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THE INSTITUTE OF
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OF INDIA

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EDITORIAL

RBI pushes for a more level playing field for bank customers

The World Bank has projected an economic growth rate of 5.7% in the fiscal year 2015 for India on the back of a more competitive exchange rate and many large investments going forward. "Bolstered by a permanently more competitive exchange rate and progress towards clearance of important investment projects, India may see an acceleration of growth (factor costs) in FY 2014 to 4.8%, further increase to 5.7% in FY 2015," the World Bank said in its latest edition of 'South Asia Economic Focus'. IMF had forecast that the Indian economy would recover from 4.4% growth in 2013 to 5.4 percent in 2014.

For the first time after taking over as the RBI governor, Dr Raghuram Rajan has made a strong push for a more level playing field for bank customers. His first credit policy statement for FY2014-15 specifically mentions several critical issues that banks have ignored for years:

- On failure to maintain average quarterly balances, he has asked banks to cut their services to the bare minimum instead of levying

penalties. He has also frowned upon such penalties imposed on inoperative bank accounts.

- The governor has said that there should be no charge on pre-payment of any floating rate term loans.
- He has also asked banks to limit customer liability in case of losses due to hacking and phishing, unless they can prove deliberate customer negligence.

The Reserve Bank of India is unlikely to allow the promoters of private banks to become CEOs when it allows new banks to come up. The firm that promotes the bank should be wholly owned by the promoter group and 50% of the directors of the NOFHC should be independent directors.

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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always a CMA**

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CHALLENGES POSED BY NEW BANKS TO EXISTING BANKS



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The Reserve Bank of India Act empowers the Reserve Bank to issue new bank licences. The Reserve Bank of India (RBI) has been following the practice of considering applications from business entities and corporate houses for issuing new licences for commencing banking operations. Section 23 of RBI Act provides that RBI should consider the applications having regard to the following aspects:

- (1) Financial conditions and history of applicant bank
- (2) General character of its Management
- (3) Adequacy of its Capital Structure
- (4) Whether operations of new banks will serve any public interest

After the process of globalisation started in 1991-92, RBI as a part of financial sector reforms and with a view to creating enhanced competition in the banking space started considering applications for grant of new bank licences. But in the scheme of things of RBI, it was felt not to grant licences under on-tap basis. Hence RBI considered first set of applications for grant of new bank licences in 1992-93 and about ten new-gen banks emerged on Indian banking space. RBI is expected to carry out a stiff back ground check on the applicants and evaluate their capabilities of conducting business of banking. The past experience shows that out of ten new-gen banks, five got merged with stronger new-gen banks. It is though not definite, is a reflection of inadequate assessment of the applicants' capabilities before grant of bank licence. After a decade, RBI again opened the licensing to start new banks in 2003-04 and granted two licences to Kotak Mahindra Bank (2003) and Yes Bank (2004). Both these banks appear to have been doing well broadly indicating that RBI did a fairly good KYC check on the new entities' group. These developments were followed by the initiatives to grant some more licences to business houses/ corporates in this decade thereby giving an impression that grant of new bank licences by RBI is ten-yearly affair.

The process of considering new bank licences in the current decade began with a policy statement made by the then Union Finance Minister in his budget speech of 2010-11. But RBI wanted more powers especially powers to supersede the Board of the Banks if so warranted in overall public interest. RBI also insisted with government to amend the statute to also empower it to conduct scru-

tiny of accounts of other associate companies of the bank. With the change of guard in the Finance Ministry, the pressure mounted on RBI to initiate the process of licensing new banks by calling for applications. But the then RBI Governor resisted the intense pressure by rejecting the suggestion of Finance Ministry until the Parliament passed an amendment to the law demanded by RBI. It was in this background that the amendment to the related laws was passed in Parliament before RBI initiated the process of applications for new bank licences.

New guidelines

It was in August 2010 that RBI put a discussion paper in public domain on entry of new banks in private sector. It invited suggestions from the stake holders to fine-tune its existing provisions to deal with applications of corporate and business houses for issuing new bank licences. There was overwhelming response to RBI discussion paper and many useful suggestions were received. In February 2013, RBI came out with another discussion paper on the banking sector inviting comments to explore possibilities of differentiated licences for small banks and whole sale banks as well as continuous on-tap licensing. The differentiated licensing is partial bank licensing wherein restricted banking operations are permitted to be conducted. This will allow the entities to have banking capabilities with a relatively smaller size and help them to apply for full fledged banking licences in the course of time. The idea behind such a concept of partial licensing is to enable such entities to gain experience during the period of incubation before getting ready for grant of full-fledged banking licence.

RBI released guidelines for licensing of new banks in private sector. These guidelines spelt the eligibility criteria and brought about the concept of wholly-owned Non Operative Financial Holding Companies (NOFHC). The entities in private sector owned and controlled by residents and entities in public sector were made eligible to promote a bank through NOFHC. The other conditions included fit and proper criteria on the basis of past record of sound credentials and integrity having successful track record of ten years without coming under the scanner of enforcement and investigative agencies. The minimum voting equity capital requirement was maintained at

Rs.500 crore with 40 per cent being locked in for a minimum period of five years with a further condition that the new banks should get listed on the stock exchange within three years from the commencement of its business. The new framework also provided that at least 50 per cent of the directors of NOFHC should be independent and the corporate structure should not impede effective supervision of the bank and NOFHC. The Non-resident shareholding in the new bank should not exceed 49 per cent for the first five years after which it will be as per the existing guidelines. The existing policy provides for a foreign equity upto 74 per cent. This has changed the capital structure of the Axis Bank recently. Such a subtle provision to help change the capital structure of the banking institutions is fraught with the risk to creeping take-over of the Indian banks by the foreign institutions in course of time. This becomes an indirect route for the foreign entities to control the banking system in India. The all important condition relates to opening of 25 per cent of the branches in rural and unbanked areas having population upto 9999 apart from observing compliance with priority sector lending targets & sub-targets as applicable to existing domestic banks.

New applicants

RBI invited applications from corporate and business houses in 2013 for opening new banks. The last for submission of such applications was 1st July 2013. RBI received 25 applications for grant of new bank licences. After analysing the implications of new stiff & stringent norms, particularly regarding NOFHC structure, TATA group withdrew its application. Similarly, Value Industries promoted by Videocon group also dropped out from the race of seeking licence to start a new banking institution. The prominent applicants who remained in the contention included Birlas, Anil Ambani group, Larson & Tubro, NBFCs like LIC Housing Finance Company, EDELWEISS, micro lenders Janalakshmi, Bandhan Financial Services and IDFC.

RBI constituted a small committee under the convener-ship of Mr. Bimal Jalan, former RBI Governor. This committee was expected to carry out the scrutiny of the applications received by RBI and recommend the eligible applicants for grant of banking licence. By the time committee completed its task and recommended the short-listed names to the committee of Central Board of Directors for considering grant of new bank licences, the country has plunged into the 'general election mode' and Election Commission of India has imposed model code of conduct thereby putting restrictions on major policy decisions lest its benefits any political party. It was under this background that RBI Governor in his anxiety to ensure clearance of new licences, took up the matter with Election Commission of India requesting permission for grant of new bank licences. The Election Commission in its meeting considered the proposal of RBI and after detailed deliberations arrived at a decision to grant clearance to RBI for issuance of licences to start new banks in private sector. On very next day, the committee of Central Board of RBI met and decided to clear licences to two applicants, (1) IDFC - A diversified Financial

Services Company which special focus on infrastructure financing and (2) Bandhan – Country's largest micro lender based in Kolkata.

It is also reported that application of a government entity viz., India Post has also found favour for a new bank licence but a formal decision has been withheld and is likely to be taken after consulting Government of India. It is understood that Bimal Jalan panel did not fear the applications of those entities which were under the glare of investigative agencies in connection with scams and hence RBI has dropped their names from contention. RBI has thus given in-principal approval to IDFC and Bandhan to start new banks. The in-principal approval to two applicants and keeping the third case pending for government consultation raises doubts about the reasonableness of the decision. Why the government consultation could not be completed before grant of in-principal approval to two other applicants?

The in-principal approval will have a validity of 18 months and the licensee is expected to commence banking operations within that period. The period of 18 months is provided to help the applicants to comply with the requirements under the existing guidelines and fulfill all other conditions that may be stipulated by RBI. The final licence for commencement of banking operations will be issued by RBI after the applicants have fully complied with all the norms and conditions to the satisfaction of RBI. It is also stipulated that until a regular licence is issued by RBI, the applicants will be barred from doing banking business.

The applicant whose applications did not find favour from RBI for grant of full-fledged banking licence, would be eligible to apply to differentiated licence for doing only payment or lending and thus come into the system once RBI completes the process of creating the proposed framework for grant of such licence. Creation of such a framework may take few months' time though RBI has not fixed any date for completing the setting up of proposed framework.

RBI's move to approach Election Commission of India for getting clearance to go ahead with issuance of new bank licences even when the model code of conduct is in play raised the eye brows in many quarters as country's main opposition political parties – BJP – had raised stiff opposition to such a move. The contention of BJP was that RBI should wait till the new government took charge after election results next month. But the anxiety and alacrity on the part of RBI to ignore such objections of principal opposition party of the country remains inexplicable and defies logic especially when the operative period of in-principal approval is 18 months and deferment of grant of licence by one or two months should not have been such a serious cause of concern for RBI or even for the applicants who have waited for so long.

The thought on the part of RBI to create a framework to consider opening of a window for continuous on-tap licensing is debatable. The banking is a sensitive service sector as a component of broader financial sector. It deals with the public savings and the entities to be given bank licence must be having unquestionable record of corporate governance and integrity. It is also appropriate for RBI to carry

out the gap study in the banking space before considering grant of new banking licences. It is for this consideration the past practice of opening the window for new licences once in about ten years sounds reasonable and logical. Moreover in the proposed framework, individual application has to be considered as and when received and it may deny the advantage to RBI of seeing the relative merits in the application. On the other hand, the present framework affords such an opportunity as in the recent case RBI was able to identify theoretically the two best applications out of twenty five. Such a proposition lends more credence to the suitability of the applicant. It is for this reason RBI would do good by continuing the present system and not resorting to the proposed framework of continuous on-tap licensing.

Challenges to existing banks

It is common belief that entry any competitor in the given business space poses some challenges to the existing players in the field. Hence it is true in the case of grant of new bank licences to the corporate and business houses too. It would be appropriate to understand the level of competition in the Indian banking space before discussing the challenges that will be posed by new entrants in the field. The Indian banking system consists of the following competitors:

(1) Public Sector Banks	
(i) Nationalised Banks	19
(ii) State Bank Group	6
(iii) IDBI Bank	1
(2) Private Sector Banks	
(i) Old-gen Banks	15
(ii) New-gen Banks	7
(3) Foreign Banks	42
(4) Urban Cooperative Banks	33
(5) Regional Rural Banks	59
Total	182

Although the number of foreign banks is 42, the total number of foreign bank branches operating in India is 327. Out of 327, 247 branches are operated by 6 banks. Remaining 36 banks, own only 80 branches. The major players in foreign banks category are Standard Chartered Bank (101 branches), HSBC (50 branches), Citi Bank (42 branches), Royal Bank of Scotland (24 branches), Deutsche Bank (18 branches) and DBS (12 branches).

The major challenges posed by new banks to the existing banks will be on two fronts – (1) Business shares and (2) Human Resources. The new banks will slowly carve out their share of business largely by taking over accounts from existing competitors and for this they are expected to leverage their technology, penetrating pricing and liberal approach in determining the quantum of finance. Similarly on Human Resources (HR) front, the existing banks are like-

ly to lose the higher end of their talents to the new entrants. The monetary compensation plays a vital role in having the choice of employer. It therefore goes without saying that the employees who are paid low in the existing system will tend to migrate to new employers if the monetary compensation offered is superior to their existing package. If we look into the compensation package offered in banking space, we find that the public sector banks pay relatively lower compensation package to their employees as compared to private sector and foreign banks. It is therefore anticipated that while business share will migrate from almost all the competitors in the banking space, Public Sector Banks (PSBs) are likely to lose more on HR front.

It also pertinent to remember that the PSBs were the major losers in the decade of 90's to new-gen private sector banks when many of their performing talents opted to switch over to new banks for the consideration of greener pastures in terms of monetary compensation and also career prospects. Similarly in the last decade, again the PSBs lost good number of people to Kotak Mahindra Bank and Yes Bank. The depletion of HR talents at PSBs in the decade of 90's followed by special Voluntary Retirement Scheme (VRS) 2000-01 and loss to Kotak Mahindra Bank and Yes Bank has left the PSBs poorer in terms of HR capabilities. However, it is to the credit of PSBs that they have withstood such depletion of talents by developing better recruitment and training models.

Coping with strategies

The PSBs being at the losing end, need to develop more viable coping strategies to deal with the potential loss of business and HR talents. It is suggested that PSBs should go for large scale technology upgradation and reengineer their business processes to being about higher levels of efficiency to reduce not only the processing time but also the transaction costs in different segments. This will help PSBs to render cost-effective & efficient service and product delivery to their clients. Such a strategy will help them to enhance their competitiveness and protect their existing business. This will also help them attract new clients.

As regards protecting their existing HR talents, PSBs have to develop better HR models which offer enhanced monetary compensation, non monetary benefits, better performance management, career management, appropriate rewards & recognition, better incentive system, rationale accountability policy, deployment strategies etc. These components of HR models have been found effective in overall talent management and retention/attrition control.

The effectiveness of talent management would depend on several other factors which are significantly important in case of PSBs. Some of such factors are enumerated below:

1. Unhealthy legacy issues
2. Ageing work force
3. Trade Union rigidities
4. Antiquated work practices
5. Burden of social banking

6. Mandatory rural and semi-urban postings
7. Lower and slower technology implementation
8. Lower capabilities of attracting and retaining higher end talents
9. Excessive vigilance and accountability indulgence

The PSBs are also experiencing a situation of more aspirants seeking jobs with them. It is mainly on account of more graduates turning out of Indian educational institutions having not very high standards of quality education and lack of opportunities for them in the current employment markets. The PSBs having grown phenomenally in the decade of 1970s & 80s are facing large scale superannuation of experienced banks and are in need of replenishment apart from needing more hands to manage the recent growth and expansion drive mandated by RBI and government as a part of Financial Inclusion agenda. These initiatives have given a fillip to the recent recruitment drive by PSBs. A large number of vacancies are arising in PSBs in recent years and such trend is expected to continue atleast for the next 5-7 years. PSBs will need to recruit about 7 lakh people in the next 5 years in different specialised fields. It takes several years to train and groom a good banker. The new entrants into banking space would initially need job-ready bankers for managing the affairs of the banks. In the given set up, PSBs are more vulnerable for talent migration to new competitors. The attraction to work at PSBs in the form of Defined Benefit Pension Scheme has also been lost by implementation of New Pension Scheme which is founded on the principle of Defined Contribution and not the Defined Benefits. This is one important ground to accelerate the talent migration from PSBs unhindered.

Private sector banks are placed at better footing on the grounds discussed above and hence there will be little impact on their HR front. But as far as business share is concerned, they also stand on similar footing as that of PSBs. The silver line in the given business environment is that the economy in the country has almost bottomed out and the coming years are expected to see revival. It will take about 18 months for new banks to start their banking operations and it affords reasonable time to PSBs to re-orient their HR models and remove the deficiencies discussed herein before to make the job at PSBs as attractive as private & foreign banks. The government as owner of PSBs needs to unshackle itself from its traditional thinking and take urgent initiatives to seriously work to strengthen PSBs from the view point of creating positive exit barriers for its HR talents before the competition heats up by next year end. The profitability of PSBs despite quite stringent loan provisioning norms can help the government and PSBs to have more realistic and sustainable HR models. The government needs to remember that PSBs have played an important role in carrying out its agenda of social upliftment and the task remains still unfinished. The PSBs are therefore an important component of government's scheme of taking the banking to the door steps of hitherto neglected sections of the society. It calls for a strong and vibrant banking infrastructure in the country and PSBs controlling 71 per cent of market share can play a dominant role.

RBI's latest announcement that in long term RBI should not be

in the business of bailing out banking system with infusion of liquidity when the banking system is creating its own problems is quite unusual and alarming. RBI appears to be oblivious of the fact that as an effective Regulator it has to play its role in ensuring that Regulatory framework is so developed that the banking model in the country remains self sustainable but in an event of crisis situation arising, it is the prime responsibility of the Regulator to ensure that the public money is not allowed to wither away. While there will always be scope to incentivise the banks with better level of compliance, RBI at no stage can distance itself from its prime responsibility of effectively regulating the banking institutions. It assumes more significance when it comes at the time of RBI granting in-principle approval for new bank licences.

The RBI's concerns regarding window-dressing around financial year end to build the Balance Sheet by the banks are quite genuine. But its solution to withdraw from providing the liquidity appears to be a knee-jerk reaction. It is also heartening to note that RBI has learnt how to do vetting carefully and that will be part of the process in handling application for new bank licences in future. It would be more appropriate if such lessons learnt by RBI are documented and made part of bank licensing process. The observation by RBI that if the government is not stable and does not show appropriate concerns about the economy of the country, fiscal conditions etc., RBI suspects that after an initial bout of turmoil, there might be re-assessment which will be positive. The positive note founded by RBI Governor regarding preparedness for eventualities is a good thought but he has not spelt out the specific areas in which such preparations are needed. Let us hope that the new bank licences to be issued to two business entities would help in creating two new credible banking institutions unlike the decade of 90's when the institution like Global Trust Bank (GTB) made people believe that it was the 'Global Mistrust Bank' which was eventually merged into Oriental Bank of Commerce (a PSB) at the behest of RBI/government to safeguard the interest of depositors. Thereby a major financial casualty was averted. RBI needs to be watchful of such eventualities which cannot be ruled out. Private Institutions like Bandhan would need closer monitoring as a full-fledged bank. The Indian experience in the management of micro finance institutions has not been very good. It therefore surprises why the Public Institutions like LIC Housing Finance Limited are not considered for grant of banking licences.

Conclusion

RBI would do better not to introduce continuous on-tap bank licensing window in the interest of a sound banking system in the country. The resilience shown by Indian banks in the wake of global financial crisis (2008) needs to be preserved and further strengthened through stringent regulatory infrastructure. When the world economy has not recovered from the shock of severe financial crisis, it is premature to embark on loosening the regulatory system in Indian banking space.

INDIAN ECONOMY

News

➔ Forex reserves rise to \$298.64 bln as of March 21

India's foreign exchange reserves rose to \$298.64 billion as of March 21 from \$297.29 billion in the week earlier, the Reserve Bank of India said on 28 March, 2014.

Source: Reuters, dated: 28 Mar 2014

➔ RBI to keep rates on hold next week - Reuters Poll

The Reserve Bank of India (RBI) is expected to keep its key interest rate steady at 8 percent on April 1 as inflation has eased, according to all 53 economists polled by Reuters.

Source: Reuters, dated: 27 Mar 2014

➔ RBI chief says haven't moved to targeting inflation

Reserve Bank of India Governor Raghuram Rajan said on Friday the central bank has not yet moved to an inflation target, and was still exploring the suggestions on the subject drafted by a panel with the government.

Source: Reuters, dated: 21 Mar 2014

➔ Goldman Sachs upgrades Indian shares to 'overweight'

Reuters Market Eye - Goldman Sachs upgraded Indian shares to "overweight" from "marketweight" and raised its target on Nifty to 7,600, citing reduced external vulnerabilities, including a narrowing current account deficit, and potential for gains ahead of elections that conclude in May.

Source: Reuters, dated: 18 Mar 2014

➔ Rangarajan says 5.2 percent growth in Q4 achievable

The economy can grow an annual 5.2 percent in the quarter to end-March on higher farm output growth, the chairman of the Prime Minister's Economic Advisory Council said on 14 March, 2014.

Source: Reuters, dated: 14 Mar 2014

➔ Feb core wholesale inflation accelerates to around 3.15 pct - poll

India's core wholesale price inflation index in February was estimated to have risen around 3.15 percent from a year earlier, compared with around 3 percent advance in January, according to a Reuters snap survey of three economists on 14 March, 2014.

Source: Reuters, dated: 14 Mar 2014

➔ Economy performs better than forecast before election

India's flagging economy delivered rare good news on Wednesday with a slight expansion of industrial production and further cooling in consumer prices, offering some respite to the ruling coalition before next month's general election.

Source: Reuters, dated: 13 Mar 2014

➔ Expert views - Feb consumer inflation slows to 8.10 percent y/y

India's annual consumer price inflation (CPI) eased more than expected to a 25-month low of 8.1 percent in February, helped by moderating food prices, government data showed on 12th March, 2014.

Source: Reuters, dated: 12 Mar 2014

➔ Industrial output edges upwards in January

India's industrial production grew for the first time in four months in January, posting annual growth of 0.1 percent, government data showed on 12 March, 2014.

Source: Reuters, dated: 12 Mar 2014

➔ Feb core inflation seen easing to 7.9 pct - analysts

India's core consumer price index was estimated to have risen around 7.9 percent in February from a year earlier, easing from an 8.1 percent advance in January, according to a Reuters snap survey of four dealers and economists.

Source: Reuters, dated: 12 Mar 2014

➔ Forex reserves edge higher to \$294.36 billion as of Feb 28 - RBI

India's foreign exchange reserves rose to \$294.36 billion as of February 28 from \$293.41 billion in the week earlier, the Reserve Bank of India said on 07 Mar 2014.

Source: Reuters, dated: 07 Mar 2014

➔ State banks' face bad loans as biggest challenge: Chidambaram

State-run banks face rising bad loans as their biggest challenge, expected to be slightly higher by March-end from a year earlier, Finance Minister P. Chidambaram said on Wednesday as the economic slowdown hits the state-controlled banking sector.

Source: Reuters, dated: 05 Mar 2014

BANKING

Notifications/Circulars

➔ Rakesh Sethi appointed as new CMD of Allahabad Bank

Sethi will serve Allahabad Bank in his new role till his retirement on 30 April 2017.

Source: PTI, 12 March, 2014

➔ End of Support for Windows XP

Microsoft will stop issuing updates and patches for bugs in its Windows XP operating system (released in 2001) from April 8, 2014. The probability of attacks on such a system may increase and it may be difficult to defend such attacks in the absence of Microsoft

support. As some of our systems, including ATMs, may still be working on Windows XP, it is advised to take immediate steps to implement appropriate systems and controls in this regard.

Source: Circular - RBI/2013-14/525 (DIT CO No.1971/07.71.099/2013-14) dated: March 19, 2014

➤ **Withdrawal of all old series of Banknotes issued prior to 2005**

It has been decided to extend the date for exchanging the pre-2005 banknotes to January 01, 2015 vide Circular No. RBI/2013-14/509, DCM (Plg) No.G- 19/3880/10.27.00/2013-14 dated: Mar 03, 2014.

➤ **Money Transfer Service Scheme – ‘Direct to Account’ facility**

To facilitate receipt of foreign inward remittances directly into bank account of the beneficiary, it has been decided to allow foreign inward remittances received under MTSS to be transferred to the KYC compliant beneficiary bank account through electronic mode, such as NEFT, IMPS etc. vide Circular No. 110, RBI/2013-14/511, A.P. (DIR Series) dated: March 04, 2014. The procedure to be followed for the purpose is available at: <http://www.rbi.org.in> > Circular > Circular No. 110, dated: March 4, 2014.

➤ **Alteration in the name of “Chinatrust Commercial Bank” to “CTBC Bank Co.,Ltd.” in the Second Schedule to the Reserve Bank of India Act, 1934**

Alteration in the name of “Chinatrust Commercial Bank” to “CTBC Bank Co., Ltd.” in the Second Schedule to the Reserve Bank of India Act, 1934 vide Circular No. - RBI/2013-14/508 Ref.DBOD.No.Ret.BC/99/12.07.107/2013-14 dated: Mar 03, 2014.

➤ **Money Transfer Service Scheme – ‘Direct to Account’ facility**

To facilitate receipt of foreign inward remittances directly into bank account of the beneficiary, it has been decided to allow foreign inward remittances received under MTSS to be transferred to the KYC compliant beneficiary bank account through electronic mode, such as NEFT, IMPS etc. Foreign inward remittances received by the bank acting as Indian Agent under MTSS (termed as ‘Partner Bank’), may be electronically credited directly to the account of the beneficiary, held with a bank other than the Indian Agent Bank (termed as ‘Recipient Bank’), subject to the certain conditions.

Source: A.P. (DIR Series) Circular No. 110 (RBI/2013-14/511) dated: Mar 04, 2014

➤ **Rupee Drawing Arrangement - Increase in trade related remittance limit**

On a review of the Permitted Transactions under the Rupee Drawing Arrangements (RDAs), it has been decided to increase

the limit of trade transactions from the existing Rs 2, 00,000/- (Rupees Two Lakh only) per transaction to Rs 5, 00,000/- (Rupees Five Lakh only) per transaction vide Circular No. 111 RBI/2013-14/516, A. P. (DIR Series) dated: March 13, 2014.

➤ **Ensuring Reasonableness of Bank Charges and Charges Levied for Sending SMS Alerts by State Cooperative Banks (StCBs) /District Central Cooperative Banks (DCCBs)**

Paragraph 37 of the Second Quarter Review of Monetary Policy Statements 2013-14 announced on October 29, 2013 provides ‘Customer Service – Charges Levied by Banks for sending SMS alerts’. State Cooperative Banks (StCBs) /District Central Cooperative Banks (DCCBs) are required to put in place a system of online alerts for all types of transactions, irrespective of the amounts, involving usage of cards at various channels in terms of circular RBI/DPSS.No.1501 /02.14.003/2008-09 dated February 18, 2009 and DPSS.CO.PD. 2224/ 02.14.003/ 2010-11 dated March 29, 2011. Considering the technology available with banks and the telecom service providers, it should be possible for StCBs / DCCBs to charge customers based on actual usage of SMS alerts. Accordingly, with a view to ensuring reasonableness and equity in the charges levied by StCBs/DCCBs for sending SMS alerts to customers, StCBs/DCCBs are advised to leverage the technology available with them and the telecom service providers to ensure that such charges are levied on all customers on actual usage basis. Source: Circular - RBI/2013-14/513 (RPCD.CO.RCB.BC.No. 90 /07. 51.010 /2013-14), dated: Mar 05, 2014

Note: Extract from Second Quarter Review of Monetary Policy 2013-14

Customer Service - Charges Levied by Banks for Sending SMS Alerts

With a view to ensuring reasonableness and equity in the charges levied by banks for sending SMS alerts to customers, banks are advised to leverage the technology available with them and the telecom service providers to ensure that such charges are levied on all customers on actual usage basis.

➤ **Priority Sector Lending-Targets and Classification-Bank loans to MFIs for on-lending-pricing criteria**

It has been decided that banks have to ensure MFIs comply with the cap on individual loans and margin cap as under in order to be eligible to classify these loans under priority sector as under:-
(i) Cap on individual loans: - The average Base Rate of five largest commercial banks by assets multiplied by 2.75 per annum or cost of funds plus margin cap, whichever is less. The average of the Base Rate shall be advised by Reserve Bank of India.

(ii) Margin cap: Further, with effect from April 1, 2014, the margin cap shall not exceed 10 percent for MFIs having loan portfolio exceeding Rs.100 crore and 12 percent for others, as against 12

percent for all hitherto.

Source: RBI/2013-14/515 (RPCD.CO.Plan.BC 91/04.09.01/2013-14), dated: Mar 12, 2014

➤ **Public Provident Fund Scheme, 1968 (PPF Scheme, 1968) and Senior Citizens Savings Scheme, 2004 (SCSS, 2004) - Revision of interest rates**

The Government of India has now vide their Office Memorandum (OM) No. 6-1/2011-NS.II dated 4th March 2014, advised the rate of interest on various small savings schemes for the financial year 2014-15. Accordingly, the rates of interest on PPF, 1968 and SCSS, 2004 for the financial year 2014-15, effective from April 01, 2014, on the basis of the interest compounding/payment built-in in the schemes, will be as under:

Scheme	Rate of Interest w.e.f. 01.04.2013	Rate of Interest w.e.f. 01.04.2014
5 Year SCSS, 2004	9.2% p.a.	9.2% p.a.
PPF, 1968	8.7% p.a.	8.7% p.a.

➤ **Annual Credit Plans – Potential Linked Plan (PLPs) prepared by NABARD**

Based on circular RPCD.CO.LBS. (SAA) BC.No.93/08.01.00/2004-05 dated April 11, 2005 all scheduled commercial banks including Regional Rural Banks that a pre-PLP meeting may be convened by Lead District Manager during August /September to be attended by the banks, Government agencies etc. In this connection, NABARD has requested to consider advising LDMs to hold the pre-PLP meeting in the month of June every year as PLPs is now finalized by August every year. The matter has been examined and it has been decided that henceforth the pre-PLP meeting may be convened by LDMs during June every year. Accordingly, Lead Banks may ensure that pre-PLP meetings may be convened by LDMs during June every year.

Source: RBI/2013-14/520 (RPCD.CO.LBS.

BC.No.93/02.01.001/2013-14), dated: Mar 14, 2014

➤ **Instruments for Augmenting Capital Funds-UCBs - Modification**

UCBs may issue Long Term Deposits subject to compliance with their bye-laws/provisions of the Co-operative Societies Acts under which they are registered and with the approval of the Reserve Bank of India and the concerned Registrar of Co-operative Societies /Central Registrar of Cooperative Societies, whichever applicable. LTDs may be issued to members and non-members, including those outside the area of operation of the UCB concerned. The amounts raised through LTDs complying with the following terms and conditions will be eligible to be treated as lower Tier II capital.

Source: RBI/2013-14/530 (UBD CO BPD PCB Cir

No.51/09.18.201/2013-14), dated: Mar 25, 2014

➤ **Reporting of OTC Interest Rate Derivatives – Client Level Transactions**

Taking into consideration the circular FMD.MSRG.No.94/02.05.002/2013-14 dated December 04, 2013 wherein it was advised that the existing reporting arrangement for the client level Rupee Interest Rate Swap (IRS)/Forward Rate Agreement (FRA) transactions by banks and primary dealers shall be dispensed with after stabilisation of the trade reporting arrangement put in place with CCIL on December 30, 2013. The reporting of client level Rupee IRS/FRA transactions to CCIL's platform that commenced on December 30, 2013 has since stabilised and the CCIL has completed capturing of all the outstanding transactions as on the date of commencement of the reporting. Accordingly, it has now been decided that with effect from week ending April 4, 2014, the reporting arrangement wherein banks and primary dealers report the client level IRS/FRA transactions to the Financial Markets Department on a weekly basis in the specified format in physical form/through e-mail and on the Banks' Online Returns Filing System (ORFS), will be dispensed with. The banks and primary dealers may continue reporting the transactions to the CCIL's reporting platform.

Source: RBI/2013-14/532 (FMD.MSRG.No.99/02.05.002/2013-14), dated: March 25, 2014

➤ **Balance Sheet of Banks - Disclosure of Information**

Urban Co-operative banks (UCBs) having deposits of Rs.100 crore, were advised to disclose certain information as 'Notes on Accounts' to their Balance Sheet prepared in terms of Section 29 of the Banking Regulation Act,1949 (As Applicable to Co-operative Societies) effective from the year ending March 31, 2003. It has now been decided to extend these disclosure requirements to all UCBs including tier I UCBs. Accordingly, all UCBs should disclose the information as detailed in Annex I as 'Notes on Accounts' to their Balance-Sheet effective from the year ending March 31, 2014.

Source: RBI/2013-14/531 (UBD CO BPD (PCB) Cir.

No.52/12.05.001/2013-14), dated: Mar 25, 2014

➤ **External Commercial Borrowings (ECB) for Civil Aviation Sector**

Authorized Dealer Category - I (AD Category - I) banks are invited to A.P. (DIR Series) Circular No. 113 dated April 24, 2012 in terms of which External Commercial Borrowings (ECB) can be raised by airline companies for working capital as a permissible end-use, under the approval route, subject to the conditions stipulated in the said Circular. The scheme was extended till December 31, 2013 vide A.P. (DIR Series) Circular No. 116 dated June 25, 2013. On a review, it has been decided that this scheme of raising ECB for working capital for Civil Aviation Sector will continue till March 31, 2015.

Source: A.P.(DIR Series) Circular No.113 - RBI/2013-14/537 dated: March 26, 2014

➔ **Scheme for Collection of Dues of (i) Central Board of Direct Taxes (ii) Central Board of Excise and Customs (iii) Departmentalized Ministries Account - Reporting and Accounting of March Transactions - Special Arrangements - Financial Year 2013-14**

The Government of India has decided that the date of closure of Residual Transactions for the month of March 2014 will be fixed as on April 15, 2014 for the Financial Year 2013-14. Accordingly, relative books of account will also have to be closed on April 15, 2014. Receiving branches not situated locally should also adopt special arrangements such as courier service etc. for passing on challans / scrolls etc. to the Nodal/Focal Point branches so that all payments and collections made on behalf of Government towards the end of March are accounted for in the same financial year.

As regards reporting of March 2014 transactions by Nodal/Focal Point branches in April, the branches may be advised to follow the procedure as outlined in the Annex. To sum up, the Nodal/Focal Point branches will be required to prepare separate sets of scrolls, one pertaining to March Residual Transactions and another for April Transactions during the first 15 days of April 2014. The Nodal/Focal Point branches should also ensure that the accounts for all transactions (revenues/tax collections/payments) are effected at the receiving branches upto March 31, 2014 in the accounts for the current financial year itself and are not mixed up with the transactions of April 2014. Also, while reporting transactions pertaining to March 2014 up to April 15, 2014, the transactions of April 2014 should not be mixed up with "March Residual Transactions."

Source: RBI/2013-14/539 (DGBA.GAD.No. H - 5495/42.01.029/2013-14), dated: Mar 27, 2014

➔ **Implementation of Basel III Capital Regulations in India – Capital Planning**

In view of the implementation of Basel III Capital Regulations, banks need to improve and strengthen their capital planning processes. While conducting the capital planning exercise, banks may consider the potential impact of the changing macro-economic conditions and the outcomes of periodic stress tests on the adequacy and composition of regulatory capital. A forward looking capital planning process will enable banks to appropriately assess the level of capital needed to support their business strategies over the medium-term.

The capital requirements may be substantially lower during the initial years as compared to later years of full implementation of Basel III Guidelines. Accordingly, banks should keep this aspect in view while undertaking their capital planning exercise. Boards of banks should actively engage themselves in the capital planning process and oversee its implementation. Of late, industry-wide concerns have been expressed about the potential stresses on the asset quality and consequential impact on the performance / profitability of the banks. This may necessitate some lead time for banks to raise capital within the internationally agreed timeline for full im-

plementation of the Basel III Capital Regulations. Accordingly, the transitional period for full implementation of Basel III Capital Regulations in India is extended upto March 31, 2019, instead of as on March 31, 2018. This will also align full implementation of Basel III in India closer to the internationally agreed date of January 1, 2019. Source: RBI/2013-14/538 (DBOD.No.BP.BC.102/21.06.201/2013-14), dated: Mar 27, 2014

➔ **Risk Management and Inter Bank Dealings**

Attention of Authorized Dealers Category-I (AD Category-I) banks is invited 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. 58 dated December 15, 2011. Under extant guidelines relating to hedging of currency risk of probable exposures based on past performance by residents:

- a. Exporters are allowed to hedge currency risk on the basis of a declaration of an exposure up to an eligible limit computed as the average of the previous three financial years' (April to March) actual export turnover or the previous year's actual export turnover, whichever is higher.
- b. Importers are allowed to hedge up to an eligible limit computed as 25 percent of the average of the previous three financial years' actual import turnover or the previous year's actual import turnover, whichever is higher.
- c. All forward contracts booked under this facility by both exporters and importers are required to be on fully deliverable basis. In case of cancellation, exchange gain, if any, should not be passed on to the customer.

In order to provide greater operational flexibility, it has been decided to relax the restriction at paragraph 2(c) above. Henceforth, contracts booked up to 75 percent of the eligible limit mentioned at paragraph 2(a) and 2(b) above may be cancelled with the exporter/importer bearing/being entitled to the loss or gain as the case may be. Contracts booked in excess of 75 percent of the eligible limit mentioned at paragraph 2(a) and 2(b) above shall be on a deliverable basis and cannot be cancelled, implying that in the event of cancellation, the exporter/importer shall have to bear the loss but will not be entitled to receive the gain.

Source: A.P. (DIR Series) Circular No.114 - RBI/2013-14/540, dated: Mar 27, 2014

➔ **Exposure norms for standalone PDs**

With a view to promote central clearing of standardized OTC derivative products through a Central Counter Party (CCP), it has been decided that as an interim measure, a standalone PD's clearing exposure to a Qualifying CCP (QCCP) will be kept outside of the exposure ceiling of 25 per cent of its net owned funds applicable to a single borrower/counterparty. Reserve Bank would consider revised framework on PDs' exposure to QCCP depending on in-

ternational consensus in this regard. The revised guidelines shall be effective from April 1, 2014.

Source: RBI/2013-14/541 (IDMD.PCD.12/14.03.05/2013-14), dated: Mar 27, 2014

➤ Capital requirements for standalone Primary Dealers' exposure to interest rate derivative contracts, repo/reverse repo transactions and central counterparties

The existing guidelines on capital charge for credit risk of standalone PDs' exposure to interest rate derivative contracts, repo/reverse repo transactions and central counterparties have been reviewed. The revised guidelines will come into effect from April 1, 2014 vide Circular - RBI/2013-14/542 (IDMD.PCD.11/14.03.05/2013-14) dated: Mar 27, 2014.

➤ Guidelines on Sale of Financial Assets to Securitization Company/Reconstruction Company (SC/RC) by Multi State Urban Cooperative Banks

It has been decided to permit Urban Cooperative Banks registered under the Multi-State Co-operative Societies Act, 2002 to invest in Security Receipts issued by SC/RC in respect of financial assets sold by them to the SC/RC. However, UCBs must ensure that there is no order issued by a Court of competent jurisdiction restricting them from entering into such transactions.

Source: Circular - RBI/2013-14/543 - UBD.BPD.(PCB).Cir. No.53/13.05.000/2013-14, dated: Mar 28, 2014

➤ Reporting of Cross Border Wire Transfer Report on FIN net Gateway

With the amendments to Prevention of Money Laundering (PML) Rules, notified by the Government of India vide Notification No. 12 of 2013 dated August 27, 2013 and in terms of amended Rule 3, every reporting entity is required to maintain the record of all transactions including the record of all cross border wire transfers of more than Rs. 5 lakhs or its equivalent in foreign currency, where either the origin or destination of the fund is in India. FIU-IND has advised that the information of all such transactions may be furnished to Director, FIU-IND by 15th of the succeeding month. In this regard, it is advised that the 'Transaction Based Reporting Format' (TRF) already developed by FIU-IND and being used for reporting Cash Transaction Reports (CTRs), Suspicious Transaction Reports (STRs) and Non-Profit Organizations Transaction Reports (NTRs) may be used for reporting the Cross Border Wire Transfers. The information may be furnished electronically in the FIN-Net module developed by FIU-IND. All banks and financial institutions are accordingly advised to take action as required by FIU-IND and ensure that reports are submitted in time as per the schedule.

Source: RBI/2013-14/544 (DBOD. AML. No. 16415/14.01.001/2013-14), dated: Mar 28, 2014

➤ Adoption of ISO 20022 Messaging Standard in RTGS System

With reference to circular 2013 - 14/413 [DPSS (CO) RTGS No. 1357/04.04.017/2013-14] dated December 20, 2013 regarding adoption of ISO 20022 messaging standard by participants for seamless processing of RTGS messages without conversion from/ to "R" series formats by March 31, 2014.

Requests have been received from the participants seeking extension of time to comply with the aforesaid circular citing technical difficulties in meeting the deadline. On review of the requests it has been decided to extend the time up to June 30, 2014 to comply with the directive issued by the Bank. All the RTGS participants are advised to strictly adhere to the revised time line.

Source: RBI/2013-14/546 - DPSS (CO) RTGS No. 2065/04.04.017/2013-14, dated: Mar 28, 2014

➤ Issuance and Operation of Pre-paid Payment Instruments in India – Consolidated Revised Policy Guidelines

To regulate the issue and operation of Pre-paid Payment Instruments, in exercise of the powers conferred under Section 18 of the Payment and Settlement Systems Act, 2007 (Act 51 of 2007) Reserve Bank of India had laid out the guidelines for issuance of prepaid instruments by banks and non-banks entities vide circular DPSS.CO.PD.No.1873/02.14.06/2008-09 dated April 27, 2009. The developments in the pre-paid payment instrument segment had necessitated a comprehensive review of guidelines issued so far. It was also desirable that all instructions on pre-paid payment instruments are made available at one place. Accordingly, the guidelines have been revised and consolidated in consultation with stake holders.

Source: RBI/ RBI/2013-14/547 (DPSS.CO.PD. No.2074/02.14.006/2013-14), dated: Mar 28, 2014

INCOME TAX

Notifications/Circulars

➤ Ex-post facto extension of due date for filing TDS/TCS statements for FYs 2012-13 and 2013-14

CBDT has decided to extend the due date of filing of the TDS/TCS statement prescribed under subsection (3) of section 200/proviso to sub-section (3) of section 206C of the Act read with rule 31A/31AA of the Income-tax Rules, 1962. The due date is hereby extended to 31.03.2014 for a Government deductor and mapped to a valid AIN for:

- (i) FY 2012-13 - 2nd to 4th Quarter
- (ii) FY 2013-14 - 1st to 3rd Quarter

However, any fee under section 234E of the Act already paid by a Government deductor shall not be refunded vide circular No. 07/2014 dated: 4th March, 2014

➤ **E-filing of I-T returns: Taxpayers to get digital signatures**

In order to weed out the hassle of sending by post a hard copy of e-filed return, the Income Tax department has decided to bring in the facility of electronic signatures for taxpayers to endorse their bonafides. The Central Board of Direct Taxes (CBDT), the apex office to formulate policies for the Income Tax department, has decided to implement the new mechanism by the end of the next financial year in March, 2015.

Source: PTI Mar 23, 2014

➤ **CBDT notifies revised guidelines for approval of agricultural extension project under section 35CCC**

The agricultural extension project shall be considered for notification if it fulfils all of the following conditions, namely:—

- (i) the project shall be undertaken by an assessee for training, education and guidance of farmers;
- (ii) the project shall have prior approval of the Ministry of Agriculture, Government of India; and
- (iii) an expenditure (not being expenditure in the nature of cost of any land or building) exceeding the amount of twenty-five lakhs rupees is expected to be incurred for the project

Before undertaking any agricultural extension project, an assessee shall make an application in Form No. 3C-0 to the Member (IT), Central Board of Direct Taxes for notification of such project under sub-section (1) of section 35CC.

Before undertaking any agricultural extension project, an assessee shall make an application in Form No. 3C-0 to the Member (IT), Central Board of Direct Taxes for notification of such project under sub-section (1) of section 35CCC.

For details please visit: www.incometaxindia.gov.in > Notifications > Notification No. 18/2014, dated: 21st March, 2014

➤ **CBDT clarification on export of computer software**

CBDT has issued a circular regarding exemption of export of computer software under sections 10A, 10AA and 10B of the IT Act 1961. For details please refer CBDT *Instruction No 3/2014*, dated: March 14, 2014.

➤ **Agreement between the Government of the Republic of India and the Republic of Latvia for the avoidance of double taxation**

In exercise of power conferred by section 90 of the Income – tax Act, 1961(43 of 1961), Central Government notifies that all the provisions of the agreement between the Government of the Republic of India and the Republic of Latvia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income which was signed on 18th September, 2013, shall be given to in the Union of India with effect from the 1st day of April, 2014 vide *Notification No. 12/2014/F.No. 503/02/1997-FTD-I*.

➤ **CBDT notifies undertaking of ‘Pantheon Infrastructure Pvt. Ltd.’ as an industrial park u/s. 80IA**

Central Government (Ministry of Commerce and Industry) in exercise of the powers under the Industrial Park Scheme, 2002, as notified vide number S. O. 354(E) dated the 1st April, 2002, through the Empowered Committee, had granted approval to the undertaking being developed and being maintained and operated by M/s. Pantheon Infrastructure Pvt. Ltd, Mumbai at Logitech Park, Mathuradas VasANJI Road, Andheri (East), Mumbai – 400 072, as an Industrial Park. Thus Central Government (Ministry of Finance, Department of Revenue, CBDT) in exercise of the powers conferred by clause (iii) of sub-section (4) of section 80-1A of the Income-tax Act, 1961 (43 of 1961), had notified the undertaking being developed and being maintained and operated by M/s. Pantheon Infrastructure Pvt. Ltd., Mumbai at Logitech park, Mumbai. And, whereas, subsequently the Central Government (Ministry of Commerce and Industry) vide letter No.15/29/2005-IP&ID dated 3rd February, 2014 has withdrawn the said approval granted to the undertaking under the Scheme. Now, therefore, the Central Government, in exercise of the powers conferred by clause (iii) of sub-section (4) of section 80-IA of the Act read with section 21 of the General Clauses Act, 1897 (10 of 1897), hereby rescinds the said Notification No. S.O, 4700, dated 17th November, 2006, with effect from the 17th November, 2006.

Notification No. 20/2014/F. No. 178/91/2006-ITA-I, dated: 26th March, 2014

➤ **U/S. 80-IA IT Act, 1961 – Deductions – Profits And Gains from Industrial Infrastructure Undertakings being developed and being maintained and operated by M/S. Finest Promoters Private Ltd – Notification No. 21/2014 – dated 27-3-2014 – Income Tax**

Central Government (Ministry of Commerce and Industry) in exercise of the powers under the Industrial Park Scheme, 2002, as notified vide number S.O.354 (E) dated the 1st April 2002, through the Empowered Committee had granted approval to the undertaking being developed and being maintained and operated by M/s. Finest Promoters Private Ltd., New Delhi at Khasra No. 1961/2 and 1962/1, Sector 54, Taluka Gurgaon, District Gurgaon, Haryana as an Industrial Park. And, whereas, the Central Government (Ministry of Finance, Department of Revenue, CBDT), in exercise of the powers conferred by clause (iii) of sub-section (4) of section 80-IA of the Income-tax Act, 1961 (43 of 1961), had notified the undertaking being developed and being maintained and operated by M/s. Finest Promoters Private Ltd., New Delhi at Khasra No.1961/2 and 1962/1, Sector 54, Taluka Gurgaon, District Gurgaon, as an Industrial Park for the purposes of the said clause (iii), vide notification of the Government of India in the Ministry of Finance, Department of Revenue, vide number S.O 462, dated the 9th February, 2007, published in the Gazette of India, Part II, Section 3, Sub-section (ii).

Subsequently the Central Government (Ministry of Commerce and Industry) vide letter No.15/29/2006-IP&ID dated 24th January, 2014, has withdrawn the said approval granted to the undertaking under the Scheme. Now, therefore, the Central Government, in exercise of the powers conferred by clause (iii) of sub-section (4) of section 80-IA of the Act read with section 21 of the General Clause Act, 1897 (10 of 1897), hereby rescinds the said notification No. S.O. 462, dated 9th February, 2007, with effect from the 9th February, 2007.

Case Laws

➤ Subsequent commercial-use cannot disentitle Sec 54F exemption if building constructed for residential-purpose

ITAT rules that Sec 54F exemption cannot be denied if construction is made for residential purpose even if subsequently used as school / for commercial purpose; Relevant factor to judge is whether construction is made for residential house or commercial purpose, merely because building used as a school cannot change nature and character of building from residential to commercial; Also holds that law is settled that 'a residential house' does not mean a single residential house; Sec 54F exemption entitled even where assessee constructs or receives a number of flats adjacent to each other or in different floor of same building; Relies on jurisdictional HC ruling in Syed Ali Adil : Hyderabad.

Source: *N. Revathi [TS-181-ITAT-2014(HYD)]*

➤ Rejects invoking Sec 50C for statutory body's property sale by public auction

ITAT quashes CIT(A)'s order invoking provisions of Sec 50C (substituting stamp duty valuation for capital gains) with respect to sale of properties, by a statutory body, by way of public auction; Holds property transfers covered by Circular issued by the State Government, which prescribes that highest price as certified shall be considered as the fair market value for paying stamp duty; Fact that buyers of properties wrongly paid higher stamp duty, based on rates prescribed in ready reckonor, should not put assessee to jeopardy of invoking Sec 50C : Pune ITAT.

Source: *Krishi Utpanna Bazar Samittee [TS-194-ITAT-2014(PUN)]*

➤ Provision for retirement-benefit based on service weightage, a gratuity payment, Sec. 40A (7) attracted

HC sets-aside ITAT's order, holds provision for retirement benefit based on 'service weightage', though calculated on scientific basis, not allowable; Upholds ITAT's view that Sec. 40A(9) disallowance not applicable in assessee's case of mere creation of provision, absent contribution to a fund; Assessee's provision for retirement benefits was in nature of gratuity provision, clearly hit by Sec. 40A(7) disallowance; Rejects assessee's reliance on Delhi HC rulings in Insilco Limited and Ranbaxy Laboratories Ltd. as no reference made to Sec. 40A(7), though rulings delivered after insertion

of Sec. 40A(7) : Madras HC.

Source: *PRICOL Limited [TS-185-HC-2014(MAD)]*

CENTRAL EXCISE

Notifications/ Circulars

➤ Procedures, safeguards, conditions and limitations for grant of refund of CENVAT Credit under rule 5B of CENVAT Credit Rules, 2004

CBEC seeks to notify procedures, safeguards, conditions and limitations for grant of refund of CENVAT Credit under rule 5B of CENVAT Credit Rules, 2004 vide *Notification No.12/2014-CENT dated: 03-03-2014*.

➤ Rule 12AAA of the CENVAT Credit Rules, 2004 - Power to impose restrictions in certain cases

As per Notification No. 15/2014 - Central Excise (N.T.) dated: 21st March, 2014 Central Government makes CENVAT Credit (Fifth Amendment) Rules, 2014 to amend CENVAT Credit Rules, 2004 in order to provide certain measures including restrictions on a manufacturer, first stage and second stage dealer or an exporter, may by notification in the Official Gazette, specify the nature of restrictions including restrictions on utilization of CENVAT credit and suspension of registration in case of a dealer and type of facilities to be withdrawn and procedure for issue of such order by the Chief Commissioner of Central Excise.

Explanation - For the purposes of this rule, it is hereby clarified that every proposal initiated in terms of the procedure specified under notification no. 05/2012-CE (N.T.) dated the 12th March, 2012 published in the Gazette of India, Part II, Section 3, Sub-section (i) vide number G.S.R. 140(E), dated the 12th March, 2012, which is pending, shall be treated as initiated in terms of the procedure specified under this rule and shall be decided accordingly.

➤ Rule 12CCC of the Central Excise Rules, 2002 - Power to impose restrictions in certain cases

As per Notification No 14/2014 - Central Excise (N.T.) dated: 21st March, 2014 Central Government makes Central Excise (Second Amendment) Rules, 2014 to amend Central Excise Rules, 2002 in order to provide for certain measures including restrictions on a manufacturer, first stage and second stage dealer or an exporter may, by notification in the Official Gazette, specify the nature of restrictions including suspension of registration in case of a dealer, types of facilities to be withdrawn and procedure for issue of such order by the Chief Commissioner of Central Excise.

Explanation - For the purposes of this rule, it is hereby clarified that every proposal initiated in terms of the procedure specified under notification no. 05/2012-CE (N.T.) dated the 12th March, 2012 published in the Gazette of India, Part II, Section 3, Sub-section (i) vide number G.S.R. 140(E), dated the 12th March, 2012, which is

pending, shall be treated as initiated in terms of the procedure specified under this rule and shall be decided accordingly.

➔ **Rescinds Notification No 6/2012-C.E.(N.T.) dt 13.03.2012**

In pursuance of rule 12CCC of the Central Excise Rules, 2002, and rule 12AAA of the CENVAT Credit Rules, 2004, the Central Board of Excise and Customs hereby rescinds the notification No. 6/2012-Central Excise (N.T.) dated the 13th March, 2012 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 142 (E) dated the 13th March, 2012, except as respects things done or omitted to be done before such rescission vide *Notification No. 13/2014 - Central Excise (N.T.) dated: 21st March, 2014.*

Case Laws

➔ **Availment of CENVAT Credit**

Whether the applicant is eligible to avail the credit in respect of service tax paid on the rent of immovable property to corporate office situated at Kolkata - Held that: - rent paid for corporate office will form part of cost of production. It is also seen that the Tribunal in the case of National Engineering Industries (2013 (6) TMI 590 - CESTAT NEW DELHI) held that rent paid for corporate office would come within the purview of Rule 2(l) of CENVAT Credit Rules, 2004. Accordingly, grant of waiver of predeposit of entire amount of duty along with interest and penalty and stay its recovery thereof during the pendency of the appeals - Stay granted. *Source: M/s. Kilburn Chemicals Ltd. versus CCE, Tirunelveli (2014 (3) TMI 636 - CESTAT CHENNAI - Central Excise)*

➔ **Waiver of duty - Denial of credit**

Credit availed on triplicate copy of invoice - Duty paying document - Held that: - as the applicant has availed credit on the strength of triplicate copy of invoice which is not a valid duty paying document, therefore, prima facie, the appellant has not made out a case for total waiver of duty demand - Conditional stay granted. *Source: Mangal Electrical Inds. Pvt. Ltd. versus CCE, Jaipur I (2014 (3) TMI 596 - CESTAT NEW DELHI - Central Excise)*

➔ **Availment of CENVAT Credit**

Whether CENVAT credit can be allowed on welding electrodes used in repair of plant and machinery - Held that: - appellants had given exact place of use of the impugned items. If the adjudicating authority or the appellate authority was in doubt in accepting the declaration they should have themselves verified the declaration by making a visit to the factory. Since no such effort has been made, I am inclined to go by the declaration given by the appellant and prima facie it would appear that these items were parts and accessories of capital goods or used as inputs for fabricating capital goods in the factory and there is no reason to deny CENVAT credit on these items. Therefore, I grant waiver of predeposit of dues arising

from the impugned orders for admission of the appeals and stay its collection during the pendency of the appeals - Stay granted

Source: M/s DALMIA CEMENT (BHARAT) LTD versus CCE, TRICHY (2014 (3) TMI 594 - CESTAT CHENNAI - Central Excise)

CUSTOMS

Notifications/Circulars

➔ **Import of Gold by 'eligible passengers' in terms of Notification No. 12/2012**

Cus dated 17.03.2012 (Sl. No 321) - Notification No 12/2012- Cus dated 17.03.2012 (Sl No 321) regarding import of gold by 'eligible passengers' which provides that the gold in the form of bars and ornaments are allowed to be imported by 'eligible passengers' upon payment of 10% customs duty. As per the specified condition no. 35 of the notification, the duty is to be paid in the foreign currency and total gold so imported should not exceed 1 kg.

Circular No: 06/2014-Customs dated: 6th March, 2014

➔ **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 which was last amended vide Notification No. 23/2014-Customs (N.T.), dated: 14th March, 2014, fixes the tariff values specified in column (4) of the Table below, in respect of the imported 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	964
2	1511 90 10	RBD Palm Oil	1002
3	1511 90 90	Others – Palm Oil	983
4	1511 10 00	Crude Palmolein	1012
5	1511 90 20	RBD Palmolein	1015
6	1511 90 90	Others – Palmolein	1014
7	1507 10 00	Crude Soyabean Oil	985
8	7404 00 22	Brass Scrap (all grades)	3879
9	1207 91 00	Poppy seeds	3691

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	421 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	644 per kilogram

TABLE-3

Sl. No.	Chapter/ heading/ sub-heading/ tariff item	Description of goods	Tariff value (US \$ Per Metric Tons)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	1872

Source: Notification No. 25/2014-CUSTOMS (N. T.) dated: 31st March, 2014

➔ Levy of provisional anti-dumping duty on imports of ‘Sodium Nitrate’, originating in, or exported from, the European Union, the People’s Republic of China, Ukraine and Korea RP, for a period of six months – Notification No. 14/2014-Cus (ADD), dt. 19-03-2014.

➔ Levy of definitive anti-dumping duty on imports of ‘Red Phosphorous, excluding red phosphorous used in electronic applications’, originating in, or exported from, the People’s Republic of China for a period of five years - Notification No. 13/2014-Cus (ADD), dt. 19-03-2014.

➔ Levy of definitive anti-dumping duty on imports of Meta Phenylene Diamine’, originating in, or exported from, the People’s Republic of China, for a period of five years vide Notification 11/2014-Cus (ADD), dt. 11-03-2014.

➔ Levy of definitive anti-dumping duty on imports of Acetone, originating in, or exported from, EU, South Africa, Singapore and USA for a further period of five years vide Notification no. 10/2014-Cus (ADD), dt. 11-03-2014.

SERVICE TAX

Notifications/Circulars

➔ Service Tax return (ST-3)

Service Tax return (ST-3) for the period October’ 13 to March’ 14 is now available for e-filing by the assesses in both offline and online version. The last date of filing the ST-3 return is 25th April, 2014. For details please visit <https://www.aces.gov.in>

SEBI

Notifications/Circulars

➔ Standard format for Auditors’ Certificate required under Clause 24(i) of the Equity Listing Agreement

SEBI prescribes a standard format for Auditors’ Certificate required under Clause 24(i) of the Equity Listing Agreement vide Circular No. CIR/CFD/DIL/1/2014 March 25, 2014.

For details please visit: <http://www.sebi.gov.in/sebiweb/home/list/1/7/0/0/Circulars>

➔ Establishment of Connectivity with both depositories NSDL and CDSL – Companies eligible for shifting from Trade for Trade Settlement (TFTS) to Normal Rolling Settlement

At least 50% of other than promoter holdings as per clause 35 of Listing Agreement are in dematerialized mode before shifting the trading in the securities of the company from TFTS to normal Rolling Settlement. For this purpose, the listed companies shall obtain a certificate from its Registrar and Transfer Agent (RTA) and submit the same to the stock exchange/s. However, if an issuer-company does not have a separate RTA, it may obtain a certificate in this regard from a practicing company Secretary/Chartered Accountant and submit the same to the stock exchange/s.

Source: Circular CIR/MRD/DP/ 09 /2014 dated: March 11, 2014.

➔ Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) Obligations of Securities Market Intermediaries under the Prevention of Money

laundrying Act, 2002 and Rules

In view of the amendments to the Prevention of Money-laundering Act, 2002 (PML Act) and amendments to the Prevention of Money-laundering (Maintenance of Records) Rules, 2005 (PML Rules), it has been decided to make the following consequential modifications and additions to the SEBI Master Circular CIR/ISD/AML/3/2010 dated December 31, 2010, namely:

- In clause 5 of Part II, after sub-clause 5.3.1, sub-clause 5.3.2 has been inserted regarding Risk Assessment
- In clause 5 of Part II, after sub-clause 5.5, sub-clause 5.6 has been inserted regarding Reliance on third party for carrying out Client Due Diligence (CDD)
- Record keeping requirements: In clause 14 of Part II, after sub-clause 14.1, sub-clause 14.2 has been inserted regarding Appointment of a Designated Director

This Circular is available on the *SEBI website (www.sebi.gov.in) under the section SEBI Home > Legal Framework > Circulars > Circular CIR/MIRSD/1/2014 dated: March 12, 2014.*

➤ Reporting of OTC trades in Corporate Bonds on Trade Reporting Platforms of stock Exchanges

As per Circular No. CIR/MRD/DP/10 /2014 dated: March 21, 2014 it is decided that all OTC trades in Corporate Bonds shall be reported only on any one of the reporting platform provided in the debt segment of stock exchanges viz NSE, BSE and MCX-SX within 15 minutes of the trade.

➤ Enhancing disclosures, investor education & awareness campaign, developing alternative distribution channels for Mutual Fund products, etc.

SEBI has framed a Long Term Policy for Mutual Funds in India which inter alia includes enhancing the reach of Mutual Fund products, promoting financial inclusion, tax treatment, obligation of various stakeholders, increasing transparency, etc In this regard the following has been decided:

- a. Disclosure of Assets Under Management (AUM)
- b. Disclosures of Votes Cast by Mutual Funds
- c. Financial Inclusion
- d. Developing alternative distribution channels

Source: Circular - CIR/IMD/DF/05/2014, dated: March 24, 2014

➤ Format for Auditors' Certificate required under Clause 24(i) of the Equity Listing Agreement

- This is with reference to SEBI Circular No. CIR/CFD/DIL/5/2013 dated February 4, 2013 and SEBI Circular No. CIR/CFD/DIL/8/2013 dated May 21, 2013 on the requirements for the Stock Exchanges and Listed Companies in respect to the Schemes of Arrangement.
- Clause 24(f) of the Listing Agreement requires a company to file with the Stock Exchange(s), for approval, any scheme/petition proposed to be filed before any Court or Tribunal under sections 391,

394 and 101 of the Companies Act, 1956, at least one month before it is presented to the Court or Tribunal.

- Clause 24(i) of the Listing Agreement requires that the company, while filing for approval of any draft Scheme of amalgamation / merger / reconstruction, etc. with the stock exchange under Clause 24(f), shall also file an auditors' certificate to the effect that the accounting treatment contained in the scheme is in compliance with all the Accounting Standards specified by the Central Government in Section 211 (3C) of the Companies Act, 1956. It has been observed that the Auditors' Certificate filed by the companies are in different format and there is no standardization.
- In view of the above, it has been decided to prescribe a standard format for Auditors' Certificate.

For details of this circular please visit - SEBI website at www.sebi.gov.in under the category "Legal Framework".

Source: CIR/CFD/DIL/1/201 4, dated: March 25, 2014

➤ Reporting of OTC trades in Corporate Bonds on Trade Reporting Platforms of Stock Exchanges

- SEBI vide Circulars No. SEBI/ CFD/DIL/BOND/1/2006/12/12 dated December 12, 2006, No. SEBI/CBM/ BOND/1/2007/02/03 dated March 01, 2007 and letter dated July 27, 2007 to FIMMDA, authorized BSE, NSE and FIMMDA to set up and maintain reporting platforms to capture information related to OTC trades in corporate bonds.

- In this regard, RBI vide its circular no RBI/2013-14/500/IDMD.PCD. 10/14.03.06/2013-14 dated 24/02/2014 directed its regulated entities to report their OTC trades in Corporate Bonds and Securitized Debt instruments on any of the stock exchanges (NSE,BSE and MCX-SX) with effect from April 01, 2014. In view of above and as per SEBI Circular No CIR/MRD/DP/27/2013 dated September 12, 2013 which enabled reporting of OTC trades by trading members as well as non-trading members in the exchange debt segment, it is advised that all OTC trades in Corporate Bonds shall be reported only on any one of the reporting platform provided in the debt segment of stock exchanges viz NSE, BSE and MCX-SX within 15 minutes of the trade.

- This circular shall come into effect from April 01, 2014.

Source: Circular - CIR/MRD/DP/10 /2014, dated: March 21, 2014

➤ Establishment of Connectivity with both depositories NSDL and CDSL – Companies eligible for shifting from Trade for Trade Settlement (TFTS) to Normal Rolling Settlement

1. It is observed from the information provided by the depositories that the companies listed in Annexure 'A' have established connectivity with both the depositories.
2. The stock exchanges may consider shifting the trading in these securities to normal Rolling Settlement subject to the following:
 - a) At least 50% of other than promoter holdings as per clause 35 of

Listing Agreement are in dematerialized mode before shifting the trading in the securities of the company from TFTS to normal Rolling Settlement. For this purpose, the listed companies shall obtain a certificate from its Registrar and Transfer Agent (RTA) and submit the same to the stock exchange/s. However, if an issuer-company does not have a separate RTA, it may obtain a certificate in this regard from a practicing company Secretary/Chartered Accountant and submit the same to the stock exchange/s.

b) There are no other grounds/reasons for continuation of the trading in TFTS.

3. The Stock Exchanges are advised to report to SEBI, the action taken in this regard in the Monthly/Quarterly Development Report.

Source: Circular No. - CIR/MRD/DP/ 09 /2014, dated: March 11, 2014

FOREIGN TRADE

Notifications/Circulars

➤ Extension of prohibition on export of Pulses (except Kabuli Chana and 10,000 tonnes of organic pulses) till further orders:

As per Notification No 78 (RE – 2013)/2009-2014, dated: 31 March, 2014 prohibition on export of pulses has been extended till further orders. But, there are two exceptions to this. One is export of Kabuli Chana. Second is export of Organic Pulses and lentils; but with a ceiling of 10,000 MTs per annum.

➤ Exemption for export of pulses to the Republic of Maldives

Based on Notification No. 77 (RE-2013)/2009-2014, dated: 27 March, 2014 export of pulses to the Republic of Maldives has been permitted for the years 2014-15 to 2016-17 as per the quantities indicated in the Table below:

Year	Quantity in MT
2014-15	87.85
2015-16	96.63
2016-17	106.29

➤ Export of Stone Aggregate to Maldives under Bi-lateral Trade Agreement between Government of India and Government of the Republic of Maldives

Based on Notification No 76 (RE 2013)/2009 2014, dated: 27 March, 2014 export of the quantities of Stone Aggregate with the annual ceiling indicated in the respective columns in Export Licencing note below has been permitted for export to the Republic of Maldives under Bi-lateral Trade Agreement between Government of India and

Government of the Republic of Maldives.

Note: Export of Stone Aggregate to Maldives permitted as per ceiling mentioned below subject to issue of No Objection within the annual ceiling by CAPEXIL who shall monitor the ceiling and send a quarterly report to Export Cell in DGFT:

S.No.	Item	Annual ceiling of quantity in MTs		
		2014-15	2015-16	2016-17
1.	Stone Aggregate	5 lakh	5.5 lakh	6 lakh

➤ Export of River Sand to Maldives under Bi-lateral Trade Agreement between Government of India and Government of the Republic of Maldives

Export of the quantities of River Sand with the annual ceiling indicated in the respective columns in Export Licencing Note below has been permitted for export to the Republic of Maldives under Bi-lateral Trade Agreement between Government of India and Government of the Republic of Maldives. Export of River Sand to Maldives permitted as per ceiling mentioned below subject to issue of No Objection within the annual ceiling by CAPEXIL who shall monitor the ceiling and send a quarterly report to Export Cell in DGFT:

S.No.	Item	Annual Ceiling of Quantity in MTs		
		2014-15	2015-16	2016-17
1.	River Sand	2lakh	2.5lakh	3 lakh

Notification No 75 (RE – 2013)/2009-2014, dated: 27 March, 2014

➤ Grant of relaxation for import of steel and steel products from the applicability of Steel and Steel Products (Quality Control) Second Order, 2012

Appropriate body to certify quality of steel has been modified. Earlier it was recognized Quality Certifying Body of the country of origin. Now it shall be International Standard Certifying Body vide Notification No. 74(RE-2013)/2009-2014, dated: 13th March, 2014.

➤ Export Policy of Onions:

Requirement of MEP (Minimum Export Price) on export of onions stands removed vide Notification No 72 (RE-2013)/2009-2014, dated, 4th March 2014. Now as per Notification No 73 (RE – 2013)/2009-2014, dated: 12 March, 2014 export of onion has been made free vide. Earlier export of onion at Sl. No. 51 & 52 was permitted through STEs.

VALUE ADDED TAX

Notifications/Circulars

➔ Appropriate Government Treasury for collection of tax, interest, penalty or any other amount due under the Act or Central Sales Tax Act, 1956 from the dealers registered or liable to be registered under the Act, casual traders and contractees (TAN holders) - F.7(400)/Policy/VAT/2014/1387-1398 - dated 28-3-2014 - Delhi Value Added Tax

➔ Online filling of information/return by using Digital Signature - F.3 (21)/Fin (Rev-I)/2013-14/dsvi/347 - dated 26-3-2014 - Delhi Value Added Tax

➔ To grant facility of VAT exemption/refund to High Commission of the Republic of Malawi in favour of official purchases as well as personal purchases of its diplomats and Mahatma Gandhi Institute of Education for Peace and Sustainable Development (MGIEP) in New Delhi on purchase of goods - F.5(54)/Policy/VAT/2013/PF/1371-1383 - dated 25-3-2014 - Delhi Value Added Tax.

➔ Notification on Revised format of T-2 - F.7 (433)/Policy-II/VAT/2012/ 1016-1026 - dated 5-3-2014 - Delhi Value Added Tax

DIRECT TAX CODE BILL, 2013

The Ministry of Finance, Government of India has pronounced the DTC, 2013 along with DTC Bill, 2010 is placed on <http://incometaxindia.gov.in>, inviting public comments. A write-up on the significant changes in the proposed DTC, 2013 is also placed on the website. The report of the Standing Committee on Finance is available at the <http://loksabha.nic.in>.

KEY CHANGES IN THE REVISED DIRECT TAX CODE (DTC) 2013

- In the proposed DTC 2013, CMAs & CSs are included in the Definition of Accountant (please see Note below)
- The other major change introduced by the DTC is with respect to computation of income, which now needs to be computed under two broad heads - Income from ordinary source and Income from special source
- An indirect share transaction will be liable to be taxed in India if 20% of the assets are based in India.
- New tax slab introduced; individuals earning more than Rs10 crore a year to be taxed at 35%.
- No changes in other tax slabs for individuals; age for senior citizens relaxed to 60 years from 65 years.
- Levy an additional 10% tax on the recipient of dividend payments if the dividend income exceeds Rs1crore.

- Financial assets included under the ambit of wealth tax as compared to only physical assets at present.
- Rationalization of provisions related to non-profit organizations.
- Ring-fencing of losses from business availing investment linked incentives.
- Provision of settlement commission removed.

Note:

In the proposed DTC 2013, CMAs & CSs are included in the Definition of Accountant

Under DTC, 2013 “accountant” means a chartered accountant within the meaning of the Chartered Accountants Act, 1949 and who holds a valid certificate of practice under sub-section (1) of section 6 of that Act, and shall include-

- (i) a company secretary within the meaning of the Company Secretaries Act, 1980;
- (ii) a cost accountant within the meaning of the Cost and Works Accountants Act, 1959; or
- (iii) any person having such qualifications as the Board may prescribe,

for the purposes specified in this behalf.

For details please visit: http://incometaxindia.gov.in/archive/BreakingNews_DirectTaxesCode2013_31032014.pdf

DIRECT TAX CODE BILL, 2013 -REQUEST FOR SUGGESTIONS

We request your valuable suggestions on the provisions of Direct Tax Code Bill, 2013, which may also be provided on specific sectors/industries of special or economic or national importance, which may be laid down on the following parameters :

- For widening the tax base and increasing the tax revenue
- To check tax avoidance
- For rationalization of the provisions of Direct Tax Laws

The suggestions relating to policy matters and procedural matters be mentioned separately and for each of the issue, in the format specified below:

Issue	Suggestion	Justification

Suggestions may be sent to this e-mail id: dtc13.cma@icmai.in by 19th April, 2014.

Your valuable suggestions within the requested date would facilitate in making a proper representation before the authorities.

This is issued considering the greatest interest of the stakeholders.



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