



CMA E - BULLETIN

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Editorial Preface

Greetings!!!

India's economy expanded by 5% in 2012-13, a decade's low, and it grew by 4.4% in the first quarter of 2013-14, a steep fall for an economy that expanded at an average rate of 8.3% between 2004-5 and 2001-12.

Finance Minister P. Chidambaram said that if the volatility of the rupee has been contained and speculation has come to an end, the central bank may want to unwind some of the measures it took earlier. On the government side, they will have to address the issue of higher subsidies than budgeted, on both fuel and food.

According to Raghuram Govinda Rajan, Governor of the RBI, India needs two transformations, "More investment, and less consumption, at least of some kinds." Still, Rajan admitted that non-performing assets (NPAs) and restructured assets of banks were at 10% of the total assets of banks, at a level that was "not comfortable".

Gross bad loans at India's banks topped Rs. 2 trillion in the three months ended 30 September. Total loans restructured by banks under the CDR platform on a cumulative basis rose to Rs2.65 trillion at the end of September.

We are pleased to release the sixth issue of "CMA E-Bulletin" before our esteemed readers. We have introduced three important segments in this issue viz. "SEZ", "FEMA" and "VAT" for the benefit of the readers. Hope you will enjoy reading this issue of e-bulletin. We look forward to your valuable suggestions and comments for further improvement in it.

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For Further Development of
CMA E-BULLETIN

Indian Economy

Highlights

➤ **Forex reserves dive \$2.2 bn to \$275.5 bn**

Source: PTI, dated: Sept 07, 2013

The foreign exchange reserves declined by a huge \$2.23 billion to \$275.49 billion on a sharp dip in the foreign currency assets, the Reserve Bank said.

➤ **Hike in price of diesel & petrol — Anilesh S. Mahajan**

Dated: Sept 06, 2013

According to officials of oil marketing companies, price of petrol is expected to rise by another Rs 4-5 for a litre and the diesel price could be corrected by Rs 5 for a litre.

- Govt may announce steps to cut fuel use
- Petrol price hiked by Rs 2.35 a litre, diesel by 50p

➤ **RBI may roll back liquidity curbs by October**

Source: PTI, dated: Sept 6, 2013

In July, the RBI increased both the marginal standing facility rate and the bank rate to 10.25 per cent. It restricted allocation of funds under the liquidity adjustment facility and raised cash reserve ratio norms.

- More pressure in store for rupee: Barclays
- 'Boosting forex inflows key to stable rupee'

➤ **Rupee rises to 2-week high of 65.24**

Source: BT Online Bureau dated: Sept. 06, 2013

The Indian rupee continued to strengthen against the dollar on the back of announce-

ments by new RBI Governor Raghuram Rajan, rising 77 paise to close at 65.24, the highest level in almost two weeks.

➤ **India will bounce back, assures Finance Minister P.Chidambaram**

Source: PTI, dated: Sept. 05, 2013

Finance Minister P Chidambaram sought to dispel the perception of gloom and pessimism, asserting in the Lok Sabha that the rupee will correct itself and the growth will bounce back.

➤ **Introduction of Consumer Price Inflation-indexed savings certificates by November**

Source: BT Online Bureau dated: Sept 05, 2013

New Reserve Bank of India (RBI) Governor Raghuram Rajan said the central bank will introduce consumer price inflation-linked savings certificates by November to provide some cover to households.

➤ **Eight core sectors grow by 3.1% in July**

Source: PTI dated: September 02, 2013

The growth of eight infrastructure industries slowed down to 3.1 per cent in July, against 4.5 per cent in the same month last year, mainly due to contraction in crude oil and natural gas production.

➤ **HSBC cuts India FY14 growth forecast to 4%**

Source: PTI, dated: Sept 02, 2013

According to HSBC, "the outlook for India is still tainted with downside risks given the lingering macroeconomic uncertainties and the possibility that politics could get in the way of meaningful progress on structural reform".

- Govt must take steps to revive growth: India Inc
- Pain ahead as GDP growth slows further

➤ **Manufacturing sector output falls in August**

Source: PTI, dated: September 02, 2013

The HSBC/Markit Purchasing Managers Index for the manufacturing industry stood at 48.5 in August, lower from 50.1 in July, indicating an overall contraction.

- GDP growth slows to 4.4% in June quarter
- Pain ahead as GDP growth slows further.

➤ **No proposal to convert idle gold into bullion: RBI**

Source: PTI, dated: August 31, 2013

The Reserve Bank said it is not contemplating any proposal to buy idle gold and convert it into bullion.

➤ **GDP growth slows to 4.4% in June quarter**

Source: Indo-Asian News Service (IANS), dated: August 30, 2013

While the manufacturing sector contracted by 1.2 per cent during the April-June period, mining sector contracted by 2.8 per cent. Agriculture sector's growth fell to 2.7 per cent.

- India not facing 1991-like crisis: PM
- PM seeks consensus on 'difficult' reforms

➤ **India not facing 1991-like crisis: PM**

Source: Indo-Asian News Service, dated: August 30, 2013

The prime minister allayed fears about the current crisis facing the economy, saying India has around \$280 billion of foreign exchange reserves, which is sufficient to finance nearly 7 months of imports.

- PM blames external factors for sinking rupee
- PM seeks consensus on 'difficult' reforms

➤ **PM seeks consensus on 'difficult' reforms**

Source: BT Online Bureau, dated: August 30, 2013

Prime Minister Manmohan Singh has

said the government will now have to undertake more difficult reforms to put economy back on the path of stable, sustainable growth.

➤ **PM blames external factors for sinking rupee**

Source: BT Online Bureau, dated: August 30, 2013

Prime Minister Manmohan Singh said while the sharp slide in the value of the rupee caused by external developments was a matter of concern, there was no question of capital controls and India would remain an open economy.

➤ **Food Security Bill ill-timed: Bimal Jalan**

Source: BT Online Bureau, dated: August 29, 2013

Former Reserve Bank of India Governor Bimal Jalan criticised the Food Security Bill, saying the programme is ill-timed and will further aggravate the economic situation.

➤ **NRI's may not prop up economy this time**

Source: Reuters, dated: August 29, 2013

The patriotism of wealthy overseas Indians has helped the country avert economic crises in the past and it is little surprise that embattled policymakers are turning to them again to plug a record trade gap that is battering the rupee.

➤ **RBI allows forex purchase by oil PSUs**

Source: PTI, dated: August 29, 2013

RBI opened a special window to help the three state-owned oil marketing companies needing about \$8.5 billion every month meet their daily foreign exchange requirement in a bid to check the rupee's free fall.

➤ **RBI to infuse Rs 8,000 cr to ease liquidity**

Source: PTI, dated: August 27, 2013

The Reserve Bank will conduct open market operations to purchase government

bonds worth Rs 8,000 crore on August 30 to ease liquidity in the market.

➤ **LIC major buyer in PSU divestment via OFS**

Source: PTI, dated: August 26, 2013

State-owned LIC purchased shares worth about Rs 16,400 crore in government's disinvestment programme through the Offer for Sale (OFS) route, accounting for 49 per cent of the money raised by the government through stake sale.

➤ **RBI to scrutinise pending overseas deals**

Source: Mail Today Bureau
dated: August 26, 2013

The RBI is expected to vet all proposals, including the \$2.5-billion Apollo Tyres deal with Cooper Tire & Rubber Company of the US, to see whether they are in tune with the new norms that have kicked in to curtail the outflow of foreign exchange and strengthen the rupee.

➤ **Delhi approves pension scheme for self-employed**

Source: Indo-Asian News service
dated: Sept 9, 2013

Delhi government approved a contributory pension scheme for hawkers, domestic helps, rickshaw pullers and self-employed people, among others. 'Dilli Swavalamban Yojana'.

➤ **Bengal's Durga Puja industry to touch Rs.40,000 crore in 2015**

Source: Indo-Asian News Service
dated: Sept 9, 2013

West Bengal's Durga puja industry is growing at a compound annual growth rate (CAGR) of about 35 percent and is expected to touch Rs.40,000 crore by 2015 from its current size.

➤ **Bengal to set up company to promote MSME sector**

Source: Indo-Asian News Service
dated: Sept 9, 2013

West Bengal government said it would set up a holding company to bring all state corporations marketing different products under the MSME sector under a single umbrella.

➤ **India mulls bond buy for \$4.3 billion World Bank loans**

Source: Reuters, dated: Sept 11, 2013

The union cabinet will consider a finance ministry proposal to allow the country to borrow an additional \$4.3 billion from the World Bank by investing in special bonds, in effect leveraging its foreign exchange reserves.

➤ **August inflation likely at six-month high on fuel prices**

Source: Reuters, dated: Sept 11, 2013

Inflation likely edged up to a sixth-month high in August, driven by higher food prices and as the battered rupee made key imports such as fuel costlier. Wholesale prices, India's key inflation measure, probably rose an annual 5.80 per cent last month from the same period a year earlier, the poll of 20 economists showed, just above July's 5.79 per cent which was the highest since February.

➤ **August trade deficit shrinks as exports rise**

Source: Reuters, dated: Sept 10, 2013

India's trade deficit narrowed to \$10.9 billion in August, helped by a double digit rise in merchandise exports, provisional government data showed on 10th September, offering some respite for the troubled rupee currency.

➤ **Government to unveil new measures to curb inessential imports**

Source: Reuters, dated: Sept 8, 2013

India will announce many new measures in the next few days and weeks to curb non-essential imports in order to strengthen the rupee and contain inflation, Finance Minister P.Chidambaram said on 8th September, 2013.

➤ **New approach needed to address seasonal hike in onion prices**

Dated: Sept 29, 2013

There has been a need of a new approach to address seasonal spike in onion prices as farmers have started storing the winter grown crop and marketing it later in the lean period of August-October for better returns.

➤ **Planning Commission likely to cut average GDP growth in 12th Plan to 6 pct**

Dated: Sept 29, 2013

The Planning Commission is likely to cut the annual average economic growth rate target of 8 per cent for the 12th Plan (2012-17) to around 6 to 6.5 per cent in its mid-term review of the five year policy.

➤ **National Aluminium Company to invest Rs 33,000 crore for diversification, expansion**

Dated: Sept 28, 2013

The Aluminium giant National Aluminium Company Ltd (Nalco) is all set to invest more than Rs 33,000 crore in a host of sectors for unveiling a new plan for high growth through diversification and expansion.

➤ **National Aluminium Company to pay Rs 322.15 crore as dividend to govt**

Dated: Sept 28, 2013

Aluminium giant National Aluminium Company Ltd (Nalco) has announced a total dividend payout of 25 per cent, amounting

to Rs 322.15 crore for 2012-13, as against 20 per cent paid in the previous year.

➤ **Veerappa Moily hints at petrol price reduction by the end of September**

Dated: Sept 27, 2013

Oil Minister M Veerappa Moily on Friday hinted at a reduction in price of petrol in next few days, the first cut in rates in over five months.

➤ **Controversial tax evasion targeting GAAR to come into effect from April 1, 2016:**

Dated: Sept 26, 2013

There has been a notification from the government side that the controversial GAAR provision, which seeks to check tax evasion by investors routing their funds through tax havens, will come into effect from April 1, 2016.

➤ **Fast food market to double in India, small cities to drive demand, MNCs rule as QSR surges**

Dated: Sept 23, 2013

A report by Crisil states that Indian fast food market is estimated to double from the current Rs 3,400 crore in the next three years, largely driven by demand from smaller cities.

➤ **RBI Banned Zero Percent Interest Rate Schemes for Purchase of Consumer Goods**

Dated: Sept 26, 2013

Reserve Bank of India on 25 September 2013 banned zero per cent interest rate schemes for purchase of consumer goods.

➤ **RBI Announced Committee to Frame Vision for Financial Inclusion**

Dated : Sept 24, 2013

RBI on 23 September 2013 announced the appointment of a Committee on Comprehensive Financial Services for Small Businesses and Low-Income Households.

Banking

Highlights

➤ RRBs—Interest Rates on FCNR(B) Deposits

As per Circular RPCD.CO.RRB.BC.No.22/03.05.33/2013-14 (RBI/2013-14/194) dated: August 20, 2013 it has been decided that until further notice and with effect from the close of business in India as on August 14, 2013, the interest rate ceiling on FCNR(B) Deposits will be as under:

| Maturity Period | Existing | Revised |
|-----------------------------|----------------------------------|-----------------------------------|
| 1 year to less than 3 years | LIBOR/Swap plus 200 basis points | No change |
| 3-5 years | LIBOR/Swap plus 300 basis points | LIBOR/ SWAP plus 400 basis points |

On floating rate deposits, interest shall be paid within the ceiling of swap rates for the respective currency/maturity plus 200 bps/ 400 bps as the case may be. For floating rate deposits, the interest reset period shall be six months. *These instructions will be valid up to November 30, 2013.*

Note: FCNR—Foreign Currency Non ResidentAccounts

➤ Rupee Export Credit—Interest Subvention

In exercise of the powers conferred by Sections 21 and 35 A of the Banking Regulation Act, 1949, RBI has been decided to increase the rate of interest subvention on the existing sectors eligible for export credit subvention from the present 2% to 3% with effect from August 1, 2013. Banks may reduce the interest rate chargeable to the exporters as per Base Rate system in the existing sectors eligible for export credit subvention by the amount of subvention available subject to a floor rate of 7% as per *DBOD.Dir.BC.No.42 /04.02.001/2013-14 dated: August 26, 2013*

➤ 8% Savings (Taxable) Bonds, 2003-Premature Encashment

- The captioned bonds was issued w.e.f April 21, 2003, vide Government of India Notification No. F 4(10)-W&M/2003 dated March 21, 2003 and subsequent Notification F. No. 4(10)-W&M/2003 dated April 2, 2003, are repayable on the expiry of six years from the date of issue. Premature encashment was not permissible under this scheme.
- The Government of India has now vide Notifications dated July 29, 2013 and August 16, 2013 decided to provide the facility of premature encashment of these bonds to individual investors in the age group of sixty years and above, after a minimum lock-in period of three years from the date of issue as indicated below:-
 - Lock-in period for investors in the age bracket of 60 to 70 years shall be 5 years from the date of issue.
 - Lock-in period for investors in the age bracket of 70 to 80 years shall be 4 years from the date of issue.
 - Lock-in period for investors of the age of 80 years and above shall be 3 years from the date of issue.

Notification: DGBA.CDD. No. 1448 13.01.299 2013-14 (RBI/2013-14/206) dated: 30th August, 2013

➤ Sharing of Information Technology Resources by Banks — Guidelines

- Paragraph 101 of the Monetary Policy Statement 2013-14 wherein the need for banks to examine the issue of shared IT resources to optimise costs while maintaining the desired levels of efficiency and security has been emphasised.
- One of the pre-requisites for a bank to consume shared IT resources is the existence of a strong IT and IS Governance in the bank. It is imperative that decisions on IT resource sharing have necessary approvals of the management possibly at the board level depending on the criticality

of the infrastructure or application to be shared. The applications that can be considered for sharing IT resources are those related to collaboration, house-keeping, office automation and business applications.

- As a consumer, banks may ensure that the service provider (including another bank) adheres to all regulatory and legal requirements of the country. Banks may necessarily enter into agreement with the service provider that the infrastructure and applications are made available for audit / inspection by the regulators of the country. Reserve Bank of India should have access to all information resources that are consumed by banks, though the resources are not physically located in the premises of banks. Further, banks have to adhere to the relevant legal and regulatory requirements relating to geographical location of infrastructure and movement of data out of borders.
- While consuming services provided by other banks or service providers, it may be ensured that all aspects relating to privacy, confidentiality, security and business continuity are fully met.

Notification: DIT.CO (Policy) No.674/09.63.025/2013-14 (RBI/2013-14/216) dated: September 03, 2013

➤ **Reporting of OTC transactions in Securitized Debt Instruments**

As a measure to develop the securitized debt market and improve transparency, the reporting of Over The Counter (OTC) transactions in Securitized Debt Instruments has been enabled in Fixed Income Money Market and Derivatives Association of India (FIMMDA) reporting platform - RBI/2013-14/201 IDMD.PCD. 06 /14.03.06/ 2013-14 dated: August 26, 2013. Issue of Bank Guarantee on behalf of person resident outside India for FDI transactions — It was decided to permit AD Category-I bank to issue bank guarantee, without prior approval of RBI on behalf of a non-resident acquiring shares or convertible debentures of

an Indian company through open offers/delisting/exit offers, in order to provide operational flexibility and ease the procedures -RBI/2013-14/230 A.P. (DIR Series) Circular No.37 dated: September 5, 2013.

➤ **UCBs—Settlement of Claims of Deceased Depositor—Simplification of Procedure—Placing of claim forms on Bank's Website**

Banks are advised to provide claim forms for settlement of claims of the deceased's accounts, to any person/s who is/are approaching the bank / branches for this, with a view to facilitate timely settlement of claims on the death of a depositor—RBI/2013-14/229 UBD.BPD.(PCB)CIR No. 10/13.01.000/2013-14 dated: September 5, 2013

➤ **Secondary Market Transactions in Government Securities—Intra-day short selling**

It is decided to permit well managed Urban Co-operative Banks, who are members of NDS-OM and have regular concurrent audit of their treasury operations, to undertake intra-day short selling of Government Securities. Accordingly, Urban Co-operative Banks are required to seek permission from the Regional Offices concerned to undertake such transactions—RBI/2013-2014/226 UBD.BPD. (PCB). Cir.No.9/09.29.000/2013-14 dated: September 4, 2013.

➤ **External Commercial Borrowings (ECB) from the foreign equity holder**

As per Circular No.31 - A.P. (DIR Series) RBI/2013-14/221 dated: September 4, 2013, eligible borrowers can avail ECB under the approval route from their foreign equity holder company with minimum average maturity of 7 years for general corporate purposes subject to the conditions mentioned below:

- Minimum paid-up equity of 25 per cent should be held directly by the lender
- Such ECBs would not be used for any purpose not permitted under extant the ECB guidelines (including on-lending to their group companies/step-down subsidiaries in India)

- Repayment of the principal shall commence only after completion of minimum average maturity of 7 years. No prepayment will be allowed before maturity.
- **Overseas Direct Investments—Rationalization/Clarifications**
As per Circular No.30 - A.P. (DIR Series) RBI/2013-14/220, dated: Sept 4, 2013 all financial commitments made on or before August 14, 2013, in compliance with the earlier limit of 400% of the net worth of the Indian Party under the automatic route will continue to be allowed. In other words, such investments shall not be subject to any unwinding or approval from the Reserve Bank.
- **Housing Sector: Innovative Housing Loan Products**—Upfront disbursement of housing loans—Banks are advised that disbursement of housing loans sanctioned to individuals should be closely linked to the stages of construction of the housing project/houses and upfront disbursement should not be made in cases of incomplete/under-construction/green field housing projects with a view to reduce higher risks associated with such lump-sum disbursement of sanctioned housing loans and consider customer suitability issues— *RBI/2013-14/217 DBOD.BP.BC.No. 51/08.12.015/2013-14 dated: September 3, 2013.*
- **Financial Inclusion by Extension of banking Services**—Use of Business Correspondents for distribution of Banknotes and Coins—Alternative Avenues—RBI has decided to allow banks to include distribution of banknotes and coins also in the scope of activities which may be undertaken by BCs with a view to effectively meet the growing demand of banknotes and coins in the country— *RBI/2013-2014/212 DBOD.NO. BAPD.BC. 46/22.01.009/2013-14, dated: Sept 2, 2013.*
- **Swap Window for Attracting FCNR (B) Dollar Funds**—It has been decided to introduce a US Dollar-Rupee swap window for fresh FCNR (B) dollar funds, mobilized for a minimum tenor of three years and over. Under this new swap arrangement, a bank can sell US Dollars in multiples of USD one million to RBI and simultaneously agree to buy the same amount of US Dollars at the end of the swap period—*RBI/2013-2014/234 FMD.MOAG. No.84 /01.06.016/2013-14, dated: Sept 6, 13.*
- **Cash withdrawal at Point of Sale (POS)—Prepaid Payment Instruments issued by banks**—Facility of cash withdrawal at POS with debit cards may be extended to such open system prepaid payment instruments issued by banks in India. The limit of cash withdrawal will remain Rs.1000/- per day subject to the same conditions as applicable hitherto to debit cards —*RBI/2013-14/231 DPSS.CO. PD. No.563/02.14.003/2013-14, dated: September 5, 2013.*
- **External Commercial Borrowings (ECB) Policy—Liberalization of definition of Infrastructure Sector**
RBI expands definition of infrastructure sector for raising funds through external commercial borrowings (ECBs). Energy sector will include electricity generation, electricity transmission, electricity distribution and oil pipelines and water and sanitation sector will include water supply pipelines, solid waste management, water treatment plants and sewage projects and so on— *RBI/2013-14/270 A.P. (DIR Series) Circular No. 48, dated: September 18, 2013.*
- **Overseas forex trading through electronic/internet trading portals**
Reserve Bank of India asked banks offering credit cards or online banking facilities to their customers not to allow customers remit payments directly /indirectly outside India in any form towards overseas foreign exchange trading through electronic/internet trading portals. RBI said banks should advise their customers that they would be liable to be proceeded against for contravention of the Foreign Exchange

Management Act (FEMA), 1999 besides being liable for violation of regulations relating to Know Your Customer (KYC) norms / Anti Money Laundering (AML) standards *vide Circular No.46 A.P. (DIR Series) RBI/2013-14/265, Sept 17, 2013.*

➤ **Lending Against Security of Single Product - Gold Jewellery**—

RBI issues certain guidelines regulating NBFCs (excluding PDs) lending against collateral of gold jewellery as Mentioned below:

- 1) Appropriate Infrastructure for Storage of Gold Ornaments
- 2) Prior approval of RBI for Opening Branches in Excess of 1000 in Number
- 3) Standardization of Value of Gold in arriving at LTV Ratio
- 4) Verification of the Ownership of Gold
- 5) Auction Process and Procedures—*RBI/2013-14/260 DNBS.CC.PD.No.356/03.10.01/2013-14, dated: Sept 16, 2013.*

➤ **Memorandum of Instructions governing money changing activities — Location of Forex Counters in International Airports in India**—

RBI decides to allow non-residents to carry Indian currency up to a maximum of Rs. 10,000/- beyond Immigration/Customs desk to the Duty Free Area/Security Hold Area (SHA) in the departure hall in international airports in India for meeting miscellaneous expenditures subject to the condition that non-residents will not be allowed to carry any Indian Rupee beyond SHA and that they should dispose of Indian currency before boarding the plane. Further, in order to provide money changing facility to non-residents to convert unspent Indian Rupees with them, Foreign Exchange Counters in the departure halls in international airports in India may be established in the Duty Free Area/SHA beyond the Immigration/Customs desk *vide Circular No.45 A.P. (DIR Series)–RBI/2013-14/259, dated: Sept 16, 13.*

➤ **Foreign Investment in India**—

Guidelines for calculation of total foreign investment in Indian companies, transfer of ownership and control of Indian

companies and downstream investment by Indian companies—RBI provides certain guidelines for calculation of total foreign investment in Indian companies, transfer of ownership and control of Indian companies and downstream investment by Indian companies *vide Circular No.42–A. P. (DIR Series)–RBI/2013-14/251, dated: Sept 12, 2013.*

➤ **Creation of a Central Repository of Large Common Exposures**—

Information supplied by banks through the Return on Large Borrowers (Form A) [Part D of Return on Large Credit in the revised XBRL based system], which captures system-wide exposure of individuals and entities having exposure (both fund and non-fund based) of more than Rs 10 crore, are proposed to be used for creation of central repository of large credits across banks as proposed by Raghuram Rajan in his statement on September 4, 2013 while taking up his charge as *RBI Governor—RBI/2013-14/250 DBS.Dir.OSMOS. No. 3327/33.01.001/2013-14, dated: Sept 11, 13.*

➤ **Purchase of shares on the recognized stock exchanges in accordance with SEBI (Substantial Acquisition of Shares and Takeover) Regulations**—

It has been decided that a non resident including a Non Resident Indian may acquire shares of a listed Indian company on the stock exchange through a registered broker under FDI scheme provided certain conditions are fulfilled such as, (1) Non-resident investor has already acquired and continues to hold the control in accordance with SEBI (Substantial Acquisition of Shares and Takeover) Regulations. (2) Amount of consideration for transfer of shares to non-resident consequent to purchase on the stock exchange may be paid by way of inward remittance through normal banking channels or by way of debit to the NRE/FCNR account of the person concerned and so on. (3) The pricing for subsequent transfer of shares to non-resident share-

holder shall be in accordance with the pricing guidelines under FEMA. (4) The original and resultant investments are in line with the extant FDI policy and FEMA regulations in respect of sectoral cap, entry route, reporting requirement, documentation, etc.—*RBI/2013-14/232 A.P. (DIR Series) Circular No. 38, dated: Sept 6, 2013.*

➤ **RRBs—Analysis and Disclosure of Customer Complaints and Unreconciled Balances on Account of ATM Transactions**

RRBs are advised to place a statement of complaints before their Boards/Customer Service Committees along with an analysis of complaints received on account of ATM transactions. Complaints should be analyzed (i) to identify customer service areas in which the complaints are frequently received; (ii) to identify frequent sources of complaint; (iii) to identify systemic deficiencies; and (iv) for initiating appropriate action to make the grievance redressal mechanism more effective—*RBI/2013-14/269 RPCD.CO.RRB.BC. No.35/03.05.33/2013-14, dated: Sept 17, 2013.*

➤ **Unclaimed Deposits/Inoperative Accounts in banks**

Treatment of certain savings bank accounts opened for credit of Scholarship amounts and credit of Direct Benefit Transfer under Government Schemes—RBI asked banks while allowing operations in such accounts, due diligence should be exercised by ensuring the genuineness of transactions, verification of signature and identity, etc., in order to reduce the risk of fraud etc., in such accounts. However, it has to be ensured that customer is not inconvenienced in any manner. Also, banks are advised that they may allot a different “product code” in their CBS to all such accounts opened by banks so that stipulation of inoperative/dormant account due to non-operation does not apply while crediting proceeds—*RBI/2013-14/262 DBOD.No. Leg. BC. 53/09.07.005/2013-14, dated: Sept 17, 2013.*

➤ **Trade Credits for Import into India**—As per *RBI/2013-14/290, A.P. (DIR Series) Circular No. 53, dated: September 24, 2013* companies in all sectors are allowed to avail of trade credit not exceeding USD 20 million up to a maximum period of five years for import of capital goods as classified by Director General of Foreign Trade (DGFT).

➤ **Overseas Foreign Currency Borrowings by Authorized Dealer Banks—Enhancement of limit**

—Based on *RBI/2013-14/293 A.P. (DIR Series) Circular No. 54, dated: September 25, 2013* it has been decided to lower requirement of minimum maturity from three years to one year for the aforesaid borrowings made on or before November 30, 2013 for the purpose of availing of the Swap facility from the Reserve Bank of India. After the said date, foreign currency borrowing by AD Category I banks beyond 50 per cent of their Tier I Capital shall have to be of a minimum maturity of three years.

➤ **Export Credit in Foreign Currency**

—According to *RBI/2013-14/291, DBOD. Dir.BC.No. 57 /04.02.001/2013-14, dated: Sep 25, 2013* banks extend export credit in Indian Rupees as well as in foreign currency, such as Pre Shipment Credit in Foreign Currency (PCFC) and Post Shipment Credit in Foreign Currency (PSCFC), as per their own internal lending policies within the overall regulatory framework prescribed by the Reserve Bank. It is observed that the export credit limits are calculated in Indian Rupees and the limit is apportioned between Rupee and foreign currency components depending upon the borrowers' requirement. While the overall export credit limits are fixed in Indian Rupees, the foreign currency component of export credit fluctuates based on the prevailing exchange rates. The Bank have also received representation from organization of exporters that on account of depreciation of Indian Rupee:

- i. the unavailed foreign currency component of export credit gets reduced;
- ii. the foreign currency component of export credit already availed gets revalued at a higher value in terms of Indian Rupees resulting in the exporter being asked to reduce their exposure by part payment or where the export credit limit is not fully disbursed, the available limit for the borrower reduces, depriving exporter of funds.

➤ **Deferred Payment Protocols between Government of India and erstwhile USSR**

Based on RBI/2013-14/294, A.P. (DIR Series) Circular No. 55, dated: Sep 26, 2013 Authorized Dealer Category-I (AD Category-I) banks is invited to A.P. (DIR Series) Circular No.49 dated September 20, 2013, wherein the Rupee value of the Special Currency Basket was indicated as Rs.90.052266 effective from September 04, 2013. AD Category-I banks are advised that a further revision has taken place on September 10, 2013 and accordingly, the Rupee value of the Special Currency Basket has been fixed at Rs.86.903352 with effect from September 13, 2013.

➤ **Second Schedule to the Reserve Bank of India Act, 1934—Norms for inclusion**

Taking into consideration, Circular No. RBI/2013-14/298, UBD CO BPD (PCB) No.20/16.05.000/2013-14, dated: Sep 27, 2013 it has been decided to consider applications from UCBs for inclusion in the Second Schedule to the Reserve Bank of India Act, 1934 after fulfilling the following financial criteria based on the assessed financials as per inspection reports, viz.

- a. DTL of not less than ₹750 crore on a continuous basis for one year;
- b. CRAR of minimum 12%;
- c. Continuous net profit for the previous three years;
- d. Gross NPAs of 5% or less;
- e. Compliance with CRR / SLR requirements and
- f. No major regulatory and supervisory concerns

Foreign Exchange Management Act

Highlights

➤ **Overseas Foreign Currency Borrowings by Authorized Dealer Banks—Enhancement of limit**

It has been decided to lower the requirement of minimum maturity from three years to one year for the aforesaid borrowings made on or before November 30, 2013 for the purpose of availing of the Swap facility from the Reserve Bank of India. It may be noted that after the said date, foreign currency borrowing by AD Category I banks beyond 50 per cent of their Tier I Capital shall have to be of a minimum maturity of three years.

A.P. (DIR Series) Circular No. 54 (RBI/2013-14/293) dated: September 25, 2013

➤ **Deferred Payment Protocols dated April 30, 1981 and December 23, 1985 between Government of India and erstwhile USSR—A.P. (DIR Series) Circular No. 55(RBI/2013-14/294) dated: September 26, 2013**

- AD Category-I banks are advised that a further revision has taken place on September 10, 2013 and accordingly, the Rupee value of the Special Currency Basket has been fixed at Rs. 86.903352 with effect from September 13, 2013.
- AD Category-I banks may bring the contents of this circular to the notice of their constituents concerned.

Trade Credits for Import into India

Circular No. 53 A.P. (DIR Series)—RBI/2013-14/290, dated: September 24, 2013

- AD Category—I banks may approve availing of trade credit not exceeding USD 20 million up to a maximum period of five years (from the date of shipment) for companies in the infrastructure sector,

subject to certain terms and conditions stipulated therein. It is also stipulated that AD Category—I banks are not permitted to issue Letters of Credit/guarantees/Letter of Undertaking (LoU) /Letter of Comfort (LoC) in favour of overseas supplier, bank and financial institution for the extended period beyond three years. No roll-over/extension is permitted beyond the permissible period.

- On a review, it has been decided to allow companies in all sectors to avail of trade credit not exceeding USD 20 million up to a maximum period of five years for import of capital goods as classified by Director General of Foreign Trade (DGFT). It has also been decided to relax the ab-initio contract period of 15 (fifteen) months for all trade credits to 6 (six) months.
- AD Category—I banks are, however, not permitted to issue Letters of Credit/guarantees/Letter of Undertaking (LoU) / Letter of Comfort (LoC) in favour of overseas supplier, bank and financial institution for the extended period beyond three years.

Foreign Trade Policy

Highlights

➤ Incremental Export Incentivisation Scheme

As per Notification No: 44 (RE-2013)/2009-2014, dated: 25th September, 2013 Central Government hereby makes the following amendments in Chapter 3 of Foreign Trade Policy (FTP) 2009-14 with immediate effect:

The following sub-paragraphs (i) & (ii) are added below paragraph 3.14.4.(c) as under:

- Benefit of Incremental Export Incentivisation Scheme for the last quarter of 2012-13 will be limited to 25% growth or Incremental growth of Rs. 10 crores in value, whichever is less.
- Claims in excess of this value will be subjected to greater scrutiny by Regional Authority.

Ineligible Exports Categories / Sectors for FMS—As per Notification No: 43 (RE-2013)/2009-2014, dated: 25th September, 2013 Export of Cotton, Export of Cotton Yarn, Exports which are subject to Minimum Export Price or Export Duty are added under "Ineligible Exports Categories / Sectors for FMS":

It is also added that benefit of Incremental Export Incentivisation Scheme for the year 2013-14 will be limited to a scrip of a value not exceeding Rs. 1 Crore per IEC and Claims in excess of this value will be subjected to greater scrutiny by Regional Authority.

➤ Export Policy of Onions

As per Notification No 41 (RE-2013)/2009-2014 dated: 19 September, 2013 Export of onion for the item description at Serial Number 51 & 52 of Schedule 2 of ITC (HS) Classification of Export & Import Items shall be permitted subject to a Minimum Export Price (MEP) of US\$ 900 per Metric Ton F.O.B. or as notified by DGFT from time-to-time.

Non-insistence on sequencing of import of gold being followed by export of gold jewellery/articles of gold - As per Notification No. 40 (RE-2013)/2009-2014 dated 6th September, 2013 Import of gold under Advance Authorization / Duty Free Import Authorization (DFIA) would not necessarily be followed by export but each import has to be accounted for.

➤ IEC Number cannot be used by anyone other the IEC holder himself/ herself

As per the Section 7 of The Foreign Trade (Development and Regulation) Act, 1992, as amended in 2010 read along with Rule 12 of Foreign Trade (Regulation) Rules, 1993 every person should make import or export only with Importer-exporter Code Number allotted to him. This has been further amplified by Para 2.9.2 of Handbook of Procedures, Vol.1, 2009-14 which states that an IEC number allotted to an applicant is valid for all its branches / divisions / units

/ factories. Therefore, the IEC Number cannot be used by anyone other than the IEC holder himself/herself.

Circular No. 6 (RE-2013)/2009-2013, dated: 16th September, 2013

- **Suspension and cancellation of IEC code**—As per Notification No.39 (RE-2013)/2009-2014, dated: August 29, 2013 DGFT delegates its power of suspending and cancelling Importer Exporter Code Number to Additional Director General of Foreign Trade as well as Joint Director General of Foreign Trade. This authority is revocable as may deem fit to DGFT.

Income Tax

Highlights

➤ **Draft Safe Harbour Rules**

CBDT has published much awaited draft Safe Harbour Rules, which are aimed at reducing litigation & alleviating uncertainty, while ensuring taxation of reasonable profits in India. For details refer to www.incometaxindia.gov.in

➤ **Donations to Trusts & Institutions by UCBs**

RBI has issued a circular which indicates that UCBs are prohibited from giving donations to Trusts and Institutions, where directors, and/or their relatives hold position or are interested, even within the permissible ceiling of 1% of the published profits of the bank for the previous year *vide RBI/2013-14/205 UBD.BPD. (PCB).Cir. No.*

➤ **Ministry Releases Rules Under The Companies Act, 2013**

The Government has issued first set of draft rules on 9th of Sept. 2013, covering 16 Chapters of the Companies Act, 2013. The second set of rules will be released soon.

The draft rules :

1. Limit on number of One Person Companies ('OPCs') —One person cannot form more than 5 OPCs;
2. Rotation of auditors—Incoming auditor or audit firm shouldn't be under the same network or operating under the same trademark or brand as the outgoing auditor or audit firm. Rotation of joint auditors should be in such a way that all joint auditors do not complete their term in the same year;
3. Auditor's duty to report fraud—Auditors are required to report material frauds to the Central Government;
4. Disqualification of auditors—
 - a. Due to indebtedness—Limit increased from Rs.1,000 to Rs.1,00,000.
 - b. Due to a relative holding shares - A relative of an auditor may hold securities of face value or interest in the company not exceeding Rs 1,00,000;
5. Compulsion to appoint a women director - At least one woman director is compulsory to be appointed in case of listed companies and unlisted companies with paid-up share capital of Rs.100 crores or more.

Calendar for Income Tax Due Dates & Deadlines

| Due Dates | Obligations | Form Name | For the Period |
|------------------------------|---|---------------------|--|
| 15th October, 2013 (Tuesday) | Quarterly TDS, Statements>Returns, –TDS on Salaries, TDS on Other Payment, TDS on Interest, Dividends – TCS Statement | 24Q, 26Q, 27Q, 27EQ | For the period 1-7-2013 to 30-9-2013 (2nd Qtr of 2013-14)/ Qtr ending 30-09-2013 |
| 30th October, (Wednesday) | TDS certificates in respect of TDS on payments (except salaries) | Form 16A | For the period 1-7-2013 to 30-9-2013 (2nd Qtr of 2013-14)/ Qtr ending 30-9-2013 |

- **Notification No. 75/2013 (September 23, 2013)** — Rules 10U to 10UC have been inserted in the Income-tax Rules, 1962 to provide for the entire procedure for monitoring the General Anti Avoidance Rules (GAAR).
- **Notification No. 74/2013 (September 20, 2013)** — Protocol amending Indo-Australia DTAA is signed.

- ***ITAT: Tax Depreciation relevant for lease equalization deduction, not Companies Act depreciation***

Tax depreciation to be considered for determining lease equalization charges and not depreciation as per Companies Act; Concept of lease equalization as per ICAI Guidelines is based on matching of revenue with costs and lease equalization is calculated by comparing annual lease charge with Companies Act depreciation; However, following ICAI Guidelines can result into more than 100% deduction for same leased asset, due to difference in depreciation rates under IT Act & Companies Act; Concept of lease equalization valid for computing Income tax deduction, but exercise of caution necessary, to avoid misleading results : Mumbai ITAT

Infrastructure Leasing & Financial Services Ltd. [TS-445-ITAT-2013(Mum)]

- ***ITAT SB : Tax collection at source applies to importer—trader of scrap***

ITAT Special Bench discusses law on application of Tax collection at source (TCS) provisions u/s 206C and meaning of "scrap"; TCS apply to sale of 'brass scarp' imported by the trader; Meaning of scrap not restricted to one arising only from manufacture or mechanical operations; Sec 206C provisions also apply to business of trading in scrap; TCS provisions also apply to retail sale, reject's assessee's narrow interpretation of the term 'buyer'; However, relief under first proviso to sub-section (6A) of Sec 206C, as introduced by Finance Act, 2012 available, if the taxes paid by buyer; The amended beneficial proviso applicable retrospectively : Special Bench : Rajkot ITAT

Bharti Auto Products [TS-434-ITAT-2013(Rjt)]

- ***ITAT: "Reserve" and "Provision" separate items, deduction u/s 36(1)(vii) not allowable for reserves***

Claim for deduction u/s 36(1)(vii) disallowed, as no provision for bad and doubtful debts created by assessee; Assessee claimed deduction u/s 36(1)(vii) on account of amount

Case Laws

- ***ITAT allows reduction of BSE card's WDV as cost in computing capital gains***

Entire value of BSE card as on date of demutualization would be assigned to shares allocated to the members; In computing capital gains on sale of shares, WDV of BSE card to be assigned to the cost of shares allotted by BSE; Depreciation on BSE card disallowed since rights got extinguished on demutualization of BSE; CIT(A) not justified in rejecting the revised computation of capital gains submitted during assessment proceedings since it was necessary to adjudicate the issue as per law : Mumbai ITAT. **Pavak Securities Pvt. Ltd. [TS-456-ITAT-2013(Mum)]**

- ***HC: Relies on HEG ruling; Sec 244A interest payable on delayed interest on refund***

Revenue liable to pay interest u/s 244A, on amount of interest on refund delayed by over 9-13 years; Sec 244A uses words 'any amount' (and not any tax) which includes 'interest' element; Absent such provision, Revenue can only refund principal amount and not pay interest for unlimited period with immunity and granting premium to non-compliance of law; Relies on SC ruling in HEG Limited, wherein it was held that Revenue to pay interest on shortfall, if refund does not include interest due; Clarifies that such payment does not amount to compounding of interest or paying interest on interest; Such manner of interest payment also applies when assessee is in default and interest is payable u/s 220 : Delhi HC

India Trade Promotion Organization [TS-454-HC-2013(DEL)]

transferred towards 'reserve' for standard assets and 'reserve' for bad debts and not provision; "Provision" and "Reserves" are two separate items; Provision is liability whereas a Reserve is assessee's own fund added to net worth; Legislature used two different terms at different places for some purpose and not without reason; Reserve account cannot be considered as provision for allowing deduction u/s 36(1)(vii) : Ahmedabad ITAT

The Bharuch Dist. Central Co-op. Bank Ltd. [TS-429-ITAT-2013(Ahd)]

➤ ***ITAT: Works contract for oil extraction being not technical services, TDS u/s 194C applicable***

Works contract for execution of exploration, extraction and production of mineral oil, being mining activities, does not amount to "fees for technical services" as per Explanation 2 to Section 9(1)(vii), TDS provisions u/s 194C applicable not only for simple works but for any work carried through contractor under contract; Work includes obtaining supply of labour under a contract with contractor for carrying out its work; Payment to contractors for obtaining "oil field services" with respect to its mining activities not FTS, provisions of Sec 194C applicable not Section 194J : JODHPUR ITAT

Oil India Limited [TS-421-ITAT-2013(JODH)]

➤ ***ITAT: Huge share premium for newly incorporated company neither sham nor income***

Share allotment at heavy premium, in very first year of operations, can't be taxed as "income" invoking Sec 56; Issue of shares is capital transaction, cannot be taxed as revenue receipt; Relies on SC rulings in Punjab State Industrial Corporation Ltd. & Brooke Bond India Ltd; Quantum of premium prerogative of Board of Directors', subscription at high premium is wisdom of shareholder; Revenue can't question high premium without any bar from law of the land; Shareholders investing at high premium included banks and financial

undertakings, directly or indirectly controlled by Government; Investments have been made in subsidiaries, where assessee owns more than 98% of holdings; Transaction of allotting shares at high premium not sham; Transaction also not taxable u/s 68, as all details of shareholders are explained : Mumbai ITAT

Green Infra Ltd. [TS-420-ITAT-2013(Mum)]

➤ ***ITAT: Quasjes Sec 163 order; Payer made remittance after valid TDS order u/s 195(2)***

Indian payer company not a 'representative assessee' u/s 163 of the foreign company; indian company made payments to foreign company after obtaining valid TDS order u/s 195(2) from AO (which has not been cancelled); Single order u/s Sec 163 passed for 3 different years invalid, relaying on SC ruling in Tata Engineering Locomotive Co. Ltd; Also, transfer of assessment jurisdiction (from Delhi to Hyderabad) invalid and hence, the assessment order is also invalid; No specific reasons assigned for transfer of filed and requisite show cause u.s 127 not provided : Hyderabad ITAT

VP Ventures Ltd. [TS-442-ITAT-2013(HYD)]

Customs

Highlights

- *As per Notification No.20/2013-Customs (ADD), dated: Sept 06, 2013 Sodium Perchlorate* falling under tariff item 28299010 of the First Schedule to the Customs Tariff Act, 1975 originating in or exported from, Peoples Republic of China, anti-dumping duty will be imposed and it will be effective for a period of five years (unless revoked, amended and superseded earlier) from the date of publication of this notification in the Official Gazette and shall be payable in Indian currency.

The rate of exchange applicable for the purposes of calculation of such anti-dumping duty shall be the rate which is specified in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), issued from time to time, under section 14 of the Customs Act, 1962, (52 of 1962), and the relevant date for the determination of the rate of exchange shall be the date of presentation of the bill of entry under section 46 of the said Customs Act.

- *Based on Notification No.21 /2013-Customs (ADD), dated: Sept 06, 2013 Zinc Oxide* falling under tariff items 2817 0010 or 3812 3030 of the First Schedule to the Customs Tariff Act 1975, originating in or exported from, Peoples Republic of China, anti-dumping duty will be imposed and it will be effective for a period of five years (unless revoked, amended and superseded earlier) from the date of publication of this notification in the Official Gazette and shall be payable in Indian currency.

The rate of exchange applicable for the purposes of calculation of such anti-dumping duty shall be the rate which is specified in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), issued from time to time, under section 14 of the Customs Act, 1962, (52 of 1962), and the relevant date for the determination of the rate of exchange shall be the date of presentation of the bill of entry under section 46 of the said Customs Act.

- *As per Notification No. 97/2013-Customs (N.T) dated: Sept 14, 2013* Central Government hereby makes Customs, Central Excise Duties and Service Tax Drawback (Amendment) Rules, 2013 to amend the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995. These rules shall come into force on 21st September, 2013.

For details visit :

<http://www.cbec.gov.in/customs/cs-act/notifications/notfnns-2013/cs-nt2013/csnt97-2013.htm>

- *Circular No. 33/2013-Customs, dated 23-08-2013* provides customs duty exemption on Import of Ash Handling Systems, Water Treatment Plant and Coal Transportation Facilities etc. required for Ultra-Mega/ Mega Power Projects under Heading 9801(Project Imports).
- *Import of Gold and Gold Dore Bars- Procedure and Guidelines—RBI sets new guidelines to curb imports of gold and its dore bars.* As per new *Circular No.34/ 2013-Cus, dated: Sept 04, 2013* Import of gold dore bars will be restricted to entities licensed by the Directorate General of Foreign Trade (DGFT). Further, Customs officer at the port from where gold dore bars are imported shall ensure that quantity of imports by license-holder in the third consignment onwards from 14.08.2013 does not exceed five times the quantity of gold contained in exported products for which proof of export has been submitted to customs officer. Moving so, license-holder shall ensure that at least 20% of the gold manufactured out of each gold dore bar consignment is supplied to the exporters.
- *As per Notification No. 44/2013-Customs, dated: Sept 17, 2013* it has been decided to increase import duty leviable on articles of jewellery and parts thereof, of precious metal or of metal clad with precious metal and articles of goldsmiths' or silversmiths' wares and parts thereof, of precious metal or of metal clad with precious metal, falling under headings 7113 and 7114 respectively of the First Schedule to the Customs Tariff Act, 1975.
- *As per Notification 46/2013-Cus, dated: 26th September, 2013* amends previous customs notifications to implement the "Option to close cases of default in Export Obligation" notified by DGFT.

Case Laws

➤ **Refund claim**—Interest on delayed refund—In reference to the case of *Commissioner of Customs, Ahmedabad versus Petronet LNG Ltd* it is decided that if there will be any delay of more than three months in payment of refund to the assessee, then the department will be held liable to pay interest on such delayed payment of refund.

➤ **Penalty u/s 112**

Any charge of violating the provisions of Customs Act would arise only when somebody files a bill of entry for import of the goods and claims himself to be the importer vide case *Chemworld Inc. Versus Commissioner of Customs (Import), Nhava Sheva*.

➤ **Valuation of imported goods**

In the absence of any evidence showing existence of a price adjustment between the cost incurred by the buyer on account of royalty/licensee fees by reducing price of imported items—it can—not be that such royalty payments were includible in the assessable value of the imported goods under Rule 9(1) (c)/10(1) (c) of the Customs Valuations Rules vide case—*Johnson & Johnson Ltd. Versus Commissioner Of Customs, Mumbai*.

➤ **Confiscation of goods u/s 115(2)**

Any vehicle carrying offended goods will be liable for confiscation u/s 115 (2) only when it will be established that the owner or his agent was aware of the fact that the vehicle was used for the transportation of the offended goods vide case—*Shri Ratan Biswas Versus Commissioner of Customs (Prev), Patna*.

➤ **Procurement (import) of goods in SEZ units**

The Customs authorities, on suspicion, could inspect the consignment and on the

inspection, if they find any items which are not allowed or entitled to be imported into SEZ, they are within their powers to seize the goods and act in accordance with the law vide case *Jindal Fibres Versus Commissioner of Customs, Kandla*.

Service Tax

Highlights

- Assessors who have not filed their ST-3 returns for the period October, 12 to March, 13 or for the previous periods, by the due date, can file it after paying late fee, payable under Rule 7C of Service Tax Rules, 1994.
- It has now been decided to extend the last date of filing and to relax the additional fee applicable on e-form 23C up to 31st October, 2013 and as such the e-form 23C can be filed for appointment of cost auditor with normal applicable fee, up to 31st October, 2013 or within 90 days of the commencement of the company's financial year to which the appointment relates, whichever is later.
- **Ad-hoc exemption order for taxable service provided by the hotel or restaurant in the flood affected State of Uttarakhand**
As per Ad-Hoc Exemption Order No.1/1/2013 dated: 17th September, 2013, Central Government exempts the following taxable service provided to any person in the State of Uttarakhand, from the whole of service tax leviable thereon under section 66B of the Finance Act, 1994 (32 of 1994), namely:-
 - Services by way of renting of a room in a hotel, inn, guest house, club, campsite or other commercial place meant for residential or lodging purposes;
 - Services provided in relation to serving

of food or beverages by a restaurant, eating joint or mess.

This exemption order is applicable for the above mentioned taxable services provided during the period 17th September, 2013 to 31st March, 2014.

➤ **Education services— clarification**

As per Circular No.172/7/2013, dated: September 19, 2013 all services relating to education are exempt from service tax.

For details visit :

<http://www.servicetax.gov.in/circular/st-circular13/st-circ-172-2013.htm>

➤ **Guidelines for arrest and bail in relation to offences punishable under the Finance Act, 1994**

CBEC provides guidelines for arrest and bail in relation to offences punishable under the Finance Act, 1994 vide Circular 171/6/2013 dated: September 17, 2013. This offences relates to evasion of service tax covered under section 89(1) (i) and (ii) of the Finance Act.

If a person has collected any amount exceeding fifty lakh rupees as service tax but fails to pay the amount as collected to the credit of the Central Government beyond a period of six months from the date on which such payment becomes due. In such cases, after following the due procedure of arrest, the arrested person must be produced before the magistrate without unnecessary delay, and definitely within 24 hours.

For details visit :

<http://www.servicetax.gov.in/circular/st-circular13/st-circ-171-2013.htm>

Case Laws

➤ **Penalty u/s 80—Failure to pay service tax before due date**

Tax paid before show cause notice—Held that – appellant was providing services to the central excise assessee, the service tax paid by him was available as Cenvat credit and, therefore, payment of service tax would be revenue neutral exercise and in such

case, there was no deliberate intention to evade tax. In our opinion, the Tribunal, in such circumstances, rightly exercised its discretion under Section 80 of the Act—Decided against Revenue—*Commissioner of Central Excise Versus Dineshchandra R. Agrawal.*

➤ **CENVAT Credit—Input Service Distributors (ISD)**

Credit of Service Tax paid on input services used in manufacture of Crude Oil and Natural gas at Mumbai Offshore was not admissible to Uran Plant—*Oil & Natural Gas Corporation Ltd. Versus Commr. Of C. Ex., Raigad*

➤ **Service tax demand packaging services section 65(76B)**—The activity of packaging undertaken in respect of fertilizer would form an integral part of the manufacturing activity and cannot be viewed as a service activity—*New Era Handling Agency Versus Commissioner Of Central Excise, Goa.*

➤ **Service Tax Return (ST-3) for the period April -September' 13 is now available for e-filing by the assesseees in both offline and online version. The last date of filing the ST-3 return for the said period is 25th October, 2013.**

For details please visit :

<https://www.aces.gov.in>

Central Excise

Highlights

➤ CBEC clarifies that in respect of goods cleared availing the benefit of any of notifications no. 29/2012-CE, 30/2012-CE, 31/2012-CE, 32/2012-CE and 33/2012-CE all dated 9th July, 2012, payment of amount under Rule 6(3) of the Cenvat Credit Rules, 2004 is not applicable vide

Circular No. 973/07/2013-CX dated: September 4, 2013.

➤ **Arrest and Bail under Central Excise Act, 1944**

A new sub-section (1A) has been inserted in section 9A to specify that the offences relating to excisable goods, where the duty involvement exceeds Rs. fifty lakh and which are punishable under clause (b) or clause (bbbb) of sub-section (1) of section 9, are cognizable and non-bailable vide *Circular No. 974/08/2013-CX dated: September 17, 2013.*

➤ **Sale of Capital goods as scrap**

CBEC has issued Notification No. 12/2013-CE (NT) dated 27.09.2013 which indicates that if any capital goods are being removed as waste or scrap, then instead of following the reversal formula as contained in Rule 3(5 A), the manufacturer has to reverse the amount equal to the duty leviable on the transaction value for the sale of capital goods as waste/scrap.

➤ **Cenvat Credit availment**

Credit of duty availed by the Supplier (manufacturer) on drawing of wire / rods—retrospective amendment—credit allowed vide case *CCE, Jaipur-I Versus M/s Swastic Conductors.*

➤ **Default in Monthly Payment**

Penalty under Section 11AC was not imposable in cases where default had occurred because of bona fide mistaken belief—It was only a deemed removal without payment of duty—Penalty of Rs. 50,000 under Rule 25 vide case *Akar Ltd. Versus Commissioner Of Central Excise, Vap.*

➤ **Denial of Exemption Notification No. 202/88 and Notification No. 1/93**

The raw materials which were inputs arising out of ship breaking material were cleared at the nil rate of duty and hence the benefit of Notification No. 202/88 will not be available vide case *Commissioner of C. Ex., Bhavnagar Versus Lucky Steel Industries.*

➤ **SSI Exemption**

Two units owned by Husband and wife respectively—If both the units are complete by itself, capable of manufacturing the goods without any help from the other unit, it has to be held that both the units are independent units—No clubbing vide case *CCE, Kanpur Versus M/s. Sharad Industries, Ram Bagh, Agra and M/s. R.R. Iron Foundry, Ram Bagh, Agra.*

➤ **Cenvat Credit—Removal of Capital Goods removed**

Rule 3(5) of the CENVAT CREDIT Rules, 2004—the manufacturer shall pay the amount equal to Cenvat Credit taken on the said capital goods reduced by 2.5% for each quarter of year or part thereof from the date of taking the Cenvat Credit vide case *Gujarat Reclaim & Rubber Products Ltd. Versus CCE Surat.*

Case Laws

➤ **100% EOU—Duty Chargeable on DTA Clearances**

The benefit of Notification No. 8/97-C.E. would be available in respect of DTA clearances made in accordance with the provisions of EXIM Policy; only if the goods had been made out of the inputs of the Indian origin vide case *Stl Exports Ltd. versus Commissioner of C. Ex., Indore.*

➤ **Rule 25 of the Central Excise Rules, 2002 regarding confiscation of raw material/semi-finished goods**

Rule 25, under which the semi-finished processed goods has been confiscated is applicable only to finished excisable goods vide case *Bhatia Steel Re-Rolling Mill Versus CC Ahmedabad.*



SEBI

Highlights

- As per *Circular CIR/MIRSD/5/2013 dated: August 27, 2013* SEBI provides general Guidelines for dealing with Conflicts of Interest of Intermediaries, Recognized Stock Exchanges, Recognized Clearing Corporations, Depositories and their Associated Persons in Securities Market.
- SEBI provides guidelines to all Credit Rating Agencies (CRAs) registered with SEBI for dealing with Conflict of Interest for investment/trading by CRAs, Access Persons and other employees vide *Circular CIR/MIRSD/5/2013 dated: August 27, 2013*.
- Based on Circular CIR/MRD/DP/ 25 /2013 dated: September 3, 2013, SEBI partially modifies Index based market-wide circuit breaker mechanism. It provides for daily revision of index based market-wide circuit breaker limits as well as resumption of trading after the halt with a pre-open call auction session.
- As per *Circular CIR/MRD/DRMNP/26/2013 dated: September 4, 2013*, Committee on Payments and Settlement Systems (CPSS) and the International Organization of Securities Commissions (IOSCO) published Principles for financial market infrastructures (PFMIs). PFMIs comprise of 24 principles for Financial Market Infrastructure to provide for effective regulation, supervision and oversight of FMIs.
- SEBI provides certain Risk Management Framework for corporate bond trade as per *Circular CIR/MRD/DP/ 27 /2013 dated: September 12, 2013*.
- SEBI issued *Circular CIR/MIRSD/ 07 /2013 dated: September 12, 2013* regarding Know Your Client (KYC) Requirements for Eligible Foreign Investor. This circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 and Sub Rule 14(i) of Rule 9 of the Prevention of Money-laundering (Maintenance of Records) Rules, 2005 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.
- SEBI decides to extend allocation mechanism, as presently applicable for corporate debt securities, to FII/QFI investment in Government debt securities also vide *Circular CIR/IMD/FIIC/15/2013 dated: September 13, 2013*.
- SEBI provides formats for filing reports in terms of regulations 15(i) and 20(j) of SEBI (Buy Back of Securities) Regulations, 1998 vide *circular CIR/CFD/POLICYCELL/10/2013 dated: September 17, 2013*.
- SEBI (Buy Back of Securities) Regulations, 1998 (hereinafter referred to as "Buy Back Regulations") were amended vide notification dated August 08, 2013 with an objective of aligning the regulatory requirements with the changing market realities and enhancing the efficiency in the Buy Back process. The amended regulation 15(i) of Buy Back Regulations requires companies to upload information regarding shares or other specified securities bought back on its website as may be specified by SEBI and submit the same to the respective Stock Exchanges.
- Regulation 20(j) of Buy Back Regulations mandates Merchant Bankers to file a post offer report with SEBI as may be specified by the Board.
- The necessary formats to enable the listed companies and the merchant bankers to make disclosures and ensure compliance with the extant regulatory requirements, are specified in Annexure 1 and 2, respectively. For details visit: www.sebi.com-Circulars
- SEBI establishes connectivity with both depositories NSDL and CDSL Companies

eligible for shifting from Trade for Trade Settlement (TFTS) to Normal Rolling Settlement vide *Circular CIR/MRD/DP/28/2013*.

- SEBI amends bye-laws of recognized stock exchanges with respect to non-compliance of certain listing conditions and adopting Standard Operating Procedure for suspension and revocation of trading of shares of listed entities for such non-compliances vide *Circular CIR/MRD/DSA/31/2013*, dated: September 30, 2013.

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

➤ **Investor Grievance Redressal Mechanism**

As per *CIR/MRD/ICC/30/2013*, dated: September 26, 2013, SEBI provides several measures to strengthen the grievance redressal mechanism for investors, including providing monetary relief during arbitration procedures.

➤ **Relief to investors having claims upto Rs 10 lacs**

Based on *Circular No. CIR/MRD/ICC/29/2013*, dated: September 26, 2013, SEBI decides to give monetary relief to investors having claims up to Rs 10 lakh, during the course of arbitration proceedings from the Investor Protection Fund (IPF) of the stock exchanges.

➤ **Establishment of Connectivity with both depositories NSDL and CDSL**

According to *Circular No. CIR/MRD/DP/28/2013*, dated: September 24, 2013, Companies eligible for shifting from Trade for Trade Settlement (TFTS) to Normal Rolling Settlement.

Value Added Tax

Highlights

- Notification No. 7(433)/Policy-II/VAT/2012/PF/472-483 dated 16/08/2012 regarding filing of Stock Statement in Form Stock-1

online for the stock available on 31st March for any year, stands withdrawn with immediate effect vide *notification VAT - Delhi - DVAT - F.7(433)/Policy-II/VAT/2012/PF/ 817-828 dated: 23-09-2013*

- Extend the date for filing of the Form Stock-1 online to 5th October, 2013 for all dealers vide *notification VAT - Delhi - DVAT - F.7(433)/Policy-II/VAT/2012/Part File/782-794 dated: 16-09-2013*
- Notify that the Form DP-1 shall be submitted online by all the dealers latest by 16-10-2013 vide *notification VAT - Delhi - DVAT - F.3 (352) Policy/VAT/2013/751-762 dated: 09-09-2013*
- Filing of Annexure 2C and Annexure 2D vide *circular 14/2013-14 dated: 06-09-2013*
- *Circular 13/2013-14 dated: 23-08-2013* provides Procedure for obtaining Central Declaration Form online
- *Circular F.4/Operation Cell/2005-06/2621-30 - 22-08-2013* arranges receipt and movement of quarterly returns for quarter ending 30-06-2013.

Provident Fund

Highlights

- **Raise minimum monthly pension to Rs 3,000: Panel** — A Parliamentary panel on September 03, 2013 asked the government to peg the minimum pension at Rs 3,000 a month under the Employees Pension Scheme 1995 (EPS-95) run by retirement fund manager EPFO to help retired workers tide over rising prices.
- **EPFO working on new universal number** Employees' Provident Fund Organization (EPFO) on September 02, 2013 said they are working on a universal number system for its four-crore active subscribers.

➤ **EPFO to start online service for transfer claims next month**

dated: September 28, 2013

The Employees' Provident Fund Organization (EPFO) is all set to start online transfer of provident fund accounts in the first fortnight of October, a move that will benefit over 13 lakh applicants every year.

➤ **EPFO asks field staff to reduce proportion of rejected claims**

dated: September 26, 2013

Expressing concern over high ratio of rejection of claims for withdrawal or transfer of PF, retirement fund body EPFO has asked its field staff to adopt client-oriented approach to minimize the number of such cases.

Special Economic Zone

Highlights

- Introduction of policy to regulate functioning of Worn and Used clothing units in SEZs as per *Circular No. D.6/35/2012-SEZ, dated: 17-09-2013.*
- Introduction of policy on units in SEZs carrying on recycling of plastic scrap or waste as per *Circular No. C.6/10/2009-SEZ, dated: 17-09-2013.*

Miscellaneous

Highlights

- **7th Pay commission appointed**
Prime Minister has approved the constitution of the Seventh Central Pay Commission which is likely to be implemented w.e.f 1st Jan, 2016.

➤ **Extension of last date for payment of stamp duty**

Stakeholders may kindly note that requests for extension of last date for payment of stamp duty beyond the expiry date would not be entertained by MCA w.e.f. 01.10.2013. Stakeholders are requested to make payment of stamp duty within the expiry date to avoid inconvenience.

➤ **Notice for filing Form 11 (Annual Return) and Form-8 (Statement of Account & Solvency) for the Financial Year ended 31-03-2013**

All LLPs registered up to 30-September, 2012 have to mandatorily close their financial year as on 31-03-2013 and to file Form 11 by 30th May 2013 and Form 8 by 30th October-2013. LLPs registered from 01-10-2012 to 31-03-2013 have an option either to close financial year as on 31-03-2013 or 31-03-2014 and to file both Form-8 & 11 accordingly. If any LLP fails to file Form-8 and Form-11 within prescribed time, an additional fees of Rs. 100/- is payable per day till date of filing.

➤ **Draft Forms under New Companies Act 2013**

The Ministry of Corporate Affairs has released the Draft Forms under Draft Rules in First Phase and made them live for Public comments for details refer to www.mca.gov.in

➤ **Sections of Companies Act 2013 notified**

The Ministry of Corporate Affairs, has notified 98 sections of the Companies Act 2013 (18 of 2013) by way of a notification dated 12th September 2013. All these sections will now come into immediate effect from 12th September 2013 and the same can be downloaded from www.mca.gov.in

- Relaxation of last date and additional fee in filling of e-form 23C for appointment of Cost Auditor vide circular No.14/2013, dated: 3rd September, 2013

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Behind Every Successful Business Decision, there is always a CMA

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