



Corporate and commercial

The Constitution (One Hundred And First Amendment) Act, 2016

The Ministry of Law and Justice, Government of India, has through the gazette notification dated September 8, 2016 notified the Constitution (One Hundred and First Amendment) Act, 2016, pursuant to which Articles 246A, 269A and 279A have been inserted and Articles 248, 249, 250, 268, 268A, 269, 270, 271, 286, 366, 368 and the Sixth Schedule in the Constitution of India have been amended. The amendments include the provisions related to Goods and Services Tax (GST). The legislation amending the Constitution of India to enable GST was signed by the Hon'ble President of India, Shri Pranab Mukherjee, on September 8, 2016, post the ratification of the bill by the Parliament and by more than fifty (50) per cent State Assemblies. This is a significant milestone towards the implementation of GST as it sets the stage for the formation of the GST Council. The GST Council will be headed by the Union Finance Minister and will have State Finance Ministers as its members. The GST Council will decide on the tax rate, cess and surcharges which are to be subsumed and will also decide on the goods and services which would be exempted from the purview of the new indirect tax regime.

Cabinet approval for simplification and liberalisation of the Foreign Direct Investment Policy, 2016 (FDI Policy)

The Union Cabinet chaired by the Hon'ble Prime Minister, Shri Narendra Modi, has given its ex-post-facto approval for the FDI Policy amendments announced by the Government on 20th June, 2016. The amendments, which were aimed at further simplifying the regulations governing foreign direct investment (FDI) in the country, relates to various sectors, including defence, broadcasting and carriage services, pharmaceuticals, civil aviation, private security agencies, animal husbandry and single brand retail trading. The changes introduced in the FDI Policy included increase in sectoral caps, bringing more activities under automatic route and easing of conditionalities for foreign investment. Pursuant to these changes most of the sectors have now been brought under automatic route for FDI, thereby making India one of the most open economies.

The Companies (Share Capital and Debentures) Fourth Amendment Rules, 2016

On August 3, 2016, the Ministry of Corporate Affairs ("MCA") issued a circular wherein it was clarified that unless otherwise provided in the circular/ directions/ regulations issued by the Reserve Bank of India ("RBI"), provisions of Chapter III of the Companies Act, 2013 ("Act") and Rule 18 of the Companies (Share Capital and Debenture) Rules, 2014 would not apply to issue of rupee denominated bonds made exclusively to persons resident outside India in accordance with the applicable sectoral regulatory provisions.

Pursuant to the circular, the MCA has now issued the Companies (Share Capital and Debenture) Fourth Amendment Rules, 2016 on August 12, 2016, thereby including the aforesaid amendments in the rules. The amendment to the rules clarifies that nothing contained in this rule shall apply to rupee denominated bonds issued exclusively to overseas investors in terms of A.P. (DIR Series) Circular No. 17 dated September 29, 2015 of the Reserve Bank of India. As a consequence, Indian companies issuing rupee denominated bonds overseas under the RBI policy on external commercial borrowings will not be required to comply with the public issue and private placement disclosure and other norms under Chapter III of the Act.