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GRC Bulletin
September 2022

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About

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RBI ISSUES MASTER CIRCULAR ON CREDIT FACILITIES TO MINORITY COMMUNITIES

On August 2 2022, The Reserve Bank of India periodically issued guidelines/instructions/directives to banks with regard to providing credit facilities to Minority Communities. The Master Circular enclosed consolidates the circulars issued by Reserve Bank on the subject to date, as listed in the Appendix of the Circular.

1. Credit Facilities to Minority Communities

- 1.1 The benefits flowing from various Government sponsored schemes, Scheduled Commercial Banks (banks) are advised to ensure a smooth flow of bank credit to minority communities.
- 1.2 a list of 121 minority concentration districts having at least 25% minority population, excluding those States/UTs where minorities are in the majority Banks are advised to specially monitor the credit flow to minorities in these 121 districts thereby, ensuring that the minority communities receive a fair and equitable portion of the credit within the overall target of the priority sector.

2. Definition of Minority Communities

- 2.1 The following communities have been notified as minority communities by the Government of India, Ministry of Minority Affairs:
 - a. Sikhs
 - b. Muslims
 - c. Christians
 - d. Zoroastrians
 - e. Buddhists
 - f. Jains
- 2.2 Advances granted to a partnership firm may be treated as Advances granted to Minorities, if the majority of its partnership belongs to one or the other of the specified minority communities. A company is a separate legal entity and hence advances granted to it cannot be classified as advances to the specified minorities.'

3. Creation of a Special Cell and designation of an exclusive Officer

- 3.1 Each bank should set up a special cell having a Nodal Officer holding the rank of Deputy General Manager/Assistant General Manager or any

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other similar rank, in order to ensure a smooth flow of credit to minority communities.

3.2 Responsibilities of the Nodal Officer:

1. Look after credit flow problems
2. Publicize various programmes of bank credit
3. Prepare suitable schemes
4. Arrange group meetings for the formulation of schemes

3.3 Role of Designated Officer

- 3.3.1 Exclusively look after aspects relating to credit assistance to minority communities in the concerned districts
- 3.3.2 may be attached to the Lead Bank set up at the district level so as to receive necessary guidance from Lead District Manager
- 3.3.3 have adequate experience in liaising effectively with the other credit institutions
- 3.3.4 arrange group meetings for their guidance in the formulation of schemes suitable for the members of the minority communities

3.4 The name, designation and office address of (i) the officer-in-charge of the Special Cell at Head Office and (ii) officer appointed by lead banks in the identified districts to look after the problems of minority communities exclusively, should be furnished by banks to the National Commission for Minorities and updated periodically.

4. Role of Lead Banks

- 4.1 Minority Concentration Districts will have to exercise the proactive role expected of them to ensure that the minority communities, particularly those who are poor and illiterate have access to bank credit for taking up productive activities.
- 4.2 Identified 121 districts having a concentration of minority communities may involve the State Minority Commission/Finance Corporation in the extension work including creating awareness, identification of beneficiaries, preparation of viable projects, provision of backward and forward linkages such as the supply of inputs/marketing, recovery etc.
- 4.3 They may collaborate with District Development Managers (DDMs) of NABARD/NGOs/Voluntary Organizations in reaching the poor through Self Help Groups (SHGs)
- 4.4 The State Level Bankers Committees (SLBCs) and the District Consultative Committees (DCCs) should ensure that steps are taken to facilitate the flow of credit to the minority communities. Chairman/Managing Director of State Minority Commissions/Boards or the State Minorities Financial

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Corporations or their representatives may be invited to attend these meetings.

5. Advances under DRI Scheme

Banks may route loans under the DRI scheme through State Minority Finance/Development Corporation on the same terms and conditions as are applied to loans routed through SC/ST Development Corporations. Banks may ensure proper maintenance of the register to evolve timely sanction and disbursement of loan applications.

6. Monitoring

- 6.1 Credit data on credit extended to members of minority communities is to be provided by the Reserve Bank of India and Government of India, Ministry of Finance and Ministry of Minority Affairs. Data must be furnished on a half-yearly basis at the end of March and September every year within one month from the end of each half-year.
- 6.2 Data on priority sector advances to specified minority communities is to be submitted to the Regional Offices of RBI within one month from the close of the relative quarter. The Convenor banks of the District Consultative Committees in the identified minority concentrated districts should furnish the data.
- 6.3 The progress made in regard to the flow of credit to the minority communities should be reviewed regularly at the meetings of the District Consultative Committees (DCCs) and the State Level Bankers Committees (SLBCs).
- 6.4 The Lead Banks in the identified minority concentrated districts should furnish the relevant extracts of the agenda notes and the minutes of the meetings of the DCCs and of the respective SLBCs to the Union Ministry of Finance and to the Ministry of Minority Affairs on a quarterly basis for their use.

7. Training

- 7.1 Banks should include suitable lecture sessions as part of all relevant training programmes on rural lending, financing of priority sectors, poverty alleviation programmes, etc. This is to ensure that bank staff and officers have proper perspective and appreciation of the various programmes for the welfare of minorities.

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- 7.2 The Lead Banks in the identified districts may sensitise and motivate the staff posted to identified districts through proper training to assist the minority communities under various credit schemes.
- 7.3 The Lead Banks may organize sensitization workshops for bank officials regarding micro credit/lending to SHGs with the help of DDMs of NABARD.
- 7.4 The duration of the programme, the course content, the faculty support to be selected etc. should be decided by each Lead Bank taking into account the prevailing conditions, need and existing skills as well as the aptitude of the people in the district.

8. Publicity

Banks should create publicity through various means about the anti-poverty programmes of the Government in areas where there is a large concentration of minority population. Appropriate measures include publicity through:-

1. print media i.e., distribution of pamphlets in local languages, advertisements/articles in newspapers etc.
2. TV channels - DD/local channels, participation/setting up of stalls in the
3. Melas/fairs are organized during religious/festive occasions by the minority communities.

9. National Minorities Development and Finance Corporation (NMDFC)

NMDFC promotes economic and developmental activities for the backward sections amongst the minorities. Banks should bear in mind the guidelines/instructions issued from time to time on priority sector advances.

10. Prime Minister's New 15 Point Programme for the Welfare of Minorities

An important objective of the New Programme is to ensure that an appropriate percentage of the priority sector lending is targeted for the minority communities. The benefits of various government-sponsored schemes should reach the underprivileged, which includes the disadvantaged sections of the minority community. It envisages the location of a proportion of development projects in minority concentration districts.

#Source: [Click here for more details](#)

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SEBI ISSUES CIRCULAR FOR ENHANCED GUIDELINES FOR DEBENTURE TRUSTEES AND LISTED ISSUER COMPANIES ON SECURITY CREATION AND INITIAL DUE DILIGENCE

SEBI on 4th August, 2022 notified a circular regarding enhanced guidelines for debenture trustees and listed issuer companies on security creation and initial due diligence.

1. The Securities and Exchange Board of India (SEBI) has approved changes to the regulatory framework relating to debenture trustees, enhancing their role. Changes were made in the SEBI (Debenture Trustees) Regulations, 1993, 2015 and 20081, pursuant to which a circular on the creation of security and due diligence by DTs was issued.
2. The changes include revised requirements relating to encumbrance, creation of security and related diligence by DTs.

A. Manner of change in security/ creation of additional security/ conversion of unsecured to secured in case of already listed non-convertible debt securities:

3. Regulation 59 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations) provides for a change in terms of listed non-convertible debt securities. A change in the structure of non-convertible debt securities, inter-alia, may include:
 - A change in security,
 - Creation of additional security in case of already secured debt securities
 - Creation of security in case of unsecured debt securities.
4. Prior to initiating due diligence, a DT and the listed entity shall enter into an amended debenture trust agreement. The agreement will incorporate the obligations arising out of provisions of SEBI Circular No. 4 to 7 on security creation, initial due diligence and continuous monitoring.

4.1 A DT shall carry out due diligence for change in security, and creation of security/ additional security in the manner as prescribed in para 4 to para 7 of SEBI Circular dated November 03, 2020. The DT shall issue a no-objection certificate (NOC) to the issuer company for going ahead with the proposed change in the structure/creation of security.

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4.2 The proposed security and the charge in favour of DT will be registered with the sub-registrar, Registrar of companies, CERSAI, Depository etc., as applicable. In case the charge is not registered anywhere or is not independently verifiable, then the same shall be considered as a breach of the covenants/ terms of the issue by the Issuer.

4.3 Issuer company and Debenture trust (DT) will enter into a supplemental/amended debenture trust deed, subject to the terms and conditions of the due diligence carried out by the DT. Issuer Company and DT shall create a security called 'Issuer Company' for the purpose of issuing debentures.

4.4 The issuer company, pursuant to the execution of supplemental/ amended debenture trust deed, shall submit the required documents to the Depositories and Stock Exchanges. (as mentioned in the circular)

4.6 The Depository shall assign a new ISIN to the non-convertible debt securities pursuant to submission of documents mentioned above only and shall share the information with respect to change in ISIN of debt securities, with the recognized Stock Exchanges.

B. `Encumbrance on securities for issuance of listed debt securities:

5. Creation of encumbrance on the securities for securing the non-convertible debt securities shall be through the depository system only in accordance with the Depositories Act, 1996, the SEBI (Depositories and Participants) Regulations, 2018, Depository bye-laws and other applicable regulations and circulars.
6. Encumbrance for the above shall mean Pledge, hypothecation, lien, negative lien, non-disposal undertaking or non-disposal agreement.

C. Due Diligence Certificate in case of Shelf Prospectus/ Memorandum:

7. In case security details have not been finalized at the time of the filing of a draft shelf prospectus/ placement memorandum filed by an issuer company, then the DT shall undertake due diligence as under:-

7.1 The DT may furnish a due diligence certificate, confirming that it has carried out due diligence for the clauses other than that related to security creation. Clauses are specified in regulations 40(a) and 44(3)

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of the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021.

7.2 The Depository Trustee (DT) has the power to issue a due diligence certificate covering all clauses of formats prescribed under regulations 40(a) and 44(3) of the NCS Regulations and Annexure A of SEBI Circular dated November 03, 2020, as applicable.

D. Empanelment of External Agencies by Debenture Trustee(s):

8. For the purpose of empanelment of external agencies for carrying out due diligence in terms of SEBI Circular dated November 03, 2020, continuous monitoring in terms of SEBI Circular dated November 12, 2020, as well as this circular, DTs shall:

8.1 Adopt an empanelment criterion/ policy as approved by their board of Directors and shall disclose the same on their website.

8.2 Formulate a policy on mitigating conflict of interest and shall disclose the same on their website; the policy shall, inter-alia, include a requirement that the empanelled agency would have no pecuniary relationship with the issuer company 3 years prior to the issue.

E. Compliance with SEBI Circulars on ‘Security & Covenant Monitoring System

9. Issuers, Depositories, DTs and CRAs shall ensure that they comply with SEBI circulars issued in respect of the Distributed Ledger Technology (DLT) system.

10. The Securities and Exchange Board of India (SEBI) has issued a circular to all listed companies in India on the issue and listing of non-convertible securities.

#Source: [Click here for more details](#)

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CBIC ISSUES CLARIFICATIONS REGARDING GST RATES & CLASSIFICATION OF GOOD

The Ministry of Finance on 03.08.2022 issued a circular regarding clarification on GST rates & classification (goods) based on the recommendations of the GST Council in its 47th meeting held on 28th – 29th June 2022.

Clarifications with reference to GST levy, are being mentioned below.

1. Electric vehicles whether or not fitted with a battery pack, attract a GST rate of 5%.

The fitting of batteries cannot be considered as a concomitant factor for defining a vehicle as an electrically operated electric vehicle. The HSN Explanatory notes for Chapter 87 have clearly stated that Motor Chassis fitted with cabs i.e. the chassis fitted with cabin body falls under 87.02 to 87.04 and not 87.06. Therefore they attract GST at the rate of 5% in terms of entry 242A of Schedule I of notification No. 1/2017-Central Tax (Rate).

2. Stones otherwise covered in S. No. 123 of Schedule-I (such as Napa stones), which are not mirror polished, are eligible for concessional rate under said entry.

Napa Stone is a variety of dimensional limestone, which is a brittle stone. Being brittle in nature, stones like Napa Stone are not subject to extensive polishing. S. No. 123 in schedule-I to the notification No. 1/2017- Central Tax (rate) covers minor polished stones.

3. Mangoes under CTH 0804 including mango pulp, but other than fresh mangoes and sliced, dried mangoes, attract GST at 12% rate.

The GST rate on 'Mangoes sliced, dried', falling under heading 0804, has been reduced from 12% to 5%. The rate on all other forms of dried mangoes, including mango pulp, remains at 12%. Fresh mangoes continue to remain exempt from the tax.

4. Treated sewage water attracts Nil rate of GST.

Treated sewage water was not meant to be construed as falling under "purified" water for the purpose of levy of GST. Water, falling under heading 2201, with certain specified exclusions, is exempt from GST. The word 'purified' is being omitted from the above-mentioned entry vide notification No. 7/2022-Central Tax (Rate), dated the 13th July, 2022.

5. Nicotine Polacrilex Gum attracts a GST rate of 18%.

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The WCO 2022 HS Codes has inter alia introduced a new entry 2404 91 00 comprising of products for oral application containing nicotine and intended to assist tobacco use cessation with effect from 01.01.2022. A technical change, without any consequential rate change, has been made vide notification No. 18/2021 – Central Tax (Rate), dated the 28th December, 2021. The nicotine Polacrilex gum is appropriately classifiable under tariff item 2404 91 00 with applicable GST rate of 18%.

6. Fly ash bricks and aggregate - condition of 90% fly ash content applied only to fly ash aggregate, and not fly ash bricks.

Confusion has arisen about the applicability of 90 per cent. condition on fly ash aggregates and fly ash bricks. As per the recommendations of the GST Council in the 23rd Meeting, the condition of 90% or more fly ash content was applicable only for fly ash aggregate. It is clarified that the condition of 90 per cent. or more fly ash content applied only to Fly Ash Aggregates and not to fly ash bricks and fly ash blocks. Which has come into effect from 18th July, 2022 the condition is omitted from the description.

7. Applicability of GST on by-products of milling of Dal/ Pulses such as Chilka, Khanda and Churi.

The by-products of milling of pulses/dal such as Chilka, Khanda and Churi are appropriately classifiable under heading 2302 that consists of goods having description. Cattle feed ingredients are appropriately classifiable under heading 2302 and attract GST at the rate of 5% vide S. No. 103A of Schedule-I of notification no. 1/2017-Central Tax (Rate) dated 28th June, 2017. The matter would be regularized on as isbasis as mentioned in para 8.6 of the circular.

#Source: [Click here for more details](#)

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CBIC CLARIFIED APPLICABLE GST RATES & EXEMPTIONS ON CERTAIN SERVICES

On 3rd August 2022, CBIC addressed to Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/ Commissioner of Central Tax (All), The Principal Director Generals/ Director Generals (All) regarding the clarifications on applicable GST rates & exemptions on certain services.

1. Rate of GST applicable on supply of ice cream by ice-cream parlours during the period from 01.07.2017 to 05.10.2021

Ice cream parlours sell already manufactured ice cream and do not have a character of a restaurant. Ice cream sold by a parlour or any outlet attracts a standard rate of GST @ 18% with ITC. Past cases of payment of GST at 5% without ITC will be treated as fully paid to avoid litigation. GST at 18% may be levied on ice-cream parlours in India with effect from 06.10.2021

2. Applicability of GST on application fee charged for entrance or the fee charged for issuance of eligibility certificate for admission or issuance of migration certificate by educational institutions

Education services supplied by educational institutions to students are exempt from GST. Consideration charged by the educational institutes for the conduct of entrance examinations is also exempt. Services supplied by an educational institution by way of issuance of migration certificates to the leaving or ex-students are also covered.

3. Whether storage or warehousing of cotton in baled or ginned form is covered under entry 24B of Notification No. 12/2017-Central Tax (Rate) which exempted services by way of storage and warehousing of raw vegetable fibres such as cotton before 18.07.2022.

Before 18.07.2022, entry 24 B of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 exempted services by way of storage and warehousing of raw vegetable fibers such as cotton, flax, jute etc.

4. Whether exemption under Sl. No. 9B of notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 covers services associated with transit cargo both to and from Nepal and Bhutan

GST on supply of services associated with transit cargo to Nepal and Bhutan was exempted w.e.f 29.09.2017 based on recommendations of the 20th GST Council Meeting. It is also clarified that the movement of empty containers after delivery of goods in India is included in the exemption. The authorized carrier also has to procure ECTS (Electronic Cargo Tracking

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System) from a bi-laterally appointed managed service provider. This facility uses container numbers to locate the cargo. It is verifiable that the empty container returning from Nepal or Bhutan is the same container used to deliver goods to Nepal or Bhutan.

5. Applicability of GST on sanitation and conservancy services supplied to Army and other Central and State Government departments

Services provided to Panchayats and municipalities are listed in Schedules 11 & 12 of the Constitution. Exemption under entry 3& 3A of notification 12/2017- Central Tax (Rate) dated 28.06.2017 has been given on pure services & composite supplies procured by Central, State or local authorities.

6. Whether the activity of selling of space for advertisement in souvenirs is eligible for concessional rate of 5%.

Sale of space for advertisement in souvenirs books published by educational institutions, social, cultural and religious organizations including clubs etc. attracts GST @ 5%. As recommended by the GST Council, it is clarified that the sale of advertising space in souvenir books is covered under serial number (i) of entry 21 of notification No.11/2017- Central Tax (Rate).

7. Taxability and the applicable rate of GST on the transport of minerals from mining pit head to a railway siding, beneficiation plant etc., by vehicles deployed with a driver for a specific duration of time.

GST Council has clarified the taxability of the transport of minerals by vehicles. Such services are nothing but "rental services of transport vehicles with operator" which attract GST @ 18% under Sr. No. 10 part (iii) of notification No. 11/2017- Central Tax (Rate) dated 28.06.2017.

8. Whether location charges or preferential location charges (PLC) collected in addition to the lease premium for a long-term lease of land constitute part of the lease premium or the upfront amount charged for a long-term lease of land and are eligible for the same tax treatment.

Location charges or preferential location charges (PLC) paid upfront in addition to lease premium for a long-term lease of land are eligible for the same tax treatment. Being charged upfront along with the upfront amount for the lease, the same is exempt from the goods and services tax.

9. Applicability of GST on payment of honorarium to the Guest Anchors

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Sansad TV and other TV channels invite guest anchors for participating in their shows. Services provided by the guest anchors in place of honorarium attract GST liability. Guest anchors whose turnover in a financial year does not exceed Rs 20 lakhs shall not be liable to take registration and pay GST.

10. Whether the additional toll fees collected in the form of higher toll charges from vehicles not having fastag is exempt from GST

The additional amount collected from the users of the road not having a functional Fastag is like Toll Charges and should be treated as additional toll charges. It has already been clarified vide circular number 164/20/2021-GST that overloading charges at toll plazas would get the same treatment as given to tolls.

11. Applicability of GST on services in form of Assisted Reproductive Technology (ART)/ In vitro fertilization (IVF)

Services provided by a clinical establishment, an authorized medical practitioner or para-medics are exempt. The abnormality/disease/ailment of infertility is treated using ART procedures. It is clarified that services by way of IVF are also covered under the definition of health care services for the above exemption notification.

12. Whether sale of land after levelling, laying down of drainage lines etc., is taxable under GST

Land may be sold either as it is or after some development such as levelling, laying down of drainage lines, water lines, electricity lines, etc. It is clarified that the sale of such developed land is also the sale of land and is covered by Sr. No. 5 of Schedule III of the Central Goods and Services Tax Act 2017. It shall attract GST at the applicable rate for such services.

13. Situations in which corporate recipients are liable to pay GST on renting motor vehicles designed to carry passengers

Tax is required to be paid by a body corporate for services provided by a non-body corporate. The rental of a motor vehicle for the transport of passengers falls under Heading 9966. 'Passenger transport services, on the other hand, fall under Headings 9964 and 9966 respectively.

However, where the body corporate avails the passenger transport service for specific journeys or voyages and does not take vehicle on rent for any particular period, the service would fall under Heading 9964 and the body corporate shall not be liable to pay GST on the same under RCM.

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14. Whether hiring of vehicles by firms for transportation of their employees to and from work is exempt under Sr. No. 15(b) of Notification No. 12/2017-Central Tax (Rate) transport of passengers by a non-air-conditioned contract carriage

The exemption would apply to passenger transportation services by non-air conditioned contract carriages falling under Heading 9964. 'Charter or hire' is charter or hire of a motor vehicle for a period, where the renter defines how and when the vehicles are operated.

The exemption shall not be applicable where contract carriage is hired for some time, during which the contract carriage is at the disposal of the service recipient and the recipient is thus free Circular No. 177/09/2022-TRU to decide the manner of usage (route and schedule) subject to conditions of the agreement entered into with the service provider

15. Whether supply of service of construction, supply, installation and commissioning of dairy plant on turn-key basis constitutes a composite supply of works contract service and is eligible for concessional rate of GST before 18.07.2022.

Construction, supply, installation and commissioning of a 2.00 LLPD dairy plant does not result in immovable property and is therefore not a supply of works contract. With effect from 18.07.2022, such works contract services would attract GST at the rate of 18% given the amendment carried out in notification No. 11/2017- Central Tax (Rate) vide notification No. 03/2022- Central Tax (Rate).

16. Applicability of GST on tickets of private ferry used for passenger transportation.

As per Sl. No 17 (d) of notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 "transportation of passengers by public transport, other than predominantly for tourism purpose, in a vessel between places located in India" are exempted.

#Source: [Click here for more details](#)

GENERAL LAWS



IRDAI ISSUES CIRCULAR FOR AMENDMENTS TO INVESTMENTS MASTER CIRCULAR

IRDAI has received few representations from Insurance companies to relax/amend certain provisions of Investment regarding the classification of investments in equity shares as approved investments. This circular dated 03.08.2022 provides the following amendments to Investment Master Circular/Circulars.

1. Dividend criteria for the classification of equity exchange-traded funds.
(Substitution of Para No 1.3.a.3)

At least 85% of securities in the equity basket shall be compliant with respect to dividend distribution norms as per Regulation 3 (A)(5) of IRDAI (Investment), 2016 to qualify as a part of "Approved Investment".

This modifies para to provide relax the norm by permitting a certain percentage of constituent stocks which need not fulfil the dividend criteria to classify investment in equity ETF as "Approved investment"

2. Investment in Mutal Funds (Replace ParaNo. 1.3.c.7)

The investment in Glit/G Sec/ Liquid / Debt/ Income Mutal Funds (all together) at any point of time, shall be as under

"Investment Assets" as per Regulation 2(i) of IRDAI (Investment) Regulations, 2016	Percentage to Investment Assets
Less than Rs. 50,000 Crores	10%
More than Rs. 50,000 Crores and Less than Rs., 2,50,000 Crores	7%
More than Rs. 2,50,000 Crores	5%

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Replacement of this para provides measures to bring the exposure limitations that apply to life insurers into line with those that apply to general insurers.

3. Long-Term Bonds By Banks Financing Of Infrastructure And Affordable Housing (Omitted Point no: 1.6.c.1)

Banks' exposure to long-term bonds for infrastructure and affordable housing financing is not included in their exposure to BFSI. However, the terms stated in Paragraphs 1.6.c.2 and 1.6.c.3 shall still be in effect.

4. Investment In Additional Tier I (Basel III Compliant) Perpetual Bonds

The following Paras are substituted of Investments - Master Circular These substitutions are to enable insurers to invest in banks despite non-declaration of dividend.

1.6.d.3: The aggregate value of AT1 Bonds held in a particular Bank, at any point of time, shall not exceed 10% of the total outstanding AT1 Bonds, of that particular Bank

1.6.d.4: The Common Equity Tier I Capital (CET) including Capital Conservation Buffer, of the issuer Bank shall be more than 9% of the total risk-weighted assets of the bank at the time of investment in AT1 Bonds of such Bank.

1.6.d.5:

- a. The issuer bank should not have cancelled/deferred any coupon payment on its debt instruments including AT1 bonds in the preceding three financial years.
- b. The issuer bank shall have reported net profit after tax for the preceding two years and have a positive accumulated profit as per the latest audited balance sheet.
- c. The issuer bank has not reported any divergence in the asset classification and provisioning, identified by RBI, in its latest audited balance

5. Separate Limits For Debt Instruments And Units Of Invit / Reit

To provide distinct investment limitations for debt instruments and units, as well as higher limits for debt instruments at the same InvIT/REIT level.

Insertion of the following additional paras in Cir no: IRDAI/F&I/CIR/INV/098/04/2021 Dt. 22nd April, 2021 before para (a).

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The debt Instruments shall be issued by listed InvITS/REITS and rated "AAA" at the time of Investment.

1. The public holding in the InvIT/REIT shall not be less than 30% of the total outstanding units of the InvIT/REIT at the time of Investment.

Substituted point no. (c) and (d) in Cir no: IRDAI/F&I/CIR/INV/098/04/2021
Dt. 22nd April 2021

c.) No Insurer shall invest more than 20% of the outstanding debt instruments (including the current issue) in a single InvIT/REIT

d.1) The investment in Debt Instruments of REITS shall not exceed 3% of the total fund size of the insurer at any point in time.

d.2) The investment in Debt Instruments of InvITs shall be subject to sectoral limits applicable to the Infrastructure Sector.

6. Dividend Criteria For Equity Investment Under "Approved Investment

The relaxation provided under circular no: IRDAI/F&I/CIR/INV/51/03/2022
Dt. 24th March 2022.

Investments in Preference Shares and Equity Shares classified as part of "Approved Investment" if the dividend is paid on such Shares "for at least 2 years out of 3 consecutive years immediately preceding" instead of "for two consecutive years" Under IRDAI (Investment) Regulations, 2016, to continue beyond 30th September 2022.

#Source: [Click here for more details](#)

LABOUR LAWS



GOVERNMENT OF MADHYA PRADESH NOTIFIES CONDITIONS FOR EXEMPTIONS FROM RESTRICTIONS ON EMPLOYING WOMEN WORKERS DURING NIGHT SHIFTS IN STATE OF MADHYA PRADESH

Under section 25 Madhya Pradesh Shops and Establishments Act, 1958 defines working hours of women between 9:00 PM to 8:00 AM shall not apply to all shops and commercial establishments in the whole of the state of Madhya Pradesh subject to the terms and conditions specified below:

It shall be the duty of the employer or other responsible persons in the workplaces or institutions to prevent the commission of acts of sexual harassment and to proceed for the prosecution of acts of sexual harassment by taking all steps required;

1. Expressly forbids sexual harassment of any kind, including explicit or implied unwanted sexual behaviour, demands for sexual favours, comments with sexual overtones, the exhibition of pornography, or any other unwanted physical contact with a sexual character.
2. The rules or regulations will include a code of conduct for public bodies and their staff relating to conduct and discipline prohibiting sexual harassment and provide for appropriate penalties for those found guilty.
3. There is no discrimination against women in the workplace and there should be no hostile environment toward women in the workplace.
4. Employers in the private sector are expected to ensure that their employees do not victimise or discriminate while dealing with complaints of sexual harassment and where necessary, at the request of the affected worker, shift or transfer the perpetrator if circumstances warrant. The employer shall take appropriate disciplinary action if such conduct amounts to misconduct in employment.
5. The employer of the Shops and Commercial Establishment shall maintain a complaint mechanism in the establishment itself to ensure time-bound treatment of such complaints.
6. No less than half of its members should be women, besides a non-government organisation's representation in the committee and such person should be familiar with the issues of sexual harassment.
7. The female employees should be made aware of their rights in particular by prominently notifying the guidelines on the subject.
8. The employer and the person in charge of the establishment should take all necessary and reasonable actions to assist the affected person in

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- terms of assistance and preventive action where there is harassment at the instance of a third party, whether by an act or omission
9. The employer shall provide proper lighting not only inside, but also in the surroundings of the establishment and in all places where the female workers may move.
 10. The employer shall see that the women workers are employed in a batch of not less than ten and the total of women workers employed at night time shall not be less than 2/3rd of the total strength.
 11. Sufficient women's security shall be provided during the night time at entry as well as exit points.
 12. A sufficient number of waiting sheds shall be provided for the female workers to arrive in advance and also leave after working hours.
 13. A separate canteen facility shall be provided for the female workers.
 14. The employer shall provide residence and transportation and shall ensure pick up and drop transport facility under security from the women's residence to the workplace during the night shift.
 15. The employer shall appoint not less than two female wardens at night who shall go round and work as Special Welfare Assistants.
 16. A separate vehicle is to be kept ready to meet the emergent needs of female workers at an establishment where more than 100 women are employed at night.
 17. The establishment shall provide appropriate medical facilities and also make available at any time of urgency necessary telephone connections for support in the event of an emergency.
 18. Wherever the employer provides boarding and lodging arrangements for the female workers, the same shall be kept exclusively for the women under the control of women wardens or supervisors.
 19. During night time not less than 1/3rd of the strength of the supervisors or shift-in-charge or foreman or other supervisory staff shall be women.
 20. There shall be no more than 12 consecutive hours of rest or a gap between the last period and the night period for a woman worker.
 21. The Said act and other statutory provisions with respect to the hours of work and the payment of equal remuneration and all other labour legislations shall be followed by the employer
 22. Under the Act, an additional holiday shall be permitted for the women workers during the menstruation period, which shall be a paid holiday for the night time.
 23. The female workers who work in night shall have a monthly meeting through their representatives with the principal employer and the employer shall try to cope with all just and reasonable grievances

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24. The employer shall be at liberty to employ female workers as a whole or in part during the night period, provided, the above directions be complied with
25. The employer shall send a monthly report to the Govt. Labour Officer/Asstt. Labour Commissioner about the details of employees engaged during night time and shall also send report Immediately whenever there is some untoward incident to the Govt. Labour Officer/Asstt. Labour Commissioner and local Police station as well.

#Source: [Click here for more details](#)

JUDICIAL INSIGHT



JUDICIAL INSIGHT

NCLAT DELHI: CIRP AGAINST SOLVENT, MSME COMPANY OFFERING EMPLOYMENT NOT JUSTIFIED

Facts of the case:

- M/s Agarwal Veneers ("Appellant") had filed a petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 ("IBC") before the NCLT Ahmedabad Bench ("Adjudicating Authority"), seeking initiation of Corporate Insolvency Resolution Process ("CIRP") against Fundtonic Service Pvt. Ltd. ("Respondent").
- That there is no evidence on file to suggest that the advocate is connected to the appellant and that the Demand Notice issued under Section 8 of the IBC was supplied by an advocate to whom no power was granted to issue such a notice.
- that the Respondent is a running business and now employs 20 people. Therefore, if a going concern earns money and the employees and stakeholders are subject to the requirements of the CIRP, it would undermine the fundamental objective of the IBC.
- That the petition was filed by the appellant with the intention of using it as an instrument for recovery, which is contrary to the IBC's purpose.
- The Respondent is a Micro, Small, and Medium-Sized Enterprise (MSME), and bringing CIRP proceedings against a going concern would be against IBC's goals because it would put the livelihood of multiple families in jeopardy.
- That the papers necessary to corroborate the appellant's claim, such as a copy of the purchase order, a delivery challan, and a copy of the bank statement demonstrating that no payment has been received from the corporate debtor for the invoices raised, have not been produced on file.

Arguments of Appellant :

- The Appellant contended that the Adjudicating Authority had overlooked the Principle laid down by the Supreme Court in **Macquarie Bank Ltd. vs. Shilpi Cable Technologies Ltd.**, (2018) 2 SCC 674, wherein it was held that an advocate can issue the demand notice on behalf of its client.
- The MSME status of the Respondent could not have been a basis for dismissal of the petition, as Section 20 of the IBC makes clear that the

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goal of the IBC is to maximise the value of these individuals' assets, to encourage entrepreneurship, and to strike a balance between the interests of all stakeholders rather than to subject the Operational Creditor to the rigours of the CIRP.

- A copy of the certificate from the "financial institutions" stating that a business debtor has not received any payment for overdue operational debt is not a prerequisite for starting the CIRP.
- Since the terms "by the Corporate Debtor, if available" were inserted in Section 9(3)(c) of the IBC, these conditions were no longer necessary.

Arguments of the Respondent:

- The Respondent stated that the Appellant had not submitted any purchase orders, delivery challans, or bank statements to the Adjudicating Authority in support of its case. Without a purchase order, no products may be sold or supplied.
- Additionally, as was noted in their "Affidavit in Reply," the Respondent was never served with the demand notices that the Appellant had issued. Furthermore, the Respondent is an MSME that is a "doing concern" with annual sales of Rs. 1,61,74,968; the suit filed by the Appellant is only an effort to collect the unpaid debt.

Decision of Court:

- The Bench observed that a Demand Notice under Section 8 could be issued by an advocate. However, the Adjudicating Authority is empowered to reject an incomplete petition under Section 9 if a copy of the invoices, the bank statements and the financial accounts are not furnished along with it.
- The Preamble of IBC describes its spirit and objective to be 'Reorganisation' and 'Insolvency Resolution', specifically omitting the word 'Recovery'.
- If IBC is purely used for the purpose of Debt Recovery, particularly when the amounts due are small, and the Company is a solvent entity and is a going concern, the question of 'Reorganising' or 'Resolution of the Company does not arise.
- Reliance was placed on the Supreme Court judgment in **Praveen Kumar Mundra Vs. 'CIL Securities Ltd.'**, 2019 SCC OnLine Company Appeal (AT) (Insolvency) No. 512 of 2021 NCLAT 334, has noted that CIRP cannot be initiated with fraudulent intent 'for any purpose other than the

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Resolution of Insolvency or Liquidation' and therefore it is clearly covered under Section 65 of the Code.

- The Bench upheld the order dated 29.09.2020 of the Adjudicating Authority and dismissed the appeal.

Case Name: M/s Agarwal Veneers v Fundtonic Service Pvt. Ltd., Company Appeal (AT) (Ins) No. 968 of 2020

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AAR: MANPOWER AND LABOUR SUPPLY SERVICES ATTRACT 18% GST

Facts of the case:

- M/s. Sri Bhavani Developers are into the construction of residential buildings and have opted for a new tax scheme as per Notification No.3/2019, dt: 29.03.2019. The applicant submitted that in a particular case they have entered into JDA with Mr.Sadanda Chary for the construction of residential units at Moulali.
- The Joint Development Agreement between land Owner and Builder was entered on 7 December 2017 and subsequently, a supplementary development agreement was entered on 17 December 2018 on an area sharing basis.
- they have started the work however they didn't have any bookings as on 31-03-2019 and therefore they require clarification if they are falling into "other than Ongoing Projects" as per the notification No 3/19 and 4/19 and that they are left with GST@5% without ITC. Hence this application.

Issue of the case:

- Whether notification 4/2019 can be followed and GST be paid on an RCM basis for the share of the landlord as the project is falling under "other than On-going Projects" as it can be considered as a new project?
- Is Reverse Charge Mechanism applicable to daily wages, Labour Charges and Contract Labour?
- Whether there is any limit on the percentage of material to be used in the project for Eg: cement 15%, sand 10% etc?
- Whether Salaries, Incentives, Brokerage, Remuneration and interest on Working Capital are liable for RCM?

Observation of Tribunal:

- Notification No. 03/2019 makes a distinction between an "ongoing project" and an "other than an ongoing project". As a result, "other than ongoing project" refers to a project that begins on or after April 1, 2019. Therefore, the project undertaken by the applicant does not fall under this definition as claimed by him.
- Tax on the portion of the constructed area shared with the land owner-promoter has to be paid by the applicant as his liability in the capacity of

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developer-promoter and not as a reverse charge mechanism. The landowner-promoter will claim the tax as an ITC.

- The AAR stated that the applicant is liable to pay tax on the reverse charge mechanism under various conditions as a developer-promoter. Firstly, cement for the project must be purchased from a registered supplier only if the total value of supplies received from unregistered suppliers is less than 80%, and the promoter is required to pay 28% GST under reverse charge if the purchase is from an unregistered supplier.
- Secondly, excluding cement, a minimum of 80% of the procurement of inputs and input services used in supplying the real estate project service shall be received from registered suppliers only. For the shortfall from the requirement, 18% GST is payable on the value of the shortfall.
- The adjustment is to be made financial year-wise and not project-wise. Thirdly, in the case of capital goods procured from an unregistered person, the promoter is liable to pay GST under reverse charge.
- Finally, for residential apartments, GST is not payable on TDR, FSI, or payment of an upfront amount for a long-term lease of land if the supply occurs after April 1, 2019, and the residential apartment is sold before completion.
- However, for residential apartments remaining unsold after completion, a proportionate GST is payable on TDS, FSI or long-term lease of land by a developer-promoter under reverse charge.

Decision Held:

The AAR ruled that the initial land and building contract, even if it was entered into through multiple unseverable agreements, constituted a single contract, and as a result, it would be subject to tax at the rate of 0.5% for affordable housing and 2.5% for other housing under CGST and SGST, respectively, without ITC. The construction carried out under the contract will be subject to 9% tax under CGST and SGST, each with ITC, if any other agreement is outside the scope of the original agreement and is severable in respect to the original agreement.

Case Name: M/s. Sri Bhavani Developers TSAAR Order No.38/2022

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