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Income tax

Amendment in Section 269SS and Section 269T

Section 269SS of the Act is proposed to be amended to provided that no person shall accept from any person any loan or deposit or any sum of money whether as advance or otherwise in relation to transfer of immoveable property otherwise than by an account payee cheque or account payee bank draft or by electronic clearance system if the amount is Rs. 20,000 or more.

Section 269T is proposed to be amended to provide that no person shall repay any loan or deposit made with it or any specified advance received by it otherwise than by account payee cheque or electronic banking account if the amount is Rs. 20,000 or more.

The two sections state that acceptance or repayment in hard cash would be a big no-no, in all real estate dealings. Now unaccounted cash in searches and raids, which is generally said to be loan taken or deposit made by various persons can now be pounced upon.

However, the changes introduced suffer from lacunae, like:

(a) The limit of 20,000 is very little and very old. It was introduced 25 years back.

(b) Considering that working capital, which a businessman needs in view of rise in prices of goods, the limit should be enhanced.

(c) The clarification regarding whether journal entries should be allowed has not come forth. The income-tax authorities apply the sections, if only journal entries are made, inconveniencing taxpayers. It would again lead to a lot of litigation, as in past.

(d) The terms "loan" and "deposit" are not defined in Act. The new provisions also do not say anything.

(e) Due to business exigencies, sometimes cash has to be paid and the proposed provision may put the business owner in deep trouble.

Filing of statement of the income not chargeable to tax in India.

(i) Currently, section 195(6) of the Act provides that any person responsible for making payments to a non-resident of any sum chargeable under the IT Act will provide such information as may be prescribed. Pursuant to such provision form 15CA and 15CB are required to be furnished by payers.

Such reporting requirements are now proposed to be extended even in respect of payments, which in the opinion of the payer, are not chargeable to tax under the IT Act. Further, currently there is no penalty prescribed for non-furnishing of information or furnishing of incorrect information under section 195(6) of the IT Act (i.e. form 15CA and form 15CB).

It is now proposed to provide a penalty of one lakh rupees in case of non-furnishing of information or furnishing of incorrect information under section 195(6) (i.e. form 15CA and form 15CB) of the Act. Such amendments are proposed to take effect from June 1, 2015.

CAs and Advisers under the black money bill

The government's black money bill seeks to bring the financial intermediary community, including CAs and lawyers, within the ambit of the tough provisions of the proposed law, in addition to those who keep unaccounted wealth in foreign countries.

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Under the new law, there are two instances when an individual would be punishable with imprisonment and fine: "If a person makes a statement in any verification under this Act or under any rule made there under, or delivers an account or statement which is false and which he either knows or believes to be false or does not believe to be true...". And, "if a person abets or induces in any manner another person to make and deliver an account or a statement or declaration relating to tax payable under this Act, which is false and which he either knows to be false or does not believe to be true..."

"These provisions, by their wording, become absolutely applicable to chartered accountants, financial consultants, wealth managers, bankers, lawyers and in fact all financial intermediaries engaged by a person."

The Income Tax Act also has provisions that bring consultants and auditors into its net, but the inclusion of the word "abet" makes it more stringent.

A government official said the provisions would be applicable to financial institutions and advisers but added that the revenue department will ensure there is no harassment.

Books of Accounts belonged to searched person could be used against other person

In the course of assessment proceedings, under section 153A, of a person who has been searched (hereinafter referred to as Mr. A) under section 132 or 132A if the AO comes to a finding that the assets, articles, or books of accounts, or document belong to a person other than the searched person (hereinafter referred to as Mr. B) then in such circumstances the AO shall hand over such assets, articles, books of accounts or document to the AO having jurisdiction over Mr. B. Accordingly, the Assessing Officer shall proceed against Mr. B, if he is satisfied that the books of accounts or documents or assets seized have a bearing on determination on his total income.

A interpretation of section 153C(1) requires that if the books of accounts of Mr. A under section 153A reveals income of Mr. B then such books cannot be used to invoke provisions of section 153C against Mr. B as those books do not belong to him rather it belongs to Mr. A.

To overcome the above controversy, the Finance Bill, 2015 proposes to amend sub-section (1) of Section 153C so as to provide that where the Assessing Officer is satisfied that:

(a) any money, bullion, jewellery or other valuable article or thing, seized or requisitioned, belongs to; or

(b) any books of account or documents, seized or requisitioned, pertains or pertain to, or any information contained therein, relates to, a person other than the person referred to in section 153A, then, the books of account or documents or assets, seized or requisitioned, shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue notice and assess or reassess the income of the other person in accordance with the provisions of section 153A, if that Assessing Officer is satisfied that the books of account or documents or assets, seized or requisitioned, have a bearing on the determination of the total income of such other person for the relevant assessment year or years referred to in sub-section (1) of section 153A.

Thus, by the proposed amendment the word 'belongs to' is proposed to be replaced with the word 'relates to' which indicates that even if the books of accounts does not belong to the person who has not been searched under section 132 (i.e. Mr. B), he can still be proceeded with for block assessment if the books found during search reveals any income which has a bearing on him.

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The intention behind the amendment is due to interpretation of the words "belongs to" in respect of a document. The amendment proposed is to nullify the decision of the Gujarat High Court in Vijaybhai N Chandrani v ACIT 333 ITR 436 (Guj).

Alternative Investment Funds

Alternative Investment Funds (AIFs) are privately-pooled investment vehicles, which collects funds from Indian / foreign investors. Such funds are primarily established / incorporated in India and made investment in accordance with a defined investment policy for the benefit of its investors. The funds can be set up as a trust, company, limited liability partnership or any other body corporate. Similarly, the investment by AIFs can be in entities which can be a company, firm etc.

In order to regulate AIFs, in May 2012, SEBI had notified Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, categorizing the funds into three categories viz. Category I AIF, Category II AIF and Category III AIF.

Category I AIF includes AIFs which invest in start-up, early stage ventures, social ventures, etc. category I AIF also includes certain venture capital funds (VCF) / venture capital companies (VCC).

Category II AIFs are funds including private equity funds or debt funds, which do not fall in Category I as well as Category III and they generally do not undertake leverage or borrowing.

Category III AIFs are funds which employ diverse or complex trading strategies and may employ leverage including through investment in listed or unlisted derivatives.

The government has now proposed to allow foreign investment in AIFs.

<u>Income of AIFs – Tax treatment</u>

Unlike VCF/VCC, there were no clear tax provisions for taxability of income earned by AIFs through investments as well as its distribution to the investors

(say 'unit-holders'). The Finance minister has now proposed a special tax regime **for Category I and Category II AIFs** through insertion of new Chapter XII-FB in the Income-tax Act ('the Act') (covering Section 115-UA), which proposes to provide such AIFs a pass-through status for tax purposes.

The pass-through status would result in the following tax treatment:

<u>Income other than 'Profits & gains from Business'</u>

Any income (other than 'Profits & gains from business') arising in the hands of the AIF shall be chargeable to income-tax in the hands of the unit-holder in the same manner as if it were the income accruing directly to the unit-holder (assuming that had the investments that is made by the investment fund would have been made directly by the unit-holder).

The income paid / credited by the AIF shall be deemed to be of the same nature and in the same proportion in the hands of the unit holder as if it had accrued to/received by the AIF. Such income shall be completely exempt from tax in the hands of AIF. The income paid by an investment fund to its unit-holders shall also not be subject to Dividend Distribution Tax

<u>Income in the nature of 'Business Profits'</u>

The income in the nature of 'profits and gains of business or profession' shall be taxable in the hands of AIF. Such business income shall be completely exempt in the hands of unit holder.

<u>Treatment of Losses</u>

If in any year, there is a loss (whether business loss or otherwise) at the fund level, either current year's loss or the loss which remained to be set-off, such loss shall not be allowed to be passed through to the investors but would be carried over at fund level to be set off against

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income of the next year in accordance with the provisions relating to carry-forward and set-off of losses.

Tax deduction at source (TDS)

The government has proposed to issue a notification under section 197A(1F) of the Act that would exempt the income received by the investment fund from TDS requirement.

Where any income (other than business income, which is taxable at AIF level) is payable to a unit-holder by an AIF, the fund shall deduct income-tax at the rate of 10%.

Other compliance requirements

A new sub-section (4F) is proposed to be inserted in Section 139 of the Act to make it mandatory for the AIF to file its return of income.

Further, the AIF shall also be required to provide the details of various components of income to the prescribed tax-authority and the unit-holders.

According to the report, the critical issues that need to be addressed include tax efficiency, one-time waiver of stamp duty on transfer of assets to REITs by states, tweaking of the Irda investment regulations to allow insurers to invest in REITs, thereby widening the investor base.

"Given the functional model of some of the REITs established markets, it is evident that its success depends on the capability to customize the rules and regulations governing it in a way that they fit into their own markets.

"The support of governing authorities to ensure a less restrictive REITs regime and favorable tax transparency status can be a critical factor in the development of a vibrant REITs sector in a new market," said Knight Frank India chairman, Shishir Baijal.

Highlights of the Undisclosed Foreign Income and Assets (Imposition of Tax) Bill, 2015

Undisclosed Foreign Income and Assets (Imposition of Tax) Bill, 2015 has been introduced in the Parliament on 20.03.2015. The Bill provides for separate taxation of any undisclosed income in relation to foreign income and assets. Such income will henceforth not be taxed under the Income-tax Act but under the stringent provisions of the proposed new legislation.

The salient features of the Undisclosed Foreign Income and Assets (Imposition of Tax) Bill, 2015 are as under:-

1. Scope – The Act will apply to all persons resident in India. Provisions of the Act will apply to both undisclosed foreign income and assets (including financial interest in any entity).

2. Rate of tax – Undisclosed foreign income or assets shall be taxed at the flat rate of 30 percent. No exemption or deduction or set off of any carried forward losses which may be admissible under the existing Income-tax Act, 1961, shall be allowed.

3. Penalties – Violation of the provisions of the proposed new legislation will entail stringent penalties. The penalty for non-disclosure of income or an asset located outside India will be equal to three times the amount of tax payable thereon, i.e., 90 percent of the undisclosed income or the value of the undisclosed asset. This is in addition to tax payable at 30%.

Failure to furnish return in respect of foreign income or assets shall attract a penalty of Rs.10 lakh. The same amount of penalty is prescribed for cases where although the assesse has filed a return of income, but he has not disclosed the foreign income and asset or has furnished inaccurate particulars of the same.

4. Prosecutions – The Bill proposes enhanced punishment for various types of violations. The punishment for willful attempt to evade tax in relation to a foreign income or an asset located outside India will be rigorous imprisonment

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from three years to ten years. In addition, it will also entail a fine.
Failure to furnish a return in respect of foreign assets and bank accounts or income will be punishable with rigorous imprisonment for a term of six months to seven years. The same term of punishment is prescribed for cases where although the assessee has filed a return of income, but has not disclosed the foreign asset or has furnished inaccurate particulars of the same. The above provisions will also apply to beneficial owners or beneficiaries of such illegal foreign assets.
Abetment or inducement of another person to make a false return or a false account or statement or declaration under the Act will be punishable with rigorous imprisonment from six months to seven years. This provision will also apply to banks and financial institutions aiding in concealment of foreign income or assets of resident Indians or falsification of documents.
5. Safeguards – The principles of natural justice and due process of law have been embedded in the Act by laying down the requirement of mandatory issue of notices to the person against whom proceedings are being initiated, grant of opportunity of being heard, necessity of taking the evidence produced by him into account, recording of reasons, passing of orders in writing, limitation of time for various actions of the tax authority, etc. Further, the right of appeal has been protected by providing for appeals to the Income-tax Appellate Tribunal, and to the jurisdictional High Court and the Supreme Court on substantial questions of law.
To protect persons holding foreign accounts with minor balances, which may not have been reported out of oversight or ignorance, it has been provided that failure to report bank accounts with a maximum balance of upto Rs.5 lakh at any time during the year will not entail penalty or prosecution.
Other safeguards and internal control mechanisms will be prescribed in the Rules.
6. One time compliance opportunity – The Bill also provides a one-time compliance opportunity for a limited period to persons who have any undisclosed foreign assets, which have hitherto not been disclosed for the purposes of Income-tax. Such persons may file a declaration before the specified tax authority within a specified period, followed by payment of tax at the rate of 30 percent and an equal amount by way of penalty. Such persons will not be prosecuted under the stringent provisions of the new Act. It is to be noted that this is not an amnesty scheme as no immunity from penalty is being offered. It is merely an opportunity for persons to come clean and become compliant before the stringent provisions of the new Act come into force.
7. Amendment of PMLA – The Bill also proposes to amend Prevention of Money Laundering Act (PMLA), 2002 to include offence of tax evasion under the proposed legislation as a scheduled offence under PMLA.
Thus, in keeping with the commitment of the government for focussed action on black money front, an unprecedented and multi-pronged attack has been launched to root out the menace of black money. The Government is confident that this new law will act as a strong deterrent and curb the menace of black money stashed abroad by Indians.

Determining Residency Status in respect of Companies.

Concept of Place of Effective Management Introduced.

The existing provisions of section 6 of the Act provides for the conditions under which a person can be said to be resident in India for a previous year. In respect of a person being a

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company the conditions are contained in clause (3) of section 6 of the Act. Under the said clause, a company is said to be resident in India in any previous year, if-

1. it is an Indian company; or
2. during that year, the control and management of its affairs is situated wholly in India.

Due to the requirement that whole of control and management should be situated in India and that too for whole of the year, the condition has been rendered to be practically inapplicable. A company can easily avoid becoming a resident by simply holding a board meeting outside India. This facilitates creation of shell companies which are incorporated outside but controlled from India. 'Place of effective management' (POEM) is an internationally recognized concept for determination of residence of a company incorporated in a foreign jurisdiction.

It is proposed to amend the provisions of section 6 to provide that a person being a company shall be said to be resident in india in any previous year, if-

1. it is an Indian company; or
2. its place of effective management, at any time in that year, is in India.

Further, it is proposed to define the place of effective management to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made.

The modification in the condition of residence in respect of company by including the concept of effective management would align the provisions of the Act with the Double Taxation Avoidance Agreements (DTAAs) entered into by India with other countries and would also be in line with international standards. It would also be a measure to deal with cases of creation of shell companies outside India but being controlled and managed from India.

These amendments will take effect from 1st April, 2015.

Note: The amendment has reversed the position of taxability of companies operating in India. Earlier, the requirement was entire control and management was to be located in India for taxing the company as Indian Resident. However, after the amendment, even at any time of the year, the company's POEM was located in India, entire income of such shall be taxable in India as Indian Resident.

This will definitely be a highly litigated issue in years to come as the identification of place of effective management leaves much to the discretion of Income tax officers.

Service Tax

Clarification on Change in Service Tax rate:

The new service tax rate cann't come into force before the Finance Bill, 2015 get assent from the President of India, after which the government will notify the effective date.

The Service Tax rate is being increased from 12% plus Education Cesses to 14%. The 'Education Cess' and 'Secondary and Higher Education Cess' shall be subsumed in the revised rate of Service Tax. Thus, effective increase in Service Tax rate will be from existing rate of 12.36% (inclusive of cesses) to 14%.

The new Service Tax rate shall come into effect from a date to be notified by the Central Government after the enactment of the Finance Bill, 2015.

Till the time the revised rate comes into effect, the levy of 'Education cess' and 'Secondary and Higher Education cess' shall continued to be levied in Service Tax. We will inform you the effective date of change in the rates.

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Inclusion of reimbursable expenses in the value of taxable services.

Whether out of pocket expenses or reimbursable expenses incurred by the service provider in the course of providing the taxable services has to be included in the value of taxable services was examined by the Hon'ble Delhi High Court Intercontinental Consultants & Technorats (P.) Ltd. v. Union of India [2012] 28 taxmann.com 213 (Delhi) where the petitioner filed a writ petition before the High Court for quashing the show cause notice issued by the Service Tax Department for recovery of Service Tax on amount received as reimbursement of expenses such as hotel accommodation, travelling etc.

Under Rule 5(1) of the Service Tax (Determination of Value) Rules, 2006. The Hon'ble Delhi High Court while deciding the petition held as follows:

-Rule 5 (1) of the Rules is ultra vires section 66 and section 67 of the Finance Act, 1994 since it travels beyond the scope of the aforesaid sections.

- The expenditure or costs incurred by the service provider in the course of providing the taxable service can never be considered as part of the gross amount charged by the service provider for the services provided.

- The reimbursement of expenses for air travel tickets, hotel accommodation, etc. may also lead to double taxation.

Though the Delhi High Court decision is in favour of the Assesse, the department has filed an appeal to the Supreme Court against the decision of the High Court which is pending for disposal.

Amendment to Section 67 of the Finance Act

To overcome the decision of the Hon'ble Delhi High Court in Intercontinental Consultants, the definition of consideration in Explanation to Section 67 has been amended to include:

- Any amount that is payable for the taxable services provided or to be provided

- Any reimbursable cost incurred by the service provider and charged in the course of providing or agreeing to provide a taxable service (except such conditions to be prescribed)

Thus, after the amendment there is no doubt that any expenditure incurred by the service provider for providing any taxable services has to be included in the value of taxable services unless specifically excluded and Service Tax would be chargeable on the total value including the reimbursable expenses incurred by the service providers.

However, the inclusion of reimbursable expenses for the period prior to the amendment is yet to be decided by the Hon'ble Supreme Court.

Penalties under service tax section 76 and 78.

Section 80 has been deleted from the book of Finance Act, now even in the case of reasonable cause of mistake service providers has to pay the penalty. Further the relaxation provided earlier related to reduction in penalty, if true and complete details of transaction were available on specified records has been removed. It seems that department is trying to make a wall of harsh provisions around the mistakes done the service industry.

Changes in Section 76 of the Finance Act, 1994:-

Section 76 has been amended to rationalize the provisions relating to penalties in cases not involving fraud or collusion or willful misstatement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of Service tax, in the following manner:

1. Ceiling of 10% of Service tax amount on penalty has been incorporated;

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2. No penalty leviable if Service tax and interest is paid within 30 days of issuance of SCN under Section 73(1);
3. Reduced penalty equal to 25% leviable if the Service tax, interest and reduced penalty is paid within 30 days of receipt of Order of the Central Excise Officer; and
4. If the Service tax amount gets reduced in any Appellate proceeding, then the penalty amount shall also stand modified accordingly, and benefit of reduced penalty (i.e. 25%) shall be admissible if Service tax, interest and reduced penalty is paid within 30 days of such Appellate Order.

Changes in Section 78 of the Finance Act, 1994:-

Section 78 has been amended to rationalize the provisions relating to penalties in cases involving fraud or collusion or wilful misstatement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of Service tax, in the following manner:

1. Penalty shall be of 100% of Service tax amount;
2. Reduced penalty equal to 15% shall be leviable if Service tax, interest and reduced penalty is paid within 30 days of issuance of SCN under Section 73(1);
3. Reduced penalty equal to 25% leviable if the Service tax, interest and reduced penalty is paid within 30 days of receipt of Order of the Central Excise Officer; and
4. If the Service tax amount gets reduced in any Appellate proceeding, then the penalty amount shall also stand modified accordingly, and benefit of reduced penalty (i.e. 25%) shall be admissible if Service tax, interest and reduced penalty is paid within 30 days of such Appellate Order.

The new provisions of penalty shall apply if adjudication order was not passed before the Financed Bill, 2015 is passed and assented by President of India. If true and complete details of transactions were available in specified records, penalty shall not exceed 50% amount – proposed section 78B of Finance Act, 1994.

Companies Law

Amount received by private companies from their members, directors or their relatives before 1st April, 2014 - Clarification

It is now clarified that such amounts received by private companies prior to 1st April, 2014 shall not be treated as 'deposits' under the Companies Act, 2013 and Companies (Acceptance of Deposits) Rules, 2014 subject to the condition that relevant private company shall disclose, in the notes to its financial statement for the financial year commencing on or after 1st April, 2014 the figure of such amounts and the accounting head in which such amounts have been shown in the financial statement.

Any renewal or acceptance of fresh deposits on or after 1st April, 2014 shall, however, be in accordance with the provisions of Companies Act, 2013 and rules made thereunder.

Amendment in Companies (Acceptance of Deposits) Rules, 2014

MCA vide notification dated 31st March, 2015 brings much awaited amendment in Companies (Acceptance of Deposits) Rules, 2014 and the details of the said amendment are reproduced as below:

Amendment in Rule 2(1) (c) in sub-clause (vii), in Explanation (a), the following proviso shall be inserted, namely:-

"Provided that unless otherwise required under the Companies Act, 1956 (1 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992) or rules or regulations made

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thereunder to allot any share, stock, bond, or debenture within a specified period, if a company receives any amount by way of subscriptions to any shares, stock, bonds or debentures before the 1st April, 2014 and disclosed in the balance sheet for the financial year ending on or before the 31st March, 2014 against which the allotment is pending on the 31st March, 2015, the company shall, by the 1st June 2015, either return such amounts to the persons from whom these were received or allot shares, stock, bonds or debentures or comply with these rules." Existing clause vii of Rule 2(1) (c) read as: (vii) any amount received and held pursuant to an offer made in accordance with the provisions of the Act towards subscription to any securities, including share application money or advance towards allotment of securities pending allotment, so long as such amount is appropriated only against the amount due on allotment of the securities applied for;

Power and Duties of Auditor and Auditing Standards

Sec. 143(1): This section provides that the auditor of the company shall have the right to have access at all the times to the books of accounts and vouchers of the company, whether kept at the registered place or at some other places of the company. He can obtain all the information and explanations, which to the best of his knowledge and belief were necessary for the purpose of his duties as an auditor of the company. The auditor should also enquire about the following things:-

1. Whether loan and advances made by the company on the basis of security are properly secured and the terms and conditions on which it is made are prejudicial to the interest of the company or its members
2. Whether loans and advances made by the company are shown as deposits.
3. Whether personal expenses have been charges to revenue account
4. In case of a company other than banking company or an investment company so much of the assets of the company consists of share , debentures or other securities have been sold at a price less than the price at which these securities are purchased by the company
5. Where it is stated in the books of accounts that shares are issued in cash then whether the cash in respect of these shares have actually been received or not and in case the cash is not received then whether it is clearly shown in the books of accounts or not.
6. Whether the transactions of the company are represented merely by books entries are prejudicial to the interest of the company.

The auditor of the holding company shall have the right to have access to all the records of the subsidiary company also.

Sec 143 (2): The auditor should make a report to the company on the accounts examined by him and in respect of the financial statement that are required to be laid before the company in general meeting. The report shall be given after taking into consideration the provisions of this act, accounting standards , auditing standards etc.

Sec 143(3): The auditor report should state the following matters:-

1. Whether he has obtained all the information and explanations, which to the best of his knowledge and belief were necessary for the purpose of audit. In case proper information are not received then the details thereof and effect of such information on the financial statement should be stated in the auditor's report
2. Whether proper books of accounts as required by law is maintained or not and whether proper returns adequate for the

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purpose of audit have been received from the branches not visited by him or not.
3. Whether the report in respect of a branch, which is audited by the auditor other than company's auditor has been sent to him.
4. Whether the company balance sheet and profit and loss account are in agreement with the books of accounts and returns
5. Whether financial statement comply with the accounting standards
6. The observations and comments of the auditor on the financial transactions or matters which have adverse effect on the company.
7. Whether any director is disqualified to be appointed as a director
8. Any qualifications, reservations or adverse remarks in respect of the maintenance of the books of accounts or other matters connected herewith
9. Whether the company has adequate internal financial control system in place and operative effectiveness of such control.
10. Whether the company has disclosed the impact of any pending litigation if any in the financial statement.
11. Whether the company has made provision in respect of any material foreseeable losses as required by law or accounting standards including the derivative contracts.
12. Whether the company has made delay in transferring the amount required to be transferred to the Investor Education and Protection Fund by the company.

Sec 143(4) Where any of the matters required to be included in the audit report under this section is answered in negative or with a qualification then in that case auditor is required to state the reasons of such reservations and negative remark.

Sec 143(5) In case of Govt. company the C&AG will appoint the auditor to conduct the audit of the company. The C&AG will also give the directions and the manner in which the accounts of the govt. company are required to be audited by the auditor. The auditor then after completing the audit will issue an audit report to the C&AG, which will include all the matters which are stated above. In additions to these matters the auditor of the govt. company shall state in his audit report the direction issued by C&AG, the actions taken there upon and the its impact on the accounts and financial statement of the company.

Sec 143(6) On receipt of audit report of the govt. company the C&AG can carry out supplementary audit with 60 days from the date of receipt of such audit report. He may also comment upon the audit report. The audit report should be sent to every person to whom copies of audited financial statement are sent and the copy of such audit report shall also be place at the AGM.

Sec 143(7) In case of Govt. Company the C&AG may require that the test audit of the company should be conducted.

Sec 143(8) Branch is in India -- The audit of such branch can be done by the Company auditor or by any other person qualified to be appointed as an auditor as per Sec 139

Branch is in some other countries -- The audit of such branch shall be conducted by an accountant or by any such person qualified to be appointed as an auditor as per the laws of that country. The branch auditor should prepare a report on the books of accounts of the branch audited by him and send a copy of such audit report to the company auditor.

Sec 143(9) The auditor shall comply with the accounting standards

Sec 143(11) The Central Govt. may in consultation with the National Financial Reporting Authority direct that the audit report in case of specific class of companies shall include a statement on such matters as may be specified therein.

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Sec 143(12) If an auditor of the company in the course of performance of his duties as auditor has reason to believe that an offence involving fraud is being or has been committed against the company by an officer or the employee of the company then the auditor should immediately report the matter to the central govt. within such time and in such manner as may be prescribed.

The auditor should forward his report to the board or the audit committee as the case may be immediately after he comes to know about the fraud seeking their reply or observations within 45 days.

On receipt on such reply or observations of the board or the audit committee the auditor should forward his report along with the reply or observations of the board or the audit committee and his comments on such reply or observations to the central govt within 15 days.

In case no reply or observations has been received by the auditor from the board or the audit committee then in that case the auditor should send the audit report along with a note containing the details of his report that was earlier forwarded to the board or the committee for which he has failed to receive any comments or observations.

Sec 143(14) The provision of this section shall apply to the cost auditor conducting cost audit and the company secretory doing secretarial audit.

Sec 143(15) If the Chartered accountant, company secretary or the cost auditor do not comply with any of the provisions of this act then he will be punishable with a fine which shall not be less than Rs. 1 lakh but which can be extend to Rs. 25 lakh.

Miscellaneous:

Loans worth Rs 55,000 cr may turn bad by March 31.

Banks have identified 74 large projects that have either turned into non-performing assets or where promoters have delayed paying the installments, putting at stake the future of loans worth close to Rs 55,000 crore that have been disbursed. These projects together envisaged an investment of close to Rs 3.5 lakh crore, with banks having already sanctioned over Rs 67,000 crore, sources familiar with the development told TOI. Banks, especially public sector players, are already dealing with record levels of bad debt. The list doesn't include several gas-based power projects that have been stalled for want of gas.

In several cases, including Dabhol, lenders have refused to classify a loan as NPA to avoid any hit on their profitability, an issue on which the regulator and government have remained silent.

Estimates worked out by the lenders suggest that there is a need to pump in Rs 5,000 crore over the next fortnight to "regularize" the accounts, which means payment of dues will ensure that the loans remain "standard" keeping the health of banks as well as future lending to the promoters intact. Fifty two projects are stalled either for want of regulatory clearances or fuel linkages or the inability of the project developer to raise more money to ensure that last mile hurdles are removed. In several cases fuel supplies have been hit after the controversy over allotment of coal blocks and their subsequent cancellation by the Supreme Court. But there are another 22 where the "issues have been resolved", sources said.

And, they span across sectors - from power to roads, ports and steel - and include marquee names such as Essar, GMR, GVK, Lanco, Avantha and the Jaiprakash Group, apart from a handful

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of public sector companies such as Neyveli Lignite and Tamil Nadu Electricity Board. A number of the projects such as Lanco Amarkantak and S Kumar's Maheshwar Hydel have been stuck for years.

Getting stalled projects moving again was something that the Narendra Modi government wanted to continue after the success of the efforts by UPA during its dying days in office. But that effort has slowed down in recent months as the so-called low-hanging furits vanished with a spate of environmental clearances and providing fuel linkage, especially supply of coal.

Till February-end, the Project Monitoring Group in the cabinet secretariat had managed to get ministries to resolve problems with 205 of the 504 projects that had been referred to it. In November, the number was estimated at 186, indicating that only 19 projects have been added to the list where the roadblocks have been removed. In any case, PMG, which is to move to the Prime Minister's Office, has 299 projects involving investment of over Rs 18 lakh crore to deal with after having managed to push ministries to remove hurdles for investments of Rs 7.25 lakh crore.

At a time when there is little sign of a pick up in investment in large projects, getting those in the pipeline for years is critical to boost demand for goods and create jobs, a key promise on which Modi managed to get majority in the Lok Sabha elections.

Mandatory documents required for import and export of goods reduced to three documents each (w.e.f. 1st April, 2015):

India took a step forward in improving 'Ease of Doing Business' by reducing the compulsory documents required for import and export of goods. The Directorate General of Foreign Trade (DGFT) issued a Notification No. 114 (RE- 2013)/2009-2014.

A committee 'Inter Ministerial Committee' was set up by the department of commerce to recommend devices to reduce requisite number of mandatory documents, transactions cost and time for Exports and Imports.

Based on the recommendations of "Trading Across Borders" report submitted by committee,

The India's central bank RBI has agreed to do away with the 'Foreign Exchange Control Form (SDF)' by incorporating the same in the 'Shipping Bill' (for exports) and dispensing with the 'Foreign Exchange Control Form (Form A-1)' (for imports).

Customs have also agreed to merge the 'Commercial Invoice' with the 'Packing List' and have issued a Circular for accepting 'Commercial Invoice cum Packing List' that combines the required details of both the documents. Optionally the exporters and importers may fill separate , 'Commercial Invoice' and 'Packing List' also, if they so want.

Shipping Ministry has also agreed to do away with the requirement of 'Terminal Handling Receipt' and make the process online.

The following mandatory documents are prescribed for exports and imports of goods from/into India:

Exports

1. Bill of Lading/ Airway Bill.
2. Commercial Invoice cum Packing List
3. Shipping Bill/ Bill of Export.

Imports

1. Bill of Lading/ Airway Bill.
2. Commercial Invoice cum Packing List.
3. Bill of Entry.

Declaration

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