

**N. D. KAPUR & CO.
CHARTERED ACCOUNTANTS**

Monthly Updates

FEBRUARY 2025

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(I) CORPORATE LAW

MCA extends deadline for Mandatory Dematerialization of Securities for Private Companies

The Ministry of Corporate Affairs (MCA) has notified the Companies (Prospectus and Allotment of Securities) Amendment Rules, 2025 (“Amendment to Allotment Rules”) through G.S.R. 131(E) dated 12.02.2025, amending Rule 9B(2) of the Companies (Prospectus and Allotment of Securities) Rules, 2014 (“**Allotment Rules**”).

The Amendment to Allotment Rules provides additional time to certain private companies for complying with dematerialization requirements prescribed under Rule 9(B) of the Allotment Rules. A private company, except a Producer company, which was not a small company as of 31.03.2023, is now allowed to comply with Rule 9B(2) of the Allotment Rules by 30.06.2025. This provides an extension for non-small private companies to transition to dematerialization of securities in line with regulatory requirements.

The amendment is effective immediately from the date of publication in the Official Gazette.

(II) INDIRECT TAXATION

POWER OF ARREST UNDER THE CUSTOMS ACT AND GST ACT

The Supreme Court judgment in *Radhika Agarwal v. Union of India (2025 INSC 272)* addresses the legal controversy surrounding the power of arrest under the Customs Act, 1962, and the Central Goods and Services Tax (GST) Act, 2017. The case stems from the decision in *Om Prakash v. Union of India (2011)*, which held that offenses under the Customs and Excise Acts were non-cognizable and bailable, requiring a warrant for arrest. The Court noted that subsequent amendments in 2012, 2013, and 2019 modified this position by classifying certain offenses as cognizable and non-bailable, effectively overriding *Om Prakash*. The judgment reaffirms that Customs officers are not police officers, and their powers remain distinct. It applies principles from *Arvind Kejriwal v. Directorate of Enforcement (2025)* regarding procedural safeguards in arrests, requiring Customs and GST authorities to record "reasons to believe" before making arrests, provide written grounds of arrest, and comply with procedural protections under CrPC. The Court also reviewed GST-related arrests under Section 69 and 132 of the GST Act, reiterating that arrest powers must be exercised cautiously and cannot be used for tax recovery. The Court upheld the constitutional validity of the Customs and GST provisions on arrests, rejecting claims that they violated fundamental rights but emphasized the need for strict procedural compliance and judicial oversight to prevent abuse.

ADVISORY ON E-WAY BILL GENERATION FOR GOODS UNDER CHAPTER 71

Rule 138(14) of the Central Goods and Services Tax (CGST) Rules, 2017, read with its Annexure S. Nos. 4 and 5, states that goods covered under Chapter 71 viz., Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal, Jewellery, goldsmiths', and silversmiths' articles, except those classified under HSN 7117(Imitation Jewellery), are exempt from the mandatory requirement of generating an E-Way Bill.

Pursuant to the introduction of the E-Way Bill (EWB) for goods classified under Chapter 71, excluding HSN 7117 (Imitation Jewellery), in the state of Kerala for intra-state movement, the National Informatics Centre (NIC) has provided an option to generate EWBs for goods covered under Chapter 71 except 7117 under the category "EWB for Gold" on the EWB portal.

It has been observed that various industry stakeholders have voluntarily been generating EWBs for goods under Chapter 71 due to the availability of this option in the EWB system. In this regard, it is clarified that while the system previously allowed EWB generation for goods under Chapter 71, this facility has now been withdrawn.

Accordingly, taxpayers and transporters engaged in the movement of goods under Chapter 71 (except HSN 7117) are advised that EWB generation is not required. However, it may be noted that for the intrastate movement of such goods within the state of Kerala, the generation of an EWB has been mandated vide Notification No.10/24-State Tax dated 27/12/24 issued by the state of Kerala. An advisory dated 27.01.2025 has already been issued in this regard.

ADVISORY FOR BIOMETRIC-BASED AADHAAR AUTHENTICATION AND DOCUMENT VERIFICATION FOR GST REGISTRATION

With effect from 08.02.2025, the Biometric based Aadhaar Authentication has been rolled out in state of Maharashtra and Lakshadweep.

With effect from 18.02.2025, the Biometric based Aadhaar Authentication has been rolled out in state of Jharkhand and Andaman and Nicobar Islands.

ADVISORY FOR GST REGISTRATION PROCESS (RULE 8 OF CGST RULES, 2017)

In line with recent developments in the GST registration process, applicants must adhere to the following steps as per Rule 8 of the CGST Rules, 2017:

1) Applicants Not Opting for Aadhaar Authentication:

- If you choose not to authenticate via Aadhaar, you must visit the designated GST Suvidha Kendra (GSK) for photo capturing and document verification.
- Upon selecting "NO" for Aadhaar authentication, an email will be sent with GSK details and required documents.
- You can schedule an appointment via a link in the email. An appointment confirmation will follow through mail.
- Visit the GSK at the scheduled time for photo capturing, document verification.

2) Applicants Opting for Aadhaar Authentication and application identified for Biometric Authentication:

- Promoters/Partners opting for Aadhaar authentication should first visit the GSK for biometric authentication and photo capturing, followed by the Primary Authorized Signatory (PAS).
- Promoters/Partners opting for Aadhaar authentication must visit the GSK for photo capturing and biometric authentication. The Primary Authorized Signatory (PAS) is required to carry the documents listed in the intimation email for verification at the GSK. Additionally, the PAS must undergo photo capturing and biometric authentication at the GSK as part of the process.
- If a Promoter/Partner has already been biometric verified in any State/UT during a previous registration, they will not need to visit the GSK again for photo capturing, biometric authentication, or document verification for any other entity where they act as Promoter/Partner. However, if she/he becomes the PAS of the entity, only document verification at the GSK will be required.
- In case PAS has already been biometric verified in any State/UT during a previous registration, she/he will need to visit the GSK only for document verification.

- If the Promoter/Partner and PAS are the same individual, she/he must visit the GSK for photo capturing, biometric authentication, and document verification. If already biometric verified in the past, only document verification at the GSK is required.

3) Non-Generation of Application Reference Number (ARN):

- **For applicants opted Aadhaar-authentication and application identified for Biometric Authentication:** If any of the Promoter/Partner or PAS fails to visit the GSK or biometric authentication fails or document verification is not completed within 15 days of submitting Part B of REG-01, the ARN will not be generated. Ensure that your Aadhaar details (name, date of birth, gender) are accurate to avoid authentication failures. If any discrepancies occur, update Aadhaar and visit the GSK within 15 days.

For non-Aadhaar applicants: If photo capturing or document verification is not completed within 15 days, the ARN will not be generated.

(II) DIRECT TAXATION

INCOME TAX BILL, 2025

CBDT NOTIFIES CIRCULAR ON TDS FOR SALARIES; CIRCULAR 24/2022 REMAINS APPLICABLE FOR FY 2024-25

The CBDT has issued a new circular incorporating amendments from the Finance (No.2) Act 2024, Finance (No.1) Act 2024, and Finance Act 2023 in respect to the deduction of TDS on salaries. The board also clarified that Circular No. 24/2022 remains applicable for FY 2024-25, where no changes were made regarding other salaries-related provisions.

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