

Pl. issue A & I  
26/5/17.

S.No. 8(I)

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By Special Messenger

## ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi - 110001

No. 76/PPEMS/Transparency/2017/10

Dated: 26<sup>th</sup> May, 2017

To

The Secretary,  
Legislative Department,  
Ministry of Law and Justice,  
Shastri Bhawan,  
New Delhi.

Subject: Amendments in the Finance Act 2017

Sir,

I am directed to draw your attention to the Finance Act 2017, which has introduced certain amendments in the Income Tax Act, the Representation of the People Act 1951 and the Companies Act, 2013 and will have serious impact on Transparency aspect of political finance/funding of political parties.

### 2. Representation of the People Act:

2(i) The amendment in Section 29C of the Representation of the People Act, 1951, inserts a new proviso and explanation to sub-section (1), which read as follows-

*"Provided that nothing contained in this sub-section shall apply to the contributions received by way of an electoral bond.*

*Explanation - For the purposes of this sub-section, "electoral bond" means a bond referred to in the Explanation to sub-section (3) of Section 31 of the Reserve Bank of India Act, 1934."*

2(ii) It is evident from the Amendment which has been made, that any donation received by a political party through an electoral bond has been taken out of the ambit of reporting under the Contribution Report as prescribed under Section 29C of the Representation of the People Act, 1951 and therefore, this is a retrograde step

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as far as transparency of donations is concerned and this proviso needs to be withdrawn.

**2(iii)** Moreover, in a situation where contributions received through Electoral Bonds are not reported, on perusal of the Contribution reports of the political parties, it cannot be ascertained whether the political party has taken any donation in violation of provisions under Section 29B of the Representation of the People Act, 1951, which prohibits the political parties from taking donations from Government Companies and Foreign sources.

**3. Income-tax Act, 1961:** An amendment has been made in Sec. 13A of the Income Tax Act, whereby, no donation exceeding Rs.2,000 can be received by a political party otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through electoral bond. However, the limit for receipt of anonymous donations by political parties still remains at Rs.20,000 in Sec.29C of the RP Act, 1951. The RP Act needs to be Amended to reduce the limit of anonymous/cash donations to Rs.2,000 so as to bring these two Acts in consonance with each other.

**4(i) Companies Act, 2013:** Certain amendments have been proposed in Section 182 of the Companies Act, where the first proviso has been omitted and consequently the limit of seven and a half percent(7.5%) of the average net profits in the preceding three financial years on contributions by companies has been removed from the statute. This opens up the possibility of shell companies being set up for the sole purpose of making donations to political parties, with no other business of consequence having disburseable profits.

**4(ii)** The second amendment, in Sec. 182(3), abolishes the provision that firms must declare their political contributions in their profit and loss statements, as this requirement is now reduced to only showing a total amount under this head, which again, would compromise transparency.

**5.** In view of the position explained above, I am directed to state that the amendments made in Section 29C of the Representation of the People Act 1951 and Companies Act, 2013 introduced in the Finance Act 2017, referred to above in paras 2(i) and 4(ii) above may be reconsidered and modified so as to provide for

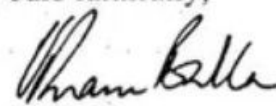
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Transparent Reporting of Contributions received by the Political Parties through Electoral Bonds u/s 29C of the RP Act, 1951 and a provision should be made in the Companies Act to declare the party-wise Contributions made by Companies in the P&L A/c, so that the transparency in the fund-raising by political parties is maintained.

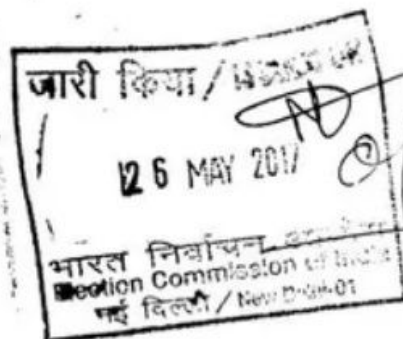
6. With respect to para 4(i), the Commission has expressed its apprehension that the abolition of the relevant provision of Sec.182 would lead to increased use of black money for political funding through shell companies. The Commission is of the view that the earlier provisions ensured that only profitable companies with a proven track record could provide donations to political parties and accordingly, it is Recommended that this provision may be Re-introduced.

7. Further, as mentioned in para 3, necessary changes may kindly be made in RP Act, 1951.

Yours faithfully,



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(Director EE)



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