committee of creditors (CoC) in the Essar Steel insolvency case is likely to vote against higher payments to Standard Chartered, but may partly increase the amount operational creditors get as part of the settlement offered by ArcelorMittal.</p>
4	<p>The National Company Law Tribunal (NCLT) in the Sterling Biotech case for the second time has questioned the motive of lenders, led by Andhra Bank to withdraw their bankruptcy application and to choose a one-time settlement with the absconding promoters of Sterling Biotech.</p>

S.No.	GENERAL IMPORTANT NEWS
1	<p>The government is expecting to cross 1 crore enrolments by April-end under the Pradhan Mantri Shram-Yogi Maandhan (PMSYM) Yojna -- a pension scheme for unorganised sector workers.</p> <p>The PMSYM scheme provides for a minimum monthly assured pension of Rs 3,000 for unorganised sector workers from the age of 60 years. The scheme was launched last month.</p>
2	<p>The board of Mindtree set up a committee of independent directors to evaluate the “unsolicited” offer by Larsen & Toubro for a 31 per cent holding in the IT company and dropped plans for a share buyback. The promoters will campaign for support from large shareholders to thwart L&T’s open offer.</p> <p>The panel, led by board member Apurva Purohit, will review L&T’s offer and recommend whether Mindtree shareholders will benefit by selling their shares or not.</p>
3	<p>State-owned Power Finance Corporation (PFC) is said to make the entire payment of Rs 14,500 crore to the government for acquiring 52.63 per cent stake in REC.</p>
4	<p>India and the US signed an Inter-Governmental Agreement for exchange of Country-by-Country (CbC) reports of multinational companies regarding income allocation and taxes paid to help check cross-border tax evasion.</p> <p>This agreement for exchange of CbC reports, along with the Bilateral Competent Authority Arrangement, will enable both the countries to automatically exchange CbC reports filed by the ultimate parent entities of multinational enterprises (MNEs) in the respective jurisdictions, pertaining to the years commencing on or after January 1, 2016.</p> <p>It would also obviate the need for Indian subsidiary companies of US multinationals to do local filing of the CbC reports, thereby reducing the compliance burden.</p>
5	<p>The CBDT has issued directions to Income Tax offices across the country to probe financial transactions of about three lakh firms, de-registered by the government for their dubious financial credentials, for tax evasion and money laundering, especially during demonetisation.</p> <p>The board has asked the tax offices to undertake this special task and bring under their ambit the time period (over the last two years) when these companies were struck off from the records of the Ministry of Corporate Affairs (MCA).</p>
6	<p>Chartered accountants across the country have requested the Prime Minister’s office and the Finance Ministry to rein in tax officials who have been directed to take “all possible actions” to recover tax amid a shortfall in revenue collection.</p>

On March 26, the Central Board of Direct taxes (CBDT), the apex body, issued instructions to all principal chief income tax commissioners (CITs) across the country to take "all possible action" immediately to boost the collection of direct taxes, including recovery of arrears.

This kind of instruction causes a great deal of concern in the minds of tax payers as it is bound to create unrealistic pressure on tax officers, particularly days before the end of the financial year.



Flat No.7, Door No.10 Madhans,
South Canal Bank Road,
Mandavelipakkam, Chennai 600028.

mail@akshayamcorporate.com

www.akshayamcorporate.com; Land Line: 044-43533080

*The Information Contained herein is of general nature and is not intended to address the circumstances of any particular individual or entity.
The views expressed here are solely those of the author in his private capacity.*