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I. CHART OF FORTHCOMING DUE DATES: -

a) GST

Month	GSTR -1 Monthly	GSTR -3B
Jan 2019	11 th	20 th

b) Others

Month	TDS Payment	ESIC Payment	P.F. Payment	PT Return*	TDS Quarterly Statement
Jan 2019	7 th	15 th	15 th	31 st	31 st

* Applicable only in case of monthly return

II. OVERVIEW:

o SIGNIFICANT BENEFICIAL OWNERS - AN ANALYSIS

Who is a Significant Beneficial Owner (SBO)?

Rule 2(e) of the Companies (Significant Beneficial Owners) Rules, 2018:

SBO - An Individual referred to in Section 90(1) read with Section 89(10) holding ultimate Beneficial Interest of not less than 10%

90(1) : Significant Beneficial Owner is:

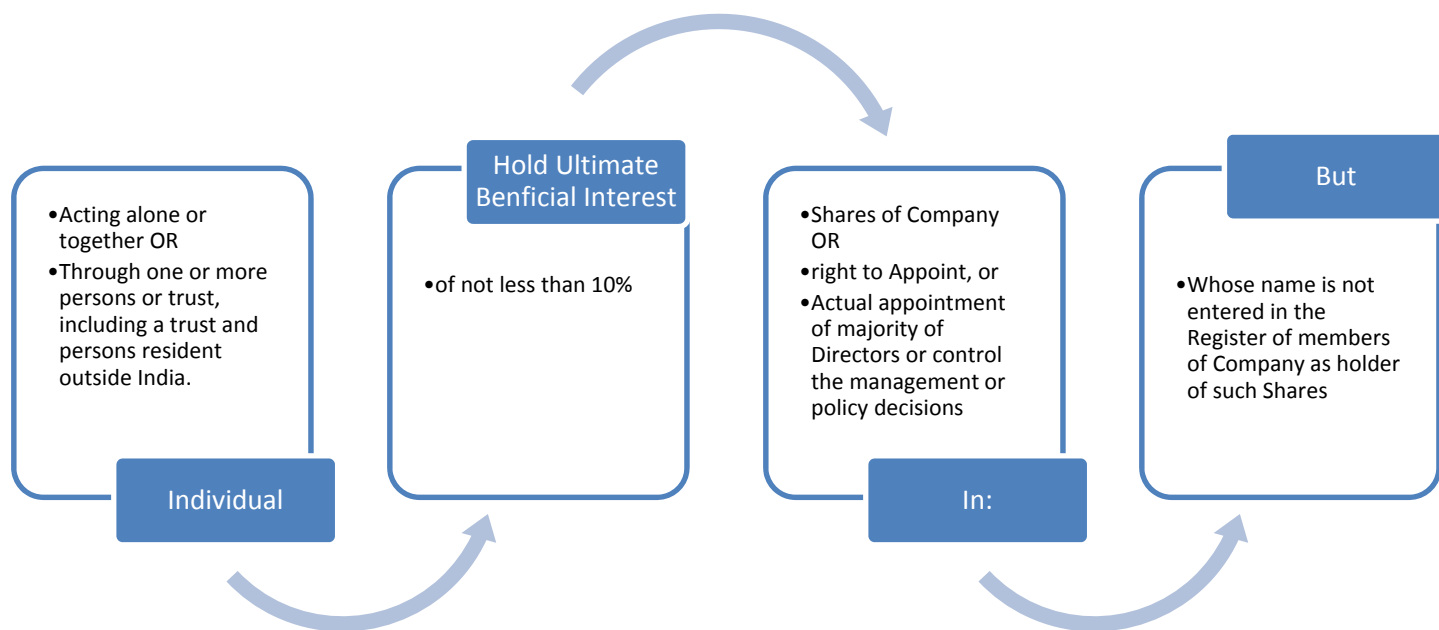
- Every individual, acting alone or together or through one or more persons or trust, including a trust and persons resident outside India
- Holding **beneficial interest** of not less than 25% or such other % as prescribed in the Companies (Significant Beneficial Owners) Rules, 2018 (i.e. 10%)
- In shares of a Company or the right to exercise, or the actual exercising of significant influence or control (i.e. right to appoint majority of Directors or to control the management or policy decisions) over the Company

89(10): Beneficial Interest in a share includes:

Directly/indirectly, through any contract, arrangement / otherwise the right/entitlement of a person alone or together with any person to :

- exercise / cause to be exercised any or all of the rights attached to such shares; or
- Receive or participate in any dividend or other distribution in respect of such share

Thus in simpler terms, a Significant Beneficial Owner is



Compliances

As per the Companies (Significant Beneficial Owners) Rules, 2018 following compliances are required to be done:

What is to be done	By whom	To whom	When	Within what time	Form no.
File Declaration	Every Significant Beneficial Owner	The Company	Before Commencement of the Rules	Within 90 Days from such commencement & Within 30 days in case of change of Significant Beneficial Ownership	BEN - 1

			After Commencement of the Rules	Within 30 Days of acquiring such Significant Beneficial Ownership OR in case of change in such Ownership	
File Return of Significant Beneficial Owner in shares	The Company receiving declaration in BEN-1	The Registrar	After receipt of Declaration in BEN-1	Within 30 days from the date of receipt of declaration by the Company	BEN - 2
Maintain Register of Significant Beneficial Owners	The Company	-			BEN - 3

As per Section 90(5), if a Company knows or has reasonable cause to believe that a person:

- Is a significant beneficial owner of the Company
- Having knowledge of the identity of the Significant Beneficial Owner or another person likely to have such knowledge; or
- Has been a significant Beneficial Owner of the Company at any time during the immediately preceding 3 years; then

The Company shall give Notice seeking information in Form No. BEN - 4

Non-Applicability

The Companies (Significant Beneficial Owners), 2018 is not applicable to holding of shares of Companies / Body Corporates by :

- Mutual Funds
- Alternative Investment Funds (AIFs)
- Real Estate Investment Trusts (REITs)
- Infrastructure Investment Trusts (InvITs)

III. INCOME TAX:

o Taxation of Bonds and Debentures

The Taxability on the Profit made on sale of Investment generally referred to as Capital Asset under the Income tax laws will be depending on the holding period of such asset. The assets are classified as either Long-term or short term depending on the holding period prescribed for the different class of assets ranging from 12 months to 36 months.

The qualifying holding period for debentures and bonds varies depending on whether the same are listed or not.

Basis for Classification as Short Term or Long Term

- Any profit on sale/redemption of Bonds and Debentures will become taxable as **long-term** if the same have been held for **more than 36 months** on the date of such sale/redemption.
- Any profit on sale/redemption of Bonds and Debentures will become taxable as **Short-term** if the same have been held for **less than 36 months** on the date of such sale/redemption
For Listed Bonds and Debentures, the qualifying period is 12 months instead of 36 months.

Tax Rates on short term profits and long-term profits

Type of Security	Holding period to qualify as a Long-term asset	Taxability of LTCG	Taxability of STCG
Listed Debentures and Bonds	More than 12 Months	Gains shall be taxed @ 10% without indexation	Gains shall be taxed as per normal slab rates.
Unlisted Debentures and Bonds	More than 36 Months	Gains shall be taxed @ 20% without indexation	Gains shall be taxed as per normal slab rates.

Tax exemptions available in respect of long-term capital gains arising on bonds

The exemption on Long Term Capital gains tax under Section 54F can be availed by investing the net sale proceeds in buying a residential house subject to fulfillment of certain conditions.

This exemption provision will benefit only in case the amount of sale / redemption proceeds are substantial as investment in house requires substantial sum of money.

o Non-applicability of Section 50B

Section 50B of the Income Tax Act, 1961 deals with the Computation of capital gains in case of Slump Sale.

Section 2(42C) of the Income Tax Act defines Slump Sale as:



“Undertaking” shall include any part of an undertaking or a unit or division of an undertaking or a Business activity taken as whole, but does not include individual assets or liabilities or any combination thereof not constituting a business activity

However, the provisions of Section 50B are not applicable in case of Slump Exchange.

In **Bennet Coleman & Co. Ltd. v. ACIT** & vice versa, one of the issue raised by the assessee Company was against the upholding of order of assessing officer by Commissioner (Appeals) on the issue of transfer of Planet M. division of the Company in consideration of equity shares and 6% redeemable unsecured debentures being slump sale and therefore liable for tax under Section 50B of the Act.

Plea of the Applicant

In the opinion of the assessee, the transaction of hiving off the business of Planet M division was not a “Sale” but is an “Exchange.” The same not being a sale therefore did not fall within the definition of “Slump Sale” under section 2(42C) of the Act.

As per the Order of the ITAT Mumbai in the above-mentioned case, it was held that the Planet M Division transferred by the assessee as on a going concern basis where no cost of acquisition is possible to be attributed individual assets in that undertaking and therefore the charging of provision of section 45 are not attracted. It was further held that the provisions of section 50B were not applicable to this case as it is a case of slump exchange and not a slump sale. The order of commissioner (Appeals) was set aside

IV. GOODS & SERVICE TAX

o Updates of the 32nd GST Council Meet:

- Limit of Annual Turnover (of preceding financial year) for availing #*Composition* scheme for suppliers of goods to be increased from Rs. 1 Crore to Rs. 1.5 Crore
- For Suppliers of Services and mixed , Composition scheme to be made available for Suppliers with Turnover upto Rs. 50 Lakhs in preceding financial year. The rate applicable shall be 6% (3% CGST & 3% SGST)
- From 1st April, 2019, the GST exemption threshold to be raised from Rs. 20 Lakhs to Rs. 40 Lakhs. However, there is no change in the threshold for Supplier of Services.
- A Cess @1% (Calamity Cess) shall be levied for a period upto 2 years on all intra-state supplies of Goods and Services within the State of Kerala.
- Free Accounting and Billing Software shall be provided to **Small Taxpayers* by GSTN
- A seven member group of ministers to be setup to examine the proposal for Composition Scheme for real estate sector and to look at the tax rate structure of lotteries.

#composition levy is an alternative method of levy of tax designed for small taxpayer. it is optional and the eligible person opting to pay tax under this scheme can pay tax at a prescribed percentage.

**Small Taxpayers – Whose turnover is upto Rs. 5 Crores in the last Financial year.*

o In Principle approval for Law Amendments during the 31st GST Council meet:

- Creation of Centralized Appellate Authority for Advance Ruling to deal with cases of conflicting decisions by two or more State Appellate Advance Ruling Authorities on the same issue.
- Amendment of Section 50 of the CGST Act to provide that interest to be levied only on the net tax liability of the taxpayer, after taking into account the admissible Input Tax Credit.

The above recommendations of the Council shall be effective only after necessary amendments in the GST Acts are carried out.

o Waiver of late fees for filing GSTR-3B

Amount of late fee payable by any registered person under Section 47 of the CGST Act for failure to furnish the return in Form GSTR-3B for the month of July 2017 onwards shall stand waived which is in excess of an amount of Rs. 25 for every day during which such failure continues.

AND

Where total amount of Central Tax Payable in the said return is NIL, the amount of late fee payable by such registered person for failure to furnish the said return for the month of July'17 onwards by the due date under Section 47 of the said Act shall stand waived to the extent which is in excess of an amount of Rs. 10 for every day during which such failure continues.

Condition:

The late fees as mentioned above shall stand waived only if, the said returns are furnished between the period from 22nd December, 2018 to 31st March, 2019.

V. COMPANIES ACT

o Dematerialization of Shares

What is Dematerialization?

Dematerialization (Demat) is a process by which a client can get physical certificates converted to an equivalent number of securities in electronic form. The physical shares can be dematerialized in the demat account in the name(s) of shareholders holding physical shares

Parties Involved in the Process Of Dematerialization:

- Issuer Company
- Depository
- Depository Participant
- Registrar and Transfer Agent
- Shareholder

Depositories in India

- National Securities Depository Limited (NSDL)
- Central Depository Services Limited (CDSL)

Process to Be Followed By Private Companies To Demat The Shares:

- Articles of Association of a Company should provide for issuance of shares in Demat form (if not, then Articles is to be amended)
- Arrange Demat connectivity from Depositories like NSDL or CDSL along with a Registrar and Transfer Agent (RTA) by entering into a tripartite agreement between the Company, the Depository and the Registrar and Transfer Agent (RTA)
- Before converting physical shares into dematerialized form, a company is required to register with the Depository as an issuer. If registration is successful, depositories will be providing the Company with an International Securities Identification Number (ISIN*) for each of the shares.
- Shareholders of a registered Company are required to open an account with any of the DPs in India by signing an agreement which defines the rights and duties of the DP and the shareholder wishing to open the account.
- After opening an account with the DP, a shareholder should surrender the physical certificates held in his name to the DP. These certificates will be sent to the respective companies where they will be cancelled after dematerialization and the respective shareholder's account maintained with the DP will be credited.

*ISIN is a unique 23 digit alphanumeric identification number allotted for a Security.

Time:

- The process of dematerialization takes about **15-30 Days** after submission of dematerialization request.

Fees

- At NSDL, the joining fees for Companies to register as issuer is Rs. 30,000/- (plus taxes) (one time fees)
- AT CDSL, a non-refundable processing fees of Rs. 20,000 (plus taxes) for listed Companies and for Unlisted the processing fees shall be Rs. 15,000 (plus taxes)

Annual Custody Fees at NSDL and CDSL:

Greater of :

- Rs. 111 per folio (ISIN position) in the Depository OR
- Nominal value of admitted securities as per below:

Nominal Value of admitted securities (INR)	Annual Custodial fees payable by an Issuer to the Depository (INR)
Upto 5 Crore	9,000
Above 5 Crore and upto 10 Crore	22,500
Above 10 Crore and upto 20 Crore	45,000
Above 20 Crore	75,000

VI. Insolvency and Bankruptcy Code

o The Insolvency and Bankruptcy Code, the journey so far

Before the Insolvency and Bankruptcy Code, 2016 there was no special law to regulate the Insolvency and bankruptcy in India. The Presidency Towns Insolvency Act, 1909 and Provisional Insolvency Act, 1920, Companies Act, 2013, Sick Industrial Companies (Special Provisions) Repeal Act, 2013, Limited Liability Partnership Act, 2008, Secularization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and, Indian Partnership Act, 1932 regulated the matter of Insolvency and Bankruptcy of Individual and Corporate person.

Insolvency and Bankruptcy code, 2016 is a consolidate enactment of various code and has been in force for two years till date.

Since its inception, there has been a definite improvement in the lending and borrowing behavior, an increase in the conversion of NPAs into standard accounts and decline in new accounts are a testimony to this fact.

So far, 1322 cases have been admitted by NCLT, 4452 cases have been disposed at pre-admission stage and 66 have been resolved after adjudication and 260 cases have been ordered for liquidation as noted by the Finance Minister of India.

Challenges faced:

- There are still few challenges that still remain. Inadequate infrastructure and failure of authorities to stick to time line under the IBC and cross litigation in form of numerous applications to NCLT, remain the prime concern.
- One of the issues under this law is also that the Insolvency Resolution Plan under the law relies on the vote of financial creditors, whose interest in the firm may not go beyond the recovery of their own claims. As such they are likely to prefer selling off firm's assets to cut their losses rather than evaluate the risk of letting the company run its operations

In short period of time that the Insolvency Code has been in force, both the NCLT and the NCLAT have adapted admirably to new legal concepts and strict procedural timelines. This must continue, as an efficient judicial process is also critical in protecting the going concern value of distressed Companies.

VII. RBI

o Foreign Exchange Management (Borrowing and Lending) Regulations, 2018

The Reserve Bank of India vide its Notification no. FEMA.3(R)/2018-RB dated 17th December, 2018 notified the Foreign Exchange Management (Borrowing and Lending) Regulations, 2018.

Scope of regulations:

Nature of person	Borrowing	Lending
By Authorized Dealer (AD)	In Foreign exchange and INR	In Foreign exchange and INR
By AD's branch outside India	In Foreign Exchange	In Foreign Exchange
By Persons other than AD	In Foreign exchange and INR	In Foreign exchange and INR

The 2018 Regulations also deals with manner of continuation of loan in the event of change in the residential status of the lender/borrower

WHO	WHAT	FROM WHERE	CONDITIONS
Financial Institutions	Foreign Exchange Borrowings OR Rupee denominated borrowings	From Outside India	Prior approval of Government of India for onward lending
Individual resident in India, studying abroad	Foreign Exchange Borrowings not exceeding USD 2,50,000/- or its equivalent from their relatives outside India	From Outside India	Subject to terms and conditions as specified by RBI
A person resident in India (not a Company incorporated in India)	Rupee denominated borrowings from NRI / Relatives who are OCI cardholders outside India	From Outside India	Subject to terms and conditions as specified by RBI
Eligible resident entities	Rupee denominated ECB	From Outside India	In accordance with provisions contained in Schedule I
Registered NBFC / Registered Housing	Lending in INR	From India	Only for providing Housing loan or

Finance Institution / any other Financial Institution in India as may be specified by RBI			Vehicle Loan to NRI / OCI Cardholder subject to such terms and conditions as prescribed by RBI
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Continuation of loan in the event of change in residential status of the lender from resident to non resident

In case a loan was granted by a resident individual to another resident individual and the lender subsequently becomes a non-resident, the repayment of the loan by the resident borrower should be made by credit to the NRO account or any other account of the lender maintained with a bank in India as specified by the Reserve Bank from time to time, at the option of the lender.

Continuation of loan in the event of change in residential status of the lender from non-resident to resident

In case a loan was granted by a NRI/OCI Cardholder to a person resident in India in accordance with the provisions contained in these regulations and the lender subsequently becomes a resident, the repayment of the loan may be made to the designated account of the lender maintained with a bank in India as specified by the Reserve Bank from time to time, at the option of the lender.

Continuation of loan in the event of change in residential status of the borrower from non-resident to resident

A resident individual will be permitted to service loans taken overseas earlier as a person resident outside India subject to terms and conditions and limit as specified by the Reserve Bank from time to time.

Disclaimer:

The issues of concern raised, conclusions reached, and views expressed in the presentation are matters of opinion. Our opinion is based on our understanding of the law and regulations prevailing as of the date of this Note and our experience with the tax and / or regulatory authorities. However, there can be no assurance that the tax authorities or regulators may not take a position contrary to our views. Legislation, its judicial interpretation and the policies of the tax and / or regulatory authorities are also subject to change from time to time, and these may have a bearing on the advice that we have given. Accordingly, any change or amendment in the law or relevant regulations would necessitate a review of our comments and recommendations contained in this Note. Unless specifically requested, we have no responsibility to carry out any review of our comments for changes in laws or regulations occurring after the date of issue of this Note. This presentation is prepared exclusively for knowledge upgradation of members of SUFI and not for solicitation of any assignment. This presentation may not be distributed or otherwise made available to other parties without our consent. Umesh P Gosar & Associates, its promoters, employees and or agents, neither owe nor accept any duty of care or any responsibility to any other party, whether in contract or in tort (including without limitation, negligence or breach of statutory duty) however arising, and shall not be liable in respect of any loss, damage or expenses of whatever nature which is caused to any other party.

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