

POLICY WATCH
TAXATION

Draft notification issued to amend audit rules for trusts; seeks more details

ENSECONOMICBUREAU
NEW DELHI, MAY 21

IN A move which will allow the tax department to seek more details from trusts or institutions, the Central Board of Direct Taxes (CBDT) on Tuesday released a draft notification for amending Rule 17B related to audit rules for trusts or institutions.

The draft notification, which has been put in public domain for comments till June 5, includes a new eight page Form 10B as against existing three page form, seeking details like foreign donation received and details of donors to whom certificates are issued for claiming deduction under I-T Act, statute under which trust/institution is constituted, registration under Income-tax Act, object of trust institution, details of income and application of income, registration status under Foreign Contribution (Regulation) Act, (FCRA), 2010 and method of accounting policy along with various other details.

This is the first time in over 45 years that the audit report for trusts/institutions are proposed to be amended. The CBDT, which is the policymaking body for income tax department, said since the existing Rule 17B and Form 10B were notified long ago, there is “a need to rationalise them to align with the requirements of the present times”.

In case of trust/institution with object classified as ‘advancement of any other object of general public utility’, the draft notification seeks details as to whether such activity is in the nature of trade, commerce, business or services in relation thereto for cess, fees etc., details of receipt from such activity. For instances where business undertaking is held as ‘property held under trust’, the proposed form requires extensive details and also filing of audit report in Form 3CA/3CB as applicable.

Tax experts said the various additional disclosure requirements will increase responsibility of auditors as they would

IN PUBLIC DOMAIN

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now be required to certify that the particulars given in the annexure are true and correct.

“With the proposed changes in the tax audit report for charitable trusts, the responsibility of the auditors will increase significantly as there are various additional disclosure requirements in the Annexure to Form 10B. Above all, as per the revised form 10B, now the auditor needs to certify that in his opinion and to the best of the information and according to explanations given, the particulars given in the said Annexure are true and correct. Thus the responsibility of the Assessee as well as the auditor will increase significantly post implementation of these changes,” Prateek Agarwal, partner – Audit & Assurance, Nangia & Co LLP said.

The revised ‘Statement of particulars’ seeks extensive details of the operations of the Trusts, which will ensure that the trust is fully compliant with the applicable processes and procedures. “Considering that this Form was last revised 45 years ago, the details sought in the new form may seem too many, but they justify the needs of the present times. The revised audit form 10B shows the radical shift in the manner in which the tax and regulatory authorities of ‘Digital India’ look at the compliances,” Agarwal said.

“This was long overdue as the audit report format for charitable organisation was kept unchanged for the past many years and over time, the law and jurisprudence in regard to those have evolved to a great extent.” Ashok Maheshwary & Associates LLP Partner Amit Maheshwari said.

DECISION TAKEN AT RBI CENTRAL BOARD MEETING

Reserve Bank set to create a specialised supervisory cadre

GEORGE MATHEW
MUMBAI, MAY 21

THE CENTRAL Board of the Reserve Bank of India (RBI) has decided to create a specialised supervisory and regulatory cadre within the RBI in order to strengthen the supervision and regulation of commercial banks, urban cooperative banks and non-banking financial companies.

The decision, which was taken at the meeting of the Central Board of the RBI in Chennai on Tuesday, follows a series of events including the IL&FS defaults, ICICI Bank loan issue, Punjab National Bank fraud and the liquidity issues in the NBFC sector in the last two years. The board meeting also reviewed the present structure of supervision in RBI in the context of the growing diversity, complexities and interconnectedness within the Indian financial sector.

According to banking sources, mutual funds investments in NBFC debt instruments and promoters pledging of shares and funding of promoters have raised concerns in the wake of the liquidity shortage being faced by some NBFCs and housing finance companies. There were complaints that the RBI was lax in the supervisory functions, especially in timely detection of frauds and poor governance in the banking sector. While the Standing

EXPLAINED

To help manage rise in complexity of regulated entities

THE RBI’S decision to create a specialised supervisory and regulatory cadre is pertinent in light of increasing complexity of the regulated entities such as banks and non-banking financial companies (NBFCs). Cases of recent large frauds at banks and defaults by NBFCs, which roiled the financial markets over the past year, require specialised supervision to ensure that the financial sector remains in good health.

Committee on Finance had last year questioned the RBI for failing to take preemptive action in checking bad loans in the banking system prior to the Asset Quality Review undertaken in December 2015, official sources said the RBI acted quickly and decisively when the bad loan issue cropped up and put 12 banks under the Prompt Corrective Action (PCA).

When Urjit Patel was the Governor of the RBI, the central bank had said in a written letter to the parliamentary panel that its supervisory process does not constitute an audit of banks. With the number of commercial bank branches being more than 1,16,000 in the country it would be impossible to cover each and every branch under the RBI’s su-

pervisory process, the central bank had said. The RBI currently has a Board for Financial Supervision (BFS), with four Directors from the Central Board as members and chaired by the Governor. While the Deputy Governors of the Reserve Bank are ex-officio members, one Deputy Governor, traditionally the Deputy Governor in charge of supervision, is nominated as the Vice-Chairman of the Board.

In April 2018, a sub-committee of the BFS was constituted, which performs the functions and exercises the powers of supervision and inspection under the Reserve Bank of India Act, 1934 and the Banking Regulation Act, 1949. The sub-committee is chaired by the Deputy Governor

in charge of supervision and includes the three Deputy Governors and two Directors of the Central Board as members. The BFS oversees the functioning of Department of Banking Supervision (DBS), Department of Non-Banking Supervision (DNBS) and Department of Co-operative Bank Supervision (DCBS) and gives directions on regulatory and supervisory issues.

Meanwhile, the Central Board reviewed the current economic situation, global and domestic challenges and various areas of operations of the Reserve Bank. Among other important matters, the board discussed the medium term strategy document, covering the mission statement and the vision statement.

Other matters discussed by the Board included, inter-alia, issues related to the currency management and banker to the government functions of the RBI.

The RBI had last week asked non-banking finance companies (NBFCs) with asset size of more than Rs 5,000 crore to appoint a chief risk officer (CRO) with clearly specified role and responsibilities amid growing worries over an “imminent crisis” in the NBFC sector due to credit squeeze, over-leveraging, excessive concentration, massive mismatch between assets and liabilities and misadventures by some large entities like the IL&FS group.

‘Steel industry stares at production disruption in 2020’

A delay in auction of iron ore mines, whose licences are expiring by March next year, could hit steel production significantly in the country, according to a report by rating agency India Ratings

288 mines:

Licences of 288 merchant mines, of which 59 mines are under operations, will expire by March next. Delayed auction could significantly affect output

85 MT

Majority of the under operations 59 blocks are iron ore mines situated in Odisha and Karnataka with around 85 million tonnes of approved annual capacity

60MT

The agency estimates that around 60 million tonnes of the actual production of iron ore from these mines could be disrupted

GENERAL ELECTIONS: Considering that the auction process on an average takes 3 to 6 months to complete, a delay in initiating them until the latter half of 2019 due to the Lok Sabha elections in the country could affect the timely auction of mining lease,” according to the report

₹2.85 TRILLION: Share of outstanding funds credited to the iron and steel sector to the total fund-based banking credit is about 5 per cent i.e. Rs 2.85 trillion (Rs 2.85 lakh crore)



WHY SIGNIFICANT?

It assumes significance as India has set an ambitious target of ramping up its steel production capacity to 300 million tonnes by 2030-31

Sensex plunges 383 points on profit-booking

ENSECONOMICBUREAU
MUMBAI, MAY 21

AFTER THE record-breaking 1,422-point rally on Monday, the benchmark Sensex on Tuesday fell by 383 points and the NSE Nifty shed over 119 points as investors rushed to book profits ahead of the poll counting day.

Opening on a bullish note, the BSE Sensex marked its life-time high of 39,571.73 in the early trade and the NSE Nifty too hit its record high at 11,883.55 in opening deals. However, an intense selling emerged across sectors as the session progressed after market participants sensed that exit polls euphoria over Narendra Modi-led

NDA’s likely win has already been factored in appropriately. The Sensex ended 382.87 points lower at 38,969.80 and the broader NSE Nifty dropped 119.15 points to settle at 11,709.10.

Vinod Nair, head of research, Geojit Financial Services, said, “The market gave up the gains after testing a new high as the positive sentiment on exit polls is gradually priced-in. Pre-election rally may continue if the election verdict comes in tandem with exit polls where quality mid and small caps will out-perform. Additionally, the downside risk in the market is likely to be protected in the near term supported by extension in economic reforms and pick up in earnings. On the other

AFTER 1,422-PTS MONDAY RALLY

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■ However, an intense selling emerged across sectors later

hand, the global peers are trading in a positive note with signs of

ease in trade tensions.”

According to Jayant Manglik, president, Religare Broking, the key focus for market participants throughout this week would be on election outcome (May 23). “The markets are pricing in a clear victory for the NDA government and hence any disappointment on the result day could lead to correction. Going forward in the medium term, notwithstanding the near term rally, we expect the markets to consolidate post the election outcome (even if favourable) as focus would shift back to fundamentals like corporate earnings and global cues which have been volatile due to re-escalation of trade tensions between US and China,” Manglik said.

Auto, telecom, metal, teck and banks were among the top losers. In the Sensex pack, Tata Motors was the biggest loser, dipped 7.05 per cent, a day after the company posted a 49 per cent decline in March quarter profit. Maruti, IndusInd Bank, Bharti Airtel, Mahindra and Mahindra, PowerGrid, State bank of India and Tata Steel lost up to 3.25 per cent. On the other hand, RIL, HUL and Bajaj Finance ended in the green, and rose by up to 1.08 per cent.

Meanwhile, the rupee fell marginally by 2 paise to close at 69.72 against the US dollar. Brent crude, the global benchmark, was trading at 72.01 per barrel, higher by 0.04 per cent.

Jet Airways shares soar 15% on Hinduja stake buy talks



Jet Airways aircraft parked at the Chhatrapati Shivaji Maharaj International Airport in Mumbai. Pradip Das

ENSECONOMICBUREAU
NEW DELHI/MUMBAI, MAY 21

THE HINDUJA Group on Tuesday said it was considering the opportunity to invest in Jet Airways, leading to nearly 15 per cent increase in the airline’s stock price.

“Hinduja Group is evaluating the Jet Airways opportunity,” the group said in response to a query from *The Indian Express* on whether it is planning to put in a bid for the airline. Lenders to the airline had invited binding bids from investors wanting to pick up stake in Jet Airways by May 10.

Sources said Hinduja Group is evaluating investment in partnership UAE-headquartered Etihad Airways, which is already a major shareholder in Jet Airways. “Etihad had reached out to the Hinduja Group to join the bid as an Indian partner. The Hinduja Group is currently evaluating the proposal to pick up stake in Jet Airways. The due diligence is on and once it is completed they will take a call,” a source familiar with the discussions said. Hinduja Group has business interests in automobile, banking, oil and gas and real estate sectors among others.

Etihad, which currently owns 24 per cent of Jet Airways, has already submitted an Expression of Interest to the lenders for increasing stake in the airline. Given the current FDI norms, Etihad can increase its holding in Jet Airways under the automatic route to 49 per cent from 24 per cent now. Beyond this, it would require government approval. The FDI norms in civil aviation allow NRIs to acquire 100 per cent in airlines under the automatic route.

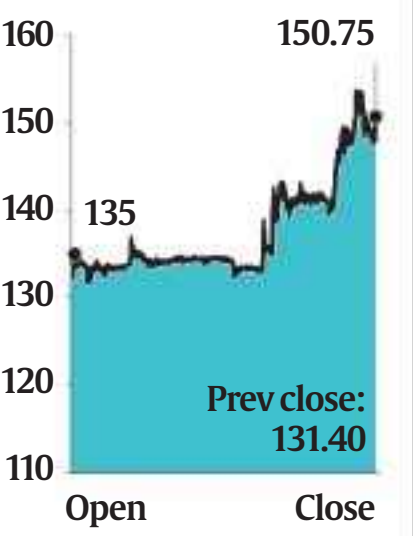
After flying high for almost 25 years, Jet had to temporarily suspend operations on April 17 when lenders, led by State Bank of India, refused Rs 983 crore in emergency interim funding. Jet Airways owed Rs 8,414 crore to lenders as on March 31, 2018. SBI Caps is currently overseeing the sale process on behalf of lenders. Apart from lenders’ dues, the airline owes

“Hinduja Group is evaluating the Jet Airways opportunity”

HINDUJA GROUP

JET AIRWAYS

Intra-day on BSE (₹), May 21



money to operational creditors, aircraft lessors, staff salaries, and refund liability to passengers for ticket cancellations.

The airline’s scrip jumped 14.73 per cent to close at Rs 150.75 on the BSE. After opening at Rs 135 per share, it touched an intra-day high of Rs 154.80. Its shares have ended in the green for the second session in a row on the bourses. On the National Stock Exchange, the airline’s shares ended at Rs 148.40, gaining 12.94 per cent over the previous close. Its shares had touched an intra-day high of Rs 154.80 on the NSE.

After shutting down operations, Jet has been rapidly shedding aircraft in recent weeks, as lessors have repossessed planes due to unpaid lease rentals. The airline also saw departure of its top executives and board members. Robin Kamark, nominee director of Etihad Airways, resigned from the board of Jet Airways with effect from May 16. Last week, Jet Airways CEO Vinay Dube, Deputy CEO and chief financial officer Amit Agarwal and Kuldeep Sharma, company secretary and compliance officer, also quit the company.

TO MINIMISE DISRUPTION FOR CUSTOMERS

US eases curbs on Huawei; founder says clampdown underestimates firm

REUTERS
SHANGHAI/NEW YORK, MAY 21

THE UNITED States has temporarily eased trade restrictions on China’s Huawei to minimise disruption for its customers, a move the founder of the world’s largest telecoms equipment maker said meant little because it was already prepared for US action.

The US Commerce Department blocked Huawei Technologies from buying US goods last week, a major escalation in the trade war between the world’s two top economies, saying the firm was involved in activ-

ities contrary to national security.

The two countries increased import tariffs on each other’s goods over the past two weeks after US President Donald Trump said China had reneged on earlier commitments made during months of negotiations.

On Monday, the Commerce Department granted Huawei a license to buy US goods until August 19 to maintain existing telecoms networks and provide software updates to Huawei smartphones, a move intended to give telecom operators that rely on Huawei time to make other arrangements.

Huawei is still prohibited from

buying American-made hardware and software to make new products without further, hard-to-obtain licenses.

Huawei founder Ren Zhengfei on Tuesday told Chinese state media that the reprieve bore little meaning for the company as it had been making preparations for such a scenario.

“The US government’s actions at the moment underestimate our capabilities,” Ren said in an interview with CCTV, according to a transcript published by the Chinese state broadcaster.

The temporary license suggests changes to Huawei’s supply chain may have immediate, far-



Workers put up the sign for a Huawei store in Huainan, China. Reuters file photo

reaching and unintended consequences for its customers.

The Commerce Department said it will evaluate whether to extend the license period beyond 90 days. Beijing has struck an increasingly defiant tone as the trade war has escalated, saying it will take measures to safeguard the interests of its companies, but has not said whether or how it may retaliate over the US action against Huawei.

Huawei is currently on the receiving end of a US government accusation that it engaged in bank fraud to obtain embargoed US goods and services in Iran and move money via the international

banking system. Huawei has pleaded not guilty.

The trade blacklist has added to its woes, following which Alphabet Inc’s Google suspended some business with Huawei, Reuters reported on Sunday citing a person familiar with the matter, raising worries about the Chinese firm’s smartphones that run on Google’s Android operating system. Monday’s temporary license is likely to allow companies such as Google to continue providing service and support, including software updates or patches, to Huawei smartphones that were available to the public on or before May 16.

“Keeping phones up to date and secure is in everyone’s best interests and this temporary license allows us to continue to provide software updates and security patches to existing models for the next 90 days,” a Google spokesperson told CNBC in an email on Tuesday. The license also allows Huawei to engage in the development of standards for fifth-generation (5G) telecom networks.

Ren said Huawei was at odds with the US government, not US firms, and in a comment that trended on Chinese social media, he praised Apple Inc’s iPhones, saying he gifted the American firm’s devices to family members.