

## Preface

1. **Author has felt when he qualified as Chartered Accountant (CA) in Year 1985 that legal provisions' interpretations are big challenge for legal professionals, govts' officials and public at large in India and outside India.**
2. **Author has realized that something should be developed to resolve this challenge in India and outside India.**
3. **Author has started compiling Frequently Asked Questions (FAQs) on many subjects where his 100% answers are precisely based on Yes or No i.e. white or black nothing is grey**
4. **Author has compiled approximately 150 +(plus) research papers / books with 25 thousand +(plus) pages on many prevailing subjects / acts in India and outside India.**
5. **Author's 1<sup>st</sup> paper book is now being published under head FAQs on Enforcement Directorate (ED) where 571 FAQs are replied based on Yes or No i.e. white or black nothing is grey**
6. **This book is also containing**
  - (i) Foreign Exchange Management Act (FEMA) 1999 and rules / regulations
  - (ii) Prevention of Money Laundering Act (PMLA) 2002 and rules / regulations
  - (iii) Fugitive Economic Offenders Act (FEOA) 2018 and rules / regulations
7. **This book is published with Sai Kripa and dedicated to my father (late) Mr. M.R. Agarwal, Mother Mrs. R.D. Agarwal, wife Mrs. Snigdha Agarwal, daughter Ms. Soumya Agarwal, daughter Ms. Sanya Agarwal and dedicated team headed by Rajat Kumar**

● **I trust that you will be enriched by reading this book**

With best wishes,  
**CA. Satish Agarwal**  
B. Com (Hons.) FCA

[satishagarwal307@yahoo.com](mailto:satishagarwal307@yahoo.com)  
+91-9811081957  
[www.femainindia.com](http://www.femainindia.com)

## ***Author's Profile***

***Mr. Satish Agarwal (FCA) is heading M/s Satish S Agarwal & Co. Chartered Accountants since 1985 with a team of dynamic young professionals serving clients from various business sectors including public listed companies and government undertakings. Firm was also registered with PCAOB (USA) for undertaking audits and other work of US GAAP.***

***He is regularly advising on several matters to Institute of Chartered Accountant of India (ICAI) and also to Ministry of Commerce (MoC) for Foreign Trade Agreements (FTAs) and World Trade Organization (WTO) for securing India's best interests.***

***He is continuously advising on Foreign Investments (FIs) in India and also on Overseas Direct Investments (ODIs) outside India.***

***He is known for his expertise in incorporating companies in most of countries across the world.***

***He has written around 150 +(plus) Research papers / books containing 25 thousand +(plus) pages available "freely" on certain portals like:***

[https://taxguru.in/author/satishagarwal307\\_1957](https://taxguru.in/author/satishagarwal307_1957)

Or

[www.femainindia.com](http://www.femainindia.com)

***Few out of abovementioned Research papers / books are as under:***

1. *Book on Enforcement Directorate (ED) in India- (Book with 617 pages)*
2. *Director of Revenue Intelligence (DRI) in India*
3. *Central Bureau of Investigation (CBI) in India*
4. *National Investigation Agency (NIA) in India*
5. *Serious Fraud Investigation Office (SFIO) in India*
6. *Financial Intelligence Unit (FIU-IND) in India*
7. *Central Vigilance Commission (CVC) in India*
8. *Narcotics Control Bureau (NCB) in India*
9. *Research & Analysis Wing (R&AW) in India*
10. *Economic Offence Wing (EOW) in India*
11. *Intelligence Bureau (IB) in India*
12. *Director General of Income Tax Criminal Investigation (DGITCI) in India*
13. *National Company Law Tribunal (NCLT) in India*
14. *Security Exchange Board of India (SEBI) in India*
15. *Prevention of Corruption (PC) Act,1988 in India*

16. *Foreign Assets Investigation Unit (FAIU) in India*
17. *Book on International Financial Services Center (IFSC) in India (Book with 290 pages)*
18. *Replacement of Indian Penal Code (IPC) Criminal Procedure (CP) & Evidence Act (EA) in India*
19. *Undisclosed Foreign Income & Asset (UFIA)-Black Money Act, 2015*
20. *Statutory provisions for General Anti Avoidance Rule (GAAR) in India*
21. *Reserve Bank of India (RBI) Act, 1934*
22. *Foreign Exchange Management Act (FEMA) 1999 in India*
23. *Benami Transactions (Prohibition) Amendment Act, 2016 in India*
24. *Advance Pricing Agreements (APAs) in India*
25. *Annual Performance Report (APR) for Investments outside India*
26. *Foreign Trade Agreements (FTAs) executed by India*
27. *Statutory Obligations for Companies Operating in India*
28. *Significant Beneficial Owners (SBO) in India*
29. *Significant Economic Presence (SEP) in India*
30. *Place of Effective Management (POEM) in India*
31. *Liberalized Remittance Scheme (LRS) for residents of India*
32. *Foreign Liability and Asset (FLA) return in India*
33. *FATCA agreement with USA*
34. *Double Taxation Avoidance Agreement (DTAA) with USA*
35. *Foreign Tax Credit (FTC) in India*
36. *Corporate Frauds (CFs) in India*
37. *Export of Goods and Services under FEMA, 1999 in India*
38. *Imports of Goods and Services under FEMA, 1999 in India*
39. *External Commercial Borrowings (ECBs) in India*
40. *Overseas Direct Investments (ODIs) under FEMA, 1999 in India*
41. *Acquisition of Immovable Properties by Non-residents under FEMA, 1999 in India*
42. *Compounding of Contraventions under FEMA, 1999 in India*
43. *Foreign Branch Office (BO) + Liaison Office (LO) + Project Office (PO) under FEMA, 1999 in India*
44. *Annual Information Statement (AIS) in India*
45. *Investments by Non-Residents (NRIs) in India*
46. *Guidance for Doing Business in United States of America (USA)*
47. *Corporate Tax (CT) Law in UAE*
48. *Acquisition & Transfer for Immovable Properties by Non-Residents (NRs) in India*
49. *Foreign Company's Registration in India*
50. *Auditor Checks and Reporting for Indian Companies in India*
51. *Companies Auditor Report Order (CARO) 2020 in India*
52. *Tax Audit Report (TAR) + Accounting Standard (ASs) in India*
53. *World Trade Organisation (WTO) & Benefits for India*
54. *Deposits by Corporate in India*
55. *Expatriates + Foreign Citizens in India*
56. *Book on Foreign Investments (FIs) by Non-Residents of India (Non-RoI) (Book with 346 pages)*



## ***Filling of DPT -3 for Deposits by Corporates in India***

### ***1. Introduction on filling of DPT-3***

- (i) *MCA has notified the Companies (Acceptance of Deposits) Amendment Rules. These are applicable from 22<sup>nd</sup> January, 2019.*
- (ii) ***Deposits to includes:-***
  - *Any receipt of money by a company by way of deposits, loans or in any other form or mode.*

### ***2. Deposits not to Include (exempted deposit):-***

- (a) *An advance received by a company for the supply of goods or provision of services and such advance is not appropriated against supply of goods or provision of services within a period of 365 days but the matter is pending for the legal proceedings before any court of law, the said time limit of 365 days shall not apply.*
- (b) *An advance received by a company in connection with consideration for an immovable property under an agreement or arrangement, provided that such advance is also adjusted against such property in accordance with the terms of agreement or arrangement beside adjusted beyond 365 days.*
- (c) *Security Deposits received by a company for the performance **of the contract** for supply of goods or provision of services.*
- (d) *Advance received by a company under long term projects for Supply of Capital Goods **except** those already covered under item (b) above:*
- (e) *Any amount received by a company from foreign Governments, foreign or international banks and multilateral financial institutions.*
- (f) *Any **amount** received by a company from the Central Government or a State Government, or any **amount** received from any other source whose repayment is guaranteed by the Central Government or a State Government*
- (g) *Any **amount** received by a company as a loan or facility from any banking company or from the State Bank of India or any of its subsidiary banks or from a banking institution notified by the Central Government*

- (h) Any **amount** received by a company as a loan or financial assistance from Public Financial Institutions
- (i) Any **amount** received by a company against issue of commercial paper or any other instruments issued in accordance with the guidelines or notification issued by the Reserve Bank of India.
- (j) Any **amount** received by a company from any other company which is commonly known as Inter Corporate Deposits (ICD)
- (k) Any **amount** received by a company against subscription to any securities including share application money or advance towards allotment of securities pending allotment, so long as such amount is appropriated only against the amount due on allotment of securities applied for.
- (l) Any **amount** received by a company from a person who at the time of the receipt of the amount was a director of the company or the relative of the director of a private limited company
- (m)
  - (ma) Any **amount** received by a company against issue of bonds or debentures as Secured by a first charge or a charge ranking pari passu with the first charge on any assets referred to in Schedule III of the Act excluding intangible assets of the company.
  - (mb) Any **amount** received by a company against bonds or debentures compulsorily convertible into shares of the company within 10 years.
- (n) Any **amount** received by a company against issue of non-convertible debentures not constituting a charge on the assets of the company and listed on recognized stock exchange as per applicable regulations made by Securities and Exchange Board of India.
- (o) Any **amount** received by a company from an employee of the company not exceeding his annual salary under a contract of employment with the company in the nature of non-interest bearing security deposit.
- (p) Any **amount** received by a company as non-interest bearing amount received and held as trustee
- (q) **Any amount received for the business of the company:-**
  - (qa) Any **amount** received by a company as an advance towards consideration for providing future services in the form of a warranty or maintenance contract as per written agreement, if the period for providing such services does not exceed the period prevalent as per common business practice or 5 years, from the date of acceptance of such service whichever is less.

(qb) Any **amount** received by a company as advance received and allowed by any sectorial regulator or in accordance with directions of Central or State Government.

(qc) Any **amount** received by a company as an advance for subscription against publication, whether in print or electronic to be adjusted against receipt of such publications.

(r) Any **amount** received by a company amount from promoters of the company by way of unsecured loans in pursuance of the stipulation of any lending financial institution or a bank.

(s) Any **amount** received by a Nidhi company in accordance with the rules made under section 406 of the Act.

(t) Any **amount** received by a company against subscription for chit under the Chit Funds Act, 1982(4 of 1982).

(u) Any **amount** received by company under any collective Investment scheme in compliance with regulations framed by the Securities and Exchange Board of India.

(v) Any **amount** of 25 lakh rupees or more received by a startup company, by way of convertible note (convertible into equity shares or repayable within a period not exceeding 5 years from the date of issue) in a single tranche, from a person.

(w) **Any amount received by a company :-**

(wa) Alternate Investment Funds

(wb) Domestic venture Capital Funds

(wc) Infrastructure Investments Trusts

(wd) Real Estate Investment Trusts

(we) Mutual Funds registered with the Securities and Exchange Board of India

(x) **Loans or Deposits by a Private Limited Company :-**

(xa) Directors from its OWN Funds

(xb) Relative of the Directors from its own Funds

(xc) Shareholders up to 100% of Paid up Share Capital + Free Reserves + Security Premium Account

**3. Mandatory conditions to include :-**

- (a) Form DPT-3 is to be used by a company for filing return of the deposits and for not consider as deposits or both for the year ending on March 31<sup>st</sup>. This DPT-3 is to be filed up to June 30<sup>th</sup> every year.
- (b) Form DPT-3 is not to be used where no deposits and also not consider as deposits as on March 31<sup>st</sup>.

**4. Deemed Deposits to include:-**

- Any **amount** received by a company for the business advance for the supply of goods or provision of services where such advance is not appropriated (adjusted) against supply of goods or provision of services within 365 days.

**5. Non Filling of DPT-3 permitted :-**

- (i) For **Government** companies
- (ii) For **Banking** companies (Banks)
- (iii) For **Non-banking financial** companies (NBFC) as already registered with the RBI
- (iv) For **Housing finance** companies (HPC) as already registered with the NHB as established under the National Housing Bank Act, 1987

**6. Information's to include for filling the DPT-3 under Rule 16A :-**

- (i) All outstanding receipt of deposits and not consider as deposits as on March 31<sup>st</sup>.
- (ii) Net Worth as per the latest audited balance sheet preceding to the date of return.
- (iii) Form DPT-3 is a dynamic form and as to be work on the basis of radio button selected by the user.
- (iv) Statutory Auditor's certificate is mandatory along with DPT-3 where return of deposits is filed with radio button 2 or 4 is selected.
- (v) Form DPT-3 is not required to be certified by the professionals like CA or CS
- (vi) Form DPT-3 is not STP form. Hence filed DPT-3 is to be approved by the ROC.
- (vii) **Amount of Deposits** is to be filled along with interest as on March 31.

## **7. Important Clarification's and Penal Provisions for Delay or not Filing of DPT-3**

- (i) *Statutory Auditor certificate is not required for one time return of deposits DPT-3.*
- (ii) *One time and **annual** returns are not required to file where NIL deposits.*
- (iii) *Form DPT-3 is not to be filled where no deposits and also not consider as deposits are outstanding as on March 31<sup>st</sup>.*
- (iv) *Radio button Number. 4 is to be used for loans or Deposits from directors and Shareholders by private limited companies which are treated as not included for the purpose of treating as deposits.*
- (v) ***Additional** fee for delay filing of DPT-3 will be levy from 2 times to 12 times of the normal filing fee for delay from 30 days to beyond 180 days respectively.*
- (vi) ***Penalty** for not filing DPT-3 will be rupees 5,000 as one time and also rupees 500 per day for continuity of contravention on company and every responsible officer both under DPT-3 Rules 21 for punishment for not filing.*

## **Published By**



**CA. Satish Agarwal**

*B.com (Hons) FCA*

*Practicing Chartered Accountant Since 1985*

*+919811081957*

*9/14 (First Floor) East Patel Nagar, New Delhi- 110008*

*Email: [satishagarwal307@yahoo.com](mailto:satishagarwal307@yahoo.com)*

*Website: [www.femainindia.com](http://www.femainindia.com)*

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