24th September 2015

TO ALL MEMBERS:

Government Decided to Amend Income-Tax Act 1961

Government decides to amend Income-Tax Act 1961 so that with effect from 1st April, 2001, the provisions of Section 115JB shall not be applicable to a foreign company if the foreign company is a resident of a country having DTAA with India and such foreign company does not have a permanent establishment within the definition of the term in the relevant DTAA.

Or the foreign company is a resident of a country which does not have a DTAA with India and such foreign company is not required to seek registration under Section 592 of the Companies Act 1956 or Section 380 of the Companies Act 2013.

After due consideration of the various aspects of the matter, the Government of **India has decided that with effect from 01.04.2001, the provisions of Section 115JB shall not be applicable to a foreign company if —**

- **the foreign company is a resident of a country having DTAA with India and such foreign company does not have a permanent establishment within the definition of the term in the relevant DTAA, or**

- **the foreign company is a resident of a country which does not have a DTAA with India and such foreign company is not required to seek registration under Section 592 of the Companies Act 1956 or Section 380 of the Companies Act 2013.**

An appropriate amendment to the Income-tax Act in this regard will be carried out.

Earlier, the issues relating to taxation of foreign companies, having no permanent establishment in India, have been under consideration of the Government. In this regard, the Government has already clarified the inapplicability of MAT provisions to FIIs/FPIs.

The Government has now considered the issue of applicability of MAT under Section 115JB of the Income-tax Act to foreign companies having no place of business/permanent establishment in India.

This is for information of the members.

Eapen Kalapurakal
Secretary