the CMA e-BULLETIN

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA
(Statutory body under an Act of Parliament)

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EDITORIAL

India inches up as other markets head into recession

CHINA'S economy is slowing. Brazil is struggling as commodity prices plunge. Russia, facing Western sanctions and weak oil revenue, is headed into a recession. As other big developing markets stumble, India is emerging as one of the few hopes for global growth.

The Indian economy has bottomed out and it is expected to grow at about 7.5-7.8 per cent in next fiscal beginning April 2015, DBS Group Research said recently. "Implications of this revised set of data (on GDP and inflation) on other economic aspects are ascertained. Nonetheless, lead indicators affirm that the economy has bottomed out and is bound to improve from here on. It said interpretation of new set of data by Reserve Bank and Finance Ministry will be watched closely, specially for monetary policy and fiscal policy guidance.

India recently rebased and revised its Gross Domestic Product (GDP) growth numbers. Apart from a change in base year, the revised methodology includes private corporate performance as well as sales and service taxes, which have lifted growth for industrial and service sectors.

India's top banks have regained their earlier glory in the past year by adding 61 per cent to brand value, shows a study by valuation consultancy firm, Brand Finance. The study, Brand Finance Banking 500, reveals the total value of banking brands from India exceeds those from Russia, Italy, Sweden and South Korea. India now ranks 13th globally, compared with 17th a year ago. Also, its bank brands are the second-fastest-growing ones worldwide.

Economic reforms, increased infrastructure investment and a greater focus on tackling bureaucracy have improved economic forecasts and investor confidence, laying the foundation for India's brands to grow, the agency says.

We are pleased to release this issue of the third volume of the CMA e-Bulletin for our readers and we hope you enjoy reading this issue. We look forward to your valuable suggestions and comments which will help us improve this publication.

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President: CMA Dr A S Durga Prasad

Editor: CMA Dr Debaprosanna Nandy

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www.icmai.in

HEADQUARTERS
CMA BHAWAN 12, SUDDER STREET
KOLKATA 700 016, INDIA
PHONES: +91-33-2252 1031/1034/1035/1492/1602/1619/7143/7373
FAX: +91-33-2252-7993/1026

DELHI OFFICE
CMA BHAWAN, 3 INSTITUTIONAL AREA
LODHI ROAD,
NEW DELHI 110003, INDIA
PHONES: +91-11-24622156/57/58, 24618645
FAX: +91-11-43583642

OFFICE OF RESEARCH & JOURNAL
CMA BHAWAN, 4TH FLOOR
84, HARISH MUKHERJEE ROAD
KOLKATA 700 025, INDIA
Board: +91-33-2454 0086/87/0184
Fax: +91-33-2454 0063

Please send your feedback on the CMA e-BULLETIN at: cma.ebulletin@icmai.in

Behind every successful business decision, there is always a CMA

INDIAN ECONOMY

News

➲ The Highlights of US PresidentBarack Obama's visit to India

India achieved due to Modi-Obama arrangement are:

1. Nuclear logjam broken
The significance of the completion of the India-US nuclear deal cannot be overstated. Signed in 2005, with an NSG waiver in 2008, the deal in limbo for a few years.

2. India crosses nuclear liability hurdle
Easier for companies to invest in India's nuclear power sector.

3. Funds flow of $4 billion
Obama announced $4 billion of new initiatives to boost trade/ investment ties, jobs in India via Exim Bank and OPIC. Opened new source of financing for social development ventures with an Indian Diaspora Investment Initiative.

4. Clean energy boost
The $4 billion deals include $2 billion of leveraged financing for renewable energy investment and $1 billion in loans for small medium businesses.

5. Big agreements
Start discussions on the Totalisation Agreement & bilateral investment treaty. Commitment from PM his office will track big projects.

6. Defence framework agreement
Renewed for 10 years and Defense Technology and Trade Initiative operationalized with focus on co-development and coproduction in India for India and global market, should boost 'Make in India'.

7. Defence equipment co-developed in India
The first four Raven mini UAVs, mobile hybrid power source, chemical/bio protection gear, roll on-roll off intelligence, surveillance modules for C-130J aircraft.

8. More on climate change
Personal priority for both leaders. Indian industry working towards clean energy, US extends support in this mission, agreement reached on climate change issues.

9. Message to China
Convergence on issue of East Asia-facing strategic initiatives. US, India and other Asia-Pacific countries to work to strengthen regional ties, sending China a strong message.

10. Tracking terror
Both to increase cooperation. Similar to the Sept statement, Pak-based anti-India terror groups named in joint statement. To share cyber threat information.
Source: The Times of India | Jan 28, 2015

➲ After Jan Dhan, government eyes renewable energy world record

Having set a world record with fastest roll-out of its financial inclusion scheme 'Jan Dhan', the government expects its ambitious power sector programme to create more such records, including by making India the world's largest destination for renewable energy. "The ambitious target that Prime Minister Narendra Modi has set out for 24X7 power to every home and industry and commercial establishments and also adequate power to farmers to increase their farm output, this demonstrates the demand for power that is going to come out," he said. Goyal, who is also holding a number of bilateral meetings with business and government leaders from across the world on the sidelines of WEF summit, said that India is at the cusp of getting into another orbit in terms of renewable energy. Similar is the case for power transmission and distribution sector as well as the energy access that has been lacking all these years, he added.
Source: Economic Times | 23 Jan 2015

➲ India's FDI increased by 26% in 2014: UN

Notwithstanding the decline in global foreign direct investment inflows, India's FDI increased by 26 per cent in 2014 to an estimated $35 billion with maximum growth in the services sector, a UN report said today. Read more at:
http://economictimes.indiatimes.com/articleshow/46060259.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst
Source: PTI | 18 Jan, 2015

➲ India considering allowing banks to buy infrastructure bonds - source

The Reserve Bank of India is considering allowing banks to buy infrastructure bonds, in a bid to jumpstart a market that has suffered from low trading volumes after launching last year, said a source with knowledge of the central bank's thinking.
Source: Reuters, dated: 16 Jan 2015

BANKING

Notifications/Circulars

➲ Depository Receipts Scheme

A new scheme called 'Depository Receipts Scheme, 2014' (DR

Scheme, 2014) for investments under ADR/GDR have been notified by the Central Government effective from December 15, 2014 which provides for repeal of extant guidelines for Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) Scheme, 1993 except to the extent relating to foreign currency convertible bonds.

For more details of the new scheme please read *Notification No. RBI/2014-15/421, A.P. (DIR Series) Circular No. 61 dated: January 22, 2015.*

➲ Entry of Banks into Insurance Business

With the objective of increasing insurance penetration using the entire network of bank branches, the Finance Minister in the budget speech 2013-14 announced that banks will be permitted to act as insurance brokers. Consequent to the announcement, IRDA formulated and notified the IRDA (Licensing of Banks as Insurance Brokers) Regulations, 2013 to enable banks to take up the business of insurance broking departmentally. Reserve Bank of India had also issued *Draft Guidelines on Entry of Banks into Insurance Business- Insurance Broking Business on November 29, 2013* for public comments. Taking into account the comments received from various stakeholders in response to the draft guidelines, the guidelines have now been finalized.

Accordingly, the extant instructions on conduct of insurance business by banks have been reviewed. It is advised that banks may undertake insurance business by setting up a subsidiary/joint venture, as well as undertake insurance broking/ insurance agency/either departmentally or through a subsidiary subject to certain conditions. However, it may be noted that if a bank or its group entities, including subsidiaries, undertake insurance distribution through either broking or corporate agency mode, the bank/other group entities would not be permitted to undertake insurance distribution activities, i.e., only one entity in the group can undertake insurance distribution by either one of the two modes mentioned above.

i) Banks setting up a subsidiary/JV for undertaking insurance business with risk participation:

Banks are not allowed to undertake insurance business with risk participation departmentally and may do so only through a subsidiary/JV set up for the purpose. Banks which satisfy the eligibility criteria (as on March 31 of the previous year) given below may approach Reserve Bank of India to set up a subsidiary/joint venture company for undertaking insurance business with risk participation:

a) The net worth of the bank should not be less than Rs.1000 crore;

b) The CRAR of the bank should not be less than 10 per cent;

c) The level of net non-performing assets should be not more than 3 percent.

d) The bank should have made a net profit for the last three continuous years;

e) The track record of the performance of the subsidiaries, if any, of the concerned bank should be satisfactory.

ii) Banks undertaking insurance broking/corporate agency through a subsidiary/JV

Banks require prior approval of RBI for setting up a subsidiary/JV. Accordingly, banks desirous of setting up a subsidiary for undertaking insurance broking/corporate agency and which satisfy the eligibility criteria (as on March 31 of the previous year) given below may approach Reserve Bank of India for approval to set up such subsidiary/JV:

a) The net worth of the bank should not be less than Rs.500 crore after investing in the equity of such company;

b) The CRAR of the bank should not be less than 10 per cent;

c) The level of net non-performing assets should be not more than 3 per cent.

d) The bank should have made a net profit for the last three continuous years;

e) The track record of the performance of the subsidiaries, if any, of the concerned bank should be satisfactory. As hitherto, RBI approval would also factor in regulatory and supervisory comfort on various aspects of the bank's functioning such as corporate governance, risk management, etc.

Banks undertaking corporate agency functions/broking functions departmentally: Banks need not obtain prior approval of the RBI to act as corporate agents on fee basis, without risk participation/undertake insurance broking activities departmentally, subject to IRDA Regulations.

Banks undertaking referral services: In terms of IRDA (Sharing of Database for Distribution of Insurance Products) Regulations 2010, no bank is presently eligible to conduct insurance referral business.

Source: Notification No. RBI/2014-2015/409[DBR.No.FSD. BC.62/24.01.018/2014-15] dated: January 15, 2015

➲ Revision in Bank Rate

As announced in the Monetary Policy Statement dated January 15, 2015, the Bank Rate stands adjusted by 25 basis points from 9.0 per cent to 8.75 per cent with effect from January 15, 2015.

All penal interest rates on shortfall in reserve requirements, which are specifically linked to the Bank Rate, also stand revised as indicated below. The interest rate on refinance for SSI under Section 17(2) (bb) read with Section 17(4) (c) of the Reserve Bank of India Act, 1934, also stands revised to 8.75 per cent with effect from January 15, 2015.

Penal Interest Rates which are linked to the Bank Rate		
Item	**Existing Rate**	**Revised Rate (Effective from January 15, 2015)**
Penal interest rates on shortfalls in reserve requirements (depending on duration of shortfalls)	Bank Rate plus 3.0 percentage points (12.00 per cent) or Bank Rate plus 5.0 percentage points (14.00 per cent)	Bank Rate plus 3.0 percentage points (11.75 per cent) or Bank Rate plus 5.0 percentage points (13.75 per cent)

Source: Notification No. RBI/2014-15/407 [DCBR.BPD. (PCB/RCB).Cir.No.12/16.11.00/2014-15] dated: January 15, 2015

➲ Standing Liquidity Facilities for Banks and Primary Dealers

In reference to the Statement by Dr. Raghuram G Rajan, Governor, RBI on Monetary Policy dated January 15, 2015, in terms of which the repo rate under the Liquidity Adjustment Facility (LAF) has been reduced by 25 basis points from 8.0 per cent to 7.75 per cent with immediate effect. Accordingly, the Standing Liquidity Facilities provided to banks under Export Credit Refinance (ECR) and to Primary Dealers (PDs) (collateralized liquidity support) from the Reserve Bank would be available at the revised repo rate, i.e., at 7.75 per cent with effect from January 15, 2015.

Source: Notification No. RBI/2014-15/402, REF. No. MPD.BC. 375/07.01.279/2014-15 dated: January 15, 2015

➲ Marginal Standing Facility

RBI has decided to reduce the Repo rate under the Liquidity Adjustment Facility (LAF) by 25 basis points from 8.00 per cent to 7.75 per cent with immediate effect. Consequent to the change in the Repo rate, the Marginal Standing Facility (MSF) rate will stand adjusted to 8.75 per cent with immediate effect.

Source: Notification No. RBI/2014-2015/404 [FMOD.MAOG. No.105/01.18.001/2014-15] dated: January 15, 2015

➲ Roadmap-Provision of Banking Services in Villages with Population below 2000

Pradhan Mantri Jan Dhan Yojana (PMJDY) has been launched by the Hon'ble Prime Minister on 28th August, 2014 and Phase I of PMJDY is being implemented through banks in a time bound manner for completion by August 14, 2015. In this connection, attention is invited to circular RPCD.CO.LBS.BC.No. 86/02.01.001/2011-12 dated June 19, 2012 wherein state-level banking committees (SLBCs) were advised to prepare a roadmap and cover all unbanked villages with population less than 2000 for providing banking services in a time-bound manner (latest by March 2016). Keeping in view the ongoing implementation of PMJDY, SLBC Convenors banks and lead banks are advised to complete the process of providing banking services in unbanked villages with population below 2000 by August 14, 2015 in line with the PMJDY instead of March 2016 prescribed earlier.

Source: RBI/2014-15/382, FIDD.CO.LBS.BC.No. 47/02.01.001/2014-15 dated: January 2, 2015

➲ Security for External Commercial Borrowings

With a view to liberalizing, expanding the options of securities and consolidating various provisions related to creation of charge over securities for ECB at one place, it has been decided that AD Category-I banks may allow creation of charge on immovable assets, movable assets, financial securities and issue of corporate and / or personal guarantees in favour of overseas lender / security trustee, to secure the ECB to be raised / raised by the borrower, subject to satisfying themselves that:

(i) the underlying ECB is in compliance with the extant ECB guidelines,

(ii) there exists a security clause in the Loan Agreement requiring the ECB borrower to create charge, in favour of overseas lender / security trustee, on immovable assets / movable assets / financial securities / issuance of corporate and / or personal guarantee, and

(iii) No objection certificate, wherever necessary, from the existing lenders in India has been obtained. Once aforesaid stipulations are met, the AD Category-I bank may permit creation of charge on immovable assets, movable assets, financial securities and issue of corporate and / or personal guarantees, during the currency of the ECB with security co-terminating with underlying ECB, subject to certain conditions.

Source: Notification - RBI/2014-15/377, A.P. (DIR Series) Circular No. 55 dated: January 01, 2015

➲ Gold Loan – Bullet Repayment

In reference to circular RPCD.CO.RF.BC.No.60/07.37.02/2009-10 dated March 5, 2010 wherein StCBs/CCBs were permitted to grant gold loans up to Rs. 1.00 lakh with bullet repayment option. On a review, it has been decided to increase the quantum of loan that could be granted under the scheme, from Rs. 1.00 lakh to Rs. 2.00 lakh subject to the following conditions:

(i) The period of the loan shall not exceed 12 months from the date of sanction.

(ii) Interest will be charged to the account at monthly rests but will become due for payment along with principal only at the end of 12 months from the date of sanction.

(iii) StCBs/CCBs should maintain a Loan to Value (LTV) ratio of 75% on the outstanding amount of loan including the interest on an ongoing basis, failing which the loan will be treated as a Non Performing Asset (NPA).

(iv) The valuation of gold would be as per instructions contained in para 3 of the circularRPCD.RRB.RCB.BC.No.08/03.05.33/2014-15 dated July 1, 2014.

Source: Notification No. RBI/2014-15/395[DCBR.CO.BPD (RCB). Cir.No.11/13.05.001/2014-15] dated: January 08, 2015

COMPANY LAW

Notifications/Circulars

➲ The Companies (Appointment and Qualification of Directors) Amendment Rules, 2015:

Now foreign director can authorize practicing CMA, CA and CS to intimate his resignation to ROC

In case a company has already filed Form DIR-12 with the Registrar under rule 15, a foreign director of such company resigning from his office may authorize in writing a practising chartered accountant or cost accountant in practice or company secretary in practice

or any other resident director of the company to sign Form DIR-11 and file the same on his behalf intimating the reasons for the resignation vide Notification No. F. No. 01/9/2013-CL.V-Part II dated: January 19, 2015.

➲ The Companies (Corporate Social Responsibility Policy) Amendment Rules 2015

In the Companies (Corporate Social Responsibility Policy) Rules, 2014, in rule 4, in sub-rule (2),—

(i) for the words "established by the company or its holding or subsidiary or associate company under section 8 of the Act or otherwise", the words "established under section 8 of the Act by the company, either singly or along with its holding or subsidiary or associate company, or along with any other company or holding or subsidiary or associate company of such other company, or otherwise" shall be substituted;

(ii) in the proviso, in clause (i), for the words "not established by the company or its holding or subsidiary or associate company, it", the words "not established by the company, either singly or along with its holding or subsidiary or associate company, or along with any other company or holding or subsidiary or associate company of such other company" shall be substituted.

Source: Notification, dated 19.01.2015 [F. No. 1/18/2013-CL-V-Part]

➲ The Companies (Accounts) Amendment Rules, 2015

In the Companies (Accounts) Rules, 2014

i) after rule 2, following rule shall be inserted, namely: — "2A. **Notice of address at which books of account are to be maintained** — For the purposes of the first proviso to sub-section (1) of section 128, the notice regarding address at which books of account may be kept shall be in Form AOC-5."

ii) in rule 6, after the third proviso, the following proviso shall be inserted, namely:— "Provided also that nothing in this rule shall apply in respect of consolidation of financial statement by a company having subsidiary or subsidiaries incorporated outside India only for the financial year commencing on or after 1st April, 2014."

iii) in the Annexure, after Form AOC-4, FORM NO. AOC – 5 shall be inserted.

To get details of **FORM NO. AOC** – 5 please visit: *http://www.mca.gov.in/Ministry/pdf/Amendment_Rules_2015_19012015.pdf*

Source: Notification dated 16.01.2015

INCOME TAX

Notifications/Circulars

➲ As Business Trusts to file details of income distributed to unit holders

In exercise of the powers conferred by section 295 read with sub-¬section (4) of section 115UA of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:-

1. (1) These rules may be called the Income-tax (1st Amendment) Rules, 2015.

(2) They shall come into force from the day of their publication in the Official

2. In the Income-tax Rules, 1962, -

(A) after rule 12C the following rule shall be inserted, namely:-

"Statement under sub-section (4) of section 115UA.

12CA. (1)The statement of income distributed by a business trust to its unit holder shall be furnished to the Principal Commissioner or the Commissioner of Income-tax within whose jurisdiction the principal office of the business trust is situated, by the 30th November of the financial year following the previous year during which such income is distributed,: provided that the statement of income distributed shall also be furnished to the unit holder by the 30th June of the financial year following the previous year during which the income is distributed.

(2) The statement of income distributed shall be furnished under sub-section (4) of section 11 5UA by the business trust to -

(i) the Principal Commissioner or the Commissioner of Income-tax referred to in sub-rule (1), in Form No. 64A, duly verified by an accountant in the manner indicated therein and shall be furnished electronically under digital signature;

(ii) the unit holder in Form No. 64B, duly verified by the person distributing the income on behalf of the business trust in the manner indicated therein.

(3) The Director General of Income-tax (Systems) shall specify the procedure for filing of Form No. 64A and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the statements so furnished."

Source: Notification No. 03/2015 INCOME-TAX dated- 19th January, 2015

➲ No processing of returns for I-T refund if selected for Scrutiny

Sub-section (ID) of section 143 of the Income-tax Act, 1961 ('Act') provides that where a notice has been issued to a taxpayer under sub-section (2) of section 143 of the Act, it shall not be necessary to process the return in such a case. Some doubts have been expressed, in view of the words "shall not be necessary" used in the said sub-section, as to whether this provision permits processing of returns having a refund claim, where notice under section 143(2) of the Act has been issued.

The matter has been examined by the Board. "Under the existing provisions, every return of income is to be processed under sub-section (1) of section 143 and refund, if any, due is to be issued to the taxpayer. Some returns of income are also selected for scrutiny which may lead to raising a demand for taxes although refunds may have been issued earlier at the time of processing. It is

therefore proposed to amend the provisions of the Income-tax Act to provide that processing of return will not be necessary in a case where notice under sub-section (2) of section 143 has been issued for scrutiny of the return."

Thus, in cases where an unprocessed return is selected for scrutiny, the legislative intent is to prevent the issue of refund after processing as scrutiny proceedings may result in demand for taxes on finalization of the assessment subsequently.

Thus Central Board of Direct Taxes, under section 119 of the Act clarifies that the processing of a return cannot be undertaken after notice has been issued under sub-section (2) of section 143 of the Act. It shall however, be desirable that scrutiny assessments in such cases are completed expeditiously.

Source: Instruction No.1/201, dt: 13-01-2015

Case Laws

➲ Mere non-registration of trademark won't disallow genuine payment of royalty by treating it as illegal payments

IT: Where assessee made payment of royalty to another company for use of its trade mark, merely because agreement between parties was not registered with trade mark authority, it could not be a ground to disallow payment in question.

Section 37(1) of the Income-tax Act, 1961 - Business expenditure - Allowability of (Trade mark expenses) - Assessment years 2001-02 and 2002-03 - Whether where assessee made payment of royalty to another company for use of its trade mark, merely because agreement between parties was not registered with trade mark authority, it could not be a ground to disallow payment in question - Held, yes [In favour of assessee]

FACTS

- During relevant year the assessee paid royalty amount to "BIFCO" for the use of logo "Vadilal".
- The said royalty payment had been allowed throughout to the assessee.
- However, there was a twist in the stand of the revenue for the first time during the relevant assessment wherein the department claimed that the royalty payment to "BIFCO" was not allowable under Explanation to section 37, as it was a case of illegal use of trademark.
- The Commissioner (Appeals) confirmed the order of Assessing Officer.

HELD

- It was found that the amount of royalty was allowed in the case of the assessee right from the assessment year 1993-94 and the amount of royalty was paid by virtue of some agreement entered into between the assessee and the "BIFCO" during the period relevant to the assessment year 1993-94. For the relevant assessment year 2001-02, the revenue has taken a new ground that the payment of royalty so made was in violation of the Trade Mark Act, 1999, and therefore, the provision of Explanation to section 37 was applicable to the case of the assessee.
- However, no specific violation of the any statutory provision of the law of the land could be established on behalf of the revenue.
- Merely because the agreement between assessee and the "BIFCO" was not registered with the Trade Mark authority, it could not be said that there is a violation of law so as to disallow the payment of royalty, otherwise found to be genuine and allowable in nature.
- The genuineness of the payment and logo being used for the business of the assessee-company was not in dispute in the case of the assessee. In these facts of the case, there was nothing illegal in payment of royalty, and therefore, the Explanation to section 37, does not apply to the case of the assessee.

In the result, the revenue's appeal is dismissed

Source: IN THE ITAT AHMEDABAD BENCH 'D', Vadilal Dairy International Ltd.v. Assistant Commissioner of Income-tax, Circle 8, Ahmedabad [2015] 53 taxmann.com 523 (Ahmedabad - Trib.)

➲ Royalty payments allowed as revenue exp. couldn't be disallowed by making reassessment in Absence of new facts

IT: Where assessee-company claimed royalty paid to its parent company as revenue expenditure and same was examined and accepted by Assessing Officer during original proceedings and no new fact was emerged from re-examination of existing document, re-opening of assessment could not be permitted. Section 37(1), read with section 147, of the Income-tax Act, 1961 - Business expenditure - Allowability of (Royalty - Reassessment) - Assessment year 2002-03 - Assessee-company paid amount to its parent company by way of royalty for use of knowhow for duplication of software and also for distribution of software for which it had a license - During original proceeding, it claimed that said payment was in nature of revenue expenditure and same was examined and accepted by Assessing Officer - No new fact was emerged on further or deeper examination of existing documents - Revenue had not pointed out what fact was not disclosed by assessee - Whether re-opening of assessment could not be permitted - Held, yes [In favour of assessee]

Source: High Court of Delhi, Oracle India (P.) Ltd. v. Deputy Commissioner of Income-tax Circle [2015] 53 taxmann.com 514 (Delhi)

➲ Income from house property - value of the vacant area

Held that: - It is seen from the order of the Tribunal that the Tribunal has taken a different view that the assessee has held the balance property as stock-in-trade. Since the order of the Commissioner of Income Tax (Appeals), confirming the assessment of Annual Letting Value of the vacant space under the head 'income from house property in respect of both the assessment years, has not been chal-

lenged by the assessee, the Tribunal is not justified in coming to a conclusion that the property is held as stock-in-trade, thereby, upholding the deletion of the addition of Annual Letting Value. To that extent, the order of the Tribunal becomes beyond the scope of appeal. Hence, we find that the issue has to be re-addressed by the Tribunal. - Decided in favour of revenue for statistical purposes.

Source: Commissioner of Income Tax versus M/s. Kalyani Constructions P. Ltd. [2015 (1) TMI 972 - MADRAS HIGH COURT - Income Tax]

➲ Benefit of exemption under Section 80-IC - LCD Monitor - ITAT concurred with the findings of the CIT (A) that the assessee was eligible to claim deduction

Held that: - Aside from the reasons cited by the ITAT affirming the conclusions reached by the CIT (A), which we uphold, we must add that the plea that the LCD Monitor would not fall within the description of items at sl. No. 13 in part (c) of XIV Schedule is also not correct. The LCD Monitors do subscribe to the description of information and communication technology devices and, therefore, would attract, provided other statutory conditions are fulfilled, the benefit of exemption under Section 80-IC of Income Tax. We concur with the conclusion that A.O. had proceeded more on the basis of doubts entertained by him as to the genuineness of the claim rather than some concrete material. If he had any reasons to disbelieve the correctness of the claim about the manufacturing activity (on the basis of considerations such as wages paid, electricity bills generated, the nature of the plant and machinery etc.,), the least that could have been done by him was to have the manufacturing unit of the assessee inspected. For such purposes, he only had to take recourse to his statutory powers under the law. Without having undertaken any such exercise, as observed by the authorities below or rejecting the accuracy of the books of accounts, adverse conclusions on facts as reached could not have been drawn. No question of law arising for consideration. - Decided against revenue.

Source: 2015 (1) TMI 971 - DELHI HIGH COURT - Income Tax CIT-XI versus SH. TEJ PAL SINGH KOHLI

CUSTOMS

Notifications/Circulars

➲ Simplification of Customs procedures for shipping

The avoidable delays on account of non-uniform Customs procedures adopted at some ports/Customs stations not only increase transaction cost and time of clearance but also prove to be major constraints in making Indian ports international transshipment hubs. Therefore, a Committee was set up by Ministry of Shipping for simplification of shipping related Customs procedures. The Committee has made, certain recommendations for implementation by Customs. Board has examined the recommendations of the said Committee in consultation with identified Chief Commissioners of Customs. Accordingly, the following decisions have been taken to streamline the extant procedures at various ports vide Circular No. 02/2015 dated: 15-01-2015.

For more details please visit: *http://www.cbec.gov.in/customs/cs-circulars/cs-circ15/circ02-2015cs.htm*

➲ Re-export of goods imported under bonafide mistake

Circular No.100/2003–Cus., dated 28.11.2003 which prescribes that permission for re-export of goods that are shipped contrary to instruction of the importer has to be granted by Commissioner of Customs. References have been received by CBEC that the current procedure for allowing re-export of goods that are imported under a bonafide mistake is being followed at Customs stations is time consuming and causes avoidable hardship to importer/airlines/consol agents. This is especially happening at air cargo complexes because numerous requests in respect of wrong shipments are to be dealt with here on daily basis. These references contain a request for a simpler procedure.

The matter has been examined by CBEC. Requests for re-export of imported goods may be received when the said goods are destined for elsewhere but which are inadvertently imported at a particular Customs station. With a view to expedite decision-making in respect of re-export of such goods, the Board has decided that the permission for re-export may be granted on merit by the officer concerned as per the adjudication powers. In regard to the adjudication powers, a reference may be made to Section 122 of the Customs Act, 1962 and Circular No.24/2011-Cus., dated 31.05.2011.

Source: Circular No. 04/2015-Customs dated: January 20, 2015

➲ Export and Import of Currency

The RBI vide A.P. (DIR series) No. 146, dated 19.06.2014 has now provided that any person resident in India:

i) may take outside India (other than to Nepal and Bhutan) currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding Rs.25,000 (Rupees twenty five thousand only); and

ii) who had gone out of India on a temporary visit, may bring into India at the time of his return from any place outside India (other than from Nepal and Bhutan), currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding Rs.25,000 (Rupees twenty five thousand only).

Further, vide said A.P. (DIR series) No. 146 dated 19.06.2014, it is also provided that any person resident outside India, not being a citizen of Pakistan and Bangladesh and also not a traveller coming from and going to Pakistan and Bangladesh, and visiting India :

i) may take outside India currency notes of Government of India

and Reserve Bank of India notes up to an amount not exceeding Rs. 25,000 (Rupees twenty five thousand only) while exiting only through an airport.

ii) may bring into India currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding Rs. 25,000 (Rupees twenty five thousand only) while entering only through an airport.

In the light of the amended guidelines of RBI on the subject matter, all Chief Commissioners of Customs/ Customs and Central Excise are requested to ensure that the aforementioned guidelines are scrupulously followed by the officers under their charge. Further, it may be ensured without fail that wide publicity is given to these guidelines by displaying them at prominent places at the airports etc. so that no harassment is caused to the genuine passengers. Officers may also be suitably sensitized in the matter. Any non compliance on the part of the officers will be viewed seriously.

Source: Circular No. 3/2015 – Customs dated: 16.01.2015

➲ Merging of Commercial invoice and packing list

As per the Customs procedures for both import and export, an importer / exporter is required to submit a commercial invoice and packing list along with the Customs declaration form viz. Bill of Entry/Shipping Bill. Both commercial invoice and packing list are critical for Customs purposes as the former evidences the value of the import/ export goods while the latter facilitates examination of goods for ascertaining correctness of duty and quantity. However, there are many identical data fields in a commercial invoice and packing list. Therefore, an exercise was undertaken to explore the feasibility whether these documents can be merged into one document, which would have the advantage of reducing the total number of documents to be submitted to Customs with resultant benefit to trade. In this regard, it is seen that the following data fields / information are invariably contained in a packing list (other than the common data fields / details of commercial invoice) like: description of goods, marks and numbers, quantity, gross weight, net weight, number of packages, types of packages, etc.

The Board has decided that as a measure of simplification, in case an importer/exporter submits a **commercial invoice cum packing list** that contain above mentioned data fields / information in addition to the details in a commercial invoice, a separate packing list should not be insisted upon by Customs. However, the option should be given to the importer/exporter to do so. In other words, for Customs purposes a **commercial invoice cum packing list** (with details of marks and numbers as mentioned in above) would suffice but if importer/exporter desires to give a separate packing list for some reason, the same would also be accepted, as at present vide Circular No. 01/15-Customs dated: January 12, 2015.

➲ Amendment of Notification No. 60/2011 Customs, dated 14th July 2011, so as to include Srinagar, Tripura, on the India-Bangladesh Border, in order to extend exemption from the whole of the duty of Customs leviable thereon under the First Schedule to the Customs Tariff Act, 1975 to commodities traded in the Srinagar Border Haat, with effect from the 13th day of January 2015 vide Notification No. 02/2015-Cus, dt. 06-01-2015.

➲ Amendment of Notification No. 10/2008 - Customs, dated 15th January, 2008 so as to further deepen the tariff concessions in respect of goods covered under the Comprehensive Economic Cooperation Agreement (CECA) between India and Singapore vide Notification No. 01/2015-Cus, dt. 05-01-2015.

➲ In exercise of the powers conferred by clause (a) of section 7 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs, hereby makes the following further amendments in the Notification of the Govt. of India in the Ministry of Finance, (Department of Revenue) No. 62/94 –Customs (N.T), dated the 21st November, 1994.

SERVICE TAX

Case Laws

➲ Financial advisory services - Banking and financial service - Whether assessee be classified as Banking and financial service agent

Held that: - To fall within the tax net, the appellant has to be a banking company or a financial institution including a non-banking company. Obviously, the appellant is not a banking company or a non-banking financial company. As per the definition of "financial institution" only when the appellant carries on business of acquisition of shares, bonds, debentures or securities issued by a Government or Local Authority or other marketable securities of a like nature, the appellant can be categorized as a financial institution. Merely because the appellant is registered as a stock broker with the SEBI, which is a statutory requirement the appellant cannot be considered as a financial institution. If that be so, all stock brokers dealing in shares/securities would be financial institutions which are a totally wrong interpretation of the statutory definition of a financial institution. There is also no evidence available on record to show that the appellant has been registered under the RBI Act as a "Financial institution". - Conclusion of the lower authorities that the appellant is a financial institution as defined in the RBI Act cannot be sustained. Accordingly, we set aside the impugned order - Decided in favour of assessee.

Source: 2015 (2) TMI 351 - CESTAT MUMBAI - Service Tax Parag Parikh Financial Advisory Services Ltd. versus Commissioner of Service Tax, Mumbai

➲ Commercial or industrial construction services- change of classification to works contract service

Entitlement to benefit of Notification No.1/2006-ST - Held that: - Services were being rendered under ongoing projects on a continuous basis. It was not that the entire service was rendered on the date of entering into the contract. Thus, the classification of the services has to be done in accordance with the provisions of section 65 (105) ibid and with the introduction of the new service w.e.f. 01.06.2007, if the service got more appropriately covered under the scope of works contract service, it will have to be classified there-under in terms of Section 65 A of the Finance Act 1994. To that extent the Board's Circular is devoid of correct appreciation of the legal provisions.

It is claimed in the orders of the lower authorities that the said Board Circular has been upheld by the judgment of Andhra Pradesh High Court in the case of Nagarjuna Construction Company vs. Govt. of India - [2010 (6) TMI 91 - ANDHRA PRADESH HIGH COURT]. We have perused the said judgment of Andhra Pradesh High Court and find that nowhere the High Court has said that the classification of ongoing services cannot be changed to works contract service, if the service was more appropriately classified there-under; what the High Court has, however, upheld is the Board s clarification that in respect of the ongoing projects where service tax had been paid earlier (prior to 01.06.2007), the benefit of the Composition Scheme is not available. Thus, the lower authorities are correct in holding that for such ongoing project the appellants were not eligible to avail of the Composition Scheme. The appellants have contended that they have all the required evidence to be eligible for the benefit of Notification No.12/2003 or the Provisions of Rule 2A of the Service Tax (Determination of Value) Rules, 2006. Needless to say, however, that the onus remains on the appellants to demonstrate that they satisfy the conditions/requirements for the purpose of claiming the said benefit. - Matter remanded back with directions - Decided partly in favour of assessee.

Source: 2015 (2) TMI 350 - CESTAT NEW DELHI - Service Tax M/s. Bagai Construction versus CST, Delhi

➲ Sum paid as a pure agent of service recipient wasn't includible in value of services

Service Tax : Where assessee, a commission agent, acting on behalf of its principal, paid over amounts under Primary claim/Retail Scheme to various retailers selling products of its principal and later got reimbursement thereof, said amount was not includible in value of services.

Section 67, read with section 65(19), of the Finance Act, 1994 and rule 5 of the Service Tax (Determination of Value) Rules, 2006 - Valuation of taxable services - Exclusion as pure agent - Period from 1-7-2003 to 31-8-2006 - Assessee was marketing and promoting Liquor/Beer manufactured by SBL and getting amounts in name of: (a) Primary claim/Retail Scheme; (b) Commission; (c) Merchandise Expenses; (d) Fixed Office Expenses and (e) Other expenses (label Reg. & Brand Reg., Courier, NOC & Excise on breakages) - Department demanded service tax on all five items under 'Commission Agent' (Business Auxiliary Services) - Tribunal set aside demand in respect of 'Primary claim/Retail Scheme' on ground that it was paid over by assessee to retailers on behalf of SBL for achieving certain quota of sales and later reimbursed by SBL as a pure agent - Tribunal confirmed balance demand including that for expenses falling under items (c) to (e) - Revenue challenged order of Tribunal as regards item (a) - HELD : Lower appellate authority, after discussing material on record, recorded a finding that this was expense that was done by assessee as a pure agent of SBL and this finding has been upheld by Tribunal - There was no illegality in reasoning or in finding - Hence, present appeal was dismissed [In favour of assessee].

Source: High Court of Chhattisgarh, Union of India v. Raj Wines [2015] 53 taxmann.com 445 (Chhattisgarh)

➲ Services provided to SEZ are exempt; ST notifications have only operationalized such exemption

Service Tax: As per SEZ Act and Rules, services supplied to SEZ are considered as deemed export and not liable to service tax; exemption notifications under service tax law merely operationalize said exemption and cannot be regarded as mandatory.

Section 93 of the Finance Act, 1994, read with sections 26 and 51 of the Special Economic Zone Act, 2005 and rule 31 of the Special Economic Zones Rules, 2006 - Exemptions - Service Tax - Refund of tax paid on services received by Special Economic Zones/Developers - Period from 3-9-2009 to 20-5-2009 - Assessee provided manpower supply services to SEZ unit without payment of service tax - Department argued that during relevant period, assessee was required to pay service tax first and then claim refund - Assessee argued that as per SEZ Act and Rules, service was always exempt and even otherwise, extended period could not be invoked as all details were mentioned in ST-3 returns - HELD : As per section 26, read with rule 31 of SEZ Act/Rules, no service tax is payable on services provided to a SEZ unit - As per section 51 of SEZ Act, said Act overrides other laws - When services supplied to SEZ are considered as services provided inside SEZ, there is no service tax on such deemed export - Services provided to SEZ are always exempt and Notification Nos. 9/2009-ST and 15/2009-ST have only operationalized said exemption - Hence, assessee was eligible for exemption [Paras 5 to 8] [In favour of assessee]

Circulars and Notifications: Notification No.15/2009-ST dated 20-5-2009, Notification No.9/2009-ST, dated 3-3-2009

Source: CESTAT, AHMEDABAD BENCH, Reliance Ports & Terminals Ltd. v. Commissioner of Central Excise & Service Tax, Rajkot [2015] 53 taxmann.com 476 (Ahmedabad - CESTAT)

➲ For Cenvat refund under rule 5, 'export turnover' would include export of exempted services

Cenvat Credit: Even exempted export services were to be added to Export turnover and all unutilised credit was refundable and rev-

enue's argument that 'unless foreign exchange is realized, amount pertaining to it cannot be considered as export turnover' cannot be accepted.

Rule 5 , read with rules 2(e) and 6, of the Cenvat Credit Rules, 2004 - CENVAT Credit - Refund of - Assessee was engaged in 100 per cent export of taxable as well as exempt services and did not take credit of any services used in exporting exempted services - Assessee claimed refund of unutilized Cenvat credit - Department argued in determining 'export turnover' for refund purposes following cannot be included : (i) exempted services; and (ii) payments not received in foreign exchange; however, said amounts would be considered for 'total turnover' - Assessee argued that all exports of services, whether exempt or taxable, would be considered as export turnover - Tribunal allowed refund holding that even exempted export services were to be added to Export turnover and all unutilised credit was refundable - HELD : Revenue's argument that 'unless foreign exchange is realized, amount pertaining to it cannot be considered as export turnover' cannot be accepted - Once assessee is 100 per cent export unit, all services would form part of 'export turnover' - Hence, appeals were dismissed as devoid of any substantial question of law [In favour of assessee].

Source: High Court of Gujarat, Commissioner of Service Tax v. Quintiles Technologies (P.) Ltd [2015] 54 taxmann.com 232 (Gujarat)

CENTRAL EXCISE

Notifications/Circulars

➲ Increase of Basic Excise Duty (BED) on petrol

Amendment of notification no 12/2012 - Central Excise dated 17/03/2012 so as to increase the Basic Excise Duty (BED) on petrol (both branded as well as unbranded) and diesel (both branded as well as unbranded) vide *Notification No. 1/2015-Central Excise dated: 1st January, 2015.*

➲ Mandatory pre-deposit of duty or penalty for filing appeal

Drawback, like rebate in Central Excise, is refund of duty suffered on the export goods. Section 129E stipulates that appellant filing appeal before the Commissioner (Appeals) shall pay 7.5% of the duty demanded where duty and penalty are in dispute. Accordingly, it is clarified that mandatory pre-deposit would be payable in cases of demand of drawback as the new section 129E would apply to such cases. The ambit of the Section 129E of the Customs Act, 1962 in the legislation does not extend to appeals under section 129DD before Joint Secretary (Revision Application). Therefore, while mandatory pre - deposit would be required to be paid in cases of drawback, rebate and baggage at the first stage appeal before Commissioner(Appeals), no pre-deposit would be payable in such cases while filing appeal before the JS(RA).

Source: Circular No. 993/17/2014 – CX, dated: 5th January, 2015

Case Laws

➲ Waiver of pre deposit - Penalty u/s 11AC

Held that: - It is evident from the materials available on record that this is a case where the demand is more than Rs 6 Crores, and it is evident from the record that the appellant, has been sincere and diligent in pursuing the appeal. The said fact is fortified by the action of the appellant in filing an application for early hearing of the appeal and this action of the appellant only shows his bona fides in prosecuting the appeal as well as the miscellaneous application. The Tribunal has merely ordered pre-deposit of the entire amount of Rs 6 Crores without taking into account any one of the plea as made by the appellant in the application for waiver of pre-deposit. As pleaded by the learned counsel for the appellant, the Tribunal has neither gone into the merits of the case nor considered the undue hardship of the appellant. That apart, the main plea of the appellant that the activity carried out by them could not be said to be manufacture within the meaning of Section 2 (f) (iii) of the Act has not at all be considered by the Tribunal. To that extent, this Court is of the considered opinion that the appellant's plea of prejudice deserves to be accepted. - order under challenge is set aside and this appeal is disposed of and the Tribunal is requested to re-hear the miscellaneous application for stay and waiver of pre-deposit during the 2nd week of February, 2015. - Appeal disposed of.

Source: M/s. Vectra Advanced Engineering Pvt. Ltd. versus Commissioner of Central Excise Chennai III Commissionerate Chennai [2015 (2) TMI 90 - Madras High Court - Central Excise]

➲ For Cenvat refund under rule 5, 'export turnover' would include export of exempted services

Cenvat Credit: Even exempted export services were to be added to Export turnover and all unutilized credit was refundable and revenue's argument that 'unless foreign exchange is realized, amount pertaining to it cannot be considered as export turnover' cannot be accepted.

Rule 5 , read with rules 2(e) and 6, of the Cenvat Credit Rules, 2004 - CENVAT Credit - Refund of - Assessee was engaged in 100 per cent export of taxable as well as exempt services and did not take credit of any services used in exporting exempted services - Assessee claimed refund of unutilized Cenvat credit - Department argued in determining 'export turnover' for refund purposes following cannot be included : (i) exempted services; and (ii) payments not received in foreign exchange; however, said amounts would be considered for 'total turnover' - Assessee argued that all exports of services, whether exempt or taxable, would be considered as export turnover - Tribunal allowed refund holding that even exempted export services were to be added to Export turnover and all unutilised credit was refundable - HELD : Revenue's argument that 'unless foreign exchange is realized, amount pertaining to it cannot be considered as export turnover' cannot be accepted

- Once assessee is 100 per cent export unit, all services would form part of 'export turnover' - Hence, appeals were dismissed as devoid of any substantial question of law [In favour of assessee].
Source: High Court of Gujarat, Commissioner of Service Tax v. Quintiles Technologies (P.) Ltd. [2015] 54 taxmann.com 232 (Gujarat)

➲ Plastic Crates used for internal movement of goods within factory are eligible for credit as capital goods

Rule 2(a) of the Cenvat Credit Rules, 2004 - CENVAT Credit - Capital Goods - Period July, 2002 to October, 2003 - Assessee, a manufacturer of cotton yarn and manmade yarn, took credit of duty paid on 'plastic crates' used to carry intermediate goods from one section to another for further processing treating same as 'capital goods' - Department argued that 'plastic crates' were not capital goods - Tribunal held that 'plastic crates' were accessories of machines in terms of definition of capital goods and were eligible for credit accordingly - HELD : In view of judgment in P.K.P.N. Spinning Mills (P.) Ltd. v. CCE [C.M.A. No. 4162 of 2006, dated 14-2-2013], plastic crates in question were eligible for credit [Paras 7 and 8] [In favour of assessee]
Source: HIGH COURT OF MADRAS, Commissioner of Central Excise v. Pallipalayam Spinners (P.) Ltd. [2015] 53 taxmann.com 348 (Madras)

➲ Rebate of duty available on inputs even if final products were exported without payment of duty under DEPB scheme

Excise & Customs: Where goods have been exported without payment of duty availing benefit of DEPB scheme, benefit of rebate under rule 18 of Central Excise Rules, 2002 in respect of duty paid on inputs is not available.

Rule 18, read with rule 19, of the Central Excise Rules, 2002 and section 5 of the Foreign Trade (Development And Regulation) Act, 1992 - Export - Rebate of duty - Assessee exported goods through merchant exporter without payment of duty under CT-1 and availed DEPB scheme - Assessee also claimed rebate of duty paid on inputs used in manufacture of said goods - Department sought to deny rebate on ground that : (a) no duty was suffered on output; (b) no imported inputs were used and, therefore, no customs duty was suffered; (c) DEBP scheme was availed, which necessarily and impliedly provided benefit in respect of inputs and therefore, double benefit by way of rebate on inputs could not be allowed - Department further contended that in case of export without payment of duty under Rule 19, benefit of rebate under rule 18 is inapplicable - HELD : Since assessee has availed DEPB benefit, logically, they have been refunded duties of excise suffered on inputs by way of DEPB benefit - Hence, rebate cannot be allowed as it amount to double benefit - Even otherwise, since goods were exported under rule 19, benefit of rebate under rule 18 is not admissible [In favour of revenue]
Circulars and Notifications: Notification No. 21/2004-C.E. (N.T.), dated 6-9-2004, DGFT Public Notice No. 102 (RE-2008)/2004-2009, dated 5-11-2008
Source: [2015] 53 taxmann.com 482 (Government of India)/ [2014] 303 ELT 316 (Government of India)

CENVAT Credit - Credit availed in respect of various services - appellant is availing CENVAT Credit in respect of Service Tax paid on expenses for various services, which were not considered as input service for the appellant like, insurance for transit (report) service, transport insurance being beyond the place of removal, brokerage charges, subscription fees, Credit card services etc. for the period - Held that:- under Rule 2(l) input includes not only expenses directly related but also indirectly related to the business of manufacturing - services in question are input services for the appellant manufacturer - Decided in favour of assessee.
Source: M/s ESSEL PROPACK LTD. versus COMMISSIONER OF CENTRAL EXCISE, THANE-I [2015 (1) TMI 991 - CESTAT MUMBAI - Central Excise]

SEBI

Notifications/Circulars

➲ Index based market-wide circuit breaker mechanism

Based on the recommendations of SEBI's Technical Advisory Committee (TAC) and Secondary Market Advisory Committee (SMAC), it has been decided to further strengthen the mechanism of index based market-wide circuit breaker as under:

(a) NSE and BSE shall compute their market-wide index (NIFTY and SENSEX respectively) after every trade in the index constituent stocks and shall check for breach of market-wide circuit breaker limits after every such computation of the market-wide index.
(b) In the event of breach of market-wide circuit breaker limit, stock exchange shall stop matching of orders in order to bring about a trading halt as mandated vide SEBI circular dated June 28, 2001. All unmatched orders present in the system shall thereupon be purged by the stock exchange.
(c) BSE and NSE shall implement suitable mechanism to ensure that all messages related to market-wide index circuit breakers are given higher priority over other messages. Further, the systems (including the network) for computation of market-wide index, checking for breach of circuit breaker limits and initiating message to stop matching of executable order and acceptance of fresh orders, shall not be used for any other purposes.
(d) BSE and NSE shall include in the scope of their annual system audit a review of its index based market-wide circuit breaker mechanism with the view to identify improvements.
Source: Circular CIR/MRD/DP/02/2015 dated: January 12, 2015

➲ Risk Management Policy at the Depositories

The Depository System was reviewed by the Depository Systems

Review Committee (DSRC) inter alia in the context of Principles for Financial Market Infrastructures (PFMI) laid down by the Committee on Payment and Settlement Systems (CPSS) and International Organization of Securities Commissions (IOSCO). The FMI principles lay emphasis on the need to have a robust risk management framework to identify, monitor and manage various risks emanating from multiple sources to its operations. The principles also emphasize that as the Board of the FMI is ultimately responsible for managing the FMIs risks, it should establish a clear, documented risk-management framework that includes the FMI's risk-tolerance policy, assigns responsibilities and accountability for risk decisions, and addresses decision making in crises and emergencies.

Source: Circular CIR/MRD/DP/ 1 /2015 January 12, 2015

FOREIGN TRADE

Notifications/Circulars

➲ Export and Import of Indian Currency

With a view to mitigating the hardship of individuals visiting from India to Nepal or Bhutan, it has now been decided that, an indi¬vidual may carry to Nepal or Bhutan, currency notes of Reserve Bank of India denominations above Rs.100/-, i.e. currency notes of Rs.500/- and/or Rs.1000/- denominations, subject to a limit of Rs.25000/- vide Notification No. RBI/2014-15/424, A.P. (DIR Se¬ries) Circular No.63 dated: January 22, 2015.

➲ Overseas Direct Investments by proprietorship concern / unregistered partnership firm in India – Review

The policy framework for Overseas Direct Investments (ODI) by a proprietorship concern / unregistered partnership firm in India has been reviewed. Accordingly, henceforth, the following revised terms and conditions are required to be complied with for considering the proposal of ODI, by a proprietorship concern / unregistered partnership firm in India, by the Reserve Bank under the approval route:

a. The proprietorship concern / unregistered partnership firm in India is classified as 'Status Holder' as per the Foreign Trade Policy issued by the Ministry of Commerce and Industry, Govt. of India from time to time;

b. The proprietorship concern / unregistered partnership firm in India has a proven track record, i.e., the export outstanding does not exceed 10% of the average export realization of the preceding three years and a consistently high export performance;

c. The Authorized Dealer bank is satisfied that the proprietorship concern / unregistered partnership firm in India is KYC (Know Your Customer) compliant, engaged in the proposed business and has turnover as indicated;

d. The proprietorship concern / unregistered partnership firm in India has not come under the adverse notice of any Government agency like the Directorate of Enforcement, Central Bureau of Investigation, Income Tax Department, etc. and does not appear in the exporters' caution list of the Reserve Bank or in the list of defaulters to the banking system in India; and

e. The amount of proposed investment outside India does not exceed 10 per cent of the average of last three years' export realization or 200 per cent of the net owned funds of the proprietorship concern / unregistered partnership firm in India, whichever is lower.

Source: Circular No. 59/2015 (RBI/2014-2015/419), dated 22.01.2015

➲ Import Policy regime of Radio Navigation Equipment under ITC (HS) 4 digit code 8526

No license is required for import of GSM/CDMA based vehicle tracking system having a valid International Mobile Station Equipment Identity (IMEI) / Electronic Serial Number (ESN) / Mobile Equipment Identifier (MEID) number vide Notification No. 105 / (RE-2013) / 2009 – 2014 dated 1st January, 2015.

➲ Amendment in import policy conditions under ITC (HS) 4 digit code 3808

Under Section [9] of the Insecticides Act, 1968 all chemicals intended to be used as insecticides, rodenticides, fungicides, herbicides etc. [referred to as 'insecticides' under the Act] require mandatory registration for import. In cases, where the 'insecticide' is imported for non-insecticidal purpose, an import permit is necessary from the Registration Committee under the Department of Agriculture and Cooperation. The Registration Committee while granting registration or a permit for import of an insecticide spells out the conditions for import which inter alia, may include reference to the source of import. No 'insecticide' can be imported from a source other than that specified on the certificate of registration or the permit, as the case may be. In addition, the Registration Committee may issue regulatory guidelines from time to time with respect to safety, efficacy, quality etc. which warrant full compliance from importers."

Source: Notification No. 106 (RE-2013)2009-14, dated 01.01.2015

➲ Amendment in import policy conditions under ITC (HS) 4 digit code 8517

This notification prohibits Import of 'GSM mobile handsets' (classified under ITC (HS) code '8517') without International Mobile Equipment Identity (IMEI) No., with all zeroes IMEI, duplicate IMEI or fake IMEI and Import of 'CDMA mobile handsets' (classified under ITC (HS) code '8517') without Electronic Serial Number (ESN)/ Mobile Equipment Identifier (MEID), with all Zeroes as ESN/MEID, duplicate ESN/MEID or fake ESN/MEID vide Notification No. 107 (RE-2013)/2009-14, dated 16.01.2015.

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THE INSTITUTE OF COST ACCOUNTANTS OF INDIA
(Statutory body under an Act of Parliament)

HEADQUARTERS
CMA Bhawan
12, Sudder Street, Kolkata 700 016
Tel: +91 33 2252 1031/1034/1035/1492/1602/1619/7373/7143
Fax: +91 33 2252 7993/1026/1723
E-mail: cma.ebulletin@icmai.in

DELHI OFFICE
CMA Bhawan
3, Institutional Area, Lodhi Road, New Delhi – 110 003
Tel: +91-11-24622156/57/58, 24618645
Fax: +91-11-43583642