the CMA e-BULLETIN

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

www.icmai.in

OCTOBER 2014 | VOL. 2 | NO. 10

EDITORIAL

Country "solidly" in the 5 per cent growth bracket: RBI Governor

THE IMF and the World Bank on Tuesday forecast an identical 5.6 per cent growth rate for India this year and a higher 6.4 per cent in 2015, citing renewed confidence in the market due to a series of economic reforms pursued by the new government. "Growth in India is expected to rise to 5.6 per cent in 2014 and pick up further to 6.4 per cent in 2015 as both exports and investment increase," the International Monetary Fund said in its latest World Economic Outlook (WEO) report. Though RBI Governor Raghuram Rajan said that India's economic recovery was still uneven, he exuded optimism and said that the country would be "solidly" in the 5 per cent growth bracket during the course of this fiscal and accelerate further in the next financial year.

The Reserve Bank of India plans to announce the final norms on small and payments banks next month, a move which could eventually widen the number of players in the Indian banking sector. The central bank had mooted the idea of small banks and payments banks to deepen the financial inclusion process and to get more people under the financial system. It had come out with draft guidelines on the issue and had invited comments. These norms would widen the number of players and also make micro-lenders, telecom players, non-banking finance companies and public sector companies eligible to apply for licences once RBI invites applications for the same after its finalization.

Payments banks would offer a limited range of products such as demand deposits and remittances. They would also have a widespread network of access points particularly in remote areas, either through their own branch network or through business correspondents or through networks provided by others. Finance minister Arun Jaitley, in his budget speech had said that differentiated banks such as payments banks have been contemplated to meet the needs of small businesses, unorganised sector, low income households, farmers and migrant work force.

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

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INDIAN ECONOMY

News

➲ China, Singapore slowdown weigh on third-quarter Asia business sentiment

Business sentiment among Asia's top companies fell sharply in the third quarter, weighed down by worries about China's slowing economy, a possible end to the U.S. Federal Reserve's stimulus policy and a decline in the outlook for regional economic hubs like Singapore, a Thomson Reuters/INSEAD survey showed.

Source: Reuters, dated: 16 Sep 2014

➲ India to decide on diesel deregulation after state polls India will decide on ending government control on diesel pricing after elections in two states next month, an oil ministry source said, even though local prices of the fuel are currently higher than the global rates, making a case for a cut in retail prices.

Source: Reuters, dated: 16 Sep 2014

➲ Indian industry data to signal stuttering economic revival

India's industrial output growth likely slowed for a second straight month in July, while inflation probably remained high, with Asia's third-largest economy struggling to make a sustained recovery from its longest stretch of sub-par growth in decades.

Source: Reuters, dated: 11 Sep 2014

➲ India to revise GDP measurement next year, economy may be larger

India will soon revise the way it measures gross domestic product to reflect under-represented and informal economic sectors, two government sources said, in an initiative that is expected to show the economy is larger than previously thought.

Source: Reuters, dated: 09 Sep 2014

➲ Factory activity in Europe, Asia cools; demand lull a concern

Factory activity in Europe and Asia cooled in August after a strong July, as new orders dwindled in the face of escalating tensions in Ukraine and a patchy recovery in China, purchasing managers indexes showed.

Source: Reuters, dated: 01 Sep 2014

➲ Indian factory activity expands at slower clip in August

Indian factory growth eased in August from July's 17-month record pace as new orders came in at a slower clip.

Source: Reuters, dated: 01 Sep 2014

BANKING

Notifications/Circulars

➲ Treatment of accounts opened for credit of Scholarship Amounts under Government Schemes

As per direction of Bombay High Court, banks are advised to ensure that accounts of all student beneficiaries under the various Central/State Government Scholarship Schemes are free from restrictions of 'minimum balance' and 'total credit limit' vide *Notification no. RBI/2014-15/202 (DBOD.No.Leg. BC.37/09.07.005/2014-15) dated: Sep 01, 2014.*

➲ External Commercial Borrowings (ECB) in Indian Rupees

With a view to provide greater flexibility for structuring of ECB arrangements, it has been decided by RBI that recognized non-resident ECB lenders may extend loans in Indian Rupees subject to the following conditions:

a. The lender should mobilize Indian Rupees through swaps undertaken with an Authorized Dealer Category-I bank in India.

b. The ECB contract should comply with all other conditions applicable to the automatic and approval routes as the case may be.

c. The all-in-cost of such ECBs should be commensurate with prevailing market conditions.

For the purpose of executing swaps for ECBs denominated in Indian Rupees, the recognized ECB lender, if it desires, may set up a representative office in India following the prescribed laid down process.

Source: Circular No.25 RBI/2014-15/207, dated: September 3, 2014

➲ Modification in guidelines for transfer of Assets and Liabilities of Urban Cooperative Banks to Commercial Banks

With a view to ensuring that the process of consolidation by way of non-disruptive exit of weak entities by a scheme of transfer of assets and liabilities of UCBs to commercial banks is undertaken in a transparent manner without affecting the financial health of the acquiring entities and the banking system as a whole, it has been decided to modify the existing guidelines for transfer of assets and liabilities of UCBs to commercial banks by stipulating the following conditions:

a) The acquiring bank should not incur any loss arising out of the said merger/ transfer of assets and liabilities.

b) Big depositors holding deposits in excess of Rs 1.00 lakh each will be required to sacrifice in proportion to the deposit erosion of the target bank.

Source: RBI/2014-15/206 (UBD. CO. BPD. PCB. Cir. No. 12 /09.19.900/2014-15) dated: September 3, 2014

➲ Simplification of KYC Norms - Creating Public Awareness

The Reserve Bank of India, in the recent times, has been taking several measures to simplify KYC requirements to help the common man open bank accounts. It is, however, observed that despite such measures the general public is still facing problems in opening a bank account as these measures have not been given adequate publicity and the common man still lacks awareness on the basics of opening a bank account.

In order to address these issues, create public awareness and give wide publicity to these KYC simplification measures, Reserve Bank has issued a Press Release together with a poster and a booklet comprising a few common questions relating to Know Your Customer (KYC) norms for opening bank accounts. In this regard, RRBs and StCBs/CCBs are also advised to initiate steps to create awareness and give wider publicity by circulating the poster and booklet amongst all their branches. Branches are also advised to make available the booklet to the customers / general public and display the poster prominently in their premises.

Source: RBI/2014-15/220 (RPCD.RRB.RCB.AML. No.2797/07.51.018/2014-15) dated: September 9, 2014

➲ Basel III Liquidity Returns

'Basel III Framework on Liquidity Standards – Liquidity Coverage Ratio (LCR), Liquidity Risk Monitoring Tools and LCR Disclosure Standards' vide Circular No. RBI/2012-13/635/DBOD.BP.BC. No.120/21.04.098 /2013-14 dated June 9, 2014, has prescribed certain liquidity returns to be submitted by banks to monitor their resilience to potential liquidity disruptions under stress scenarios. These returns, covering global operations are effective from September 2014, are listed below:

Name of the Basel III Liquidity Return (BLR)	Frequency of Submission	Submission Deadline
Statement on Liquidity Coverage Ratio (LCR)-BLR-1	Monthly	within 15 days
Statement of Funding Concentration - BLR-2	Monthly	within 15 days
Statement of Available Unencumbered Assets - BLR-3	Quarterly	within 21 days
LCR by Significant Currency - BLR-4	Monthly	within 15 days
Statement on Other Information on Liquidity - BLR-5	Monthly	within 15 days

The above returns are required to be submitted in XBRL platform. Submission of XBRL returns assume generation of required instance documents (XML files) from source data. It is therefore emphasized that banks may take necessary steps to fine tune their systems, controls and MIS to generate the required instance documents from own data source. However, as a temporary measure, excel based installers will also be made available for compilation and generation of instance documents for banks which are not ready to create instance documents on their own. Separate communication will be issued as and when the XBRL site and installers are ready for submitting the returns.

Source: RBI/2014-15/213 (DBS.No.OS-MOS.2915/33.01.001/2014-15) dated: September 5, 2014

➲ Risk Management and Inter Bank Dealings: Hedging Facilities for Foreign Portfolio Investors (FPIs)

FPIs are permitted to hedge the coupon receipts arising out of their investments in debt securities in India falling due during the following twelve months subject to the condition that the hedge contracts shall not be eligible for rebooking on cancellation.

Source: Circular No.28 (RBI/2014-15/216) dated: September 8, 2014

➲ Upper age limit for Whole Time Directors of private sector banks fixed

Reserve Bank of India (RBI) vide notification no. RBI/2014-15/217 DBOD. APPT.BC.No. 40 /29.39.001/2014-15, dated September 9, 2014 has notified that the upper age limit of the Managing Director & Chief Executive Officers (MD & CEO) and other Whole Time Directors (WTDs) of banks in private sector in India has been fixed as seventy (70) years. It was so revised on account of provisions of Companies Act 2013. Section 196(3) of the Companies Act, 2013 prescribes that 'no company shall appoint or continue the employment of any person as Managing Director, Whole Time Director or Manager who is below the age of 21 years or has attained the age of 70 years'. Thus, no one is allowed to continue on these posts beyond 70 years of age. Moreover, the circular provides that private sector banks are at a liberty to fix the lower limit of the age, as a matter of internal policy.

➲ Opening of Bank Accounts in the Names of Minors

With a view to promote the objective of financial inclusion and also to bring uniformity among banks in opening and operating minors' accounts, StCBs / DCCBs are advised as under:

a. A savings /fixed / recurring bank deposit account can be opened by a minor of any age through his/her natural or legally appointed guardian.

b. Minors above the age of 10 years may be allowed to open and operate savings bank accounts independently, if they so desire. StCBs / DCCBs may, however, keeping in view their risk management systems, fix limits in terms of age and amount up to which minors may be allowed to operate the deposit accounts independently. They can also decide, in their own discretion, as to

what minimum documents are required for opening of accounts by minors.

c. On attaining majority, the erstwhile minor should confirm the balance in his/her account and if the account is operated by the natural guardian / legal guardian, fresh operating instructions and specimen signature of erstwhile minor should be obtained and kept on record for all operational purposes.

StCBs / DCCBs are free to offer additional banking facilities like ATM/debit card, cheque book facility etc., subject to the safeguards that minor accounts are not allowed to be overdrawn and that these always remain in credit.

Source: Notification RBI/2014-15/225 (RPCD.CO.RCB. BC.No.29/07.51.010/2014-15) dated: September 09, 2014

➲ Need for Bank Branches / ATMs to be made accessible to persons with disabilities

RBI has advised StCBs/DCCBs to make all new ATMs installed as talking ATMs with Braille keypads in future. StCBs/DCCBs should lay down a road map for converting all existing ATMs as talking ATMs with Braille keypads and the same may be reviewed from time to time by the Customer Service Committee of the Board.

In addition to the above, magnifying glasses should also be provided in all branches of StCBs/DCCBs for the use of persons with low vision, wherever they require for carrying out banking transactions with ease. The branches should display at a prominent place notice about the availability of magnifying glasses and other facilities available for persons with disabilities.

Source: Notification RBI/2014-15/224 (RPCD.CO.RCB. BC.28/07.51.010/2014-15) dated: September 09, 2014

➲ Inoperative Accounts

In reference to Paragraph 2(iv) of our Circular UBD.BPD. (PCB). Cir.No.9/13.01.000/2008-09 dated September 1, 2008 on Unclaimed Deposits / Inoperative Accounts in Banks in terms of which a savings as well as current account should be treated as inoperative / dormant if there are no transactions in the account for over a period of two years. Further, in terms of Paragraph 2(vi), for the purpose of classifying an account as inoperative, both the types of transactions i.e. debit as well as credit transactions induced at the instance of customers as well as third party should be considered.

In this connection, it is clarified that since dividend on shares is credited to Savings Bank accounts as per the mandate of the customer, the same should be treated as a customer induced transaction. As such, the account should be treated as operative account as long as the dividend is credited to the Savings Bank account. The Savings Bank account can be treated as inoperative account only after two years from the date of the last credit entry of the dividend, provided there is no other customer induced transaction vide notification no. *RBI/2014-15/227 (UBD.BPD.Cir.No.14/12.05.001/2014-15) dated: September 11, 2014.*

INCOME TAX

Notifications/Circulars

➲ Extension of due date for filing of Return of Income from 30thSept, 2014 to 30th Nov, 2014 in specified cases – Press Release

In compliance to the judgments of various High Courts and after considering the representations received for extension of the due date, the Board, in exercise of its power conferred by section 119 of the Act, has extended the `due - date' for furnishing return of income from 30th September, 2014 to 30th November, 2014 for the Assessment Year 2014-15 for all purposes of the Act in the case of an assessee, who is required to file his return of income by 30th September, 2014, and is also required to get his accounts audited under section 44AB of the Act or is a working partner of a firm whose accounts are required to be audited under section 44AB of the Act.

There shall be no extension of the "due date" for the purposes of charging of interest under section 234A of the Act for late filing of return of income and the assessees shall remain liable for payment of interest as per the provisions of section 234A of the Act.

CBDT clarified that for an assessee (other than working partner of a firm which is required to obtain and furnish Tax Audit Report), who is required to file its return of income by 30th September, 2014 but not required to obtain and furnish Tax Audit Report under section 44AB, the due date for furnishing of return of income for assessment year 2014-15 remains as 30th September, 2014 vide Order No. (F.No.153/53/2014-TPL (Pt.I) dated: 26th September, 2014.

➲ Arm's length pricing determined under section 92C

Central Government hereby notifies that where the variation between the arm's length price determined under section 92C and the price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed one percent of the latter in respect of wholesale trading and three percent of the latter in all other cases, the price at which the international transaction or specified domestic transaction has actually been undertaken shall be deemed to be the arm's length price for assessment year 2014-15 vide notification no. 45/2014/F. No.500/1/2014-APA II dated: 23rd September, 2014.

Explanation: For the purpose of this notification, "whole trading" means an international transaction or specified domestic transaction of trading in goods, which fulfils the following conditions, namely:-

i. Purchase cost of finished goods is eighty percent or more of the total cost pertaining to such trading activities; and

ii. Average monthly closing inventory of such goods is ten percent or less of sales pertaining to such trading activities.

Case Laws

➲ Sales tax set off u/s 43B disallowed – Exclusion of distribution cost from computation of deduction u/s 80HHC

Held that:- Following the decision in Commissioner of Income Tax-I, Mumbai Versus M/s. Hindustan Lever Ltd. [2014 (4) TMI 1012 - BOMBAY HIGH COURT] – the question with respect to sales tax set off involves is not a substantial question of law – The Tribunal has considered the grievance of the assessee that the AO excluded from the total turnover excise duty and recovery of distribution costs credited to the distribution expenses while computing its eligible deduction u/s 80HHC of the Act – Decided against revenue.

Adjustment of brought forward losses and unabsorbed depreciation in respect of the same unit u/s 80HHC – Held that: - As decided in assessee's own case [Income Tax Appeal No.1440 of 2011] - the court confirmed the order in relation to the deduction under section 80HH – Decided against revenue.

Source: Commissioner of Income Tax-1 versus Hindustan Lever Ltd. (2014 (10) TMI 149 - BOMBAY HIGH COURT - Income Tax)

➲ HC: Allows product development expense in telecom sector as revenue deduction, follows Empire Jute

HC holds expenditure incurred for upgrading existing product in the telecommunication industry as revenue and not capital expenditure; States product so upgraded goes on changing as time progresses, keeping in mind the requirement and competition in the market, therefore, expenditure incurred does not result in enduring benefit; Relies on SC rulings in Empire Jute Company Ltd and Alembic Chemical Works Co Ltd and holds the law laid down applies equally, if not more, in area of telecommunication: Karnataka HC [TS-614-HC-2014(KAR)]

➲ ITAT : Builder's tax-holiday can't be denied if buyers merged two flats post sale

ITAT allows Sec 80IB(10) benefit for AY 2009-10 in respect of all 1-BHK flats constructed by assessee-developer, though design of such 1BHK enables conversion to 'duplex flats'; Rejects Revenue's stand that deduction should be denied because on merger into duplex flats, area limit of 1,000 sq feet per residential unit prescribed u/s 80IB(10)(c) stands violated; Holds denial of benefit not justified absent evidence to show that developer, itself planned and generated duplex flats out of 1-BHK flats and then sold as such to 'buyers'; However, as evidence indicates 'flat buyers' merged flats into duplex flats during 'post-sales period', holds asssessee cannot be penalized merely because design for merger was provided by assessee; Relies on co-ordinate bench rulings in cases of G. V. Corporation and Baba promoters and developers : Mumbai ITAT (TS-625-ITAT-2014(Mum).

➲ Weighted deduction on agricultural demonstration park u/s 35C Whether the Tribunal was justified in law in allowing assessee's claim to grant weighted deduction u/s 35C in respect of expenditure incurred on agricultural demonstration park at Bilaspur

Held that:- The expenses that is incurred in relation to the development agricultural park at Bilaspur is for dissemination of information or demonstration of modern techniques or methods of agriculture that the company uses in manufacture of its product as raw material and which is a product of agriculture, it was entitled to the deduction that it claimed - the company was entitled to the weighted deduction as it satisfied the requirement both in clause (a) and (b) of subsection 1 of section 35C - The Tribunal was right in holding that dissemination of information or demonstration of modern techniques or methods of agriculture does not require any elaborate or detailed effort - The dissemination of information and by the method or modes utilized in this case fall within the clause - That is a way of dissemination of information and through the employed technicians - the expenses incurred so as to provide service of technicians and their salary and travelling expenses would definitely fall within the sub clause as they demonstrated modern techniques to the cultivators - the Tribunal did not commit any error of law apparent on the face of the record in upholding the order of the Commissioner – Decided against revenue.

Source: Commissioner of Income Tax versus M/s. Richardson Hindustan Ltd. (2014 (9) TMI 752 - BOMBAY HIGH COURT - Income Tax)

➲ HC: Income from leased property to franchisee a business income, not house property

HC rules that income of assessee (Govt. undertaking engaged in tourism activities) from leased hotel units is assessable as 'business income' and not 'income from house property'; States that assessee gave special right / privilege to franchisees / lessees to undertake a particular business in assessee's property on receipt of franchisee fee, thus, income in nature of business; Also notes that contract between assessee & franchisees shows that assessee continued to be in business of tourism activities, though not directly, but through franchisees and received income as franchisee fee; Upholds Tribunal's findings that assessee did not treat the let out properties as non-business assets which points out assessee's intention to earn business income; Rejects assessee's reliance on co-ordinate bench ruling in Keyaram Hotels (P) Ltd, as distinguishable on facts : Madras HC [TS-570-HC-2014(MAD)].

CENTRAL EXCISE

Notifications/Circulars

➲ Guidelines regarding Structure, Administrative set up and Functions of Audit Commissionerates

On implementation of cadre review there would be 23 Central

Excise Zones and 4 Service Tax Zones with each zone having one or more Audit Commissionerates. Each Audit Commissionerate would cover assessees registered under the jurisdiction of 3 to 5 Executive Commissionerates. Principal Chief Commissioner and Chief Commissioner shall assign the jurisdiction of Audit Commissioner in the zone, decide the location of Audit Commissionerates and its subordinate offices. Following guidelines may be followed while finalizing the location and organizational structure of Audit Commissionerate and its subordinate offices, subject to deviations needed to cater to the local requirements.

- **Location of Audit Commissionerate:**

The headquarters and the subordinate offices of the Audit Commissionerates could be co-located in metropolitan city based zones.

In non-metropolitan city based zones, Executive Commissionerates are spread over different cities therefore the headquarters of the Audit Commissionerates may be located in the city where zonal office is located, and at least one of the Circles (subordinate office explained later) may be located in the city where Executive Commissionerates are located.

In cases where there is more than one Audit Commissionerate in the Zone, the location of the second or third Audit Commissionerate and its subordinate offices may be decided based on the geographical concentration of the taxpayers. However, the Headquarters of the Audit Commissionerate may be in the city where the Executive Commissionerate is located. This is to ensure that audit officers work in close coordination with the Executive Commissionerates and are accessible to the assessees.

- **LTU Audit**

Two LTU Audit Commissionerates have been created. LTU Audit Commissionerate at Delhi shall have jurisdiction over assessees registered with LTU Delhi, Kolkata or Bangalore whereas LTU Audit Commissionerate at Mumbai shall have jurisdiction over the assessees registered with LTU Mumbai or Chennai. The assigning of audit to the subordinate offices of these Commissionerates may be carried out taking into account the location of cluster of assesses. While assigning assessees to the subordinate office, assessees with same PAN number should be assigned to one subordinate officer.

- **Configuration of Audit Commissionerate:**

Audit Commissionerate would comprise of a Headquarters similar to an Executive Commissionerate and subordinate offices proposed to be called Circles similar to a Divisions. The Circles would be headed by a Deputy or Assistant Commissioner. The Circles would comprise of Audit Groups equivalent to the Range offices which would have Superintendents and Inspectors.

Audit Commissioner would be Head of the Department and the headquarters would have two Additional or Joint Commissioners, who are in turn would be supported by two Deputy or Assistant Commissioners each.

Source: Circular No. 985/09/2014-CX dated: 22rd Sept. 2014

➲ Amendments to the Appeal provisions in Customs, Central Excise and Service Tax made by Finance Act, 2014- Issue of clarifications

CBEC issued clarifications regarding amendments to the Appeal provisions in Customs, Central Excise and Service Tax made by Finance Act, 2014 vide Circular 984/08/2014 dated: 16-09-2014.

- **Quantum of pre-deposit in terms of Section 35F of Central Excise Act, 1944 and Section 129E of the Customs Act, 1962:**

Doubts have been expressed with regard to the amount to be deposited in terms of the amended provisions while filing appeal against the order of Commissioner (Appeals) before the CESTAT. Sub-section (iii) of Section 35F of the Central Excise Act, 1944 and Section 129E of the Customs Act, 1962 stipulate payment of 10% of the duty or penalty payable in pursuance of the decision or order being appealed against i.e. the order of Commissioner (Appeal).

It is, therefore, clarified that in the event of appeal against the order of Commissioner (Appeal) before the Tribunal, 10% is to be paid on the amount of duty demanded or penalty imposed by the Commissioner (Appeal). This need not be the same as the amount of duty demanded or penalty imposed in the Order-in-Original in the said case.

In a case, where penalty alone is in dispute and penalties have been imposed under different provisions of the Act, the pre-deposit would be calculated based on the aggregate of all penalties imposed in the order against which appeal is proposed to be filed.

In case of any short payment or non-payment of the amount stipulated under Section 35F of the Central Excise Act, 1944 or Section 129E of the Customs Act, 1962, the appeal filed is liable for rejection.

- **Payment made during investigation**

Payment made during the course of investigation or audit, prior to the date on which appeal is filed, to the extent of 7.5% or 10%, subject to the limit of Rs 10 crores, can be considered to be deposit made towards fulfillment of stipulation under Section 35F of the Central Excise Act, 1944 or Section 129E of the Customs Act, 1962. Any shortfall from the amount stipulated under these sections shall have to be paid before filing of appeal before the appellate authority. As a corollary, amounts paid over and above the amounts stipulated under Section 35 F of the Central Excise Act, 1944 or Section 129E of the Customs Act, 1962, shall not be treated as deposit under the said sections.

Since the amount paid during investigation/audit takes the colour of deposit under Section 35F of the Central Excise Act, 1944 or Section 129E of the Customs Act, 1962 only when the appeal is filed, the date of filing of appeal shall be deemed to be the date of deposit made in terms of the said sections.

In case of any short-payment or non-payment of the amount stipulated under Section 35F of the Central Excise Act, 1944 or Section 129E of the Customs Act, 1962, the appeal filed by the appellant is liable for rejection.

- **Recovery of the Amounts during the Pendency of Appeal**

Vide Circular No.967/1/2013 dated 1st January, 2013, Board has issued detailed instructions with regard to recovery of the amounts due to the Government during the pendency of stay applications or appeals with the appellate authority. This Circular would not apply to cases where appeal is filed after the enactment of the amended Section 35F of the Central Excise Act, 1944 or Section 129E of the Customs Act, 1962.

No coercive measures for the recovery of balance amount i.e., the amount in excess of 7.5% or 10% deposited in terms of Section 35F of Central Excise Act, 1944 or Section 129E of Customs Act, 1962, shall be taken during the pendency of appeal where the party / assessee shows to the jurisdictional authorities:

(i) proof of payment of stipulated amount as pre-deposit of 7.5% / 10%, subject to a limit of Rs.10 crores, as the case may be; and

(ii) the copy of appeal memo filed with the appellate authority

Recovery action, if any, can be initiated only after the disposal of the case by the Commissioner (Appeal) / Tribunal in favour of the Department. For example, if the Tribunal decides a case in favour of the Department, recovery action for the amount over and above the amount deposited under the provisions of Section 35F / 129E may be initiated unless the order of the Tribunal is stayed by the High Court/Supreme court. The recovery, in such cases, would include the interest, at the specified rate, from the date duty became payable, till the date of payment.

- **Refund of pre-deposit**

Where the appeal is decided in favour of the party / assessee, he shall be entitled to refund of the amount deposited along with the interest at the prescribed rate from the date of making the deposit to the date of refund in terms of Section 35FF of the Central Excise Act, 1944 or Section 129EE of the Customs Act, 1962.

Pre-deposit for filing appeal is not payment of duty. Hence, refund of pre-deposit need not be subjected to the process of refund of duty under Section 11B of the Central Excise Act, 1944 or Section 27 of the Customs Act, 1962. Therefore, in all cases where the appellate authority has decided the matter in favour of the appellant, refund with interest should be paid to the appellant within 15 days of the receipt of the letter of the appellant seeking refund, irrespective of whether order of the appellate authority is proposed to be challenged by the Department or not.

If the Department contemplates appeal against the order of the Commissioner (A) or the order of CESTAT, which is in favour of the appellant, refund along with interest would still be payable unless such order is stayed by a competent Appellate Authority.

In the event of a remand, refund of the pre-deposit shall be payable along with interest.

In case of partial remand where a portion of the duty is confirmed, it may be ensured that the duty due to the Government on the portion of order in favour of the revenue is collected by adjusting the deposited amount along with interest.

- **Procedure and Manner of making the pre-deposits**

E-payment facility can be made use of by the appellants, wherever possible.

A self attested copy of the document showing satisfactory proof of payment shall be submitted before the appellate authority as proof of payment made in terms of Section 35F of the Central Excise Act, 1944 or Section 129E of the Customs Act, 1962.

The appeal filed before the CESTAT are filed along with the appeal memo in prescribed format (Form EA-3 for Central Excise Appeals and Form CA-3 for the Customs Appeals). Column 14(i) of the said appeal forms seeks information of payment of duty, fine, penalty, interest along with proof of payment (challan). These columns may, therefore, be used for the purpose of indicating the amount of deposit made, which shall be verified by the appellate authority before registering the appeal.

- **Procedure for refund**

A simple letter from the person who has made such deposit, requesting for return of the said amount, along with a self attested Xerox copy of the order in appeal or the CESTAT order consequent to which the deposit becomes returnable and attested Xerox copy of the document evidencing payment of such deposit, addressed to Jurisdictional Assistant/Deputy Commissioner of Central Excise and Service Tax or the Assistant/Deputy Commissioner of Customs, as the case may be, would suffice for refund of the amount deposited along with interest at the rate specified.

Record of deposits made under Section 35F of the Central Excise Act, 1944 or section 129E of the Customs Act, 1962 should be maintained by the Commissionerate so as to facilitate seamless verification of the deposits at the time of processing the refund claims made in case of favourable order from the Appellate Authority.

Case Laws

➲ 100% EOU - clearance of goods to DTA - whether the respondents are eligible for the benefit of Notification No.8/97

Held that: - Notification No. 8/97-CE excludes the exemption, in case the finished goods are wholly exempt or chargeable to NIL rate of duty, if manufactured and cleared by a unit other than a 100% EOU. In the present case, the goods manufactured by the respondent is wholly and unconditionally exempt by Notification No. 5/99-CE dated 28.2.1999 (1st SCN) and 6/2000 dated 1.3.2000 (2nd SCN). It is seen that Condition (a) of Notification No.13/98, extended the benefit to such finished goods, if manufactured and cleared by a 100% EOU to DTA, if the finished goods is wholly exempt from the duties or chargeable to NIL rate of duty. So, the respondents are liable to pay duty on the items in question in terms of Notification No. 13/98. It is noticed that the demand raised in respect of the period of dispute from December 1999 and January 2000 to November 2000 which are covered by both the Notifications. So, we find that the demand of duty as confirmed by the adjudicating authority is justified. However, penalty is set aside - Decided partly in favour of Revenue.

Source: CCE, Tirunelveli versus M/s. Tamilnadu Jai Bharath Mills Ltd. (2014 (9) TMI 773 - CESTAT CHENNAI - Central Excise)

➲ Waiver of the pre-deposit of Central Excise duty - manufacture of chewing tobacco - removal of chewing tobacco clandestinely without obtaining Central Excise registration

Held that:- in dealing with such application twin requirement need to be examined, i.e. undue hardship relating to assessee and secondly safeguard the interest of Revenue. This principle has been echoed by the various High Courts including the Andhra Pradesh High Court in Sri Chaitanya Education Committee's case (2011 (1) TMI 356 - HIGH COURT ANDHRA PRADESH). Also mere financial hardship cannot be the criteria for total waiver of pre-deposit of dues adjudged in view of the ratio of Division Bench of Hon'ble Punjab & Haryana High Court in the case Triveni Castings (P) Ltd. cited (2011 (2) TMI 170 - PUNJAB AND HARYANA HIGH COURT). Accordingly in view of the ratio laid down by the Apex Court and the various High Courts, and the interest of Revenue, and in the interest of justice, it would be appropriate to direct the pre-deposit of 50% by the Applicant pending disposal of the Appeal. - Partial stay granted.

Source: M/s. Jai Ganesh Industries versus Commissioner of Central Excise, Customs & Service Tax, BBSR-I (2014 (9) TMI 772 - CESTAT KOLKATA - Central Excise)

➲ CENVAT Credit - Generation of electricity from bagasee - Non maintenance of separate records

Reversal of credit - Held that:- electrical energy which is mentioned in Chapter 27 of the Central Excise Tariff Act covers only such electrical energy which is generated from mineral fuels, mineral oil and products obtained there from and electrical energy produced from bagasse is not covered under Chapter 27 and hence, such electrical energy is not excisable goods nor is it exempted goods as defined in Section 2(d) of the Act. It was further held that Rule 6 of the CENVAT Credit Rules, 2004 refers to both dutiable/excisable goods and exempted goods. Only then, it is necessary for the manufacturer to maintain separate accounts. Rule 6(3) of the said Rules provides that when CENVAT credit is taken on the inputs/input service which are used for manufacture of dutiable as well as exempted final products, then the assessee is required to reverse proportionate credit or pay 5% amount of the value of the exempted final products. As regards electricity which is not excisable goods, the provisions of Rule 6 would not ab initio apply.

Appellant has generated electricity from bagasse. Bagasse on burning generates heat and with the help of heat, steam is generated which is used to rotate turbines as a result of which electricity is generated. In view of the above, the impugned demands confirmed against the appellant @ 5% of the value of the electricity supplied to MSEB is clearly unsustainable in law.

However, since electricity is not "excisable goods", the appellant is not eligible to take any CENVAT credit on the inputs/input services used in the generation of such non-excisable electricity sold to MSEB. CENVAT credit is available only when input/input services are used in or in relation to the manufacture of excisable goods or for providing taxable services. Inasmuch as the appellant has utilized part of the inputs/input services in or in relation to the generation of electricity which has been sold, to that extent the appellant would not be eligible for taking of CENVAT credit on such inputs/input services used in the generation of electricity which has been sold to MSEB. Therefore the appellant would be liable to reverse the credit, if any, taken on such inputs/input services which have been used in the generation of electricity which have been sold to MSEB. - decided partly in favour of assessee.

Source: SHARAD SSK. LTD. versus COMMISSIONER OF CENTRAL EXCISE, KOLHAPUR (2014 (9) TMI 768 - CESTAT MUMBAI - Central Excise)

➲ Manufacture - activity of dilution of sulphuric acid and finished product is supplied to the battery companies for use in the batteries - revenue is of the view that the said activity amounts to manufacture

Held that: - The activity undertaken by the applicant is that they are purchasing 98% concentrated sulphuric acid, and as per the requirement of the customers they diluted it with demineralised water, to attain desired concentration. The product that emerged was diluted sulphuric acid (28-50%), which was marketable and it is specifically used in the manufacture of battery manufacturing units. Therefore, in terms of definition under Section 2(f) of the Central Excise Act, 1944, we hold that the appellant are engaged in the activity of manufacture. - Demand of duty and interest confirmed - penalty set aside - appellant allowed to use CENVAT credit - Decided partly in favor of assessee.

Source: Kankariya Enterprises versus Commissioner of Central Excise, Pune-III [2014 (10) TMI 161 - CESTAT Mumbai - Central Excise]

CUSTOMS

Notifications/Circulars

➲ Amendment in Tariff Value in respect of some of the imported goods

CBEC amends principal notification no. 36/2001-Customs (N.T.), dated the 3rd August, 2001 vide Notification No. 95/2014 - Customs (N. T.) dated: 30th September, 2014 and fixes the tariff values specified in column (4) of the Table below, in respect of the import¬ed goods of the description specified in the corresponding entry in column (3) of the said Table and falling under Chapter or heading or sub-heading No. of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

Table 1			
Sl. No	Chapter/ heading/ Sub - heading/ tariff item	Description of goods	Tariff value US $ (Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	725
2	1511 90 10	RBD Palm Oil	750
3	1511 90 90	Others – Palm Oil	738
4	1511 10 00	Crude Palmolein	762
5	1511 90 20	RBD Palmolein	765
6	1511 90 90	Others – Palmolein	764
7	1507 10 00	Crude Soyabean Oil	838
8	7404 00 22	Brass Scrap (all grades)	3987
9	1207 91 00	Poppy seeds	3429

Table 2			
Sl. No	Chapter/ heading/ Sub - heading/ tariff item	Description of goods	Tariff value US $
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 321 and 323 of the Notification No. 12/2012-Customs dated 17.03.2012 is availed	396 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 322 and 324 of the Notification No. 12/2012-Customs dated 17.03.2012 is availed	575 per kilogram

Table 3			
Sl. No	Chapter/ heading/ Sub - heading/ tariff item	Description of goods	Tariff value US $ (Per Metric Tonne)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	2017

➲ Anti-dumping duty

- Levy of definitive anti-dumping duty on imports of phenol, originating in or exported from Chinese Taipei and USA for a period of five years from the date of imposition of the provisional anti-dumping duty, that is, 16th May, 2014 vide Notification No. 43/2014-Cus (ADD), dt. 30-09-2014.
- Levy of definitive anti-dumping duty on imports of sulphur black, originating in or exported from People's Republic of China, for a period of five years vide Notification No. 41/2014-Cus (ADD), dt. 18-09-2014.
- CBEC vide Notification No. 40/2014-Cus (ADD), dt. 16-09-2014 imposed provisional anti-dumping duty on imports of electrical insulators of glass or ceramics/porcelain, whether assembled or unassembled originating in, or exported from the People's Republic of China for a period of six months.

SERVICE TAX

Case Laws

➲ Liability of service tax on purchase and sale of used cars - Whether this service can be considered as sale

Held that: - the property is delivered and the price has been received by the seller of the old car. Therefore, the first transaction cannot be considered as the one which is not a sale. There is no doubt as to the second transaction whether it is a sale or not. Once the first transaction is considered as sale it means that the vehicle has been purchased by the appellant subsequently sold by them. Therefore it becomes totally a transaction of purchase and sale of old vehicles - activities are undertaken as value addition by them and it is neither for the seller nor the purchaser. It is an activity undertaken to increase the value of the vehicle so that they get the maximum return out of it. Therefore we cannot say that there is a service element in this transaction either. As regards the invoices produced before us there is no clarity being there as to whether the Commissioner has seen these documents - In any case there is no observation saying that the vehicles were not sold under an invoice by the appellants - appellants have made out a case in their favour completely - Following decision of M/s Sai Service Station Ltd versus Commissioner of Central Excise, Customs and Service Tax [2014 (4) TMI 640 - CESTAT Bangalore] - Decided in favour of assessee.

Source: Indus Motors Company Pvt. Ltd. versus Commissioner of Central Excise, Customs and Service Tax [2014 (10) TMI 168 - CESTAT BANGALORE - Service Tax]

➲ Penalty u/s 77 & 78 - Construction of complex service - suppression of facts

Held that: - There is no discussion/analysis with regard to the allegation of suppression and the adjudicating authority merely jumps to the conclusion that there is suppression of facts. Obviously this

is not sufficient to sustain the allegation of suppression of facts - When section 80 of the Finance Act, 1994 has been found to be invocable for waiving penalty under Section 76, it is not possible to argue that the same (i.e. Section 80) will not be invocable mutatis mutandis for waiving penalty under Section 78 ibid. Further as has been fairly conceded by the Ld. AR, there is absence of mala fide in the present case. In such a situation, even otherwise penalty under Section 78 ibid cannot be imposed in as much as penalty under that section requires means rea - Decided in favour of assessee.

Source: M/s. Mohan Poddar versus CCE, Raipur (2014 (9) TMI 782 - CESTAT NEW DELHI - Service Tax)

➲ Commercial or industrial construction service - site formation service - Imposition of penalty

Held that:- As regards the commercial or industrial construction service and the site formation service, the applicant does not dispute the classification or the computation of demand and therefore, the appellant is liable to pay the entire service tax demand confirmed along with interest thereon and only the amounts actually paid by them and appropriated has to be excluded for the purposes of recovery. Therefore, we direct the appellant to make pre-deposit of entire service tax confirmed in respect of "Commercial or Industrial Construction Service" and "Site Formation and Clearance Service" along with interest thereon (excluding the amount already deposited).

Renting of immovable property - Held that: - Only if vacant land exists as it is without any building, the exclusion clause would apply. The fact that the area of the land appurtenant to the building being more than the area of the building would not make any difference. The Ld. Adjudicating authority has dealt with this matter in detail in paras 88 to 90 of the impugned order and we do not find any fault in the reasoning adopted by the adjudicating authority. Therefore, the demand of service tax in respect of the land and building rented to M/s. Reliance Industries Ltd. is prima facie, sustainable in law.

As regards the land and building rented out to M/s. Avinash Automobiles Pvt. Ltd., we note that the premises leased out consisted of a factory building and vacant land with a common compound wall and security gate. The appellant has also not been able to lead any evidence to the contrary nor did they furnish any evidence of the alleged construction on the vacant land subsequent to the lease agreement. Therefore, the Ld. adjudicating authority was correct in concluding that the consideration received for both the land and building would be leviable to service tax under the category of "Renting of Immovable Property Service". The law was also respectively amended by the Finance Act, 2010 deeming renting of immovable property as a taxable service since 1-6-2007 which was also upheld by the Hon'ble High Court of Delhi in the above decision. In view of these judicial pronouncements, there is no doubt that the activity undertaken by the appellant is a taxable service and has always been so with effect from 1-6-2007. Further, in the Finance Act, 2012, a provision was made for waiver of penalty in case a service provider discharged the service tax liability along with interest in respect of renting of immovable property service within a stipulated time-limit. But, the appellant did not exercise their option for availing this facility. Having failed to avail of the opportunity, the contention for waiver of penalty is not acceptable. - Decided against assessee.

Source: ATR WAREHOUSING PVT. LTD. versus COMMR. OF C. EX. & C., VISAKHAPATNAM-I (2014 (9) TMI 781 - CESTAT BANGALORE - Service Tax)

➲ Waiver of pre deposit - Import of services - service to self - IT enabled services - Support Services for Business and Commerce - Business Auxiliary Service

Held that:- Where the service provider has no permanent establishment in India or he has no branch providing service in India but the service is received in India, tax would be paid by the receiver. Naturally what this means is that the service provider should not be having an establishment in India and then only this provision is attracted. In this case, the service provider is the branch and it cannot be said that overseas branch does not have an establishment in India assuming that it is providing the service classifiable under SSBC. This is because the branch has an establishment in India in the form of their Head Office and abroad as a permanent establishment in that country - When service is provided by a company which has a permanent establishment in India or when the service is provided by a person who has an establishment in India, provision of Section 66A do not get attracted. In this case, if it is assumed that the branch has provided SSBC, service tax demand has to be made on their establishment in India which is nothing but the assessee himself. it is nothing but a self-service and therefore a service to self is not taxable also is valid.

Further, the amount received by the appellant as a result of services rendered by the branches abroad for the appellant would be more than what they have paid to the branches, in which case, it will be a negative consideration for the service rendered by the branch to the principal. This is another complexity that gets created because of the stand taken by the Revenue that payment of salaries and other expenses of branches by the appellant is in return for consideration received. In the absence of actual earnings that arise because of the branches and its analysis by either side, no conclusion can be clearly laid down and the fact remains that this is a complexity that should not arise in a case of tax transaction like service tax. If service has been rendered and there is no consideration is determined, how can we say entire amount incurred as expenses is consideration, in the absence any enquiry or a question about the income earned and the nature thereof.

Source: M/s. Infosys BPO Ltd. versus Commissioner of Service Tax-BANGALORE-SERVICE TAX (2014 (9) TMI 779 - CESTAT BANGALORE - Service Tax)

SEBI

Notifications/Circulars

➲ Anchor Investor's limit increased

On September 11, 2014 Securities Exchange Board of India (SEBI) has notified vide circular no. CIR/CFD/POLICYCELL/6/2014 amendment to SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 regarding increasing the investment bucket for anchor investor and regulations concerning the preferential issue norms. As per the circular, the SEBI Board in its meeting held on June 19, 2014 undertook a review of the extant regulatory framework in the primary market and approved certain reforms to revitalize the market including increasing the investment bucket for anchor investor and making certain amendments to regulations concerning the preferential issue norms.

In order to remove any difficulties in the application or interpretation of SEBI (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2014, the circular clarified that:-

1. The revised sub-regulation (3) of regulation 43 on anchor investor allocation, which is regarding the increase in the investment bucket for anchor investor shall be applicable to issuers filing offer documents with the Registrar of Companies on or after the date of notification of SEBI (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2014.
2. The new revised regulations pertaining to preferential issue shall be applicable for the preferential issuances where notice for the general meeting for passing of special resolution by the shareholders is issued on or after the date of this circular, i.e., September 11, 2014.

➲ Position Limits for Mutual Funds in 10-year Interest Rate Futures (IRF)

SEBI vide circulars CIR/MRD/DRMNP/35/2013 dated December 5, 2013 and CIR/MRD/DRMNP/ 2/2014 dated January 20, 2014 prescribed framework for trading of Cash settled Interest Rate Futures (IRF)on 10-year Government of India Security on Stock Exchanges. Further SEBI vide circular CIR/MRD/DP/15/2014 dated May 15, 2014 clarified position limits applicable to Foreign Portfolio Investors (FPIs) in IRF.

In continuation of these circulars it is clarified that the following position limits in IRF shall be applicable for Mutual Fund level and scheme level:

a. Mutual Funds shall have position limits as applicable to trading members presently.
b. Schemes of Mutual Funds shall have position limits as applicable to clients presently.

Source: Circular CIR/MRD/DRMNP/26/2014, dated: September 15, 2014

➲ Modification to Investor Protection Fund (IPF) / Customer Protection Fund (CPF) Guidelines

SEBI vide Circular No.MRD/DoP/SE/Cir-38/2004 dated October 28, 2004 prescribed the Comprehensive Guidelines for Investor Protection Fund (IPF) / Customer Protection Fund (CPF) at Stock Exchanges. Subsequently SEBI vide Circular No.MRD/DoP/SE/Cir -21/2006 dated December 14, 2006 and Circular No. CIR/MRD/DP/06/2011 dated June 16, 2011, modified the certain clauses of above guidelines:

a) Clause 13 shall be substituted with the following -

If any eligible claim arises within three years from the date of expiry of the specified period, such claim

• shall be considered eligible for compensation from IPF/CPF in case where the defaulter member's funds are inadequate. In such cases, IPF/CPF Trust shall satisfy itself that such claim could not have been filed during the specified period for reasons beyond the control of the claimant.
• shall not be considered eligible for compensation from IPF/CPF in case where the surplus funds of the defaulter member is returned to the defaulter member. The same shall be borne by the stock exchange after scrutinizing and satisfying itself that such claim could not have been filed during the specified period for reasons beyond the control of the claimant.

Provided that any claim received after three years from the date of expiry of the specified period may be dealt with as a civil dispute.

b) Following para shall be inserted under clause 24 -

"Provided further that in cases where any litigations are pending against the defaulter member, the residual amount, if any, may be retained by the stock exchange until such litigations are concluded."

Source: Circular - CIR/MRD/DP/28/2014, dated: September 29, 2014

➲ Corporate Governance in listed entities - Amendments to Clause 49 of the Equity Listing Agreement

The Securities & Exchange Board of India (SEBI) has issued a circular dated 15th September, 2014 to introduce certain amendments in revised clause 49 of listing agreement, effective from 1st October, 2014.The gist has been produced herein below:

1) Non- applicability of clause 49 on companies having equity share capital upto INR 10 crores and Net worth upto INR 25 crores, as on the last day of the previous financial year;

2) Appointment of women director - The provisions regarding appointment of women director shall be effective from 1st April 2015;

3) Tenure of Independent Directors - Maximum tenure of independent directors shall be in accordance with companies

act'13(and clarifications made there under) as against the existing tenure of 5 years;

4) Familiarisation programme for Independent Directors -
a. The company shall familiarise the independent directors with the company, their roles, rights, responsibilities in the company, nature of the industry in which the company operates, business model of the company, etc., through various programmes.
b. The details of such familiarisation programmes shall be disclosed on the company's website and a web link thereto shall also be given in the Annual Report.

5) Nomination and Remuneration Committee - The company through its Board of Directors shall constitute the nomination and remuneration committee which shall comprise at least three directors, all of whom shall be non-executive directors and at least half shall be independent. Chairman of the committee shall be an independent director. Provided that the chairperson of the company (whether executive or non-executive) may be appointed as a member of the Nomination and Remuneration Committee but shall not chair such Committee.

6) Subsidiary Company - No company shall dispose of shares in its material subsidiary which would reduce its shareholding (either on its own or together with other subsidiaries) to less than 50% or cease the exercise of control over the subsidiary without passing a special resolution in its General Meeting except in cases where such divestment is made under a scheme of arrangement duly approved by a Court/Tribunal.

7) Selling, disposing and leasing of assets - Selling, disposing and leasing of assets amounting to more than twenty percent of the assets of the material subsidiary on an aggregate basis during a financial year shall require prior approval of shareholders by way of special resolution, unless the sale/ disposal/lease is made under a scheme of arrangement duly approved by Court/ Tribunal.

8) Risk Management Committee - The company through its Board of Directors shall constitute a Risk Management Committee. The Board shall define the roles and responsibilities of the Risk Management Committee and may delegate monitoring and reviewing of the risk management plan to the committee and such other functions as it may deem fit.

The majority of Committee shall consist of members of the Board of Directors;

Senior executives of the company may be members of the said Committee but the Chairman of the Committee shall be a member of the Board of Directors;

9) A transaction with the related party shall be construed to include single transaction or a group of transactions in a contract;
10) Definition of related party amended to bring the same at par with the companies act [Section 2(76)] and applicable accounting standards;

11) For materiality concept, limit of 5% has been enhanced to 10% - a transaction with a related party shall be considered material if the transaction / transactions to be entered into individually or taken together with previous transactions during a financial year, exceeds ten percent of the annual consolidated turnover of the company as per the last audited financial statements of the company;

12) Related party transactions between two govt. companies, or between a holding and its wholly owned subsidiary, don't require any approval of audit committee. These also not require any approval of shareholders as against special resolution required earlier;

13) Related Party Transactions - All Related Party Transactions shall require prior approval of the Audit Committee. However, the Audit Committee may grant omnibus approval for Related Party Transactions proposed to be entered into by the company subject to the following conditions:
a. The Audit Committee shall lay down the criteria for granting the omnibus approval in line with the policy on Related Party Transactions of the company and such approval shall be applicable in respect of transactions which are repetitive in nature.
b. The Audit Committee shall satisfy itself the need for such omnibus approval and that such approval is in the interest of the company;
c. Such omnibus approval shall specify
(i) the name/s of the related party, nature of transaction, period of transaction, maximum amount of transaction that can be entered into,
(ii) the indicative base price / current contracted price and the formula for variation in the price if any and
(iii) such other conditions as the Audit Committee may deem fit; Provided that where the need for Related Party Transaction cannot be foreseen and aforesaid details are not available, Audit Committee may grant omnibus approval for such transactions subject to their value not exceeding Rs.1 Crore per transaction.
d. Audit Committee shall review, at least on a quarterly basis, the details of RPTs entered into by the company pursuant to each of the omnibus approval given.
e. Such omnibus approvals shall be valid for a period not exceeding one year and shall require fresh approvals after the expiry of one year;

14) The web link of policy of dealing with related party transactions need to be disclosed in the annual report;

15) Following disclosures stand deleted:
—resignation of directors
—formal letter of appointment
—details of training imparted to Independent Directors
—the remuneration policy and the evaluation criteria in its Annual report

16) Earlier certification was required by MD/Manager and Whole time Finance Director/CFO. Now, the same has been replaced as follows–
CEO or MD or Manager or in their absence, a Whole time Finance Director and the CFO.
[Source- Circular - CIR/CFD/Policy Cell/7/2014 dated: September 15, 2014]

http://www.sebi.gov.in/cms/sebi_data/attachdocs/1410777212906.pdf

For erstwhile clause 49, please refer following link:
http://www.sebi.gov.in/cms/sebi_data/attachdocs/1397734478112.pdf

FOREIGN TRADE

Notifications/Circulars

➲ Hedging Facilities for Foreign Portfolio Investors

RBI vide notification no. RBI/2014-15/216 A.P. (DIR Series) Circular No.28, dated September 8, 2014 notified certain Hedging Facilities for Foreign Portfolio Investors (FPIs). The circular drew the attention of Authorized Dealers to the Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000 dated May 3, 2000 (Notification No. FEMA.25/RB-2000 dated May 3, 2000) as amended from time to time and A.P. (DIR Series) Circular no. 32 dated December 28, 2010.

Under the extant regulations, Foreign Portfolio Investors (FPIs) 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 certain conditions as specified in A.P. (DIR Series) Circular No. 32 dated December 28, 2010 as amended from time to time.

In order to enhance the hedging facilities for the FPIs holding securities under the Portfolio Investment Scheme (PIS) in terms of Foreign Exchange Management (Transfer or issue of security by a person resident outside India) Regulations, 2000,as amended from time to time, as announced in the Monetary Policy Statement of April 1, 2014; it has been decided to permit FPIs to hedge the coupon receipts arising out of their investments in debt securities in India falling due during the following twelve months subject to the condition that the hedge contracts shall not be eligible for rebooking on cancellation. The contracts can however be rolled over on maturity provided the relative coupon amount is yet to be received.

However, all other regulations and guidelines issued under FEMA, 1999 relating to investment in debt securities and hedging facilities for non resident investors including FPIs shall remain unchanged.

➲ Amendment in export policy of iron ore pellets manufactured by KIOCL

KIOCL Limited (formerly known as Kudremukh Iron Ore Company Limited) has been permitted to export its own manufactured iron ore pellets either by itself or through any entity authorized by them for the purpose vide *Notification No 92(RE –2013)/2009-2014 dated: 26 September, 2014.*

➲ Revision in Import Policy for some primary agricultural commodities

Revision in Import Policy for some primary agricultural commodities appearing in Chapter 10 of ITC (HS), 2012, Schedule 1 (Import Policy) have been revised from "State Trading Enterprises" to "Free" vide *Notification No 93 (RE-2013) / 2009-2014 dated: 29.09.2014.*

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