Katalyst Kaleidoscope

June 2018: Tax and Regulatory Highlights

A. Income-tax Highlights

1. Notification re: "Angel Tax" – CBDT Notification dated 24th May 2018

- Section 56(2)(viib) of the Income Tax Act, 1961 ("Act") is triggered when a closely held company receives consideration for issue of shares that exceeds the fair market value of the shares.

- CBDT has notified that the aforementioned section shall not be applicable if the consideration has been received from an investor in accordance with the approval granted by the Inter-Ministerial Board of Certification (i.e. a Board set up by the Department of Industry of Policy and Promotion) to validate startups for granting tax benefits.

Katalyst Comments:

While the notification is a welcome move to foster the startup environment in India as startup funding by investors would usually be at a premium to face value, the real question is whether a tax on equity infusion at a premium should be exposed to potential taxability as deemed income in the first place, notwithstanding whether such company is a startup or otherwise since section 56(2)(viib) was introduced as a measure to prevent generation and circulation of unaccounted money, as explained by the Memorandum explaining the provisions of Finance Act, 2012; share premium should not have been in the scope at all.

2. Determination of Fair Market Value of unquoted equity shares for purpose of Section 56(2)(viib) – CBDT Notification dated 24th May, 2018

- Rule 11UA(2) deals with determination of fair market value of unquoted equity shares for the purpose of Section 56(2)(viib) of the Act. For determining the fair market value of unquoted equity shares, under Rule 11UA(2), the taxpayer has an option to follow either the:
  a) break-up method prescribed in Rule 11UA(2)(a); or
  b) DCF method prescribed in Rule 11UA(2)(b).

- The break-up method is essentially arithmetical, whereas the DCF method of valuation requires a valuation either by a Merchant Banker or a Chartered Accountant. The Rule has been amended to provide that only Merchant Bankers will be qualified to value shares for this purpose and Chartered Accountants will henceforth not be entitled to do such valuation. The above amendment is only with respect to the fresh issue of shares by the company.

Katalyst Comments:

It is gathered that representations have been filed before CBDT seeking reversal of the amendment, which is under consideration of the CBDT.

3. **FRS Hotel Group - Authority for Advance Ruling upholds Permanent Establishment (PE) for Luxembourg hotel company enjoying autonomy over Indian hotel's operations**[1]

- AAR has ruled that an Indian hotel managed and operated by the Applicant (a Luxembourg based group engaged in operation and management of the hotels) would constitute its fixed place PE in India and income from the Indian hotel owner for provision of global reservation services ('GRS') [arising out of Centralised Services Agreement ('CSA')], would be considered as attributable to PE in India. The AAR held the Indian Hotel is completely at the disposal of the Applicant and noted that the Indian Hotel owner had undertaken not to interfere with the exclusive authority of applicant and had bound itself for a specified;

- The applicant filed the application for advance ruling to determine whether payments received by the applicant from the Indian hotel owner for providing GRS would be chargeable as 'FTS' or as 'Royalty' under the Income-tax Act, 1961 or under the India-Luxembourg DTAA. However, the AAR held that the applicant would constitute a fixed place PE in India.

- The AAR rejected the applicant's stand that since the question raised in application is only whether the income from GRS can be taxed as 'FTS' or 'Royalty', AAR cannot adjudicate upon the issue of existence of PE. The AAR cited its duty as per Rule 12 of AAR Procedure Rules, 1996 to look at 'all aspects of the questions set forth' which would enable it to pronounce a ruling.

- The AAR relied on various commentaries and SC ruling in Formula One World Championship Ltd. and noted that a fixed PE is constituted as a result of fulfillment of 3 conditions:
  - existence of fixed place;
  - such place is at the disposal of a non-resident;
  - non-resident carries on its business through such fixed place.

Katalyst Comments:

In the said ruling, the AAR has adjudicated upon the transaction from perspective of substance over form. The AAR has viewed the transaction as a whole and not limited its jurisdiction within the scope of questions asked by the applicant. The ruling has emphasized that the revenue authorities and Indian courts do not want to view a transaction from a narrow perspective, but a broad overall perspective.

[1] Advance Ruling in case of FRS Hotel Group (Lux) S.a.r.l – AAR 1010 of 2010 dated 24th May, 2018

4. **Nokia Network OY – on facts, Indian subsidiary does not constitute a PE in India**[2]

- A three-member bench of Delhi ITAT ruled in favour of Finland-based Nokia Network OY, engaged in manufacturing of advance mobile and fixed telephony equipment and systems. It has held that their Indian subsidiary does not constitute a PE hence, the parent company is not liable to pay taxes on global sales made to Indian entities. The said case was remanded to the ITAT by the jurisdictional High Court.

- The Delhi ITAT examined the concept of fixed place PE in the light of Article 5 of the India-Finland DTAA, and propositions laid down by the Hon'ble Supreme Court of India ('SC') in the Formula One ruling and international lax commentaries. The ITAT observed that according to the Formula One ruling:
  - There should be a fixed place where commercial and economic activity is carried on;
  - Such a fixed place acts as projection of foreign enterprise;
  - PE must have characteristics of stability, productivity and dependence; and
  - Fixed place of business must be at disposal of foreign enterprise.

- However, the three-member bench of ITAT gave this ruling by a majority judgement. There was a dissenting member and as per the dissenting view, the subsidiary could be said to have a business connection with the parent and is liable to pay tax on a portion of global sales. The dissenting member held that the fixed place of business and disposal tests are not relevant for unassociated or indirect PEs.

Katalyst Comments:

The fact that there is a dissenting member, is likely to create significant litigation on similar facts.

5. **Wholly owned Indian subsidiary of Japanese Company constitutes Agency PE in India**[3]

- Daikin Industries, engaged in development, manufacture, assembly and supply of air-conditioners and refrigerators, is a tax resident of Japan and had a wholly owned subsidiary in India, DAIPL. Daikin Industries made certain sales in India through DAIPL whereas certain sales were made directly by Daikin Industries to Indian customers. Daikin Industries paid marketing commission to DAIPL on direct sales and that all the important activities concerning the sales-transactions, such as, negotiating and finalizing prices, payment terms, delivery schedule and other contractual terms with the customers, were settled by it in Japan.

[2] Nokia Networks OY [TS-289-ITAT-2018(DEL)]
[3] Daikin Industries Limited vs. ACIT (ITA No. 1623/Del/2015)

- The Delhi ITAT held that the price charged on direct sales to Indian customers was higher than that charged by DAIPL and in absence of any satisfactory evidence to support the contention that all important sales activities were concluded by Daikin Industries in Japan, it was held that DAIPL constituted a dependent agent PE in India under Article 5 of the India-Japan DTAA.

6. **Oricon Enterprises Limited - "Slump Sale" versus "Slump Exchange": "Slump Exchange" not chargeable to tax as capital gains u/s 50B which only covers "Slump Sale"** [4]

Relying on the decision of the Bombay High Court in the case of Bharat Bijlee Limited [5], the Mumbai ITAT held that issuance of shares cannot be termed as cash and that until and unless money is paid in a transaction, the transaction cannot be termed as "sale" and therefore, cannot consequently be brought to tax as "slump sale", as defined under section 2(42C).

Katalyst Comments:

Prior to introduction of section 50B vide Finance Act, 1999, various judicial precedents had held that sale of an "undertaking" as a whole is not the same as sale of individual assets. Therefore, in absence of cost of acquisition of the undertaking "as a whole", the computation mechanism for computing capital gains arising on sale of such "undertaking" failed and therefore, such transfer should not be taxable as capital gains. This controversy was partly addressed when the provisions of "slump sale" were introduced vide section 50B wherein the difference between the consideration accruing on transfer of an "undertaking" and its net-worth as a result of sale were brought to tax as capital gains. However, section 50B had limited applicability since the transaction sought to be covered was only a "sale" and not "exchange"; the latter of which should not be subject to capital gains in absence of a computation mechanism. In the closing remarks, the Mumbai ITAT also stated that since the facts of the case were peculiar, the said case should not be treated as a precedent. Also, with power of recharacterization of transaction under GAAR, the issue may be looked at from a GAAR lens also.

7. **Maxopp Investment Ltd. - Section 14A triggered even when investments in shares are made with the purpose of acquiring controlling interest in the company and held as 'stock-in-trade' and not to earn dividend**

As per Section 14A, expenditure incurred by taxpayer in relation to income which does not form part of total income as per the provisions of the Act should not be allowed as deduction while computing total income of taxpayer. Investment in shares is considered as one such category.

[4] Oricon Enterprises Limited vs. ACIT (ITA No. 2913/Mum/2015)
[5] 365 ITR 258

The Supreme Court pronounced an important judgement[6] on the applicability of section 14A, in cases where the dominant purpose of the shareholder in acquiring shares was not to earn dividend income, but instead, to obtain control over a company, or to hold the shares as stock-in-trade. The key conclusions of the Apex Court were:

- Disallowance under section 14A of the Act is triggered even in cases where the investments in shares are made with the purpose of acquiring controlling interest in the company and not to earn dividend income. Accordingly, the amount of such expenditure that is attributable to the dividend income must be disallowed.

- Even where the shares are held as 'stock-in-trade' and the dividend income received is incidental to the shares held as stock-in-trade, the earning of such dividend income will trigger the applicability of section 14A of the Act. Therefore, in such cases, the expenditure that is incurred in acquiring such shares will have to be apportioned between taxable and non-taxable income.

- In cases where taxpayers have suo-moto computed disallowance under section 14A of the Act based on some scientific allocation, the Assessing Officer will have to record his satisfaction in rejecting the methodology adopted by the taxpayer before applying the proportionate disallowance provisions under section 14A of the Act.

Katalyst Comments:

The fundamental flaw in section 14A is that investments are made for strategic or capital appreciation reasons, and not for dividend anyway. Also, dividend is economically taxed (due to Dividend Distribution Tax), as was mentioned by the Eshwar Committee. This flaw urgently needs to be amended.

This ruling may have an effect on Indian conglomerates especially since the dominant purpose is for strategic investments is not to earn dividends. In anycase, this decision also paves the way for the tax department to re-open the past cases, wherein the courts ruled in favour of the taxpayer.

A pertinent point to note is that this decision should not impact Indian entities having overseas investments, as dividend received from foreign companies is liable for taxation in India.

B. Foreign Exchange Regulations

1. Introduction of Single Master Form for Reporting of Foreign Direct Investment in India

[6] Maxopp Investment Ltd. v. CIT [2018] 402 ITR 640 (SC)

- RBI had announced in its monetary policy review on 5th April, 2018, that it would introduce a Single Master Form (SMF) to consolidate the reporting of various types of foreign investment in India, in a single form. The RBI has now issued a circular[7] dated 7th June, 2018 in relation thereto. The circular provides for 2 forms i.e. Master Form & SMF

- Master Form:
  - RBI would provide an interface to the Indian entities, to input the data on existing total foreign direct investment received till date. Companies/LLPs/start-ups with already existing Foreign Investment shall report their existing total foreign investments in form Entity Master on the RBI website online during the availability of interface;
  - The interface will be available on RBI website from 28th June, 2018 to 12th July, 2018;
  - Indian entities not complying with this pre-requisite will not be able to receive foreign investment (including indirect foreign investment) and will be non-compliant with Foreign Exchange Management Act, 1999 and regulations made thereunder.

- SMF:

  Foreign direct investment in India is made by persons resident outside India through eligible capital instruments such as Equity Shares, Compulsory Convertible Preference shares, Compulsorily Convertible Debentures and Share Warrants, issued by the investee company or by contributing to the capital of a Limited Liability Partnership (LLP). At present, the reporting of the above transactions resulting in foreign investment are in a disintegrated manner across various platforms/modes depending on the mode or instrument through which the foreign investment is made. The indicative format of the proposed SMF has been prescribed by the RBI and aims to consolidate the existing forms for reporting of:
  - Form FC-GPR - Issue of capital instruments by an Indian company to a person resident outside India
  - Form FC-TRS - Transfer of capital instruments between a person resident outside India and a person resident in India
  - Form LLP-I - FDI in LLP through capital contribution and profit shares
  - Form LLP-II - Disinvestment/ transfer of capital contribution and profit shares in LLP
  - Form ESOP - Issue of ESOPs / sweat equity shares/ shares against exercise of ESOP by an Indian company to an employee resident outside India
  - Form CN - Issue or transfer of convertible notes
  - Form DRR - Issue/transfer of Depository Receipts

[7] RBI/2017-18/194 A.P (DIR Series) Circular No. 30

- Form DI – Reporting of downstream investment (indirect foreign investment) in a company or LLP
- Form InVi - Reporting of investment by a person resident outside India in an Investment vehicle

The SMF has been divided into three sections based on the type of details to be submitted. While the details sought under first and last sections would be common irrespective of the mode or instrument through which the foreign investment is made, details sought under the second section are the specific information pertaining to the mode or instrument through which the foreign investment is made.

Katalyst Comments:

This is an initiative by the RBI to consolidate the reporting forms for FDI in India. It is proposed to reduce the complexities involved in filing the correct forms with regards to FDI in India.

As next immediate steps, the Indian entities which have received FDI in the past should report the data on existing total foreign direct investment received. Considering the consequences that non-reporting of existing investment may also result in being regarded in violation of FEMA, it is advisable that the entities with foreign investment file the Entity Master form on RBI website as soon as possible after the interface opens.

C. Corporate Law Highlights

1. **SCM Solifert Ltd. - Supreme Court (SC) decision - point of time at which notification has to be made to Competition Commission of India (CCI)[8]**

- SCM Soilfert Limited ('SCM') acquired 24.46% on 3rd July, 2013, of Mangalore Fertilizers and Chemicals Limited ('MCFL'), through a number of block and bulk deals on the Bombay Stock Exchange ('First Acquisition').

- Subsequently, SCM acquired 1.7% of the equity share capital of MCFL through open market transactions ('Second Acquisition') and the acquisition of up to 26% of the equity share capital of MCFL through an open offer as per the relevant provisions of the Takeover Regulations, pursuant to a public announcement made on 23rd April, 2014. Notification in this case was made to the CCI on 22nd May, 2014 by SCM.

- The acquiring company (i.e. SCM) took shelter on the basis that the First Acquisition of shares was purely in nature of investment and that would be covered by exception under Entry I of Schedule I of the CCI (Procedure in regard to the transaction of business

[8] Supreme Court of India – SCM Solifert Ltd. Vs. Competition Commission of India – Civil Appeal Nos. 10678 of 2016

relating to combinations) Regulations, 2011. The CCI observed that the exempt categories under Entry I of Schedule I do not include acquisitions that are likely to cause a change in control or are of the nature of strategic acquisitions and rejected the plea that the market purchases were solely for investment.

- However, considering overall circumstances including the overall percentage of shares acquired and relevant disclosures made by SCM to the Stock Exchanges, the SC held that since the acquirers and the target were engaged in similar businesses, the market purchase of equity share capital of MCFL made on a single day by DFPCL through a number of block and bulk deals, not being solely as an investment or in ordinary course of business, ought to have been notified.

2. **Update on Significant Beneficial Ownership (SBO) –Companies (Significant Beneficial Owner) Rules, 2018**

- Who are Significant Beneficial Owners

Type of Entity	Significant Beneficial Owner
Company	SBO is a natural person, who, whether acting alone or together with other natural persons, or through one or more other persons or trusts, holds not less than 10% share capital of the company or who exercises significant influence or control in the company through other means.
Partnership Firm	SBO is a natural person, who, whether acting alone or together with other natural persons, or through one or more other persons or trusts, holds not less than 10% of capital or has entitlement of not less than 10%. of profits of the partnership
If no natural person is identified	SBO is a relevant natural person who holds the position of senior managing official.
Trust	The identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with not less than 10% interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.

- Filing of returns under section 90

Type of Return/Register	To be filed by	Time limit and reason to file
Form No. BEN-I	SBO	Within 90 days of 13th June 2018 (Commencement of these rules) and any new acquisition or change thereafter shall be filed within 30 days.
Form No. BEN-2	Company	Within 30 days of declaration received under BEN-1 above.
Register No. BEN-3	Company	To maintain register of SBO – No time line – to be stated.
Form No. BEN-4	Company	To give notice calling information, if it has reasonable cause to believe to be SBO, having knowledge of SBO, been SBO during any time in last 3 years from the date of issue of notice and not registered as such. The information by notice holder shall be given within 30 days.

D. Recent Schemes of Arrangement

1. **Slump Sale of Non-Core Operations from Tata Power Limited ("Tata Power") to Tata Advanced Systems Limited ("TASL"), a wholly owned subsidiary of Tata Sons Limited ("Tata Sons")**

- **Objective**: Tata Power recently announced hiving off of its "Strategic Engineering Division ("SED")" engaged in the defense business to Tata Advanced System, a wholly owned subsidiary of Tata Sons and a related party of Tata Power

- **Deal Construct**:

  - Under a Scheme of Arrangement u/s 230-232 of the Companies Act, 2013, Tata Power would "slump sale" its SED Undertaking to TASL
  - TASL would pay INR 1040 Cr towards the enterprise value of SED Undertaking (i.e. INR 496 Cr as equity value and INR 544 Cr as liabilities taken over) as upfront cash consideration;
  - Additionally, TASL would pay INR 1190 as an Earnout Consideration based on milestones linked to confirmed orders being received by TASL over various years.

Katalyst Comments:

This is a good example of a scheme which involves a slump sale as well as earnout.

2. **Reverse Merger of Artemis Global Lifesciences Limited ("AGSL") into its step-down wholly owned subsidiary, Artemis Medicare Services Limited ("AMSL") followed by listing of shares of AMSL**

- **Background:**
  - AGSL was listed on the stock exchanges last year pursuant to a demerger from PTL Enterprises, a listed company and one of the promoter entities of Apollo Tyres Limited.
  - Pursuant to the said demerger, Medicare and Healthcare Undertaking of PTL Enterprises which included the shares of AMSL were demerged from PTL Enterprises to AGSL. AMSL houses state-of-the-art hospital.
- **Deal Construct**
  - AGSL would merge under a Scheme of Arrangement u/s 230-232 of the Companies Act, 2013 into AMSL.
  - Pursuant to the said merger, shares held by AGSL held in AMSL would be cancelled and an identical number of shares would be issued to all the shareholders of AGSL.
  - Consequent to the merger, shares of AMSL would be listed on the bourses.

Katalyst Comments:

This is a good example of a scheme under which a listed parent company is merging into its WOS. Upon merger, the shares of the merged entity (i.e. WOS) will get listed.

E. Insolvency and Bankruptcy Law Highlights:

1. **SEBI eases listing obligations for companies undergoing Corporate Insolvency Resolution Process ('CIRP')**

In a relief to companies under the CIRP, SEBI has reduced the compliance burden for such companies under its 'Listing Obligations and Disclosure Requirements'. SEBI vide its notification[9], has made the following changes to the Listing Regulations for companies facing CIRP:

[9] Notification No. SEBI/LAD-NRO/GN/2018/21 dated 31st May, 2018 – SEBI (LODR) (Third Amendment) Regulations, 2018

- Regulation 17 lays down requirements relating to composition of the Board of Directors, number of meetings of Board of Directors, recommendation of fees by them for non-executive directors, information to be placed before them by the chief executive officer and the chief financial officer, etc. But these requirements have not been done away with for companies undergoing CIRP. The role and responsibilities of the Board of Directors will now need to be carried out by resolution professionals.

- Companies under the CIRP no longer need to have an Audit Committee, Nomination and Remuneration Committee, Stakeholders Relationship Committee, and Risk Management Committee. But their responsibilities have now been shifted to resolution professionals.

- Material related party transactions require shareholder approval under the listing regulations. Such related party transactions which are proposed in resolution plans of companies undergoing CIRP, will no longer require shareholder approval. Resolution plans proposing such transactions need to be disclosed to the stock exchanges within one day of being approved by the NCLT.

- If a listed company sells its shareholding in a material subsidiary such that its shareholding falls below 50 percent or it ceases to have control, approval of shareholders is required via a special resolution. This requirement has been done away with for approved resolution plans for companies undergoing CIRP. Similarly, shareholder approval will not be required for resolution plans that envisage leasing/ selling/ disposing of assets of a material subsidiary.

- As per the listing regulations, in case of reclassification of promoters, there are requirements such as shareholder approval etc. All these requirements have been done away with for companies undergoing CIRP only if existing promoter or promoter group seeking reclassification does not remain in control. Information of reclassification and rationale will need to be disclosed to the stock exchanges within one day of the resolution plan being approved.

- As per listing regulations, a no-objection letter is required from stock exchanges before any scheme of arrangement can be placed before courts for approval. Henceforth, the companies under the CIRP will not be required to obtain such approval from stock exchanges.

- In allowing for these relaxations, SEBI has also notified a list of disclosures that listed companies undergoing CIRP will need to make to the stock exchanges. These include information on initiation of insolvency proceedings and default amount, amount claimed by financial creditors, admission or rejection of insolvency application, list of creditors, resolution plans received, and its details.

Katalyst Comments:

These changes are a welcome relief for all the bidders who propose a variety of restructuring proposals in resolution plans. These schemes include reduction of capital, merger, reclassification of share capital, etc., and with this amendment, all such restructurings can be implemented without waiting for any stock exchange approval which otherwise would have resulted in delay in the implementation as well as had added another level of scrutiny and uncertainty in the entire bidding process.

2. **SEBI eases delisting obligations for companies undergoing CIRP**

- SEBI has exempted[10] from delisting regulations companies undergoing CIRP only if the resolution plan:
  - lays down any specific procedure to complete delisting of shares; or
  - provides an exit option to existing public shareholders at a price specified in the resolution plan.

- The exemption will be available to those resolution plans that explicitly mention delisting and all shareholders should exit at the same price. According to the notification, the exit price will be liquidation value minus the dues that need to be paid as per the priority laid down under the insolvency code. The exit to the shareholders should be at a price which shall not be less than the liquidation value as determined under the Insolvency and Bankruptcy Board of India after paying off dues in the order of priority as defined under the insolvency code. It effectively means that equity shareholders will get their dues only after all the dues of the creditors have been paid.

- The notification also provides that if the existing promoters or any other shareholders are given an opportunity to exit at a price, by whatever name called, that is higher than exit price to other shareholders, it will apply to public shareholders as well. If the courts have approved a scheme whereby the principal shareholders (i.e. promoters etc.) are receiving a certain consideration, SEBI is saying the public shareholder should receive the same consideration.

- The intention to delist an insolvent company, along with the justification for exit price, will need to be disclosed to the stock exchanges within one day of the resolution plan being approved by the NCLT.

3. **Amendments to the IBC Law - The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018.**

- The IBC provides for a mechanism whereby companies which have defaulted on their obligations to creditors can be put through a CIRP.

[10] Notification No. SEBI/LAD-NRO/GN/2018/23 dated 31st May, 2018

- The ordinance provides significant relief to home buyers by recognizing their status as financial creditors. This would give them due representation in the Committee of Creditors and make them an integral part of the decision-making process. It will also enable home buyers to invoke CIRP against errant developers.

- The ordinance provides relief for micro, small and medium enterprises (MSMEs). It does not disqualify promoter of an MSME firm from bidding for his enterprise undergoing CIRP, provided he is not a willful defaulter and does not attract other disqualifications not related to default.

- The ordinance allows withdrawal of a resolution application with the approval of 90% members of the committee of creditors. However, the Ministry of Corporate Affairs vide its press release has prescribed certain requirements on the stage upto which such withdrawal will be permitted and other aspects.

- The voting threshold requirement of committee of creditors for all key decisions including approving of a resolution plan (from a prospective applicant) has been reduced from 75 per cent to 66 per cent. This has been done in order to encourage resolution as against liquidation. Further, in order to facilitate the corporate debtor to continue as a going concern during the CIRP, the voting threshold for routine decisions has been reduced to 51%.

- Other notable provisions are as follows:
  - It brings more clarity by laying down mandatory timelines, processes and procedures for CIRP;
  - Address issues pertaining to non-entertainment of late bids and no negotiation with late bidders;
  - Exempts pure play financial entities from being disqualified on account of NPA and NPA acquired under Insolvency Code shall not disqualify an entity for the next 3 years;
  - Successful resolution applicants will get a minimum one-year grace period to fulfill various statutory obligations.

Katalyst Comments:

The above-mentioned changes are expected to further strengthen the Insolvency Resolution Framework in the country and produce better outcomes in terms of resolution as opposed to liquidation, time taken, cost incurred and recovery rate.

F. Indirect Taxes

1. Priority Sector Lending Certificates (PSLC) and Renewable Energy Certificates (RECs) [11] attract GST at the rate of 12%.

2. It has been clarified by the Government that Integrated Goods and Services Tax ('IGST') shall be levied and collected at the time of final clearance of the warehoused goods for home consumption[12]. In other words, the supply of goods before their clearance from the warehouse would not be subject to the levy of IGST.

3. In case of servicing of cars involving supply of goods and services (labour), where value of goods and services are shown separately, the separate rates of goods and services are applicable for GST purpose[13].

4. Maharashtra Authority of Advance rulings[14] has clarified that accumulated credit of Krishi Kalyan Cess ('KKC') as appeared in the service tax return of Input Service Distributor ('ISD') on June 30, 2017 which is carried forward in the electronic ledger under the CGST Act, 2017, will not be considered as admissible input-tax credit.

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[11] Circular no. 46/20/2018-GST dated June 6, 2018
[12] Circular no.3/1/2018-IGST dated May 25, 2018
[13] Circular No. 47/21/2018-GST dated June 8, 2018
[14] Kansai Nerolac Paints Limited, [TS-146-AAR-2018-NT] Order No. GST-ARA-18/2017-18/B-25 Mumbai