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EDITORIAL

Indian rupee fares even better than Turkish lira

The Reserve Bank of India (RBI) raised its benchmark repo rate by 25 basis points to 8 percent at its policy review meet in January. The reverse repo rate rose to 7 percent while the bank rate and marginal standing facility rate climbed to 9 percent. This is the third hike in the repo rate since RBI Governor Raghuram Rajan assumed office in early September. The primary reason for the hike, as stated by the RBI, has been the high retail food inflation and a recovery in core WPI inflation. For the first time ever, the RBI has set a specific target for CPI inflation. We may not see rates coming down anytime soon, despite growth slowing further.

Over the 12 months to January 8, the rupee depreciated 12.9%. In the same period, Brazil's real declined 16.7%, the South African rand 24.4%, the Russian rouble 9.2%, while the Chinese renminbi strengthened marginally. Over the last one month, between the first week of January and the first week of February, the rupee declined by 0.5%, while the real 1.27%, the rand 4.67%, the rouble 5.4% and the renminbi depreciated by 0.16%. India has fared even

better than Turkey.

Thanks to the good performance of the farm sector, economic growth in the current fiscal is estimated to rise to 4.9 percent, though it is below potential as the manufacturing and mining sectors continue to remain a cause of concern.

"The growth in GDP during 2013-14 is estimated at 4.9 percent as compared to the growth rate of 4.5 percent in 2012-13," according to advanced estimates released Friday by the Central Statistics Office (CSO). Part of the improvement can be attributed to statistical reasons as the CSO had earlier lowered growth for 2012-13 fiscal to 4.5 percent in its revised estimates from an earlier provisional forecast of 5 percent.

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

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INDIAN ECONOMY

News

➤ Consumer inflation to ease in next two months:

Raghuram Rajan

India's consumer inflation should ease in the next two months, and will fall to 8 percent by the end of the year, Reserve Bank of India (RBI) Governor Raghuram Rajan said in an interview with TV news channel CNN-IBN on Thursday.

Source: Reuters, Jan 30, 2014

➤ RBI acts to counter bad loans

The Reserve Bank of India (RBI) released a framework to help banks recover bad debts in an effort to ease the financial stress on lenders as the economy slows.

Source: Reuters, 30 Jan 2014

➤ RBI quietly begins tryst with inflation targeting

Without explicitly saying so, the Reserve Bank of India (RBI) has effectively begun to target inflation based on consumer prices, a dramatic shift in approach for a central bank that has struggled to manage the balance between growth and inflation.

Source: Reuters, 29 Jan 2014

➤ Ford to unveil new compact car concept at Delhi

Auto Expo

Ford Motor Co will showcase a global compact concept car at the New Delhi auto show next month, highlighting a design direction that could spearhead the company's efforts to tap growing demand for small cars in India and other emerging markets.

Source: Ten News, 28 Jan 2014

➤ RBI likely to keep policy rate on hold, sound hawkish

The Reserve Bank of India (RBI) is expected to keep interest rates unchanged for the second time in six weeks on Tuesday, with Governor Raghuram Rajan expected to strike a hawkish tone on inflation that is easing but remains high.

Source: Reuters, 28 Jan 2014

➤ Proposed new RBI policy rate seen reducing money market swings

Reserve Bank of India's (RBI) proposal to change its main policy tool to a 14-day rate from an overnight one is a move bankers expect to help them better align their lending rates with central bank decisions.

Source: Reuters, 24 Jan 2014

➤ Forex reserves fall to \$292.08 billion as on Jan 17: RBI

India's foreign exchange reserves fell to \$292.08 billion as of Janu-

ary 17, from \$293.29 billion in the earlier week, the Reserve Bank of India.

Source: Economic Times, 25 Jan 2014

➤ RBI tries to quell concerns about withdrawing pre-2005 currency notes

The Reserve Bank of India (RBI) will allow the public to exchange the currency notes issued before 2005 even beyond July 1 and reiterated that these notes will continue to be legal tender, in an attempt to quell panic among common people.

Source: Reuters, 24 Jan 2014

➤ RBI seen holding rates on easing inflation: Reuters poll

The Reserve Bank of India will likely hold interest rates steady when it meets next week thanks to easing inflation and as it waits for more data, according to a Reuters poll of economists, who also predict better economic growth in the next fiscal year.

Source: Reuters, 23 Jan 2014

➤ India approves 10 percent IOC stake sale to state oil firms

A panel of ministers has approved the sale of a 10 percent stake in state refiner Indian Oil Corp to two state exploration firms, a move that will help the cash-strapped government raise funds to narrow its budget deficit.

Source: Reuters, 16 Jan 2014

➤ Companies can swap overseas loans into equity via prevailing FX rate: RBI

Indian companies can convert their overseas loans through the external commercial borrowing (ECB) route into equity shares by using the prevailing forex rate on the date of the swap agreement, the Reserve Bank of India.

Source: Reuters, 16 Jan 2014

➤ Fiscal deficit will be contained at 4.8 pct of GDP - FM

India's fiscal deficit will be contained at 4.8 percent of the gross domestic product in the current fiscal year ending March, the finance minister said, hinting at possible cuts in government spending. P. Chidambaram expressed on Wednesday his "unflinching commitment" to contain the fiscal deficit, at a time when the deficit in the first eight months of the fiscal year has touched 93.9 percent of the full-year target. The government is facing a fall in tax collections and lower receipts from share sale in state-run companies on account of the worst economic slowdown in a decade.

Source: Reuters, 15 Jan 2014

➤ Headline inflation eases to five-month low, rates may stay on hold

India's headline inflation eased to a five-month low in December on lower vegetable prices, providing some relief to the ruling coalition before a national election and increasing the odds that interest rates will stay on hold this month.

Source: Reuters, 15 Jan 2014

➤ Core wholesale inflation in December seen around 2.8 percent

India's core wholesale price index was estimated to have risen around 2.8 percent in December from a year earlier, up slightly from an estimated 2.66 percent rise in November, according to a Reuters snap survey of four analysts and traders.

Source: Reuters, 15 Jan 2014

➤ CPI eases to three-month low as food prices cool

Source: India's retail inflation in December eased to a three-month low as vegetable prices fell, giving some relief to policymakers struggling to contain price pressures as growth hovers at a decade low.

Source: Reuters, dated: 14 Jan 2014

➤ AAP shelves foreign supermarket entry into Delhi

The newly elected state government in New Delhi on Monday barred foreign supermarkets from setting up shop, a blow to Prime Minister Manmohan Singh's efforts to attract overseas investment and revive the economy.

Source: Reuters, 14 Jan 2014.

➤ Inflation probably eased in Dec on lower food prices

India's stubbornly high inflation finally appears to be slowing down following a cooling in vegetable prices, bringing some relief to the ruling Congress party which is struggling to win back voters ahead of a national election due by May. Easing inflation will also make life easier for a Reserve Bank of India (RBI) that has an arduous task of pulling the economy out of a stagflation-like situation. Economic growth has been stuck below 5 percent for the past four quarters but prices have risen at a fast clip. According to a Reuter's poll, consumer inflation probably eased to a three-month low of 9.92 percent in December, from 11.24 percent the previous month - the highest reading on record.

Source: Reuters, Jan 13, 2014

➤ December trade deficit widens, pressure on current account

India's trade deficit widened in December on slowing export growth which could pose pressure on the country's fragile current account balance. But imports continued to fall, driven by curbs on gold, the country's second most expensive overseas purchase after oil.

Source: Reuters, 10 Jan 2014

➤ December inflation seen easing on lower food prices

Source: PTI dated: December 4, 2013

India's inflation rate will probably ease in December from stubbornly high levels helped by waning food prices, a Reuter's poll showed, providing some respite to the Reserve Bank of India struggling with cost pressures and slow growth.

Source: Reuters, 09 Jan 2014

➤ Oil ministry considering partial rollback of price hike in bulk diesel

The oil ministry is considering a partial rollback of bulk diesel prices as sales have dropped significantly, oil secretary Vivek Rae said.

Source: Reuters, 09 Jan 2014

➤ Services downturn worsens in Dec but hiring picks up

Activity in India's services sector shrank at a faster pace last month as new orders dwindled, but firms hired at their fastest in five months.

Source: Reuters, 06 Jan 2014

➤ Bangalore to see second highest office demand in Asia in 2014

IT hub Bangalore is expected to witness the second highest demand for office space in the Asia Pacific region during 2014 in a list topped by Tokyo, according to property consultant Cushman and Wakefi.

Source: PTI, January 2, 2014

BANKING**Notifications/Circulars****➤ Marginal Standing Facility**

As per Notification No. RBI/2013-2014/471, FMD.MOAG. No. 97 /01.18.001/2013-14, dated: January 28, 2014 in the Third Quarter Review of the Monetary Policy 2013-14, it has been decided to increase the Marginal Standing Facility (MSF) rate by 25 basis points from 8.75 percent to 9.00 percent with immediate effect.

➤ Liquidity Adjustment Facility – Repo and Reverse Repo

As per Notification no. RBI/2013-2014/470, FMD.MOAG. No. 96 /01.01.001/2013-14, dated: January 28, 2014, in the Third Quarter Review of the Monetary Policy 2013-14, it has been decided to increase the Repo rate under the Liquidity Adjustment Facility (LAF) by 25 basis points from 7.75 per cent to 8.00 per cent with immediate effect. Consequent to the change in the Repo rate, the Reverse Repo rate under the LAF will stand automatically adjusted to 7.00 per cent with immediate effect.

➤ Withdrawal of all old series of Banknotes

issued prior to 2005

RBI has been following a policy of phasing out of certain series of banknotes from time to time. It has now been decided that all old series of banknotes issued prior to 2005 will be completely withdrawn from circulation.

Accordingly, the following plan of action has been formulated:

- (i) All older series of banknotes issued prior to 2005 would be acceptable for all kinds of monetary transactions only till March 31, 2014.
- (ii) Thereafter, the public will be required to approach bank branches which would provide them exchange facilities on an ongoing basis.
- (iii) These notes will continue to be legal tender.
- (iv) From July 01, 2014, to exchange more than 10 pieces of Rs.500 and Rs. 1000 notes, bank branches should obtain from non-customers, proof of their identity and residence.

Source: RBI/2013-2014/467, DCM (Plg) No.G

17/3231/10.27.00/2013-14, dated: January 23, 2014

➤ Section 42(1) of the Reserve Bank of India Act, 1934 and Section 24 of the Banking Regulation Act, 1949 - FCNR (B)/NRE deposits - Exemption from Maintenance of CRR/SLR and Exclusion from ANBC for Priority Sector Lending

Based on Notification RBI/2013-14/478, Ref: DBOD.No.Ret.BC. 93 /12.01.001/2013-14, dated: January 31, 2014, it has been decided that the exemption granted on incremental FCNR (B)/NRE deposits from maintenance of CRR/SLR will be withdrawn with effect from reporting fortnight beginning March 8, 2014, i.e., only the eligible amount of incremental FCNR (B) and NRE deposits of maturities of three years and above from the base date of July 26, 2013, and outstanding as on March 7, 2014, would qualify for CRR/SLR exemption till their maturities/ pre-mature withdrawals. Further, advances extended in India against the above mentioned incremental FCNR (B)/ NRE deposits, qualifying for exemption from CRR/ SLR requirements, will be eligible for exclusion from Adjusted Net Bank Credit, till their repayment, for computation of priority sector lending targets.

➤ Deregulation of Interest Rates on Non-Resident (External) Rupee (NRE) Deposits

In exercise of the powers conferred by Section 35A of the Banking Regulation Act, 1949, and in modification of the directive DBOD. Dir.BC.70/13.03.00/2013-14 dated November 29, 2013 on Deregulation of Interest Rates on Non-Resident (External) Rupee (NRE) Deposits, the Reserve Bank of India being satisfied that it is necessary and expedient in the public interest so to do, hereby directs that instructions issued vide directive DBOD.Dir.BC.39/13.03.00/2013-14 dated August 14, 2013 will continue till February 28, 2014. With effect from March 1, 2014, the interest rate ceiling will revert to the position prior to August 14, 2013, i.e. interest rates offered by banks on NRE deposits cannot be higher than those offered by

them on comparable domestic rupee deposits vide Notification No. RBI/2013-14/476, DBOD.Dir.BC.89/13.03.00/2013-14, dated: January 31, 2014.

➤ Interest Rates on FCNR (B) Deposits

In exercise of the powers conferred by Section 35A of the Banking Regulation Act, 1949, and in modification of the directive DBOD. No.Dir.BC.72/13.03.00/2013-14 dated November 29, 2013 on Interest Rates on FCNR (B) Deposits, the Reserve Bank of India hereby directs that the interest rate ceiling on FCNR (B) deposits prescribed vide Directive DBOD. Dir.BC.37/13.03.00/2013-14 dated August 14, 2013 will continue till February 28, 2014 and will revert to the ceiling prior to August 14, 2013, as under:

Maturity Period	Existing	With effect from March 1, 2014
1 year to less than 3 years	LIBOR/Swap plus 200 basis points	No change
3 - 5 years	LIBOR/Swap plus 400 basis points	LIBOR/ SWAP plus 300 basis points

Source: RBI/2013-14/477, DBOD.Dir.BC.91/13.03.00/2013-14, dated: January 31, 2014

➤ Increase in Bank Rate

As per Notification RBI/2013-14/475, RPCD.CO.RRB.RCB.BC. No. 82/03.05.33/2013-14, dated: January 29, 2014, Penal Interest Rates which are linked to the Bank Rate has been revised.

Item	Existing Rate	Revised Rate (Effective from January 28, 2014)
Penal interest rates on shortfalls in reserve requirements (depending on duration of shortfalls)	Bank Rate plus 3.0 percentage points (11.75 per cent) or Bank Rate plus 5.0 percentage points (13.75 per cent).	Bank Rate plus 3.0 percentage points (12.00 per cent) or Bank Rate plus 5.0 percentage points (14.00 per cent).

➤ Inclusion in/exclusion from the Second Schedule to the Reserve Bank of India Act, 1934- Regional Rural Banks (RRBs)

The names of five amalgamated Regional Rural Banks have been included in the Second Schedule to the Reserve Bank of India Act, 1934 by Notification RPCD.CO.RRB.No.46/03.05.100/2013-14 dated October 22, 2013 published in the Extraordinary Gazette of India (Part III - Section 4) dated December 5, 2013. Simultaneously, the names of 11 erstwhile Regional Rural Banks (RRBs) have been excluded from the Second Schedule to the Reserve Bank of India Act, 1934 by

notification RPCD.CO.RRB.No.47/03.05.100/2013-14 dated October 22, 2013 published in the above Extraordinary Gazette of India.

Source: RBI/2013-14/474, RPCD.CO RRB.

BC.No./81/03.05.100/2013-14, dated: January 29, 2014

➤ Foreign investment in India by SEBI registered Long term investors in Government dated Securities

Attention of AD Category-I banks is also invited to A.P.(DIR Series) Circular No.111 dated June 12, 2013 in terms of which the present limit for investments by FIIs, QFIs and long term investors in Government securities stands at USD 30 billion, out of which a sub-limit of USD 5 billion is available for investment by long term investors in Government dated securities.

Now as per Circular No.99 A.P. (DIR Series), RBI/2013-14/473, dated: January 29, 2014, it has been decided, in consultation with Government of India to enhance, with immediate effect, the existing sub-limit of USD 5 billion available to long term investors registered with SEBI – Sovereign Wealth Funds (SWFs), Multilateral Agencies, Pension/ Insurance/ Endowment Funds and Foreign Central Banks for investment in Government dated securities to USD 10 billion, within the total limit of USD 30 billion available for foreign investments in Government securities.

➤ RRBs/StCBs/CCBs-Collection of Account Payee Cheques – Prohibition on Crediting Proceeds to Third Party Account

As per Circulars RPCD.CO.RRB.BC.No.30/03.05.33/2011-12 dated November 11, 2011 and RPCD.CO.RCBD.BC.No.34/07.38.03/2011-12 dated November 24, 2011 Regional Rural Banks (RRBs) and State / Central Cooperative Banks (StCBs/CCBs) should be prohibited from crediting 'account payee' cheques to the account of any person other than the payee named therein. RBI reiterate these instructions and advise that banks should strictly collect 'account payee' cheques only for their payee constituents. RRBs and StCBs/CCBs may, however, consider collecting account payee cheques drawn for an amount not exceeding Rs.50,000/- to the account of their customers who are co-operative credit societies, if the payees of such cheques are the constituents of such co-operative credit societies, as circulars dated November 11, 2011 and November 24, 2011.

Source: Notification no. RBI/2013-14/472, RPCD.RRB.RCB.

BC.No.80/07.51.014/2013-14, dated: January 28, 2014

➤ Prepaid Payment Instruments issued by Non-Banking Institution

Non-banking institutions (NBIs) are allowed to issue prepaid payment instruments (PPIs) and collect money in this behalf from the customers, subject to authorization under the Payment and Settlement Systems Act (PSS Act), 2007. As this function involves providing payment service, and is regulated under the PSS Act by the Reserve Bank of India, it has been decided to exempt NBIs from the provisions of the Chapter III B of the RBI Act, 1934, with respect to

the money received by them for issue of PPIs.

Source: RBI/2013-14/461, DNBS (PD).CC. No 368 /03.10.01 /2013-14, dated: January 24, 2014

➤ Conversion of debt into shares, consent level of security enforcement actions and permission to acquire debt from other SC/RCs

Pursuant to the amendments made in Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act, 2002) and on the recommendations of the Key Advisory Group (KAG) constituted by the Government of India on the Asset Reconstruction Companies (ARCs), Reserve Bank of India advises as under:

a) Securitization Companies / Reconstruction Companies (SC/RCs) are permitted to convert a portion of debt into shares of the borrower company as a measure of asset reconstruction provided their shareholding does not exceed 26% of the post converted equity of the company under reconstruction.

b) Securitization Companies / Reconstruction Companies (SC/RCs) are required to obtain, for the purpose of enforcement of security interest, the consent of secured creditors holding not less than 60% of the amount outstanding to a borrower as against 75% hitherto.

c) Securitization Companies / Reconstruction Companies (SC/RCs) are permitted to acquire debt from other SC/RCs on certain conditions.

Source: RBI/2013-2014/460, DNBS (PD) CC. No. 35/SCRC/26.03.001/2013-2014, dated: January 23, 2014

➤ Facilities for Persons Resident outside India

As per Circular No.45 A.P. (DIR Series), FEMA/25/RB-2000] dated October 22, 2012 in terms of which Foreign Institutional Investors (FIIs) are allowed to approach any AD Category I bank for hedging their currency risk on the market value of entire investment in equity and/or debt in India as on a particular date subject to conditions specified therein.

As per references from market participants as to whether, along similar lines, it is possible for FIIs and other foreign investors to effect remittances on cash /TOM /spot basis to a bank other than the designated AD Category -I custodian bank. In this connection it is clarified that a foreign investor is free to remit funds through any bank of its choice for any transaction permitted under FEMA, 1999 or the Regulations / Directions framed thereunder. The funds thus remitted can be transferred to the designated AD Category -I custodian bank through the banking channel. Note should, however, be taken that KYC in respect of the remitter, wherever required, is a joint responsibility of the bank that has received the remittance as well as the bank that ultimately receives the proceeds of the remittance. While the first bank will be privy to the details of the remitter and the purpose of the remittance, the second bank, will have access to complete information from the recipient's perspective. Besides,

the remittance receiving bank is required to issue FIRC to the bank receiving the proceeds to establish the fact the funds had been remitted in foreign currency.

Sources: Circular No.96 A.P. (DIR Series), RBI/2013-14/454, dated: January 20, 2014

➔ Liquidity Adjustment Facility- Reverse Repo

New It has been decided to revise the timings of Reverse Repo window under Liquidity Adjustment Facility (LAF). The Reverse Repo window will now be available between 7.00 pm and 7.30 pm instead of the existing timings of 4.45 pm to 5.15 pm. The change in timings will take effect from January 20, 2014.

Source: RBI/2013-14/451, FMD.MOAG. No.95/01.01.001/2013-14, dated: January 17, 2014

➔ Distribution of Banknotes & Coins – Review of Incentives & Penalties

As per Notification no. RBI/2013-14/450, DCM (CC) No.G-16/03.39.01/2013-14, dated: January 13, 2014, it has now been decided to extend the scheme of incentives for Installation of Note Sorting Machines (NSMs) to all licensed State Co-operative Banks and District Central Co-operative Banks also. This revision comes into force with immediate effect. All other instructions including those for reimbursement for establishment of Coin Vending Machines contained in our Master Circular dated July 01, 2013 shall apply to all the machines including NSMs.

➔ Conversion of External Commercial Borrowing and Lumpsum Fee/Royalty into Equity

Based on Circular No. 94 A.P. (DIR Series), RBI/2013-2014/449, dated: January 16, 2014, it is clarified that where the liability sought to be converted by the company is denominated in foreign currency as in case of ECB, import of capital goods, etc. it will be in order to apply the exchange rate prevailing on the date of the agreement between the parties concerned for such conversion. Reserve Bank will have no objection if the borrower company wishes to issue equity shares for a rupee amount less than that arrived at as mentioned above by a mutual agreement with the ECB lender. It may be noted that the fair value of the equity shares to be issued shall be worked out with reference to the date of conversion only. It is further clarified that the principle of calculation of INR equivalent for a liability denominated in foreign currency as mentioned at paragraph 3 above shall apply, mutatis mutandis, to all cases where any payables/liability by an Indian company such as, lump sum fees/royalties, etc. are permitted to be converted to equity shares or other securities to be issued to a non-resident subject to the conditions stipulated under the respective Regulations.

➔ Capital and Provisioning Requirements for Exposures to entities with Unhedged Foreign Currency Exposure

As per Notification RBI/2013-14/448, DBOD.No.BP.BC. 85

/21.06.200/2013-14, dated: January 15, 2014, Capital and Provisioning Requirements for Exposures to entities with Unhedged Foreign Currency Exposure has been made. For details please visit: <http://www.rbi.org.in> – Notifications.

➔ Risk Management and Inter Bank Dealings

On a review of the evolving market conditions and with a view to providing operational flexibility in respect of current and capital account transactions, it has been decided to allow, in case of contracted exposures, forward contracts in respect of all current account transactions as well as capital account transactions with a residual maturity of one year or less to be freely cancelled and re-booked. As far as the exposure of the FIIs/QFIs/other portfolio investors is concerned, forward contracts booked by these investors, once cancelled, can be rebooked up to the extent of 10 per cent of the value of the contracts cancelled vide circular no. 92 A.P. (DIR Series), RBI/2013-2014/446, dated: January 13, 2014. The forward contracts booked by these investors may, however, be rolled over on or before maturity.

➔ Alteration in the name of “Development Credit Bank Limited” to “DCB Bank Limited “ in the Second Schedule to the Reserve Bank of India Act, 1934

Name of “Development Credit Bank Limited” has been changed to “DCB Bank Limited” in the Second Schedule to the Reserve Bank of India Act, 1934 w.e.f. October 24, 2013 vide Notification DBOD. PSBD No. 10131/16.01.132/2013-14 dated November 25, 2013 and published in the Gazette of India (Part III Section 4) dated December 28, 2013.

Source: Notification no. RBI/2013-14/442, Ref.DBOD.No.Ret.BC /83/12.06.097/2013-14, dated: January 10, 2014.

➔ RRBs/StCBs/CCBs- Know Your Customer (KYC) Norms /Anti-Money Laundering (AML) Standards/ Combating of Financing of Terrorism (CFT)/ Obligation of banks under Prevention of Money Laundering Act (PMLA), 2002 – Amendment to Section 13(2)

With the enactment of Prevention of Money Laundering (Amendment) Act, 2012 and amendment to Section 13 of the Act which provides for “Powers of Director to impose fine”, the section 13(2) now reads as under:

“If the Director, in the course of any inquiry, finds that a reporting entity or its designated director on the Board or any of its employees has failed to comply with the obligations under this Chapter, then, without prejudice to any other action that may be taken under any other provisions of this Act, he may –

(a) issue a warning in writing; or

(b) direct such reporting entity or its designated director on the Board or any of its employees, to comply with specific instructions; or

(c) direct such reporting entity or its designated director on the Board or any of its employees, to send reports at such interval as may be prescribed on the measures it is taking; or

(d) by an order, levy a fine on such reporting entity or its designated director on the Board or any of its employees, which shall not be less than ten thousand rupees but may extend to one lakh rupees for each failure.”

In view of the above amendment, Regional Rural Banks and State/ Central Cooperative Banks may nominate a Director on their Boards as “designated Director” to ensure compliance with the obligations under the Prevention of Money Laundering (Amendment) Act, 2012.

Source: RBI/2013-14/441, RPCD.RRB.RCB.AML.BC.No. 75/07.51.018/2013-14, dated: January 09, 2014

➤ **Foreign Direct Investment- Pricing Guidelines for FDI instruments with optionality clauses**

Circular No. 86 A.P. (DIR Series), RBI/2013-2014/436, dated: January 9, 2014 provides pricing guidelines for FDI instruments with optionality clauses. For details please visit: <http://www.rbi.org.in> – Notifications.

➤ **Memorandum of Instructions for Opening and Maintenance of Rupee / Foreign Currency Vostro Accounts of Non-resident Exchange Houses**

With a view to expanding the scope of the Rupee Drawing Arrangements (RDAs), it has been decided to include additional items under Permitted Transactions under RDAs vide Circular No. 88 A. P. (DIR Series), RBI/2013-14/438, dated: January 09, 2014.

Earlier guidelines under Part (B) Permitted Transactions of Annex-I	Revised guidelines under Part (B) Permitted Transactions of Annex-I
Drawing Arrangements with Exchange Houses are primarily designed to channel inward personal remittances. Under no circumstances, donations / contributions to charitable institutions should be routed through the Exchange Houses. The following is the list of permissible transactions under Drawing Arrangements with Exchange Houses.	Drawing Arrangements with Exchange Houses are primarily designed to channel inward personal remittances. Under no circumstances, donations / contributions to charitable institutions should be routed through the Exchange Houses. The following is the list of permissible transactions under Drawing Arrangements with Exchange Houses.
1. Credit to Non-resident (External) Rupee accounts maintained by Non-resident Indians in Indian Rupees	1. Credit to Non-resident (External) Rupee accounts maintained by Non-resident Indians in Indian Rupees.

Earlier guidelines under Part (B) Permitted Transactions of Annex-I	Revised guidelines under Part (B) Permitted Transactions of Annex-I
2. Payments to families of Non-resident Indians.	2. Payments to families of Non-resident Indians.
3. Payments in favour of Insurance companies, Mutual Funds and the Post Master for premia / investments.	3. Payments in favour of Insurance companies, Mutual Funds and the Post Master for premia / investments.
4. Payments in favour of bankers for investments in shares, debentures.	4. Payments in favour of bankers for investments in shares, debentures.
5. Payment to Coop. Housing Societies, Govt. Housing Schemes or Estate Developers for acquisition of residential flats in India in individual names subject to compliance of regulations thereof by the Non-resident Indians.	5. Payment to Coop. Housing Societies, Govt. Housing Schemes or Estate Developers for acquisition of residential flats in India in individual names subject to compliance of regulations thereof by the Non-resident Indians.
6. Payments of tuition/ boarding, examination fee etc. to schools, colleges and other educational institutions.	6. Payments of tuition/ boarding, examination fee etc. to schools, colleges and other educational institutions.
7. Payments to medical institutions and hospitals for medical treatment of NRIs / their dependents and nationals of Gulf Countries in India.	7. Payments to medical institutions and hospitals for medical treatment of NRIs / their dependents and nationals of Gulf Countries in India.
8. Payments to hotels by nationals of Gulf countries / NRIs for their stay.	8. Payments to hotels by nationals of Gulf countries / NRIs for their stay.
9. Payments to travel agents for booking of passages of NRIs and their families residing in India towards their travel in India by domestic airlines / rail, etc.	9. Payments to travel agents for booking of passages of NRIs and their families residing in India towards their travel in India by domestic airlines / rail, etc.
10. Trade transactions up to Rs. 2 lakhs per transaction.	10. Trade transactions up to Rs. 2 lakhs per transaction.
	11. Payments to utility service providers in India, for services such as water supply, electricity supply, telephone (except for mobile top-ups), internet, television etc.
	12. Tax payments in India
	13. EMI payments in India to Banks and Non-Banking Financial Companies (NBFCs) for repayment of loans.

➤ **Advances guaranteed by Credit Risk Guarantee Fund Trust for Low Income Housing (CRGFTLIH) – Risk Weights and Provisioning**

On the issue of assignment of appropriate risk weight for loans guaranteed by CRGFTLIH and prescription of requisite provisioning norms for such loans on the lines of credit facilities guaranteed by Credit Guarantee Fund Trust for Micro and Small Enterprises, it has been decided as under:

i) **Risk weight**

NBFC-MFIs may assign zero risk weight for the guaranteed portion. The balance outstanding in excess of the guaranteed portion would attract a risk-weight as per extant guidelines.

ii) **Provisioning**

In case the advance covered by CRGFTLIH guarantee becomes non-performing, no provision need be made towards the guaranteed portion. The amount outstanding in excess of the guaranteed portion should be provided for as per the extant guidelines on provisioning for non-performing advances.

Source: Notification - RBI/2013-14/425, DNBS.

PD.363/03.10.38/2013-14, dated: Jan 01, 2014

➤ **Overseas Direct Investments – Rollover of Guarantees**

It has been decided not to treat / reckon the renewal / rollover of an existing / original guarantee, which is part of the total financial commitment of the Indian party in terms of Regulation 6 of the Notification *ibid*, as a fresh financial commitment, provided that :

- a. the existing / original guarantee was issued in terms of the then extant / prevailing FEMA guidelines.
- b. there is no change in the end use of the guarantee, i.e. the facilities availed by the JV / WOS / Step Down Subsidiary;
- c. there is no change in any of the terms & conditions, including the amount of the guarantee except the validity period;
- d. the reporting of the rolled over guarantee would be done as a fresh financial commitment in Part II of Form ODI, as hitherto; and
- e. if the Indian party is under investigation by any investigation / enforcement agency or regulatory body, the concerned agency / body shall be kept informed about the same.

Source: Notification - RBI/2013-14/427, A.P. (DIR Series) Circular No.83, dated: Jan 03, 2014

➤ **Banks’ Exposure to Central Counterparties (CCPs) - Interim Arrangements**

It has been decided that as an interim measure, a bank’s clearing exposure to a Qualifying CCP (QCCP) will be kept outside of the exposure ceiling of 15 per cent of its capital funds applicable to a single counterparty. Clearing exposure would include trade exposure and default fund exposure as defined in the guidelines on capital requirements for banks’ exposure to central counterparties issued vide Circular DBOD.No.BC.28/21.06.201/ 2013-14 dated

July 2, 2013. Other exposures to QCCPs such as loans, credit lines, investments in the capital of CCP, liquidity facilities, etc. will continue to be within the existing exposure ceiling of 15 per cent of capital funds to a single counterparty. However, all exposures of a bank to a non-QCCP should be within this exposure ceiling of 15 per cent.

Source: Notification - RBI/2013-14/430, DBOD.No.BP.

BC.82/21.06.217/2013-14, dated: Jan 07, 2014

➤ **Clarifications regarding issue of Non-convertible/ redeemable bonus preference shares or debentures**

Clarifications have been issued regarding issue of Non-convertible/ redeemable bonus preference shares or debentures vide Notification no. RBI/2013-2014/428, A.P. (DIR Series) Circular No.84, dated: January 6, 2014.

➤ **Application of Minimum Capital Adequacy Norms to State and Central Cooperative Banks (StCBs/CCBs)**

In the context of financial stability of the rural cooperative banking system and to strengthen the capital structure of State and Central Cooperative Banks (StCBs/CCBs), it is decided to prescribe a minimum Capital to Risk weighted Assets Ratio (CRAR) for StCBs/CCBs. Accordingly, StCBs/CCBs are advised to achieve a minimum CRAR of 9% in a phased manner over a period of three years as indicated below:

As on March 31, 2015	7%
As on March 31, 2017	9%

StCBs/CCBs are advised to maintain a mandated minimum CRAR of 7% on an ongoing basis with effect from March 31, 2015 and 9% with effect from March 31, 2017. Further, it is decided that StCBs/CCBs be permitted to issue Long Term (Subordinated) Deposits (LTD) and Innovative Perpetual Debt Instruments (IPDI) to facilitate raising of capital funds (Tier I and Tier II) for the purpose of compliance with the prescribed CRAR norms.

Source: Notification - RBI/2013-14/433, RPCD.RCB.

BC.73/07.51.012/2013-14, dated: January 7, 2014

➤ **Guidelines for Classification and Valuation of Investments**

As per circular RPCD.RRB.BC.No.59/03.05.34/2010-11 dated April 11, 2011, RRBs were exempted from ‘Mark to Market’ (MTM) norms in respect of their entire investment in SLR securities, upto the financial year 2012-13. Now as per notification no. RBI/2013-14/434, RPCD.CO.RRB.BC.No. 74/03.05.33/2013-14, dated: January 07, 2014 it has now been decided to withdraw the exemption from MTM norms given to RRBs in respect of the entire portfolio of SLR securities. Accordingly, RRBs are advised to introduce MTM norms in respect of SLR securities w.e.f. April 01, 2014.

The salient features of the revised guidelines on classification and

valuation of investments are as under:

- RRBs are required to classify their entire investment portfolio, as on April 01, 2014 under three categories viz. 'Held to Maturity', 'Available for Sale' and 'Held for Trading'.
- In the balance sheet, the investments will continue to be disclosed as per the existing five classifications viz. i) Government securities ii) Other approved securities iii) Shares iv) Debentures & Bonds v) Others (Mutual Fund Units, etc.).
- The investments included under 'Held to Maturity' should not exceed 25 per cent of the bank's total investments. The limit can be exceeded if the excess comprises SLR securities and the total SLR securities held in the HTM category is not more than 24.5 per cent of their DTL as on the last Friday of the second preceding fortnight.
- The investments under the Available for Sale and Held for Trading categories should be marked to market periodically as indicated in the Annex.
- The investments under the Held to Maturity category need not be marked to market as in the case of 'Permanent' securities at present.
- Classification of investments, shifting of investments among the three categories, valuation of the investments, methodology for booking profit/loss on sale of investments and providing for depreciation should be in accordance with the guidelines in the Annex.
- The risk-weights assigned to the various securities at present would remain unchanged.

➤ Resident Bank account maintained by residents in India – Joint holder – liberalization

It has been decided that AD banks may include an NRI close relative (relatives as defined in Section 6 of the Companies Act, 1956) in existing / new resident bank accounts as joint holder with the resident account holder on "Either or Survivor" basis subject to certain conditions. For details please visit: <http://www.rbi.org.in> – Notifications
Source: RBI/2013-2014/437, A.P. (DIR Series) Circular No. 87, dated: January 9, 2014

➤ Lending Against Security of Single Product – Gold Jewellery

As per notification no. RBI/2013-14/435, DNBS.CC.PD.No. 365/03.10.01/2013-14, dated: January 08, 2014 certain representations from NBFCs has been received regarding lending against Security of Single Product of Gold Jewellery. For details please visit: <http://www.rbi.org.in>- notifications.

INCOME TAX

Notifications/Circulars

➤ Creation of Directorate of Income-Tax (Risk Assessment) at New Delhi

Notification No. Income Tax - IT - GSR 22 (E) dated: 16-01-2014 specifies creation of Directorate of Income Tax (Risk Assessment),

Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, with immediate effect at New Delhi. The Directorate of Income Tax (Risk Assessment) will be headed by a Director General of Income Tax who will be an officer of the rank of Chief Commissioner of Income Tax. The Directorate of Income Tax (Risk Assessment) will function under the administrative control of the Director General of Income Tax (Risk Assessment) and it will be an attached office of CBDT.

➤ CG specifies officer of the rank of Secretary in various States for implementation of the National Food Security Act, 2013

In pursuance of sub-clause (ii) of clause (a) of sub-section (1) of Section 138 of the Income Tax Act, 1961, Central Government hereby specifies the officer of the rank of Secretary in various State(s) / Union territories in India who is responsible for implementation of the National Food Security Act, 2013 on behalf of respective Government in such state(s) / Union territories for the purposes of the said clause vide *Notification Income Tax - IT - 01/2014 dated: 06-01-2014*.

➤ Deduction in respect of Notified Health Service Scheme u/s 80D of the Income-Tax Act, 1961

Central Government notifies the Contributory Health Service Scheme of the Department of Space for the purposes of the deduction under clause (a) of sub-section (2) of section 80D of the Income-tax Act, 1961 (43 of 1961) for the assessment year 2014-15 and subsequent assessment years vide *Notification No.6/2014 (F. No. 149/97/2013 -TPL), dated: 15-1-2014*.

➤ Chapter XVII-B of the Income-tax Act, 1961 - Collection and Recovery of tax - Deduction at Source - Clarification regarding TDS under chapter XVII-B on service tax component comprised of payments made to residents

As per Circular No. 1/2014 [F.NO.275/59/2012-IT (B)], dated: 13-1-2014, it is clarified that tax will be deducted at source under section 194-I of the Income-tax Act, 1961 on the amount of rent paid/payable without including the service tax component. CBDT has decided that wherever in terms of the agreement/contract between the payer and the payee, the service tax component comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source under Chapter XVII-B of the Act on the amount paid/payable without including such service tax component.

➤ Explanatory statement on Finance Act 2013

CBDT has released Explanatory statement on provisions of Finance Act 2013. For details please visit: <http://www.incometaxindia.gov.in>, refer to Circular No.3/2014 dated 24th Jan, 2014.

➤ **Agreement between Government of the Republic of India and the Council of Ministers of Republic of Albania for the avoidance of double taxation & prevention of fiscal evasion with respect to taxes on income and on capital**

An agreement was entered into between the Government of the Republic of India and the Council of Ministers of Republic of Albania for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital which was signed at New Delhi on the 8th day of July, 2013. Whereas the date of entry into force of the said agreement is the 4th day of December, 2013. Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, (43 of 1961), the Central Government hereby directs that all the provisions of said agreement between the Government of the Republic of India and the Council of Ministers of Republic of Albania for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, as set out in the Annexure hereto, shall be given effect to in the Union of India with effect from date of entry into force of said agreement i.e., the 4th day of December, 2013. – *Notification No. 02/2014/F.No.501/1/2003 – FTD –I, dt. 07-01-2014.*

➤ **Amendment in rule 44CA**

Based on *Notification - 05/2014, dated: 15-1-2014*, CBDT makes amendment in rule 44CA of the Income -Tax Rules, 1962. The new rule may be called Income-Tax (First amendment) Rules, 2014. For details please visit: <http://www.incometaxindia.gov.in>.

➤ **CG specifies Foreign Portfolio Investors as Foreign Institutional Investor**

In exercise of the powers conferred by clause (a) of the Explanation to Section 115 AD of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby specifies Foreign Portfolio Investors registered under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014, as Foreign Institutional Investor for the purpose of the said section vide *Notification No. 9/2014/ F. No. 173/10/2014-(ITA.I), dated: 22nd January, 2014.*

Case Laws

➤ **ITAT: Consideration for acquiring ‘business advantage’ on merger amounts to depreciable intangible asset**

Depreciation claim allowed to assessee-bank on amount paid for acquisition of ‘business advantages’ (in the form of licenses and client base) pursuant to merger scheme; Scheme provided for transfer of entire business apparatus including client base, licenses/registrations enjoyed by transferor banks; This resulted in transfer of business advantage which is an intangible asset covered under “business or commercial rights of similar nature” u/s

32(1)(ii); Relies on Delhi HC ruling in *Areva T&D India Ltd and Hyderabad ITAT ruling in SKS Micro Finance : Pune ITAT*
Source: Cosmos Co-op Bank Ltd. [TS-47-ITAT-2014(PUN)]

➤ **ITAT : Sec.54F exemption granted despite subsequent ‘commercial’ use of residential property**

Assessee entitled to Sec.54F benefit as what was sought to be acquired and originally acquired was a residential property; Assessee entered into development agreement to construct residential property, which was subsequently put to commercial use; Subsequent change in the usage of property does not disentitle assessee to relief u/s 54F; Relies on co-ordinate bench ruling in *M.V. Subramanyeswara Reddy HUF : Hyderabad ITAT*
Source: Shyamlal Tandon [TS-34-ITAT-2014(HYD)]

➤ **HC : Can’t deny Sec 54F exemption following ‘hyper-technical’ approach; Delayed title deed registration inconsequential**

HC holds capital gains as long term and allows exemption u/s 54EC and 54F, even though time gap between actual registration of site and its sale less than 36 months; Registration of site delayed pursuant to disputes with respect to allotment of previous sites; Point of time from which assessee actually held the property relevant in determining holding period and not date of registered title deed; No dishonest or improper motive on part of the assessee in claiming said exemption; By a “hyper-technical” or “legalistic” approach, exemption could not be denied : *Karnataka HC*
Source: A Suresh Rao [TS-688-HC-2013(KAR)]

➤ **HC : Sec 43B deduction allowed to employees’ contribution u/s 36(1)(va); Contradicts Gujarat HC**

HC allows deduction of employees’ contribution to PF / ESI, when deposited on or before the due date of furnishing tax return u/s 139; HC notes that Sec 43B applicability to Sec. 36(1)(va) deduction for employees’ contribution to PF / ESI settled issue now.
Source: Rajasthan HC Jaipur Vidyut Vitran Nigam Ltd. [TS-16-HC-2014(RAJ)]

➤ **ITAT : Additional payments to retiring partners, a capital receipt not profit u/s 28(va)**

ITAT holds that additional payments to retiring partners for share in business value are non-taxable capital receipts; Additional payments (in addition to capital account balances) represent retiring partners’ rightful share in goodwill, worth & value of business, not profits; No profit element in the payment, even presence of profit-element does not make profits taxable in partners’ hands u/s 10(2A); In absence of retirement deed restraining assessee from carrying on business activity, amounts not taxable as non-compete fees u/s 28(va) also; Rejects CIT(A)’s finding that present case was a family settlement, hence payments not taxable : *Chennai ITAT.*
Source: P. Sivakumar [TS-18-ITAT-2014(CHNY)]

PROVIDENT FUND

News

➔ EPFO approves raising Provident Fund interest rate to 8.75 percent

Retirement fund body EPFO decided to increase the rate of interest on Provident Fund deposits to 8.75 percent for 2013-14

Source: PTI, 13 Jan 2014

➔ EPFO: Permanent PF account number to be a reality in 2014-15

Portable permanent PF account number, which will enable over five crore EPFO members to get rid of the process of transferring their accounts on changing jobs, will be a reality in 2014-15.

The permanent PF account number would also help provide social security benefits to workers in sectors like construction where they change contractors and place of work frequently. According to the 'Action Plan' handed over by the Labour Ministry to the Employees' Provident Fund Organization (EPFO), the body has to put in place a system for unique employee number which would eventually make its facilities at par with core banking service. The EPFO is working on the system to provide permanent account numbers to its subscribers.

Source: PTI, January 17, 2014

CUSTOMS

Notifications/Circulars

➔ Amendments carried out in the Drawback schedule effective 21.9.2013 vide *Circular 03/2014 dated: 30-01-2014* - Certain amendments that are effective from 25.01.2014 have been carried out vide Notification No. 05/2014-Customs (N.T.), dated 21.01.2014. The notification may be downloaded from www.cbec.gov.in and perused for details.

The main changes/amendments made are:

- Separate entries have been created for (i) Accelerated Freeze Dried (AFD) crustaceans under tariff item 030603 (ii) knitted or crocheted fabrics containing 5% or more by weight of spandex/ lycra/ elastane, for grey as well as dyed, under tariff items 600210 to 600217 and 600410 to 600417 (iii) gloves, specially designed for use in sports namely golf gloves, made of synthetic materials, under tariff items 611609 and 621608 (iv) fabric swatches under tariff item 630701 and (v) poultry equipment and parts thereof under tariff item 843601;
- Drawback Caps have been changed for tariff item nos. 420207, 420210 & 420307, coir products falling under chapter 57 and motor cars of heading 8703;

- Drawback rate of 1.7% or 1.9% (Customs portion) under chapter 87 has been changed to 2%. Tractors (8701) have been provided composite rate and cap;
- Description for tariff item no. 4820200001 has been amended to cover only those stationery items which are either with PVC/ BOPP jackets or are laminated. Drawback rates and caps have also been rationalized for tariff item nos. 4820200001, 4820200009, soft stuffed toys (950304), PVC inflatable toys (950305) and croquet sets (95069962);
- Existing entry under tariff item no. 731902 i.e. "Steel Cops/pirn/bobbins" has been replicated under heading 7326 with same rate and cap.

➔ Classification of "Transmission shafts / Power takeoff (PTO) shafts" in the HS Harmonized Customs Tariff vide Circular No. 2 / 2014 - Customs dated: 9th January, 2014.

➔ *As per notification no. 01/2014-Cus*, dated: 17-01-2014 Central Government, hereby exempts materials imported into India against an Advance Authorization issued in terms of paragraph 4.1.3 of the Foreign Trade Policy meant for export of a prohibited item in terms of paragraph 4.4.1 (b) of the Handbook of Procedures Volume 1 (hereinafter referred to as the said authorization) from the whole of the duty of customs leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975 (51 to 1975) and from the whole of the additional duty, safeguard duty and anti-dumping duty leviable thereon, respectively, under section 3, 8B and 9A of the said Customs Tariff Act, subject to certain conditions.

For details please visit: <http://www.cbec.gov.in/customs/cs-act/notifications/notfns-2014/cs-tarr2014/cs01-2014.htm>

➔ Amendment to Notification No. 27/2011-customs, dated: 01.03.2011 - Central Government makes amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.27/2011-Customs, dated the 1st March, 2011. As per the new *notification No. 3/2014 - Customs, dated 27th January, 2014*, the rate of duty for Iron ore pellets (under Chapter/heading/ sub-heading/tariff item - 2601 12 10) will be substituted by 5% instead of Nil prevailing.

➔ As per the new *notification no. 02/2014 - Customs, dated: 20th January, 2014* the standard rate of duty for serial no. 56, 58, 59, 63, 66, 69 and 71 mentioned in notification no. 12/2012-Customs, dated 17th March, 2012 shall be substituted by 10%.

➔ Levy of definitive anti-dumping duty on imports of "4, 4 Diamino Stilbene 2, 2 Disulphonic Acid (DASDA)", originating in, or exported from, the People's Republic of China, for a period of five years vide *notifications no. 09/2014-Cus (ADD), dt. 23-01-2014*.

➔ Levy of definitive anti-dumping duty on imports of 'Hexamine,

originating in, or exported from, the Saudi Arabia and Russia for a further period of five years – vide *notification no. 08/2014-Cus (ADD), dt. 23-01-2014*

➤ Extension of the validity of notification No.04/2009-Customs dated the 6th January, 2009 for a period of one year i.e. up to and inclusive of 5th day of January, 2015 - vide *notification no 07/2014-Cus (ADD), dt. 23-01-2014*

➤ Levy of definitive anti-dumping duty on imports of 'Nonyl Phenol', originating in, or exported from, Chinese Taipei for a further period of five years vide *notification no. 05/2014-Cus (ADD), dt. 16-01-2014*

➤ Extension of the validity of notification No.95/2011-Customs dated the 3rd October, 2011 for a period of one year i.e. up to and inclusive of 25th December, 2014 - *notification no 04/2014-Cus (ADD), dt. 16-01-2014*

➤ Extension of the validity of notification No.137/2008-Customs dated the 26th December, 2008 for a period of one year i.e. up to and inclusive of 25th December, 2014 vide *notification no. 03/2014-Cus (ADD), dt. 16-01-2014*

➤ Extension of the validity of notification No.55/2009-Customs dated the 26th May, 2009 for a period of one year i.e. up to and inclusive of 20th November, 2014 - *notification no 02/2014-Cus (ADD), dt. 03-01-2014*

➤ Amendment notification No. 121/2009- Customs dated 30th October, 2009 so as to change the name of a producer/ exporter *notification no 01/2014-Cus (ADD), dt. 03-01-2014*

Case Laws

➤ Confiscation of goods - Imposition of penalty - Held that:- Commissioner has been quite harsh in deciding the quantum of penalty. Once it is concluded that omission is procedural in nature, it should be nominal and only to ensure that such mistakes do not happen again. Therefore in my view in this case penalty also has to be in nominal terms just to ensure that legal provisions are not ignored even by mistake - Penalty reduced - Decided partly in favour of assessee.

Source: M/s. Saurashtra Cement Ltd. Versus CC Jamnagar (2014 (1) TMI 1172 - CESTAT AHMEDABAD - Customs)

➤ Exemption under Notification No. 53/97-Cus dated 03.6.1997 as superseded by Notification No. 52/2003 dated 31.3.2003 - Import of High speed diesel - Demand of additional duty of customs - Held that:- appellant had transferred the High Speed Diesel (HSD) and had cleared the same to be used in the factory premise who is 100% EOU. Any goods which are moved into 100% EOU are exempted

from payment of customs duty. In the same way, the additional duty of customs also cannot be levied - Decided in favour of assessee.

Source: M/s. IC. Textiles Limited versus Commissioner of Customs, Vadodara (2014 (1) TMI 1171 - CESTAT AHMEDABAD - Customs)

➤ Valuation of goods - Commissioner accepted higher value - Held that:- Import was made in October, 2007 from China and the value is not accepted by them and the same was enhanced. Now the Revenue is relying on the imports made during the period 10-4-2007 to 10-5-2007. There is no evidence to show that the goods are of the same quantity, quality. In view of this, we do not want to interfere with the order passed by the Commissioner (Appeals) - Following decision of M/s. Eicher Tractors Limited [2000 (11) TMI 139 - SUPREME COURT OF INDIA] - Decided against Revenue.

Source: COMMISSIONER OF CUSTOMS, NEW DELHI versus PRASAD ENTERPRISES (2014 (1) TMI 1168 - CESTAT NEW DELHI - Customs)

CENTRAL EXCISE

Notifications/Circulars

➤ The CBEC has as amended the Cenvat Credit Rules, 2004, now known as CENVAT Credit (First Amendment) Rules, 2014 vide *Notification No. 01/2014-Central Excise (NT) dated 08.01.2014* in relation to cenvat credit on removal/writing off of inputs and capital goods under Rule 3. Also, the date for payment of duty on removal of inputs/capital goods under the said rule has now been inserted as Explanation to Rule 3(5C).

➤ CBEC has issued clarification on application of SC decision in the case of Fiat India Ltd to determine transaction value and indicated that mere date of goods below manufacturing cost and profit not sole basis to reject transaction value. For details please refer to *Circular No.979/03/2014-CX dated 15th Jan, 2014*.

➤ As per *circular of CBEC No.978/2/2014-CX, dated: 7th January, 2014*, Education Cess and the Secondary and Higher Education Cess are not to be calculated on cesses which are levied under Acts administered by Department/Ministries other than Ministry of Finance (Department of Revenue) but are only collected by the Department of Revenue in terms of those Acts.

➤ Amendment in notification number 42/2008-Central Excise dated the 01.07. 2008 for change in rate of duty in Compound Levy Scheme applicable to Pan Masala and Pan Masala containing Tobacco vide notification no. 01/2014-CE, dt. 24-01-2014

➤ Amendment in notification number 42/2008-Central Excise dated the 01.07. 2008 for change in rate of duty in Compound Levy Scheme applicable to Pan masala and Pan masala containing

Tobacco vide *notification no. 01/2014-CE, dt. 24-01-2014.*

➔ Clarification regarding availability of excise duty exemption to the units which have already availed of exemption under New Industrial Policy for another 10 years by way of 2nd substantial expansion in the State of Jammu & Kashmir – *Circular no. 977/1/2014, dated: 03-01-2014.*

➔ Divergent practices of assessment with respect to compounded levy scheme applicable for smokeless tobacco products – *Circular 980/4/2014, dated: 24-01-2014.*

➔ Amendment of the Chewing Tobacco and Un-manufactured Tobacco Packing Machines (Capacity Determination and Collection of Duty) Rules, 2010[03/2014-CE(N.T.) vide *Notification 04/2014-CENT dt. 24-01-2014.*

Case Laws

➔ Denial of Credit on input services related to trading activity as well as research and development centre - Waiver of Pre-deposit – Held that:- As per the provisions of Rule 6 of the Cenvat Credit Rules whereby the value in case of trading is different between sale price and the cost of goods sold or 10% of the value goods sold, whichever is more, has to be taken into consideration - the total sale value of the traded goods has been taken into consideration while confirming the demand and these figures have been taken from the balance sheet - the offer made by the applicant is sufficient for hearing of the appeal – thus, the applicants are directed to deposit Rupees fifty lakhs as pre-deposit – upon such submission rest of the duty to be stayed till the disposal – Partial stay granted.

Source: Tata Motors Ltd. Versus Commissioner of Central Excise, Pune-I (2014 (1) TMI 1164 - CESTAT MUMBAI - Central Excise)

➔ Activity manufacture or not – Mixing of masala could be treated as manufacture for captive use in the manufacture of final exempted product – Waiver of pre-deposit – Held that:- Prima facie, mere mixing of various ready to use masalas along with some other ingredients for captive consumption, may not be held to be manufacturing activity - instead of first mixing the various masalas, masalas could have also been used directly on the final product - It is for the sake of convenience practicability and uniformity of taste that masalas are first mixed and then sprinkled - with the transfer of such interim product to the appellant's own factory located elsewhere does not reflect the marketability of the product; in as much as the admittedly said product is not being available in packed condition for a third party to buy the same – Pre-deposits waived till the disposal – stay granted.

Source: M/s Pepsico India Holdings Pvt Ltd. Versus CCE, Chandigarh-II (2014 (1) TMI 1163 - CESTAT NEW DELHI - Central Excise)

➔ Demand of Duty because of suppression of facts – Waiver of pre-deposit – Held that:- The Commissioner observed that the applicant suppressed the fact of production and clearance of products falling under different Headings of the Tariff - Prima facie, the Central Excise audit officers in the beginning did not raise any dispute and the demand appears to be barred by limitation – thus, the assessee directed to deposit 50% of duty as a pre-deposit – upon such submission rest of the duty to be stayed till the disposal – Partial stay granted.

Source: M/s. Madras Cements Ltd. Versus CCE, Trichy (2014 (1) TMI 1161 - CESTAT CHENNAI - Central Excise)

➔ Dutiable as well as non-dutiable products manufactured – Waiver of Pre-deposit – Held that:-The appellants were manufacturing dutiable as well as exempted final products and were using common modvatable inputs, after availing Cenvat credit - Following Unison Metals Ltd. Vs. CCE [2006 (10) TMI 171 - CESTAT, NEW DELHI]- 8% amount paid in terms of Rule 6 and collected from the buyers would not attract the provisions of Section 11D inasmuch as the amount collected from the buyer already stands deposited with the Revenue – the condition of pre-deposits waived till the disposal – Stay granted.

Source: M/s Bharat Heavy Electrical Ltd. versus CCE, Bhopal (2014 (1) TMI 1158 - CESTAT NEW DELHI - Central Excise)

➔ Activity amounts to manufacture or not – Cutting of empty boxes – Waiver of pre-deposit – Held that:- Prima-facie, even though the cenvat credit is not admissible on aluminum foil and foil packing empty box as the applicant himself admitted that the process of cutting the same, did not amount of manufacture - while clearing the aluminum foil and foil packing empty box after cutting into small sizes, they have discharged duty on the finished goods which was equivalent to the cenvat credit availed – Thus, pre-deposits waived till the disposal – Stay granted.

Source: M/s Manaksia Ltd. Versus Commr. of Central Excise, Kol. IV (2014 (1) TMI 1156 - CESTAT KOLKATA - Central Excise)

SERVICE TAX

Notifications/Circulars

➔ **Clarification regarding issue of Discharge Certificate under VCES and availment of CENVAT credit**

CBEC has issued circular clarifying that It would be in the interest of VCES declarants to make payment of the entire service tax dues and obtain the discharge certificate within 7 days of furnishing the details of payment vide *Circular No. 176/2/2014-ST dated 20th Jan, 2014.*

➔ **Levy of service tax on services provided by a Resident Welfare Association (RWA) to its own members**

CBEC has issued clarifications on the applicability of Service Tax

on the transactions of Residential Welfare Associations with its members for details refer to CBEC *Circular No.175/01/2014-ST dated 10th Jan, 2014.*

Case Laws

➔ Stay - Renting of immovable property - extended period of limitation - Imposition of equivalent penalty - Statutory proceeding not followed - Held that:- appellant themselves got registered with the department under the category of 'Renting of Immovable Property Service' as early as in July, 2007. Therefore, the appellant cannot plead ignorance of law or confusion about the levy. Thereafter, they did not follow any of the statutory procedures nor did they discharge any tax liability. The law was retrospectively amended in 2010 to provide for deeming the activity of renting as a taxable service. In the Finance Act, 2012 it was also provided that if the service tax liability along with interest liability is discharged on or before 26/11/2012, there will not be any penalty on the service providers. Thus, adequate opportunity was provided to the defaulting service providers to discharge service tax liability. In this particular case, the appellant has not chosen to avail the said facility. From the conduct of the appellant, it is clear that the appellant despite knowing the law, did not choose to follow the law and therefore, the plea of time bar taken by the appellant cannot be accepted - appellant does not have prima facie case at all - Following decision of *SQL Star International Ltd. Versus CC, CE and Service Tax Commissionerate [2011 (7) TMI 868 - Andhra Pradesh High Court]* - Conditional stay granted.

Source: *ASHADEVI AGARWAL versus COMMISSIONER OF CENTRAL EXCISE (2014 (1) TMI 1202 - CESTAT MUMBAI - Service Tax)*

➔ Waiver of pre deposit - Insurance Auxiliary Service - Availment of CENVAT Credit - Held that:- Service is for providing group insurance policy, which is a part and parcel of the salary and perks given to the employees and, therefore, it would qualify as an eligible input service for CENVAT credit. As regards the Real Estate Agent Service, even though the appellant claims that it is towards part of the employees perks, there can be a dispute whether it is a service activity or a welfare activity. In the case of Event Management Service, the claim of the appellant is that the events are conducted to attract customers and to promote business of the bank, but from the nature of the events conducted, prima facie, we are not convinced that the events have been conducted to attract business for the bank. Buying movie tickets and supplying the same, by no stretch of imagination, can be considered to be promotion of business activities - Stay granted.

Source: *AXIS BANK LTD versus COMMISSIONER OF SERVICE TAX (2014 (1) TMI 1201 - CESTAT MUMBAI - Service Tax)*

➔ Waiver of pre-deposit of tax - Site formation and clearance service - Held that:- Articles of Association of the applicant-company would indicate that the applicant-company had taken over the entire assets and liability which cover the present duty liability.

There is no need to go through the decision as cited by the learned CA. On the other issue, we find that the definition of 'site formation and clearance, excavation and earth moving and demolition' would include drilling, boring and core extraction services for construction, geophysical, geological or similar purposes. It is seen that the applicant under took the activities of blast hole drilling amongst others. Apparently, it would cover the definition of 'site formation service' - Conditional stay granted.

Source: *M/s PLR PROJECTS PVT LTD versus COMMISSIONER OF CENTRAL EXCISE, CUSTOMS AND SERVICE TAX (2014 (1) TMI 1200 - CESTAT BANGALORE - Service Tax)*

➔ Cargo handling service - Whether packing, labelling, loading and unloading of the goods in question shall amount to cargo handling service - Held that:- following the rules of classification enacted in Finance Act, 1994 the activity of packing amounting to manufacture by Central Excise Tariff Act, 1985 shall not be "cargo handling service" while reading Section 65(19) of Finance Act, 1994 excludes manufacturing of excisable goods from the purview of business auxiliary service and immune from Service Tax. This shows that legislature has recognized the activity of "manufacture" to be free from Service Tax - when principal activity is "manufacture" according to Central Excise Tariff Act, 1985 it is not possible to hold that the said activity carried out by appellant shall be cargo handling. We could have come to rescue of Revenue, had there been proper bifurcation of the activities for taxation of the considerations received for each sub-activity carried out - Decided in favour of assessee.

Source: *SUBHASH KHANDELWAL CONSTRUCTION (P) LTD. versus CCE., JAIPUR-I (2014 (1) TMI 1197 - CESTAT NEW DELHI - Service Tax)*

➔ Waiver of pre-deposit of Service Tax - Electroplating/painting on the semi-finished goods - Notification No. 8/2005-S.T. - Availment of CENVAT Credit - Held that:- no duty was being paid in respect of goods manufactured in terms of Notification No. 214/86, i.e., job work Notification, the final product cannot be held to be exempted so as to attract the provisions of erstwhile Rule 57CC - Following decision of *Sterlite Industries India Ltd. [2004 (12) TMI 108 - CESTAT, MUMBAI]* - Stay granted.

Source: *HEMA ENGG. INDUS. LTD. versus COMMISSIONER OF SERVICE TAX, NEW DELHI (2014 (1) TMI 1196 - CESTAT NEW DELHI - Service Tax)*

SEBI

Notifications/Circulars

➔ Change in Government Debt Investment Limits

In partial modification of para 2 of the SEBI circular CIR/IMD/FIIC/8/2013 dated June 12, 2013; it has now been decided to revise this limit from USD 5 billion to USD 10 billion within the overall

Government debt limit of USD 30 billion vide *circular CIR/IMD/FIIC/3/2014*, dated: January 29, 2014). The Government debt investment limits shall now be as follows:

Type of limit	Cap (US\$ bn)	Cap (INR Crore)	Eligible Investors	Remarks
Government Debt	20	99,546	FIIIs and QFIs	Eligible investors may invest in Treasury Bills only up to US\$ 5.5 billion (INR 25,416 cr) within the limit of US\$ 20 billion
Government Debt	10	54,023	FIIIs which are registered with SEBI under the categories of Sovereign Wealth Funds (SWFs), Multilateral Agencies, Endowment Funds, Insurance Funds, Pension Funds and Foreign Central Banks	
Total	30	153,569		

➤ IT (Information Technology) Governance for Depositories

SEBI constituted the Depository System Review Committee (DSRC) to undertake a comprehensive review of the Indian depository system. Based on the recommendations of DSRC, guidelines are issued to strengthen the Information Technology (IT) governance framework of depositories vide Circular CIR/MRD/DMS/ 03 /2014 dated: January 21, 2014. Depositories shall formulate an IT strategy committee at the Board level of depository to provide insight and advice to the Board in various areas that may include:

- Developments in IT from a business perspective
- The alignment of IT with the business direction
- The availability of IT resources to meet strategic objectives

- Competitive aspects of IT Investments
- Alignment of the IT architecture to the organization needs and its approval
- Setting priorities and milestones

Depositories shall formulate an executive level IT Steering Committee to assist the IT Strategy Committee in Implementation of IT strategy. The IT steering committee shall comprise of representatives from IT, Human Resources (HR), Legal and various business functions as felt appropriate. The Depositories shall formulate an IT strategy document and an Information Security policy which should be approved by the Board and reviewed annually.

➤ FII Position Limits in Exchange Traded Interest Rate Futures (IRF)

As per *Circular CIR/MRD/DRMNP/2/2014*, dated: January 20, 2014 SEBI prescribes framework for Stock Exchanges to launch cash settled Interest Rate Futures on 10-year G-sec. As per the said circular, the gross open positions of the FII across all contracts shall not exceed 10% of the total open interest or INR 600 crores, whichever is higher. Additional restriction: The total gross short (sold) position of each FII in IRF shall not exceed its long position in the government securities and in Interest Rate Futures, at any point in time. The total gross long (bought) position in cash and IRF markets taken together for all FIIs shall not exceed the aggregate permissible limit for investment in government securities for FIIs.

For more details please visit: www.sebi.gov.in

➤ Operational Guidelines for Designated Depository Participants

January 07, 2014.

Pursuant to the implementation of Foreign Portfolio Investor (“FPI”) regime, SEBI approved Designated Depository Participants (“DDPs”) would grant registration to FPIs on behalf of SEBI and also carry out other allied activities in compliance with Regulations and other guidelines, circulars, issued as under. Based on Circular CIR/IMD/FIIC/02/2014 dated: January 08, 2014 it has been decided in consultation with various market participants to issue the operational guidelines to facilitate registration of FPIs by DDPs on behalf of SEBI.

The circular is available on SEBI website at www.sebi.gov.in under the categories “Legal framework” and “information for - FII”.

➤ Delivery Instruction Slip (DIS) Issuance and Processing

In order to safeguard the interest of the investors, it has been decided to strengthen the supervisory and monitoring role of the depositories and their participants with respect to issuance and processing of Delivery Instruction Slips (DIS). The issue was examined by the Depository System Review Committee and based on their recommendations the depositories are advised to put in place the following measures:

Standardization of DIS - Depositories shall ensure that the DIS is standardized across all DPs in terms of:

- a. Serial Numbering of Delivery Instruction Slips so as to enable system level checks by the depositories
- b. Layout and size of DIS so as to facilitate scanning and easy retrievability of records.

The DIS must bear a pre-printed serial number, DP ID, and a pre-printed/pre-stamped Beneficial Owner (BO) ID. The depositories shall prescribe a standard method of serial numbering and ensure that serial numbers issued by a DP are unique within the DP-ID.

DPs shall ensure that:

- a. same DIS shall not be used for giving both market and off-market instructions.
- b. a single DIS shall not be used for transactions with multiple execution dates.

Monitoring of DIS - Upon issuance of DIS booklets or loose slips to BO, the DPs shall make available immediately the following details of the DIS to the depository system electronically like the DIS serial number, BO ID, date of issuance, and date of issuance, and any other relevant detail as decided by the depository. At the time of execution of DIS, DPs shall enter the serial number of DIS in the depository system for validation. The depositories shall make provisions in their systems to facilitate the same. In respect of all the transfer instructions on a DIS, Depositories shall validate the serial number of DIS and shall ensure that no instructions accompanied by a used DIS or unissued DIS are processed.

Scanning of DIS

DPs shall scan every DIS executed during a day along with all Annexures/Computer printouts, if any, by the end of the next working day in the manner specified by the depository. The depositories shall ensure that the systems set up by the DPs maintain proper records of all scanned DIS images including audit trails for changes made, if any and put in place adequate checks and procedures to prevent unauthorized changes to scanned DIS. The provisions of this circular shall come into effect six months from the date of issue. Once a new DIS booklet is issued to a BO as per provisions of this circular, old DIS issued to such a BO shall not be accepted by the DP. All DIS issued prior to this circular shall be phased out within a period of 2 years from the date of this circular. The measures listed above under the head 'Monitoring of DIS' shall be made applicable to the DIS issued as per the provisions of this circular.

Source: Circular CIR/MRD/DP/01/2014, dated: January 07, 2014

➤ Reporting of Trades in Securitized Debt Instruments in Trade Reporting Platforms and Clearing and Settlement of trades in Securitized Debt Instruments through Clearing Corporations

CIR/IMD/DF/1/2014, dated: January 07, 2014

For developing the Securitized Debt Instrument market and to

improve transparency, it has now been decided that, all trades in Securitized Debt Instruments (listed or unlisted) by Mutual Funds, Foreign Institutional Investors/sub-accounts/Qualified Foreign Investors/ Foreign Portfolio Investors, Portfolio Managers, etc shall be reported on the trade reporting platform of either NSE, BSE or MCX-SX within fifteen minutes of the trade. The reporting for a trade must be done by the buyer and the seller on the same platform to ensure matching of both sides of the trades. To provide transparency and efficient pricing of Securitized Debt Instruments, the reporting platforms shall provide continuous data pertaining to Securitized Debt Instruments, comprising of issuer name, ISIN number, face value, maturity date, current coupon, last price reported, last amount reported, last yield (annualized) reported, weighted average yield/ price, total amount reported and rating of SDI. The Exchanges shall also provide on its website offer document/continuous disclosures, if any, relating to the Securitized Debt Instruments traded and such other additional information pertaining to the trade/reporting. Further, it has also been decided that all trades in Securitized Debt Instruments (listed or unlisted) done between specified entities, namely, Mutual Funds, Foreign Institutional Investors/sub-accounts/Qualified Foreign Investors/Foreign Portfolio Investors, Alternative Investment Funds, Foreign Venture Capital Investors and Portfolio Managers and RBI regulated entities, as specified by RBI, shall necessarily be cleared and settled through the National Securities Clearing Corporation Limited (NSCCL) or the Indian Clearing Corporation Limited (ICCL) or MCX-SX Clearing Corporation Limited (MCX-SX CCL).

FOREIGN TRADE

Notifications/Circulars

➤ Allowing benefit of IEIS to export of cotton yarn in FY 2013-14

Export of Cotton Yarn is made eligible for benefits under Incremental Export Incentivisation Scheme for the entire financial year 2013-14 vide *Notification No: 66 (RE-2013)/2009-2014 dated: 23rd January, 2014.*

➤ Allowing benefit of IEIS to export of cotton yarn in FY 2013-14

A new Policy Conditions No. 10 is added to Chapter 87 of ITC (HS), 2012 Schedule-1 (Import Policy) for facilitating the import of customized Cars/Motorcycles and parts thereof required for the race event vide *Notification No. 65 (RE-2013)/2009-2014, dated: 8th January, 2014.*

➤ Amendments in Chapter 3 of Foreign Trade Policy 2009-14

Duty Credit Scrip can be utilised / debited for payment of Custom Duties in case of Export Obligation (EO) defaults for Authorizations issued under Chapters 4 and 5 of this Policy. However, penalty / in-

terest shall be required to be paid in cash. Scrips issued under SHIS, SFIS and AHS cannot be utilised / debited for payment of Custom Duties in case of EO defaults for Authorizations issued under Chapters 4 of this Policy - *Notification No: 64 (RE-2013)/2009-2014, dated: 6th January, 2014.*

➔ **Amendment in the procedure for issue of Registration Certificates (RCs) for export of various commodities**

Based on *Notification No. 63 (RE-2013)/2009-14 dated: 3 January, 2014*, there shall be no requirement of submitting any document in electronic filing for obtaining Registration Certificates.

➔ **Export of Stone Aggregate to Maldives**

Notification No. 54(RE-2010)/2009-14 of 07.06.2011 had permitted export of specified quantities of Stone Aggregates to Maldives for the

years 2011-12, 2012-13 & 2013-14. This was stopped till further notice vide Notification No. 34 (RE-2012)/2009-14 dated 08.02.2013. Now Notification No. 34 (RE-2012)/2009-14 dated 08.02.2013 is being withdrawn. Accordingly, export of Stone Aggregates to Maldives is permitted with immediate effect vide *Notification No 62 (RE-2013)/2009-2014, dated: 1st January, 2014.*

SPECIAL ECONOMIC ZONE

Notifications/Circulars

➔ Policy to regulate functioning of Worn and Used clothing units in SEZs vide *notification SEZ - SEZ - D.6/35/2012 - 30-01-2014.*

➔ Recommendations of the Committee on Review and Revamp of EOU Scheme vide *circular No. 1/10/2010-EOU - 02-01-2014.*



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