

# PKP NEWSLETTER

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## Editorial Board's Notice

We are proud to present to you the very first version of the PKP and co. Newsletter. After much deliberation, we have decided that these newsletters will be issued monthly and will serve as reference manuals as well as a source of knowledge and updates pertaining to various subjects that we come across in our day to day assignments.

We hope that these issues will be useful to you in terms of work as well as studies and personal development. Being the first issue, we have restricted the scope of the content to articles on important matters and monthly updates on the same.

The areas covered in this publication are Auditing, Corporate Law, Economy and Finance, Goods and Service Tax, Income Tax and Insolvency and Bankruptcy. In this article due to vast expanse certain areas are to be published in form of series such as Insolvency and bankruptcy code, IndAS and corporate law and topics chosen for rest of areas based on the latest trends.

We would also like to emphasize on the fact that there is a huge scope for various additions to the newsletter as well. We encourage you to come forward with any ideas or suggestions that you may have.

Yours Sincerely

PKP Presentation Team

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## The Insolvency and Bankruptcy code : An Introduction



*Nithya Murali*  
*Article Assistant*

A new era has dawned on India, after the promulgation of the Insolvency and Bankruptcy Code, 2016 (in short ‘The Code’). The Code came into force w.e.f May 28, 2016 the edifice of which was drafted by a specially constituted ‘Bankruptcy Law Reforms Committee’ (BLRC) under the Ministry of Finance. The code, was introduced in Lok Sabha on 21st December 2015, and referred to the Joint Committee on the Insolvency and Bankruptcy Code, 2016.

### Features Covered:

**01:** Introduction & Evolution

**02:** Need for the Law

**03:** Process Flow

**04:** Process Timeline

Accordingly, the Code was and is being amended by promulgating various Insolvency and Bankruptcy Code (Amendment) Ordinances such as the Insolvency and Bankruptcy Code (Second Amendment) Act, 2018, effectively retrospective from 6th day of June, 2018.

The enactment of the code has heralded a major economic reform which contemplates creditor driven insolvency resolutions to be conducted in a time bound manner.

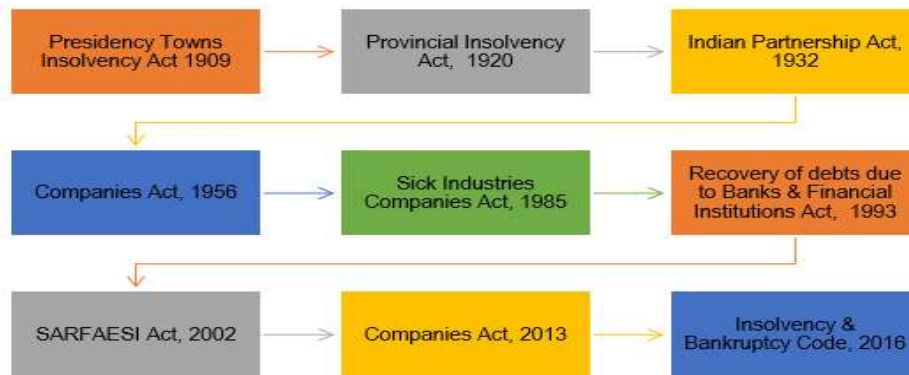
A list of companies under liquidation for the year 2008 was released a few years back. M/S. S.P. Oil Cloth & Allied Ltd was one such Hyderabad based company in the list. But what made it different from the lot is the fact that the date of winding up Order for the said company was on 05-02-1956.

The statistics says it's not just this company; there are many other companies or many other forms of businesses indeed, which are being liquidated beyond any limit of years. Imagine the situation of the creditors of such entities. Till when shall they wait for their debts to be repaid? Imagine the situation of the

Stakeholders or owners as well, how long will they have to wait to recover their lost stakes? This instance reflects how difficult it was for a company to exit the Indian market before 'The Insolvency and Bankruptcy Code' came into existence. The point of discussion here is the question which lead to the enactment of the Insolvency and Bankruptcy code, its procedure and its dramatic evolution over the past two years.

Prior to the birth of the code, there were multiple and overlapping laws as well as manifold adjudicating forums dealing with business failures and insolvency of corporates.

The following are the different laws which have been replaced by the IBC code in these proceedings:

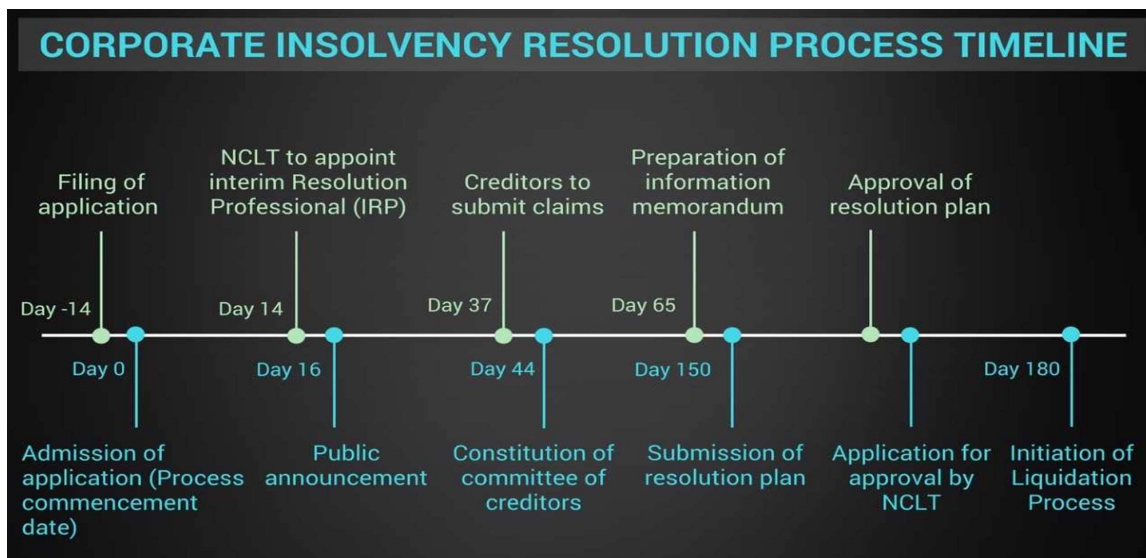


The code encompasses 5 parts, 23 chapters and 225 sections

The Code is applicable to:

1. A company incorporate under the Companies Act, 2013 or under any previous Law or by any special Act.
2. Any LLP under the LLP Act.
3. Any other body incorporated under any law for the time being in force, as the Central Government may notify.
4. Partnership Firms and Individuals.

The typical IBC process is represented in the timeline below:



## The Direct Tax Code

Direct Tax code (DTC) is a step towards the simplification of decades' old and complicated income tax laws in India and also towards merging all direct taxes into one act (namely, income-tax, dividend distribution tax, fringe benefit tax and wealth tax).

This will help establish an economically efficient, effective and equitable direct tax system which will facilitate voluntary compliance and help increase the tax-GDP ratio and also to reduce the scope for disputes, minimize litigation and close loopholes.

The first draft bill was released by Government of India for public comments along with a discussion paper on 12th August 2009. Based on feedback from various stakeholders revised discussion paper was released in 2010. DTC 2010 was introduced in Indian Parliament in August 2010 and a Standing Committee on Finance (SCF) was formed specifically. After consultation with various stakeholders, the task force submitted its report to the Indian Parliament on 9th March 2012. The Finance Minister (FM) in his Interim Budget Speech in February 2014, after taking into account the recommendations of the SCF, a “revised” version of DTC (DTC 2013) was released on 31st March 2014. Recently the task force has submitted its draft DTC to Finance Minister Nirmala Sitharaman on 19<sup>th</sup> August 2019 and is proposed to be made public in the upcoming Budget.

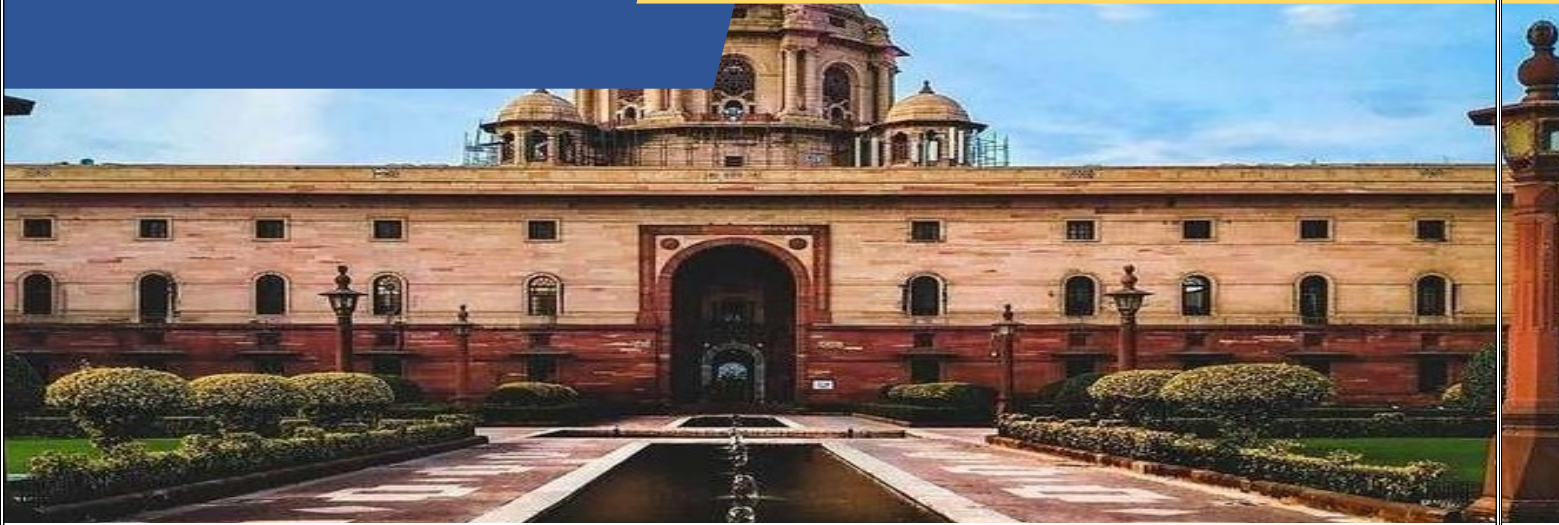


*Monisha Preethi*  
*Article Assistant*

### Features Covered:

- 01:** Introduction & Evolution
- 02:** Present Scenario
- 03:** What to expect

# Direct Tax



Currently India ranks 63rd position on the World Bank's ease of doing business ranking. It was also quoted by a top World Bank official "India is open for business, you need another set of bold reforms to be announced and implemented in next three-four years for it to be in top 25". The Income Tax Act in its very nature is complicated for individual tax payers to understand and comply with the same.

The direct tax code is expected to bring in a lot of changes in the current income tax provisions in many areas. Due to the recent amendment, a slash in the tax rates for domestic companies,

a reduction in tax rates for individuals is expected. There is also a proposal for removal of Dividend Distribution Tax (DDT) to promote investment. Since the same is already taxed in the hands of shareholders and revenue lost by removal of the same for government is minimal.

The new direct tax code will try to bring more assesses into the tax net, make the system more equitable for different classes of taxpayers, make businesses more competitive by lowering the corporate tax rate and phase out the remaining tax exemptions that lead to litigation. It will also redefine key concepts such as income and the scope of taxation.



*Egammai  
Manager - Taxation*

## E – Assessment

E - Assessment is a roadway towards a paperless, faceless assessment stripping away at bureaucratic layers. The CBDT notified an ‘E-Assessment Scheme, 2019’ vide Notification no. 61/2019 & 62/2019, dated 12-09-2019 to conduct e-assessments

### STRUCTURE OF E- ASSESSMENT

In order to understand the mechanism of the scheme it is necessary to know the role and structure of each center or unit. The following hierarchy of centres and units play a vital role in the scheme of the E Assessment:

**National e-Assessment Centre (NeAC)** - To facilitate and centrally control the e-assessment.

**Regional e-Assessment Centre (ReAC)** - Works under the jurisdiction of the regional PCIT for making an assessment.

**Assessment Units (AU)** - To identify points or issues, to analyze information and such other functions.

**Verification Units (VU)** - To make enquiry, cross verification, examination of books of accounts, witness and recording of statements.

**Technical Units (TU)** - To provide technical assistance including any assistance or advice on legal, accounting, forensic, information technology, valuation, transfer pricing, data analytics, management or any other technical matter.

**Review Units (RU)** - To review the draft assessment order to check whether the facts, relevant evidence and law and judicial decisions have been considered in the draft order.

### SERVICE OF NOTICE FOR E-ASSESSMENT

Notice shall be delivered to the assessee, by way of the following modes:

(a) Placing an authenticated copy in the assessee’s registered account; i.e. the e-login ID at the income tax portal

(b) Sending an authenticated copy to the registered email address of the assessee or his authorized representative;

### Other Aspects of E-Assessment

Penalty proceedings can be initiated by the Assessment Unit through NeAC in case of non-compliance of any notice, direction or order.









All the above communication shall take place through electronic communication which will be served either in the electronic portal or e-mail id or mobile app and a real time alert.









There is no personal appearance in the process, but an assessee can request for personal hearing of the same & the personal hearing shall take place through Video conference.

An appeal against an assessment made by the NeAC under this Scheme shall lie before the Commissioner (Appeals) having jurisdiction over the jurisdictional Assessing Officer



## PROCEDURE IN E-Assessment

|  |  |
|--|--|
|    | Service of Notice u/s.143(2) by NeAC   |
|    | Taxpayer to file reply within 15 days  |
|    | NeAC shall assign the case to "AU"   |
|    | "AU" shall make a request to NeAC if it requires details from taxpayer or assistance from "VU" / "TU"  |
|    | NeAC shall issue notice or requisition to the taxpayer or assign the case to a "VU" / "TU"   |
|    | "AU" shall Pass Draft Assessment Order (DAO) & send a copy to NeAC either by accepting or modifying the returned income. It also provide details of the Penalty Proceedings to be initiated therein  |
|   | "NeAC" shall examine DAO & it may decide to:<br>1. Finalize the assessment & serve a copy of order, demand notice along with the notice for initiating penalty proceedings<br>2. Provide an opportunity to the taxpayer<br>3. Assign the DAO to a "RU" for conducting review of such order |
|  | "RU" shall conduct the review of DAO & it may decide to concur with the DAO or suggest a modification to the DAO & intimate NeAC & intimate NeAC   |

|   |   |
|---|---|
|    | NeAC" on receiving concurrence finalize the DAO or provide an opportunity to the taxpayer   |
|    | "NeAC" on suggestions for modifications, communicate the same to the "AU"   |
|    | The taxpayer may furnish his response to "NeAC" & "NeAC" will forward response to "AU" or finalizes the DAO incase of no response   |
|    | "NeAC" upon receiving "Final DAO", finalize the DAO, or issue of Show Cause Notice (SCN) to taxpayer to provide opportunity   |
|    | "AU" after considering the modifications of the "RU" send the "Final DAO" to NeAC   |
|    | "AU" make a "Revised DAO" & send it to "NeAC". If No modification, NeAC will finalize the DAO; If there is a Modification, NeAC would provide opportunity to the taxpayer for hearing and submissions |
|  | The response furnished by the taxpayer shall be dealt with by the NeAC and the DAO gets finalized.  |
|  | "NeAC" after completion of assessment, transfer all the electronic records of the case to the Assessing Officer having jurisdiction over such case  |

## Appointment of Directors

A Company is a legal entity made up of an association of people, be they natural, legal, or a mixture of both, for carrying on a commercial or industrial enterprise. Company members share a common purpose, and unite to focus their various talents and organize their collectively available skills or resources to achieve specific, declared goals.

The supreme executive authority controlling the management and affairs of a company vests in the Board of Directors which oversees the management and serves and protects the long term interests of all the stakeholders of a company.

Every company shall have a minimum number of three directors in the case of a public company, two directors in the case of a private company, and one director in the case of a One Person Company. A company can appoint a maximum of fifteen directors. A company may appoint more than fifteen directors after passing a special resolution in the annual general meeting.



Harthik Reddy  
Article Assistant

### Coverage:

- 01:** Introduction
- 02:** Board of Directors
- 03:** Resident Directors
- 04:** Woman Directors
- 05:** Independent Directors

## Ceiling Limit:

The maximum number of directorships, including any alternate directorships a person can hold is 20. Further, the number of directorships in public companies/ private companies that are either holding or subsidiary company of a public company shall be limited to 10. The members of a company may restrict the above mentioned limit by passing a special resolution.

## Resident Director

Every company shall have at least one director who had stayed in India for a total period of not less than 182 days in the previous calendar year.

## Woman Director

Every Listed Company shall appoint at least one woman director within six months from the incorporation. Every other public company having paid up share capital of Rs.100 crores or more or turnover of Rs.300 crore or more, shall also appoint at least one woman director.

## Independent Director

An independent director means a director other than a managing director or a whole-time director or a nominee director who does not have any material or pecuniary relationship with the company/directors. Every listed public company shall have at least one-third of the total number of directors as independent directors.





Raveena Devanesan  
Article Assistant

## New Era of Accounting IND AS

The Indian Accounting Standards (IND AS) are Accounting Standards, harmonized with IFRS (International Financial Reporting Standards) to make financials, accounts and reports of Indian Companies internationally accessible, acceptable, transparent and comparable.

Indian Accounting Standards are set of accounting principles and frame work which has been formulated by Accounting Standard Board of ICAI. These standards are converged from International Financial Reporting Standards (IFRS). By the term “converged” we denote that these are IFRS drawn in Indian context.

IFRS are modified in such a way that it fits the Indian context and norms. These modifications are termed as “Carve –outs”. So to put it simply

**IFRS - Carve outs = Ind AS**

## Why IND AS

When we already have a list of standards why do we need new standards like Ind AS? The answer to this question is simple, Accounting Standards were formulated with an intention to enhance the comparison of the Financials of one company with another i.e. to ensure that the financials of all companies were prepared using the same rules and principles. But as the Industries are growing across boundaries and moving towards the global market, it is necessary to transform the standards in line with the Global standards.

The transition into Ind AS tries to narrow the gap between global reporting frame works and that of entities in India. It will now set Indian companies in a journey to harmonize their reporting with global standards and enhance comparability in order to boost stakeholder confidence.

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## Adoption of IND AS

On 16<sup>th</sup> February 2015 the MCA has notified the implementation of Ind AS to the companies. As on date there are 41 Indian Accounting Standards notified by MCA. Let's discuss in detail about the implementation of Ind AS;

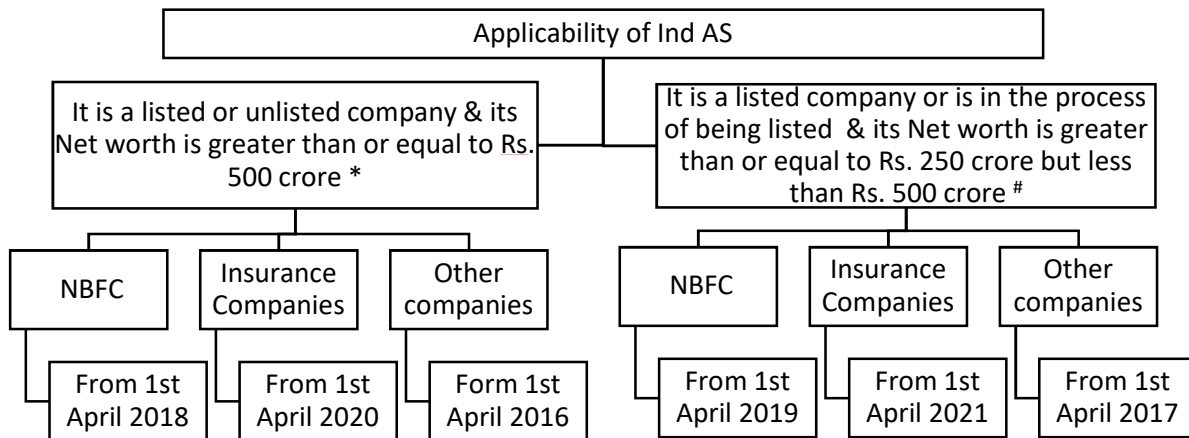
## Voluntary Adoption

Companies can voluntarily choose to incorporate IND AS in their reports for accounting periods beginning on or after April 01, 2015.

Voluntary adoption is amicable for companies incorporated newly as it would reduce their burden to adopt Ind AS later and also increase their esteem among investors. However the difficulties in adopting Ind AS is to be considered.

## Compulsory Adoption

MCA has notified a phase-wise convergence to IND AS from current accounting standards. IND AS shall be adopted by specific classes of companies based on their net worth and listing status, as below:



As per the notification dated 22<sup>nd</sup> March 2019 by Reserve Bank of India the implementation of Ind AS for Banks is deferred till further notice.

## Key Notes

Once a company has started reporting as per IND AS, it cannot change to reporting as per previous laws.

The net worth is calculated based on existing AS however who are the subsidiaries, associates etc. are determined based on Indian Accounting Standards.

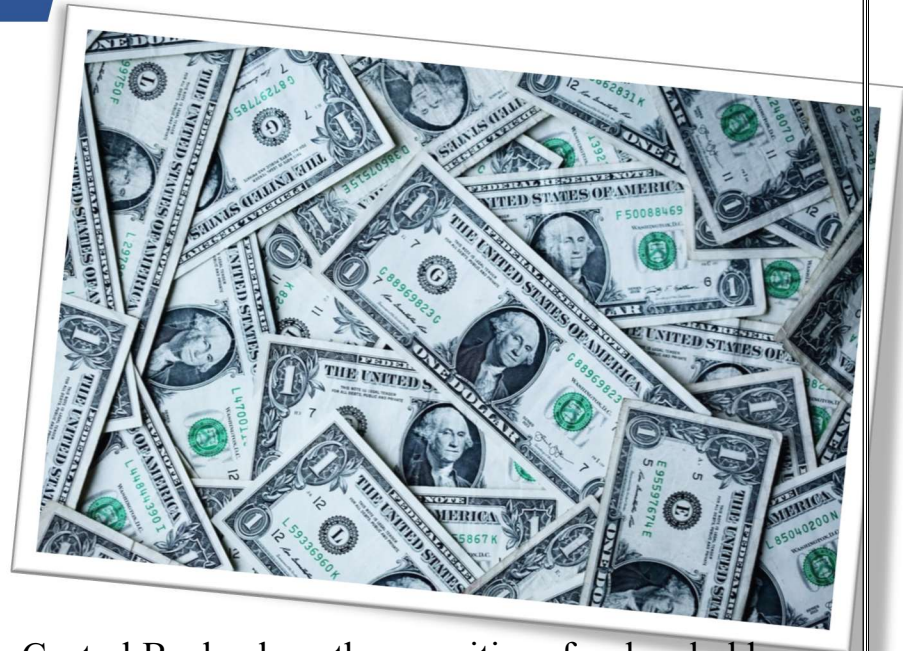
If IND AS become applicable to any company, then IND AS shall automatically be made applicable to all the subsidiaries, holding companies, associated companies, and joint ventures of that company, irrespective of individual qualification of such companies.

In case of foreign operations of an Indian Company, the preparation of stand-alone financial statements may continue with its jurisdictional requirements and need not be prepared as per the IND AS. However, these entities will still have to report their IND AS adjusted numbers for their Indian parent company to prepare consolidated IND AS accounts.

Conclusively, it can be said that IndAS is the starting point of New era of Accounting and presentation and disclosure of financial transactions which requires a fair transition from historical cost method of accounting to the fair value of accounting. We shall be discussing about further insights on Indian Accounting Standards in the upcoming months Newsletter.



**Mahitha B.M**  
*Article Assistant*



## Depositories

A Depository is an organization akin to a Central Bank where the securities of a shareholder are held in the electronic form at the request of the shareholder through the medium of a Depository Participant. To utilize the services offered by a depository, the investor has to open an account with the depository through a depository participant.

There are two Depositories functioning in India, namely

National Securities Depository Limited (NSDL)

Central Depository Services (India) Limited (CDSL).

In the depository system, share certificates belonging to the investors are to be dematerialized and their names are required to be entered in the records of depository as beneficial owners. Consequent to these changes, the investors' names in the companies' register are replaced by the name of depository as the registered owner of the securities.



The steps involved in opening a Demat account are as follows:

## **Identify and select your DP**

Approach a depository participant (DP), an agent of depository and fill up an account opening form. The list of DPs are available on the NSDL and CSDL websites

## **Fill form and submit documents**

Account Opening form duly filled along with the KYC application form, enclosed photocopies of documents needed for opening a demat account according to account type.

## **In-Person Verification**

During the process, an in-person verification would be carried out. A member of DP's staff would contact to check the details provided in the account opening form.

## **Sign the DP Agreement**

Sign an agreement with DP in the depository prescribed standard format which gives details of the rights and duties of investor & DP and then receive a copy of the agreement and schedule of charges for future reference

## **Receive Demat Account Number**

Once the application is processed, the DP will provide a demat account number and a client ID. This is also called beneficial owner identification number (BO ID).

## **Moving shares in and out of the Demat account:**

Physical Share Certificates can be dematerialized by filling up the requisite Demat Requisition Form (DRF) and subsequently will be credited to the demat account. Interestingly, demat holdings can also be rematerialized into physical certificates, if required. Today, all purchases and sales in the stock exchanges happen only in the demat mode. When shares are purchased, these shares get credited to demat account on T+2 day while demat account gets debited on T+1 day when shares are sold. The advantage of a demat account is that corporate actions like bonuses and splits are automatically credited and dividends are automatically credited to the bank account that is linked to the demat account.

Documents Required for opening different types of Demat accounts are as follows:

| <b>Individual Demat Account</b> | <b>Joint Demat Account</b>                      | <b>Demat Account</b>                            | <b>NRI Demat Account</b>   |
|---------------------------------|---|---|--|
| Copy of PAN Card                | Copy of PAN Card of all account holders         | Copy of PAN Card of all account holders         | Passport size photograph with signature of the holders across the photograph |
| Copy of Aadhar Card             | Copy of Aadhar Card of all account holders      | Copy of Aadhar Card of all account holders      | Visa/residence permit/work permit  |
| Passport Size Photograph        | Passport Size Photograph of all account holders | Passport Size Photograph of all account holders | FEMA Declaration form  |
| Bank Statement                  | Bank Statement of all account holders           | Bank Statement of all account holders           | NRO/NRE Bank proof   |
| Cancelled Cheque                | Cancelled Cheque of all account holders         | Cancelled Cheque of all account holders         | NRO Special Investment/ PIS account Proof                                    |
|                                 |   |   | PIS letter   |

## Corporate Demat Account

|   |  |   |   |
|---|--|---|---|
| Photograph of each holders/signatory, signed across the photograph and form | Copies of the Memorandum of Association and Articles of Association should have the seal and signature of the authorized signatory of the company. | Copy of Balance Sheet of an organization for the last 2 Financial Years (IT return declaration for new companies) | FATCA Declaration   |
| Pan Card copies of each holder and company                                  | Board Resolution for investment in securities market.  | Aadhaar Cards copies of each holder   | Certificate of Incorporation  |
| Address proof copies of each holder of Company                              |  | Duly filled annexures (with the authorized person's signature and the company's seal affixed.                     | Individual KYC form filled and signed by each director                                |
|   |  |   | Shareholding pattern copies duly certified by Company secretary or managing director. |

Conclusively, A person can have multiple demat account as they wish. The investor can choose DP as per their convenience and there is no compulsion to open DP account with their stock broker. Demat account or specific security or specific number of securities can also be frozen for any given period of time.



## GST for Amortisation cost on FOC Basis



*Akshaya Devakumar*  
*Article Assistant*

It is a common practice in the manufacturing industry to outsource a part of the manufacturing activity to third parties such as contract manufacturers/job-workers. The original equipment manufacturers (OEM) often provide the component manufacturers (CM) with moulds and dies to be used for manufacturing so as to maintain quality and standardize the production process.

**There is a contract between CM and OEM for supply of a component which requires a special type of mould/die to produce the component. The mould/die is provided on free of cost (FOC) basis to CM and the cost is borne by OEM. Should GST on the amortised part of such mould/die be included in the value of component or not?**

GST is normally payable on the value of supply as determined under Section 15 of the CGST Act, 2017.

As per the section, the value of a supply shall be the transaction value which shall be the actual price paid or payable by unrelated parties and where price is the sole consideration for the supply.

However, Section 15(2)(b) specifically provides that the value of a supply shall include any amount that is payable by the supplier but has incurred by the recipient of the supply and has not been included in the value of the supply. The value of moulds and dies shall therefore be included in the value of supplies of CM only in case the CM was liable to incur the expenses for the moulds but the same has been incurred by the OEM.

With respect of this, clarification by CBIC by way of circular No. 47/21/2018–GST on 8-6-2018 has been provided as below:

1. Para 1.2 of this circular clarifies that the value of moulds and dies are not to be included in the value of supply by CM when the cost of the moulds and dies are not to be incurred by the CM contractually.
2. Para 1.3 clarifies that the value of moulds and dies are to be included in the value of supplies by CM if the contract between CM and OEM specifies that the supply of component shall be made by using the mould or die belonging to CM but the same has been supplied by OEM on FOC basis.

As per the facts involved in advance ruling [In Re: Nash Industries Pvt. Ltd., 2018-VIL-266-AAR], CM was responsible for manufacture of mould which is used to manufacture finished goods but the cost of mould is borne by OEM. The Authority, while interpreting Section 15(2)(b) of the CGST Act, 2017 held that no goods can be manufactured without a “customized mould”. Hence the authority is of the view that the value of supply of finished goods by CM to OEM must include the amortized value of the mould provided on FOC basis, irrespective of the contractual arrangement between the parties. The decision is contrary to the circular.

The Maharashtra advance ruling placed reliance on the above stated circular and held that the amortized value of mould was not required to be included in the value of finished goods in case where the agreement between the parties clearly states that the cost of mould/die must be incurred by the OEM [In Re: Lear Automotive India Private Limited, 2018-VIL-318-AAR].

### **Conclusion:**

It has become imperative for the contract manufacturing industry to revisit their agreements with the OEMs in light of the clarification issued by the CBEC and the rulings of the AAR to safeguard themselves from any avoidable exposure and GST liability in the future.

## Importance of WILL



*Abinaya*

*Manager - Wealth Management*

There is an old saying: Where there's a Will, there's a way. In the absence of a properly-executed Will, however, the ways ahead may sometimes be not only too many, but also too complicated.

### What is a will?

It is a legal document that names individual/individuals who would receive the property and possessions of a person after his/her death. The document can be revoked, modified or substituted by the person executing it at any point during his/her lifetime.

The Will is a testamentary document that comes into effect after the death of the testator. A succession, after death of a person, under will is called testamentary succession and a succession without the Will is called intestate succession.

A will can be made by self or through a lawyer or banker. A will written by self is considered legal only if it abides by the state law.

For a will to be recognized as a legal document, it should be signed by the testator in the presence of two witnesses. The name and signature of the two witnesses should also be attached to the will.

### Terms Used in Wills

**Administrator** : A person appointed by a competent Authority to administer the estate of the deceased person when there is no executor

**Bequest/Legacy** : It is a testamentary gift of property

**Codicil** : An instrument made in relation to a Will and explaining, altering or adding to its dispositions, and shall be deemed to form part of the will.

**Executor/Executrix** : A person to whom the execution of the last will of a deceased person is, by the testator's appointment, confided.

**Legatee** : Beneficiary of property under a Will. There is no specification about who can be a Legatee.

**Probate** : The Copy of the Will certified under the seal of a court of competent jurisdiction with a grant of administration to the estate of the testator

**Testator** : A person who executes a Will

**Intestate** : A person who dies without a will is intestate

**Issue** : Issue is another word for your direct descendants such as children and grandchildren.

## Importance of Planning a will :

Planning of will is important because the document always acts as an inventory of the assets left behind by the deceased. A clear and well-written Will also help in avoiding any bickering among the natural heirs. And, if a person wants to distribute his/her wealth to anyone other than the natural heirs, the Will assumes paramount importance.

### **Manage possessions :**

A well designed will not only help in managing your assets during your lifetime but also protect your estate from any future contingencies.

### **Distribute possessions :**

A will is primarily made in order to distribute a testator's priced possessions amongst the people he wishes to. It ensures that your hard earned money does not become a reason of rift among your near and dear ones.

### **Assign Guardian :**

A will is also designed to allocate a guardian to a minor or dependent who is the legal responsibility of the testator. The guardian will have to look after the dependents once the will comes into action.

### **Appoint of Power of Attorney :**

A person can act as the power of attorney if the testator's will mentions so. He/she gets this power once the testator is not able to continue the administration of his assets in a sound manner.

## Dos and Don'ts of will

It is very important for a will to be well written. In case of failure to comply to any of the prerequisites of a will, the will may be considered void in legal terms. Thus one has to take care of a few do's and don'ts which help the testator draw a well exhaustive document.

### Dos of writing a will

**Express your wishes clearly:** While writing a will, do not leave any scope of misinterpretation. Quantify your assets clearly and state your wishes regarding each asset clearly. Make sure the will is written in basic fonts and legible. The language of the will should be crisp and understandable so that there is no room for any confusion or revolt.

**Choose your witness wisely :** Make sure to sign your will in the presence of 2 witnesses who will in turn sign on your will and pledge that the will made by you was made in full consciousness and sound mind. In order to keep the witnesses unbiased, make sure you choose them from the people who will not benefit from your will.

**Trusted Executor :** Assign a trusted executor for your will. In case of your death or inability to carry out operations, this executor will execute your wishes as stated in the will. A trusted executor will ensure that all the elements in the will are managed and distributed as per the wishes of the testator. An individual, lawyer or a bank can act as an executor in exchange of a nominal fee. It is better to appoint a lawyer/banker as an executor as they ensure unbiased execution of one's will.

**Take care of your will :** Once the will is made and signed, a major task that remains for a testator is to store his/her will carefully. A will should be kept at a place where it can be easily found by the executor only after the death of the testator. Also it should be properly guarded, so that it does not get misplaced or stolen.

**Review your will :** It is important to review one's will from time to time and make any required changes. There may be an addition or subtraction to one's possessions which needs to be incorporated in the will. Also in case of marriage or divorce, birth or death of beneficiaries, a will of the testator should be updated.



## Don'ts of writing a will

**Prepare your will in haste :** Writing a will is a serious job! It helps you secure the future of your near and dear ones. Do not prepare a will in haste. Never prepare your will when you are too happy or too hurt by your external circumstances. Keep an open mind while charting out your assets, beneficiaries and their stakes. Do not write a will under pressure. Take your time, think wisely and allocate your assets as well as responsibilities to the people who you think will best fulfill their responsibilities and take care of your hard earned money.

**Using DIY kits :** Today many websites provide you with ready DIY (Do It Yourself) kits. These kits provide a testator with a generic form, which he has to fill and print out the results which effectively becomes his will. These kits may fail to take into account laws of various state jurisdictions or may not be completely in line with what a testator has in mind. It is not one of the best tools to avoid estate tax. Also, these DIY kits are not competent for the complex Indian property as well as relationship structures.

The laws governing the Will depends upon the individual's religion and religious succession act. The Constitution of India provides freedom of conscience (i.e., religious faith as a fundamental right). Family law has always been a part of religious law. This means that no uniform code for civil law exists in India. Let us discuss about these laws and laws relating to intestate succession, test amatory succession in our forthcoming newsletter

**Make an alternative version of will:** In case a testator decides to discard his previous will and make a new version, make sure that the old will is properly destroyed. This is important so that the old version of the will is not misused by anyone. Also, people like to make a more impersonal alternate will for their family members. However, this practice is not advisable as it may create contradictions and confusions. In such situations, it sometimes takes years to successfully execute a testator's will making a lot of people unhappy.

**Risk your children's future:** It is best advisable to leave a share for your spouse as well as your children separately. Leaving everything to your spouse, may leave your children with nothing. In case of the spouse remarrying, your entire asset base may then pass on to the spouse's new family. It is also not mandatory that if your spouse does not remarry, all the assets in your spouse's name will go to your children after his/her death. Thus, it is advisable to leave a certain share of your assets for your childhood beforehand.

## Income Tax

### ❖ E-Assessment

Assessment framed under section 143(3) of IT act during the FY 2019-20 is hereby directed that such assessment proceeding shall be conducted electronically.

### ❖ New Incentives for domestic companies

The Taxation Laws(Amendment) Ordinance, 2019 has inserted sec 115BAA (applicable for domestic companies) and Sec 115BAB (applicable for new domestic companies set up and registered on or after October 2019 engaged in business of manufacturing or production of any article).

❖ A domestic company exercising an option under section 115BAA shall not be allowed to set off brought forward MAT credit and any brought forward loss on account of additional depreciation.

### ❖ New Section introduced under GST

A new section 194N has been inserted to provide for levy of TDS at 2% on cash payments in excess of Rs.1 crore in aggregate made during the year by banking company or cooperative bank or post office to any person from one or more accounts maintained with it by the recipient with effect from 1st of September '19.

## GST

### ❖ Condition for claiming ITC

ITC Claim only against Invoices reflecting GSTR2A: Rule 36(4) of CGST Rules – Documentary requirements and conditions for claiming input tax credit limits taxpayers from availing Input Tax Credit in their GSTR-3B if their Suppliers have not uploaded details of Invoices in their GSTR-1. Recipient can take credit only up to 20% above ITC reflecting in GSTR-2A.

### ❖ Penalty

Rule 142 (1A) inserted effective 9th October 2019 whereby The proper officer shall, before service of notice to the person chargeable with tax, interest and penalty, under Section 73(1) or 74(1), communicate the details of any tax, interest and penalty as ascertained by the said officer, in Part A of FORM GST DRC01A. Taxpayer will be able to take advantage of nil or reduced penalty under section 73(5) and 74(5), by filing a submission against the proposed liability in Part B of FORM GST DRC-01A

### ❖ Amendment in Due Dates

Due Date for filing Form GSTR-1 is 11th of succeeding month from Oct '19 to Mar'20 in case of turnover exceeding Rs.1.5 crores and in case of turnover less than Rs. 1.5 crores for Quarter 3 and Quarter 4 is 31st Jan'19 and 30th Apr'20

## Corporate Law

### ❖ **DIN Status in MCA Portal**

The Roc is in process of identification and flagging of directors disqualified for their default of non-filing of financial statements or annual return for continuous period of three financial years. In this regard all the defaulting directors are hereby cautioned to find the pending statutory returns and do necessary as per the provisions of the law. The DIN's of such directors are not allowed to be used for filling any e-forms on MCA portal.

### ❖ **Self Assessment test**

MCA notifies Institute of Corporate Affairs to create and maintain database containing details of person who are willing to Act as independent Directors. The interested person enrolling themselves in the database is required to pass a self Assessment test conducted by the Institute.

### ❖ **Show Cause notice – MCA portal**

MCACMS is an online compliance monitoring system implemented by the Ministry of Corporate affairs for issuing show cause notices and submitting replies from companies\director for non-compliance under provisions of Companies Act,2013. The recipient has to submit reply within 15 days.

## Current Affairs

### ❖ **India Vs China**

The Indian government has decided not to join the Regional Comprehensive Economic Partnership over concerns that it could lead to a potential flood of Chinese imports in the country.

### ❖ **Update on Vodafone rumors**

An official announcement has been made by Vodafone claiming unwarranted and unjustifiable bits of gossip flowing in a portion of the Indian media regarding their leave from the Indian market as false.

### ❖ **Credit and debit card probe**

RBI alerts banks regarding critical card details of 13 lakhs Indians were being sold at a price of \$100 per card on dark web and if required reissue cards.

### ❖ **Corporate Governance Issue**

Infosys said that one of its board members received two anonymous complaints titled "disturbing unethical practices" and "whistle-blower complaint". The audit committee began consultation with the independent internal auditors Ernst & Young on terms of reference for their prima facie investigation and has now retained the law firm of Shardul Amarchand Mangaldas & Co. to conduct an independent investigation.



# Compliance Calendar

| Particulars of Compliance   | Forms/returns      | Due Date   |
|---|--------------------|------------|
| <b>Compliances Calendar for GST</b>   |                    |            |
| Due date for filing GSTR-7 to be filed by the person who is required to deduct TDS under GST for the month of October, 2019.  | GSTR-7             | 10/11/2019 |
| The due date for furnishing statement by e-commerce companies for the Month of October, 2019.   | GSTR-8             | 10/11/2019 |
| Annexure of outward supplies of taxable goods and/or services for the Month of October 2019 (for Assesses having turnover exceeding 1.5 Cr.) Monthly Return.                                | GSTR 1             | 11/11/2019 |
| Return for Input Service Distributor.   | GSTR-6             | 13/11/2019 |
| <b>Compliances Calendar for Income Tax Act</b>  |                    |            |
| Due date for issue of TDS Certificate for tax deducted under section 194-IA in the month of September, 2019.  |                    | 14/11/2019 |
| Due date for issue of TDS Certificate for tax deducted under section 194-IB in the month of September, 2019   |                    |            |
| <b>Compliances Calendar for ESI and PF Payments</b>   |                    |            |
| PF Payment for October 2019   | ECR                | 15/11/2019 |
| ESIC Payment for October 2019   | ESI Challan        |            |
| <b>Compliances Calendar for Income Tax Act</b>  |                    |            |
| Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending September 30, 2019   |                    | 15/11/2019 |
| Due date for furnishing of form by an office of the Government where TDS/TCS for the month of October, 2019 has been paid without the production of a challan                               | Form 24G           |            |
| Due date for furnishing statement in Form by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of October, 2019 | Form no. 3BB       |            |
| <b>Compliances Calendar for GST</b>   |                    |            |
| Summary of outward taxable supplies and tax payable by Non-Resident taxable person & OIDAR.   | GSTR-5 & GSTR – 5A | 20/11/2019 |
| Simple GSTR return for the month of October, 2019   | GSTR 3B            |            |

# Compliance Calendar

| Particulars of Compliance   | Forms/returns   | Due Date   |
|---|---|------------|
| <b>Compliance Calendar for Companies Act, 2013</b>  |   |            |
| Reconciliation of Share Capital Audit Report (Half-yearly). (They shall come into force with effect from 30.09.2019)(As per Companies (Prospectus and Allotment of Securities) Third Amendment Rules, 2019)         | e-form PAS 6(form not yet deployed by the MCA as on date) | 29-11-2019 |
| <b>Compliances Calendar for GST</b>   |   |            |
| GST Annual Return for the year 2017-18.   | GSTR-9  | 30-11-2019 |
| GST Annual Return (Composition Scheme) for the year 2017-2018.  | GSTR-9A   |            |
| GST Annual Return for the year 2017-18 (for Assesses having turnover exceeding 2 Cr.).  | GSTR-9C   |            |
| <b>Compliances Calendar for Transfer Pricing</b>  |   |            |
| Annual return of income for the assessment year 2019-20 in the case of an assessee if he/it is required to submit a report under section 92E pertaining to international or specified domestic transaction(s)       |   | 30-11-2019 |
| Audit report under section 44AB for the assessment year 2019-20 in the case of an assessee who is also required to submit a report pertaining to international or specified domestic transactions under section 92E |   |            |
| Report to be furnished in Form in respect of international transaction and specified domestic transaction   | Form 3CEB   |            |
| Report in Form by a constituent entity of an international group for the accounting year 2018-19  | Form No. 3CEAA  |            |
| Country-By-Country Report in Form by a parent entity or an alternate reporting entity or any other constituent entity, resident in India, for the accounting year 2018-19   | Form No. 3CEAD  |            |
| Statement of income distribution by Venture Capital Company or venture capital fund in respect of income distributed during previous Year 2018-19 (Form No. 64)   |   |            |
| Due date to exercise option of safe harbour rules for international transaction by furnishing Form.   | Form 3CEFA  |            |
| Due date to exercise option of safe harbour rules for specified domestic transaction by furnishing Form.  | Form 3CEFB  |            |
| Due date for e-filing of report by an eligible investment fund in respect of arm's length price of the remuneration paid to the fund manager.   | Form No. 3CEJ   |            |

# Compliance Calendar

| Particulars of Compliance   | Forms/returns                    | Due Date   |
|---|----------------------------------|------------|
| <b>Compliances Calendar for Income Tax Act</b>  |                                  |            |
| Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA in the month of October, 2019  |                                  | 30-11-2019 |
| Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IB in the month of October, 2019  |                                  |            |
| Statement to be furnished in Form by Alternative Investment Fund (AIF) to Principal CIT or CIT in respect of income distributed (during previous year 2018-19) to units holders   | Form No. 64D                     |            |
| Due date for filing of statement of income distributed by business trust to unit holders during the financial year 2018-19. This statement is required to be filed electronically to Principal CIT or CIT in form No. 64A                                   | Form No. 64A                     |            |
| Application in Form for exercising the option available under Explanation to section 11(1) to apply income of previous year in the next year or in future (if the assessee is required to submit return of income on November 30, 2019)                     | Form 9A                          |            |
| Statement in Form to be furnished to accumulate income for future application under section 10(21) or 11(1) (if the assessee is required to submit return of income on November 30, 2019)   | Form no. 10                      |            |
| Submit copy of audit of accounts to the Secretary, Department of Scientific and Industrial Research in case company is eligible for weighted deduction under section 35(2AB) [if company has any international/specified domestic transaction]              |                                  |            |
| Statement by scientific research association, university, college or other association or Indian scientific research company as required by rules 5D, 5E and 5F (if due date of submission of return of income is November 30, 2019)                        |                                  |            |
| Due date for claiming foreign tax credit, upload statement of foreign income offered for tax for the previous year 2018-19 and of foreign tax deducted or paid on such income in Form (if due date of submission of return of income is November 30, 2019). | Form no. 67                      |            |
| <b>Compliance Calendar for Companies Act, 2013</b>  |                                  |            |
| Filing of Financial Statements for the year ended 31.03.2019.   | AOC 4, AOC 4 (CFS), AOC 4 (XBRL) | 30-11-2019 |
| Form IEPF-2 is required to be filed by the company/Corresponding New Bank which shall contain investor wise details of unclaimed and unpaid amounts in respect of dividends, debentures, deposits, etc. as on the Annual General Meeting (AGM) date.        | Form IEPF-2                      |            |

### **Pratapkar Paul and Co., Chartered Accountants**

B – 8, Gems Court.  
25/14, Khader Nawaz Khan Road,  
Nungambakkam,  
Chennai , Tamil Nadu, India.  
600006

**Website: [www.pkpandco.com](http://www.pkpandco.com)**

**Linkedin: Pkp&co**

**Facebook: Pkp&co**

**Telephone: 044 2833 1646 / 1647**

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