

Aadhaar. Therefore, there will be no denial of subsidies⁵ or welfare services until 31.03.2018 for non-possession of Aadhaar if the terms of the respective notifications are followed which has been broadly set out as above.

(A Copy of List of Published Notifications under Section 7 of the Aadhaar Act, 2016 is marked as **Annexure R-1.**)

(A Copy of all the Published Notifications under Section 7 of the Aadhaar Act, 2016 is marked as **Annexure R-2.**)

- ii. **Bank Account linking with Aadhaar** - Rule 2(b) of Prevention of Money Laundering (Maintenance of Records) Second Amendment Rules, 2017 requires Aadhaar for *inter alia* opening new bank accounts and for verification of existing bank accounts which process is to be completed by 31.12.2017 failing which the bank accounts will cease to be operational as per the extant Rules. However, this date may be extended up to 31.03.2018. Therefore, until 31.03.2018 existing bank accounts will not be made non-operational for not linking with Aadhaar. But as far as opening of new bank accounts are concerned, Aadhaar or enrolment ID must be given as proof of identity. For existing account holders only, the deadline for Aadhaar based

verification is being extended to 31.03.2018 and no⁶ coercive action will be taken *qua* their bank accounts till 31.03.2018. [Copy of the Prevention of Money Laundering (Maintenance of Record) Rules, 2005 are attached as **Annexure R-3.**]

iii. **Aadhaar Based E-KYC for mobile number**

subscribers: This Hon'ble Court's order dated 06.02.2017 in WP(C) No. 607 of 2016 in the case of Lokniti Foundation v. Union of India required Aadhaar based E-KYC verification of mobile phone subscribers to be made within one year from the date of the said order, i.e. within 06.02.2018. Accordingly, this deadline cannot be modified by the Government unilaterally. [Copy of the Department of Telecommunication Circular dated 23.03.2017 is attached as **Annexure R-4**]

iv. **Aadhaar for Income Tax Returns** - This Hon'ble Court's judgment in *Binoy Viswam (infra)* will be strictly followed as discussed hereunder:-

a. This Hon'ble Court in its judgment dated 09.05.2017 in the case of *Binoy Viswam v. Union of India & ORS* (Writ Petition (Civil) NO. 247 of 2017) and connected cases has upheld Section 139AA of the Income Tax Act as constitutionally valid which

required quoting of the Aadhaar number from ⁷ eligible persons, for the purpose of application for allotment of Permanent Account Number (PAN) as well as for filing the return of income.

b. The Hon'ble Court has also stated that the "Parliament was fully competent to enact Section 139AA of the Act and its authority to make this law was not diluted by the orders of this Court." Therefore, no violation of the earlier Supreme Court orders were found in enacting the provision as alleged by the Petitioners repeatedly.

c. For the sake of further clarity Section 139AA of the Income Tax Act is extracted as follows:

"Quoting of Aadhaar number. - (1) Every person who is eligible to obtain Aadhaar number shall, on or after the 1st day of July, 2017, quote Aadhaar number-

- (i) in the application form for allotment of permanent account number;
- (ii) in the return of income:

Provided that where the person does not possess the Aadhaar Number, the Enrolment ID of Aadhaar application form issued to him at the time of enrolment shall be quoted in the application for permanent account number or, as the case may be, in the return of income furnished by him.

(2) Every person who has been allotted permanent account number as on the 1st day of July, 2017, and who is eligible to obtain Aadhaar number, shall intimate his Aadhaar number to such authority in such

form and manner as may be prescribed, on or before a date to be notified by the Central Government in the Official Gazette:

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Provided that in case of failure to intimate the Aadhaar number, the permanent account number allotted to the person shall be deemed to be invalid and the other provisions of this Act shall apply, as if the person had not applied for allotment of permanent account number.

- d. The Supreme Court has upheld Section 139AA(1) which mandatorily requires quoting of Aadhaar for new PAN Card applications as well as for filing of returns.
- v. The Supreme Court has also upheld Section 139AA(2) which requires that the Aadhaar number must be intimated to the prescribed authority for the purpose of linking with PAN and granted only a partial relief to those who do not have Aadhaar and who do not wish to obtain Aadhaar for the time being, that their PAN will not be deemed to be invalid so that other penal consequences under the Income Tax Act for failing to quote PAN may not arise. [Copy of the judgment dated 09.05.2017 in the case of Binoy Viswam v. Union of India & ORS (Writ Petition (Civil) NO. 247 of 2017 by this Hon'ble Court is attached as **Annexure R-5**]

e. Effect of the above Judgment upholding Section