

# NewsBites

Second Edition

Greetings!

We are delighted to present our news bites for the month of May 2018. This News Bites intends to give an overview of what is happening in the sphere of direct and indirect taxation, audit and assurance and also in the industry.

We hope you find this useful. For any feedback you can reach to us at [info@sanca.in](mailto:info@sanca.in).

Best Regards,  
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Chartered Accountants

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# The Insolvency & Bankruptcy Code (IBC)

## (A Commercial Resolution for Stressed Assets)

### Background of IBC:

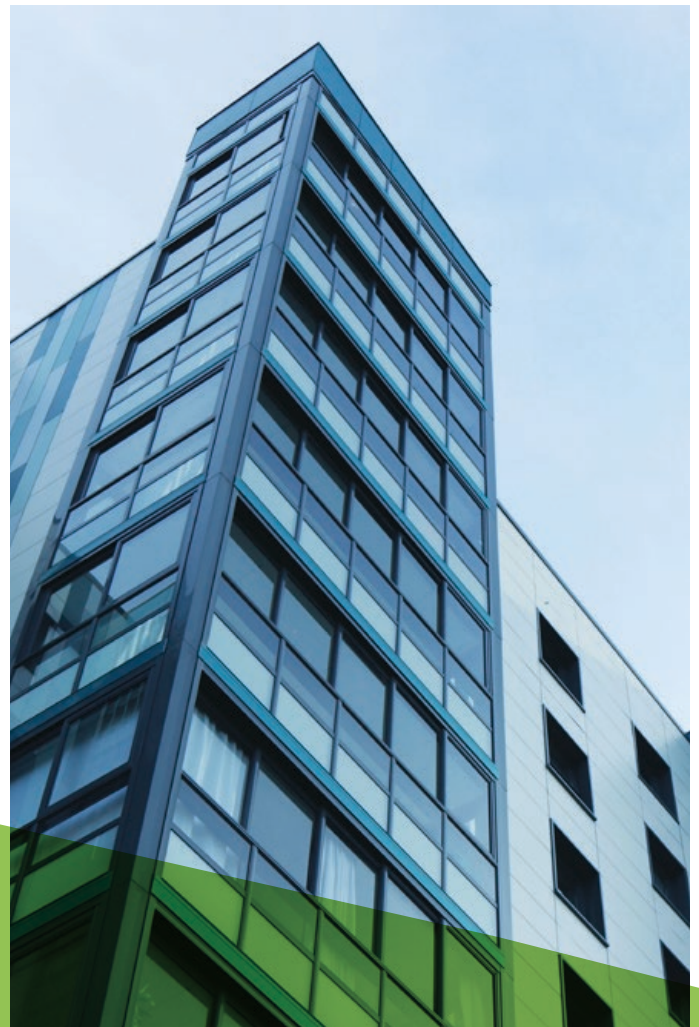
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The Insolvency and Bankruptcy Code, 2016 (IBC) is the bankruptcy law of India which seeks to consolidate the existing framework by creating a single law for insolvency and bankruptcy. The Insolvency and Bankruptcy Code, 2015 was introduced in Lok Sabha in December 2015. It was passed by Lok Sabha on 5 May 2016. The Code received the assent of the President of India on 28th May, 2016.

The proposed bankruptcy legislation seeks to address the issues faced currently in the context of insolvency and winding up. The provisions of the Code are applicable to companies, limited liability entities, firms and individuals (i.e. all entities other than financial service providers).

Within a year of its enactment, the Code has gained considerable momentum. Consequent to tremendous pressure from Reserve Bank of India ("RBI") to solve the NPA menace, 12 major defaulters totaling about 25% of the Gross NPAs as at 31st March, 2016 have already been referred to various benches of Hon'ble National Company Law Tribunal ("NCLT") to initiate Corporate Insolvency Resolution Process ("CIRP") and another larger list, involving around 35 companies have also been circulated. As per the Economic Survey Report 2017-18, more than 630 cases pertaining to CIRP have been admitted by NCLT till January, 2018, and a sizeable proportion of them are listed companies or other prescribed companies which are required to be

mandatorily audited or reviewed as per the Companies Act, 2013 and SEBI Guidelines. Further, this number is expected to increase substantially pursuant to Circular No. RBI/2017-18/131 DBR. No. BP.BC.101/21.04.048/2017-18 issued by RBI dated 12th February, 2018, wherein direction has been issued to effect withdrawal of all the debt restructuring schemes such as Corporate Debt Restructuring, Strategic Debt Restructuring, Joint Lender Forum Mechanism, Scheme for Sustainable Structuring of Stressed Assets available to lenders, thereby indicating CIRP as the sole recourse available to the lenders.





## IBC in Nutshell

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### Why Was the Code Needed

- Reduce the time taken to resolve insolvency
- Develop investor confidence
- Eliminate confusion caused by a complex judicial framework
- Address the NPA situation decisively
- Develop the credit and bond market

### What Does it Change for Borrower

- Any creditor can file an insolvency petition on default of INR 1 lacs or more
- Insolvency Professional (IP) to take over the management and operations of the borrower during the Corporate Insolvency Resolution Process (CIRP)
- Borrowers to focus on liquidity – ensure cash flow forecast
- Borrower has to develop turnaround plan in 180 days which can be extended by 90 days
- In case of fraudulent diversion of assets, personal contribution can be sought, imprisonment possible.

### What Does the Code Intent to Change

- Right to control the borrower upon default and maximize recovery
- Option to initiate the process even if the default is in respect of the debt of another lender
- Need for more robust monitoring systems to enable judicious
- Exercise of powers
- Lack of lender consensus on resolution plan can push the borrower into liquidation
- Clear priority of distribution (waterfall) upon liquidation;
- Government dues subservient to those of secured creditors and
- Unsecured financial creditors

### Conclusion:

The Code being 'first of its kind' reform in India, is subject to various interpretational and implementation issues. But it is big step forward in settling stressed business assets and ensuring lenders get back their money for better lending.



# Goods & Service Tax

## Special Refund Fortnight

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Special refund fortnight to be organized from 31.05.2018 to 14.06.2018 in which center and state GST officers will strive to clear all GST refund applications received on or before 30.04.2018.

All claimants are encouraged to approach their Jurisdictional tax officers during the special refund fortnight to clear any pending GST refund claims which were submitted on or before 30.04.2018.

All claimants may please note the refund applications in FORM GST RFD-01A will not be processed unless a copy of the application is submitted to the jurisdictional office along with supporting documents. Mere online submission is not enough.

Special Refund fortnight is for all GST refunds, including refund of IGST paid on export of goods and all refund claims submitted in FORM GST RFD -01 A on or before 30.04.2018.

All GST refund claimants are encouraged to approach their jurisdictional tax authority for disposal of any of their refund claims submitted on or before 30.04.2018, which are still pending. In case the jurisdiction (i.e. Centre or State) has not been defined for a particular claimant, he/she can approach either of the jurisdictional tax authorities.

All IGST refund claimants may register on ICEGATE website, if not already done, to check their refund status. Customs field formations have been directed to gear up for anticipated response of the exporters by diverting additional manpower and infrastructural resources. Exporters are requested to come forward and avail of the opportunity to get the refunds sanctioned during this special drive.

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## Important Recommendations made during 27th meeting of GST Council

### 1. Incentive to promote Digital Transactions:

- a Keeping in view the need to move towards a less cash economy, the Council has discussed in detail the proposal of a concession of 2% in GST rate [where the GST rate is 3% or more, 1% each from applicable CGST and SGST rates] on B2C supplies, for which payment is made through cheque or digital mode, subject to a ceiling of Rs. 100 per transaction, so as to incentivize promotion of digital payment.
- b The council has recommended for setting up of a Group of Ministers from State Governments to look into the proposal and make recommendations, before the next Council meeting, keeping in mind the views expressed in GST Council.

### 2. Imposition of Sugar Cess over and above 5% GST and reduction in GST rate on ethanol:

- a. Keeping in view the record production of sugar in the current sugar season, and consequent depressed sugar prices and build-up of sugarcane arrears, the Council discussed the issue of imposition of sugar cess and reduction in GST rate on ethanol in great detail.
- b. The council has recommended for setting up of a Group of Ministers from State Governments to look into the proposal and make recommendations, within two weeks, keeping in mind the views expressed in GST Council in this regard.

### 3. Revised GSTR-1 Due Date:

- Due date for Quarterly filing:  
April 2018 to June 2018 is 31st July 2018.
- Due date for monthly filing:  
April 2018 is 31st May 2018  
May 2018 is 10th June 2018  
June 2018 is 10th July 2018

### 4. GST Return Simplification

- GSTR 1 and GTR 3B will continue for the next 6 months.
- New Single-return plan will go live after 6 months. Thus, there will be only 12 returns a year, instead of 36 returns.
- The information required to be filled in the return will be reduced. This will simplify the return preparation task and help in keeping with the philosophy of ease of doing business.
- Post the new return going live, provisional credit can be claimed by the return preparers in the transitional phase of 6 months based on self calculations.
- The GSTN shows the buyer, invoices uploaded by the seller and thus buyer can check the gap between the credit claimed by him and actually allowed to him.
- Invoices uploaded by the seller during anytime in a month shall be considered as a valid document to avail input tax credit by the buyer.
- After 6 months of the transition period, if it is noticed that after uploading the invoices, the seller has not paid the tax amount to the government, GSTN has all the right to recover these taxes from the buyer. There will be no automatic reversal of credit from the buyer in these cases.
- No provisional credit can be claimed after this 6 month transition period.
- Nil return preparers and Composition dealers will file GST returns quarterly



# Income Tax

## **Task force to review I-T laws gets 3 months more till Aug to finalise report (Excerpts from ET dt. May 22, 2018)**

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The task-force rewriting the income tax laws has been granted three months more time till August to submit its report to the government, the finance ministry said today.

The finance ministry had in November last year set up the task force to draft direct tax laws in line with laws prevalent in other countries, incorporating international best practices, and keeping in mind the economic needs of the country.

The panel, under CBDT Member Arbind Modi, set up to draft a new law to replace the existing Income Tax Act, which has been in force since 1961, was to submit its report by this month-end.

## **Taxpayers may have to explain discrepancies in I-T, GST returns (Excerpts from Mint dt. May 07, 2018)**

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The annual return forms for goods and services tax (GST) may ask taxpayers to explain any discrepancies between their income tax and GST returns as the government seeks to tighten rules to deter companies from evading taxes.

This is part of the government's efforts to collate all available sources of information in order to get the 360-degree profile of a taxpayer. The government is trying to link different databases to get all relevant information about a company—financial transactions, registration information and direct and indirect tax filings—and use fraud analytics to look for tax evaders.

However, initially to deter taxpayers from evading GST by understating their turnover, the annual GST return form will seek details of taxpayers' income tax return filings to see if they are understating sales turnover.



## Shell firms: I-T department to file pleas in NCLT to extract tax due (Excerpts from ET dt. May 21, 2018)

The Income Tax (I-T) Department is an “aggrieved creditor” to many de-registered shell companies and will petition the National Company Law Tribunal (NCLT) to recover tax dues of crores of rupees.

The Central Board of Direct Taxes (CBDT) has directed the I-T Department to form a special team of officers to complete the task of filing these petitions in various NCLT benches across the country by this month-end, and has written to the Ministry of Corporate Affairs seeking its help.

The CBDT, the policy-making body for the department, is concerned over crores of rupees of its “legitimate” taxes being stuck, after these shell firms were de-registered by the government in the recent past as part of its drive against black money and fraud business operations.

## Angel investors in startups get income tax exemption (Excerpts from ET dt. May 28, 2018)

Angel investors have been exempted by the country’s income tax department, subject to certain conditions laid down by the Department of Industrial Policy and Promotion last month, providing significant relief to the early stage investor community.

In its notification dated May 24, the Central Board of Direct Taxes stated, “The Central Government, hereby notifies that the provisions of clause (viib) of sub-section (2) of section 56 of the said Act shall not apply to consideration received by a company for issue of shares that exceeds the face value of such shares, if the consideration has been received for issue of shares from an investor in accordance with the approval granted by the Inter-Ministerial Board of Certification.”

The tax relief impacts start-ups that are approved by an inter-ministerial panel, in which the paid up capital and the share premium of the beneficiary company does not exceed Rs 10 crore after the issue of shares. The notification comes into effect retrospectively from April 11, 2018. However, it will now be compulsory for startup ventures to have merchant banker-validated valuations, to determine the fair market value of equity shares.





# INDUSTRY NEWS

## Maharashtra State Innovative Start-up Policy 2018

With a vision to create an innovation-based economy and encouraging entrepreneurs to design novel solutions in new age sectors such as biotechnology, artificial intelligence, internet of things, clean energy etc., as well as revamping traditional sectors, Government of Maharashtra has formulated the new Maharashtra State Innovative Start-up policy 2018.

### The policy targets to

- Attract angel and stage investment of Rs. 5,000 Crores.
- Develop at least 15 incubators in collaboration with industry and academia
- Facilitate incorporation of at least 10,000 start ups
- Create 5,00,000 direct and indirect employment opportunities

### Ease of doing business initiatives

- Relaxed compliance regime based on self-certification
- No inspections shall be conducted for a period of seven years.
- Local laws to be relaxed
- Relaxed norms of public procurement
- “Leapfrog Maharashtra” portal will be set up for startup ecosystem, which will also serve as a single window clearance mechanism

## Fiscal Incentives

- Compensation for stamp duty & registration fees
- Assistance in patent filing
- May take up 80% quality testing costs
- Reimbursement in lieu of the state GST paid, whenever system credit is not available

## Maharashtra State Aerospace & Defence Manufacturing Policy 2018

Aerospace & Defence Manufacturing Policy, 2018 envisages to attract investment worth USD 2 billion in next five years in the sector thereby creating nearly one lakh employment opportunities. With Nagpur as its hub, this policy seeks to promote Maharashtra as a global MRO hub.

### Brief features of the policy are as follows:

- Units with a minimum FCI of Rs 100 Crore or providing 250 jobs will get mega project status.
- FCI incentive of up to 20% of total project cost or up to Rs. 100 crore is admissible
- R&D incentive of up to 10% will be allowed (limited Rs 50 crore)
- Reimbursement of stamp duty paid for acquiring land and term loan purposes
- Mega project in MIDC area commencing production early eligible for several concessions
- Eligible anchor units to get land at 50% of prevailing land rates
- Common facilities, venture capital funding, market assistance etc., are also provided





## Maharashtra State Electric Vehicles & Infrastructure Policy 2018

Under Electric Vehicle (EVs) and related infrastructure Policy-2018, the state targets to increase the number of EV's registered in Maharashtra to 5 lakh, generate investment of Rs. 25,000 crore in EV sector and create jobs for 1,00,000 persons.

- One pioneer unit in EV/EV components and one in battery sector will be considered for incentives
- Units with a minimum FCI of Rs 250 crore or providing 500 jobs will get Mega Project status in A and B Zones. Units with a minimum FCI of Rs 100 Crores or providing 250 jobs will get Mega Project status in zones other than A and B.
- Units with a minimum FCI of Rs. 1,500 crore or providing 3,000 jobs will get Ultra Mega Project status
- Pioneer, Mega & Ultra Mega Projects shall be provided customized package of fiscal benefits
- MSMEs and Large units will get incentives as per Package Scheme of Incentives (PSI) In force.
- First 250 public EV charging stations eligible for 25% capital subsidy on equipment/machinery limited to Rs. 10 Lakh per station
- 10% subsidy for public/private passenger buses registered in the state (maximum limit of Rs. 20 lakh per vehicle) will be provided to first 1,000 buyers. Subsidy will be transferred to buyer's bank account within 3 months of purchase date.
- First 1,00,000 EV (2 wheeler – 70,000, 3 wheeler – 20,000 and 4 wheeler – 10,000) registered in the state to get end user subsidy at the rate of 15% of base price (maximum limit of Rs. 5,000 for 2 wheeler, Rs.12,000 for 3 wheeler and Rs. 1 Lakh for 4 wheeler)
- Exemption from road tax & registration fees for Electric Vehicle.

## Maharashtra State IT/ITES Policy 2015

IT/ITES Policy 2015 targets attracting investment of Rs. 50,000 crore by the private IT Parks and the IT/ITES/AVGC units in the state, creating new jobs for one million persons; raising annual exports from IT/ITES/AVGC sector from the state up to Rs. 1,00,000 crore.

IT companies have some unique requirements when compared to other sectors. To address such requirements, the state government has announced an IT-ITES policy in 2015.

Thirty seven public IT Parks have received investments of Rs. 18000 crore are generating 2.68 lakh employment. Of the 472 private IT park that have been approved, 160 are functioning with investment of Rs. 3,700 crore and are creating for 4.86 lakh jobs. The remaining 312 private IT parks with proposed investments of Rs. 8,960 crore are expected to generate 11.95 lakh employment opportunities.

### Key features of the policy are

- Up to 200% additional Floor space Index (FSI) in IT parks
- IT/ITES Industry will be permitted to work 24 x 7 x 365 days without any close down
- Incentives for integrated IT township (IITT) and data Centers located anywhere in the state
- Special encouragement for the animation, visual effects gaming and comic sector
- Exemption from Stamp Duty and Electricity Duty, and electricity tariff subsidy applicable
- Property taxes reduced for IT/BPO units and is same as residential rates
- IT/ITES will be allowed to be set up in any zone

# NewsBites

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