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EDITORIAL

Banking to grow but high level of NPA worries experts

In spite of India's sluggish economy, Chandra Kochhar, MD and CEO of ICICI Bank expects the Indian banking sector to continue to grow at double-digit rates. "My belief is India's banking industry will continue to grow at two and a half times the GDP growth rate," she said.

M. Narendra, CMD, IOB says, "NPA is a double edged sword for banks. Not only does the asset stop earning for the bank, but also has to be provided for in the books of the bank as per extant guidelines. It undermines the capital accruals and thereby restricts the lending capacity of banks. High NPA results in the economy slowing down and higher cost of funds. High levels of NPA is the root cause of the global financial crisis and the world is still trying to recover from the after effects of the crisis. The banking system has shown moderate rise in instability due to the increase in NPA. Cost Accountants can play a major role in helping the banking sector to check the problem faced by them with regard to effective NPA management at pre- and post-sanction levels and monitoring of the stressed accounts".

An RBI panel has recommended that a special category of banks called payments banks be set up to widen the spread of payment services and deposit products to small businesses and low-income households, where about 40% of the population still do not have access to formal financial services. Such banks will have a minimum entry capital requirement of Rs. 50 crore, one-tenth of what a full-service bank requires, since they will have a near-zero risk of default, said the panel headed by Nachiket Mor, a member of RBI's central board. Payments banks will be required to comply with all RBI guidelines relevant for commercial banks. Existing banks should be permitted to create a payments bank as a subsidiary, the panel has said.

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

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INDIAN ECONOMY

Highlights

➔ For P. Chidambaram, RBI, inflation top 2013 challenge

Source: PTI dated: Dec 24 2013

A surge in food prices ripped common man's pockets as the UPA government, with FM P. Chidambaram as Finance Minister, paid for its failure in the assembly polls in four states.

➔ Risks to Indian economy will continue, RBI to hike key policy rates: RICS

Source: PTI dated: Dec 23 2013

Risks to the Indian economy will continue in 2014 due to high retail inflation and the Reserve Bank of India (RBI) is likely to revise key policy rates upwards by up to 0.50 per cent.

➔ New customs form for Indians, foreigners from Jan 1

Source: PTI dated: Dec 22 2013

Passengers flying into India will have to fill in a new customs form on their arrival from the new year while the need to fill immigration form for returning Indians is being done away with.

➔ Diesel price hiked by 10 paise a litre on jump in dealers' commission

Source: PTI dated: Dec 20 2013

Diesel price was hiked by a little less than 10 paise a litre on Friday after the government raised the commission paid to dealers selling the fuel.

➔ RBI kept key rates unchanged to push growth, says Montek Singh Ahluwalia

Source: PTI, dated: Dec 18, 2013

The Reserve Bank's decision to keep interest rates unchanged is aimed at boosting economic growth, Planning Commission Deputy Chairman Montek Singh Ahluwalia has said.

➔ Raghuram Rajan: Economic growth expected to improve in second half of 2013-14

Source: PTI, dated: Dec 18, 2013

The Reserve Bank today said it expects economic growth to improve in the second half of this financial year on the back of expansion in the agriculture sector, exports and movement in stalled projects.

➔ Supply-chain bottlenecks led to higher retail inflation in November

Source: Surabhi, dated: Dec 16 2013

It is not just costlier fruits and vegetables that weighed down your grocery bill last month. Supply-chain pressures for basic commodities including cereals, pulses and oils also contributed to the spurt in consumer price index (CPI) based inflation in November.

➔ November inflation shock cements calls for RBI rate hike

Source: Reuters, dated: December 13 2013

A pick-up in retail inflation to its fastest pace on record will likely force Reserve Bank of India chief Raghuram Rajan to raise interest rates for a third time, crimping growth prospect.

➔ Prospect of rate hike after inflation surge hits rupee, bonds

Source: Reuters, dated: December 13 2013

The Indian rupee fell and bond yields surged on Friday after retail inflation spiked to its highest on record, raising expectations of another rate hike by the central bank.

➔ Retail inflation jumps to 9-month high at 11.24 pct in November

Source: PTI, dated: December 12 2013

Costlier fruits and vegetables such as onions and tomatoes pushed retail inflation to a nine-month high of 11.24 per cent in November, making it harder for the Reserve Bank to lower interest rates.

➔ Telecom operators owe Rs 17,980 cr to govt, but is under litigation

Source: PTI, dated: December 11 2013

Telecom operators owe government a huge amount of Rs 17,980.77 crore in licence fee and spectrum charges, but the outstandings are under litigations, Parliament was informed today.

➔ Focus is on inflation; growth stabilizing: Rajan

Source: Reuters, dated: 11 Dec 2013

The focus of the Reserve Bank of India remains on inflation, Governor Raghuram Rajan said on Wednesday, adding growth seems to be stabilizing, although it was too early to call a bottom.

➔ High inflation in Nov set to keep pressure on RBI

Source: Reuters, dated: Dec 11, 2013

Inflation is forecast to remain close to 9-month highs in November, a Reuter's poll showed, putting further pressure on the RBI to follow up on its back-to-back interest rate hikes despite slowing economic growth.

➔ Fitch says electoral setback to test fiscal discipline

Source: Reuters, dated: 10 Dec 2013

The setback for ruling Congress Party in recent state elections could imperil the country's fiscal deficit target by tempting the government to have less restraint on spending, Fitch Ratings warned on Dec 10 2013.

➔ India to conduct debt switch in market, likely soon - officials

Source: Reuters, dated: 09 Dec 2013

India's planned 500 billion rupee debt switch programme will be done

through the bond market and not through the RBI, two officials with direct knowledge of the country's plans said on 9th Dec, 2013.

➔ **Indian 2014 gold imports seen at half usual levels**

Source: Reuters, dated: 07 Dec 2013

Indian gold imports may fall 70 percent in the final quarter of 2013 from 255 tonnes in the year-ago period and are expected to be half usual levels at 500-550 tonnes next year if new import rules are maintained.

➔ **Challenges for India Inc to continue in 2014: Moody's**

Source: Business Economy, dated: December 05, 2013

Companies will also face higher borrowing costs and tight funding conditions with monetary policy likely to remain tight. India's GDP growth to remain weak at 5.5 per cent in the fiscal year ending March 2015, Moody's Investors Service said in a report.

➔ **Emerging market growth expands in November**

Source: PTI dated: December 5, 2013

Services and manufacturing sector during November showed expansion across emerging markets barring India where it fell for the fifth month running, an HSBC survey said.

➔ **India needs to develop electronics, telecom: PM**

Source: IANS dated: December 5, 2013

Prime Minister Manmohan Singh said India needs to develop a strong domestic manufacturing base in electronics and telecommunication, adding that the usage of internet is quite low in the country

➔ **India to withdraw order suspending tax benefits, says Cyprus**

Source: PTI dated: December 4, 2013

The withdrawal is subject to Cyprus, one of the main sources of foreign direct investment into India, adopting the global convention on exchange of tax information.

➔ **CAD likely to remain lower in Q3 and Q4: India Ratings**

Source: PTI dated: December 4, 2013

India Ratings said in a research report said that they expect that CAD to be lower in the remaining quarters of the FY'14 than the corresponding quarters in FY'13 in view of a pick-up in exports and a significant drop in gold imports.

➔ **India's current account vulnerability falls: Capital Economics**

Source: PTI dated: December 4, 2013

Measures to curb demand for imported gold have contributed to a sharp narrowing of India's current account deficit, global consultancy firm Capital Economics said.

Preliminary balance of payments data published on Monday showed

that the current account deficit fell to \$5.2 billion in the July-September quarter of 2013-14, or 1.2 per cent of gross domestic product (GDP). The decrease was due to a pick-up in exports and a slump in gold imports. Gold imports have risen substantially over the past decade from \$5 billion in 2003 to over \$50 billion in 2012. India's affinity for gold is partly cultural but a desire to hedge against inflation has also played a role. The decline in gold imports was the result of policy changes, such as a requirement to re-export 20 per cent of imported gold and a doubling of import duty, that were introduced to make India less vulnerable to any shift in foreigners' willingness to fund India's deficit spending.

➔ **Gold futures rise marginally on global cues**

Source: PTI dated: December 4, 2013

At the Multi Commodity Exchange, gold for delivery in February next year rose Rs 55, or 0.19 per cent, to Rs 29,117 per 10 gm in business turnover of 1,895 lots.

➔ **Private sector output drops for fifth successive month**

Source: PTI dated: December 4, 2013

India's services sector activity witnessed a moderate improvement in November over the previous month, even while indicating the fifth successive monthly contraction, an HSBC survey said.

➔ **Current a/c gap narrows; economy seen improving**

Source: Reuters dated: 02 Dec 2013

India's current account gap narrowed sharply in the September quarter, thanks to steps to curb gold imports, the latest in a run of positive signs for a sluggish economy.

➔ **State oil firms now sourcing all dollars from market: RBI**

Source: Reuters dated: 02 Dec 2013

The Reserve Bank of India said on Monday state-run oil companies were now sourcing their entire dollar demand in markets, but added it would consider re-opening a special swap window on "rare days" of strong greenback demand.

BANKING

Highlights

➔ **Revision of General Credit Card (GCC) Scheme**

In order to enhance the coverage of GCC Scheme to ensure greater credit linkage for all productive activities within the overall priority sector guidelines and to capture all credit extended by banks to individuals for non-farm entrepreneurial activity the GCC guidelines are being revised vide circular RPCD.MSME & NFS. BC.No.61/06.02.31/2013-14 (RBI/2013-14/389) dated: Dec 02, 2013. Any other Credit Card (e.g. Artisan Credit Card, Laghu Udyami Card, Swarojgar Credit Card, and Weaver's Card etc.) in existence

and catering to the non-farm entrepreneurial credit needs of individuals should be included for reporting of credit extended through the General Credit Cards under the Financial Inclusion Plans (FIPs). As the GCC is intended to cover all entrepreneurial credit, consumption credit extended to individuals should not be reported under GCC. The issuance of GCC does not preclude the banks from issuing any other credit card to their customers for their consumption needs. Consumption credit provided by banks is to be reported separately under the head of Overdraft (OD)/consumption credit in the FIP reporting format prescribed by Reserve Bank of India. For more details please visit: <http://www.rbi.org.in/scripts/NotificationUser.aspx>

➤ Guidelines on Stress Testing

Guidelines on stress testing have been updated vide *Circular No. DBOD.BP.BC.No.75/21.04.103/2013-14 (RBI/2013-14/390)*, dated: 02-12-2013. Annex 1 contains guidelines on overall objectives, governance, design and implementation of stress testing programmes. All banks are required to carry out the stress tests involving shocks prescribed in Annex 2, at a minimum. Though a bank should assess its resilience to withstand shocks of all levels of severity indicated therein, the bank should be able to survive, at least the baseline shocks. Further, RBI would expect the degree of sophistication adopted by banks in their stress testing programmes to be commensurate with the nature, scope, scale and the degree of complexity in the bank's business operations and the risks associated with those operations. The broad approach which could be considered by banks in formulating their stress testing programmes is enumerated in Annex 3 which classifies banks into three groups based on the size. Banks are expected to adopt these guidelines on stress testing from April 1, 2014.

➤ Guidelines on Stress Testing

Interest rate ceiling prescribed vide circular *RPCD.CO.RRB.BC.No.22/03.05.33/2013-14* dated August 19, 2013 will remain unchanged till January 31, 2014 - *RPCD.CO.RRB/RCB.BC.NO. 63 /03.05.33/2013-14 (RBI/2013-14/391)* dated: Dec 02, 2013

➤ RRBs - Periodicity of payment of interest on Rupee Savings/Term Depos

RRBs will now have the option to pay interest on Rupee savings and term deposits at intervals shorter than quarterly intervals vide *Notification RPCD.CO.RRB.BC.NO. 62 /03.05.33/2013-14 (RBI/2013-14/393)* dated: Dec 02, 2013. The above revised instructions are applicable to domestic Rupee deposits including Ordinary Non-Resident (NRO) and Non-Resident (External) (NRE) savings and term deposits. As regard FCNR (B) deposits, the existing guidelines issued in this regard will remain unchanged.

➤ Urban Co-operative Banks - Deregulation of Interest Rates on Non-Resident (External) Rupee (NRE) Deposits

In reference to Circular *UBD.BPD. (PCB) CIR.No. 8/13.01.000/2013-*

14 dated September 3, 2013 banks has the freedom to offer interest rates on incremental NRE deposits with maturity of 3 years and above without any ceiling in order to pass on the benefit of exemption provided on such deposits from CRR / SLR requirements. In terms of para 4 thereof, these instructions were valid up to November 30, 2013. The above instructions issued vide circular under reference will remain unchanged till January 31, 2014, subject to review vide notification *UBD.BPD. (PCB).Cir.No.40 /13.01.000/2013-14 (RBI/2013-14/395)* dated: Dec 02, 2013.

➤ Urban Co-operative Banks - Interest Rates on FCNR(B) Deposits

Circular *UBD.BPD.AD.Cir.No 2/13.01.000/2013-14* dated August 21, 2013 providing interest rate ceilings on FCNR (B) deposits for maturity period of one year to less than three years and three to five years, respectively. In terms of para 4 thereof, these instructions were valid up to November 30, 2013, subject to review. In this connection, we advise that the interest rate ceiling prescribed vide circular under reference will remain unchanged till January 31, 2014, subject to review vide *Notification UBD.BPD.AD.Cir.No. 5/13.01.000/2013-14 (RBI/2013-14/396)* dated: December 2, 2013.

➤ External Commercial Borrowings (ECB) by Holding Companies / Core Investment Companies for the project use in Special Purpose Vehicles (SPVs)

In order to strengthen the flow of resources to infrastructure sector, it has been decided to permit Holding Companies / Core Investment Companies (CICs) coming under the regulatory framework of the Reserve Bank to raise ECB under the automatic route/approval route for project use in Special Purpose Vehicles (SPVs) vide *Circular 78,A.P. (DIR Series) - RBI/2013-14/397*, dated: December 3, 2013.

➤ Union Budget - 2013-14 Interest Subvention Scheme

RPCD.No.FSD.BC.71/05.04.02/2013-14 (RBI/2013-14/398) dated: Dec 04, 2013

As directed by the Government of India and in pursuance of the budget announcement made by the Finance Minister relating to the Interest Subvention Scheme 2013-14, Interest subvention of 2 % p.a. will be made available to Public Sector Banks (PSBs) and Private Sector Scheduled Commercial Banks (in respect of loans given by their rural and semi-urban branches) on their own funds used for short-term crop loans up to Rs.3,00,000/- per farmer provided the lending institutions make available short term credit at the ground level at 7% per annum to farmers. This amount of interest subvention will be calculated on the crop loan amount from the date of its disbursement/drawal up to the date of actual repayment of the crop loan by the farmer or up to the due date of the loan fixed by the banks whichever is earlier, subject to a maximum period of one year.

Besides, additional interest subvention @3% will be available to the prompt paying farmers from the date of disbursement of the

crop loan up to the actual date of repayment by farmers or up to the due date fixed by bank for repayment of crop loan, whichever is earlier, subject to a maximum period of one year from the date of disbursement. This also implies that the prompt paying farmers would get short term crop loans @4% per annum during the year 2013-14. This benefit would not accrue to those farmers who repay after one year of availing such loans.

Further, in respect of KCC Scheme, the GoI has clarified that loans granted only for categories at S.No. (i) and (ii) out of the following six categories are covered under the Interest Subvention Scheme, which should be computed and segregated accordingly for claiming interest subvention :

- i. To meet the short term credit requirements for cultivation of crops
- ii. Post-harvest expenses
- iii. Produce Marketing loan
- iv. Consumption requirement of farmer household
- v. Working capital for maintenance of farm assets and activities allied to agriculture, like dairy animals, inland fishery, etc.
- vi. Investment credit requirement for agriculture and allied activities like pump sets, sprayers, dairy animals, etc.

The benefits of interest subvention will also be available to small and marginal farmers having Kisan Credit Card for a further period of up to six months post harvest on the same rate as available to crop loan against negotiable warehouse receipt for keeping their produce in warehouses.

➔ Exchange-Traded Interest Rate Futures

The Reserve Bank of India has accordingly issued a *Notification IDMD.PCD.07/ED (RG) - 2013 dated December 5, 2013* introducing cash settled Interest Rate Futures (IRF) on 10-year Government of India security.

➔ Charges levied by banks for sending SMS alerts

At present, UCBs are providing ATM services and issuing ATM cum debit cards to their customers as envisaged in our circular UBD. (PCB).BPD.Cir No. 50/09.69.000/2005-06 dated April 28, 2006. Considering the technology available with UCBs and the telecom service providers, it should be possible for banks to charge customers based on actual usage of SMS alerts. Accordingly, with a view to ensuring reasonableness and equity in the charges levied by banks for sending SMS alerts to customers, UCBs 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 vide *Notification No - UBD.CO.BPD. (PCB).Cir.No.42/12.05.001/2013-14 (RBI/2013-14/403) dated: Dec 06, 2013.*

➔ Novation of OTC Derivative Contracts

Modifications permitting novation of OTC derivative contracts - DBOD.No.BP.BC.76/21.04.157/2013-14 (RBI/2013-14/406) dated:

December 9, 2013. For viewing the operational guidance on novation, please visit:

<http://www.rbi.org.in/scripts/NotificationUser.aspx-Novation of OTC Derivative Contracts>

➔ Participation in Exchange Traded Interest Rate Futures

Directions on cash settled Interest Rate Futures (IRF) on 10-year Government of India security were issued vide notification IDMD.PCD.07/ED (RG) - 2013 dated December 5, 2013. These directions were issued superceding the Interest Rate Futures (Reserve Bank) Directions, 2009 dated August 28, 2009 (as amended till December 30, 2011). In the context of the Interest Rate Futures (Reserve Bank) Directions, 2013 dated December 5, 2013 issued by the Reserve Bank of India, it is clarified that the participation of commercial banks in IRF would be subject to the guidelines issued vide circular DBOD.BP.BC.56/21.04.157/2008-09 dated October 13, 2008 and updated vide circular DBOD.BP.BC 34/21.04.157/2009-10 dated August 28, 2009 i.e. banks are permitted to participate in IRF both for the purpose of hedging the risk in the underlying investment portfolio and also to take trading position. However, banks are not allowed to undertake transactions in IRFs on behalf of clients. Similarly, stand-alone Primary Dealers are allowed to deal in IRF for both hedging and trading on own account and not on client's account as prescribed in paragraph 3 of the guidelines issued vide circular IDMD. PDRD. No.1056 / 03.64.00/2009-10 September 1, 2009. *Notification - IDMD.PCD.09/14.03.01/2013-14 (RBI/2013-14/410) dated: December 19, 2013*

➔ Inflation Indexed National Savings Securities- Cumulative, 2013

It has been decided by the Government of India, as per their Notification F.No. 4(16) W&M/2012 dated December 19, 2013, to issue Inflation Indexed National Savings Securities- Cumulative, 2013 ("the Bonds") with effect from December 23, 2013 to December 31, 2013.

Limit of Investment - Minimum limit for investment in the bonds is Rs. 5,000/- and maximum limit for investment is Rs. 5,00,000/- per applicant per annum.

Tax Treatment

Income Tax: Interest on the Bonds will be taxable under the Income-Tax Act, 1961 as applicable according to the relevant tax status of the bonds holder.

Issue Price

- i) The Bonds will be issued at par, i.e. at 100.00 per cent.
- ii) The Bonds will be issued for a minimum amount of `5,000/- (face value) and in multiples thereof. Accordingly, the issue price will be Rs. 5,000/- for every Rs. 5,000/- (Nominal).

For details please visit: *Notification F.No. 4(16) W&M/2012 dated December 19, 2013*

➤ **Adoption of ISO 20022 messaging standard in new RTGS System**

New RTGS System has been operationalised with effect from October 19, 2013 and the RTGS Business Regulations, 2013 have come into effect from the date. On review it has been decided to extend the time for adoption of ISO 20022 messaging seamlessly without conversion from/to “R” series formats up to March 31, 2014 by RTGS member banks.

➤ **Borrowing and Lending in Rupees - Investments by persons resident outside India in the tax free, secured, redeemable, non-convertible bonds**

As per circular no.81- A.P. (DIR Series) - RBI/2013-14/416 dated: Dec 24, 2013 it has been decided to permit such resident entities / companies in India, authorized by the Government of India, to issue tax-free, secured, redeemable, non-convertible bonds in Rupees to persons resident outside India to use such borrowed funds for the following purposes:

- (a) for on lending / re-lending to the infrastructure sector; and
- (b) for keeping in fixed deposits with banks in India pending utilization by them for permissible end-uses.

➤ **Formation of four new districts in the State of Meghalaya - Assignment of Lead Bank Responsibility**

The Government of Meghalaya vide Notifications - 178 dated 26.07.2012, 165 dated 30.07.2012, 133 dated 02.08.2012 and 163 dated 06.08.2012 has notified formation of four new districts in the State of Meghalaya. As per notification no. RPCD.CO.LBS.BC.No. 72/02.08.001/2013-14 (RBI/2013-14/417) dated: Dec 24, 2013 it has been decided to assign the lead bank responsibility of the four new districts as detailed below:

| Sr No | Newly carved district | Erstwhile District | Blocks included in the new District | Lead Bank Responsibility assigned to | District Working Code allotted to new district |
|-------|------------------------|--------------------|-------------------------------------|--------------------------------------|--|
| 1 | North Garo Hills | East Garo Hills | Kharkutta Resubelpara | State Bank of India | 378 |
| 2 | East Jaintia Hills | Jaintia Hills | Saipung Khliehriat | State Bank of India | 379 |
| 3 | South West Khasi Hills | West Khasi Hills | Ranikor Mawkyrwat | State Bank of India | 380 |
| 4 | South West Garo Hills | East Garo Hills | Betasing Zik Zak | State Bank of India | 381 |

Further, the District Working Codes of new districts have also been allotted for the purpose of BSR reporting by banks. There is

no change in the lead bank responsibilities of the erstwhile districts and of other districts in the State of Meghalaya.

INCOME TAX

Highlights

➤ **Aadhar valid for PAN application; Govt. amends Rule 114**

Government substitutes new rule 114 to include ‘Aadhar card’ as a valid proof of identity and address; Notifies new application Forms 49A and 49AA which will come into force with immediate effect – *Notification 96, dated: 23rd December, 2013.*

➤ **Deferred Tax Liability on Special Reserve created under Section 36(1) (viii) of the Income Tax Act, 1961**

Deferred Tax Liability for amounts transferred to Special Reserve from the year ending March 31, 2014 onwards should be charged to the Profit and Loss Account of that year vide Circular BOD. No.BP. BC.77/21.04.018/2013-14 (RBI/2013-14/412), dated: December 20, 2013. If the expenditure due to the creation of DTL on Special Reserve as at March 31, 2013 has not been fully charged to the Profit and Loss account, banks may adjust the same directly from Reserves. The amount so adjusted may be appropriately disclosed in the Notes to Accounts of the financial statements for the financial year 2013-14.

➤ **Rajiv Gandhi Equity Savings Scheme**

As per Notification: 94, dated: 18/12/2013 Central Government hereby makes the following scheme called Rajiv Gandhi Equity Savings Scheme, 2013. This Scheme shall apply for claiming deduction in the computation of total income of the assessment year relevant to a previous year beginning on or after the 1st April, 2013 on account of investment in eligible securities under sub-section (1) of section 80CCG of the Income-tax Act, 1961(43 of 1961). The objective of the scheme is to encourage investment of savings of small investors in the domestic capital market. The deduction under the scheme shall be available to a new retail investor who complies with the conditions of the scheme and whose gross total income for the financial year in which the investment is made under the Scheme is less than or equal to twelve lakh rupees

Case Laws

➤ **HC: Consideration for 99-years film rights amounts to ‘sale’, not ‘royalty’ u/s 194J**

Consideration for transfer of film rights, valid for 99 years, not ‘royalty’ but a ‘sale’; TDS u/s 194J applicable to ‘royalty’ not attracted on payment of consideration; Assessee acquired World Negative rights, all satellite broadcasting rights without any restriction to geographical area; Copyright in cinematographic film subsists for 60 years under Copy Right Act & hence a 99 year right could only be regarded as sale; HC distinguishes Balaji Telecommunications

ruling on facts and reverses ITAT ruling : Madras HC

Source: *K.Bhagyalakshmi [TS-647-HC-2013(MAD)]*

➤ **ITAT: TDS u/s. 194J not attracted on transmission/SLDC charges; TDS u/s 194C accepted**

Electricity transmission charges, not in nature of royalty or FTS to attract TDS u/s 194J; Reliance placed on ITAT ruling in Bangalore Electricity Supply Co. Ltd.; Jaipur ITAT ruling in Vidyut Vitaran Nigam not applicable in assessee's case as scope of services received by assessee larger than those received by Jaipur Vidyut Vitaran Nigam; In addition to transmission of power, assessee also received services like maintenance of metering system, noting down meter reading, sealing and resealing of meters etc.; Assessee liable to deduct TAS u/s 194C and if it is deducted, assessee can't be treated as defaulter u/s 201 : Hyderabad ITAT

Source: *Central Power Distribution Company Of A.P. Ltd. [TS-642-ITAT-2013(HYD)]*

➤ Depreciation on tenancy rights - Held that:- There is a vast difference between know-how, patents, copyrights, trade marks, licences, franchises etc. on one hand and tenancy rights on the other - Tenancy rights cannot be construed as "intangible" assets falling within the meaning of Explanation 3 to section 32(1) - The tenancy right cannot be treated as an intangible asset, there is no question of allowing depreciation on it - Decided against assessee.

Book profits u/s 115JB - Held that:- The amount disallowable u/s 14A is always part of the expenses specifically debited to the profit and loss account - It is axiomatic that unless any expenditure is incurred and claimed as deduction, there can be no question of any hypothetical disallowance u/s 14A - The amount disallowable u/s 14A is covered under clause (f) of Explanation (1) to section 115JB(2) - Following *M/s. RBK Share Broking Pvt. Ltd. v. ITO [2013 (12) TMI 74 - ITAT MUMBAI]* - Decided against assessee. *M/s. Dabur India Limited (Formerly known as Fem Care Pharma Limited) Versus The Asstt. Commissioner of Income-tax*

➤ Disallowance u/s 14A - Held that:- Following *Godrej and Boyce Mfg. Co. Ltd. [2010 (8) TMI 77 - BOMBAY HIGH COURT]* - The Assessing Officer has to examine the accounts of the assessee first - If he is not satisfied with the correctness of the claim, then only he can invoke rule 8D - No such examination was made or satisfaction was recorded by the Assessing Officer - The Assessing Officer has not considered the claim of the assessee at all and he has straightway embarked upon computing disallowance under rule 8D - The disallowance under section 14A required finding of incurring of expenditure.

The assessee has offered most of the income under the tonnage tax scheme - the disallowance need not be made on entire expenditure made as the assessee's income from shipping related activity was assessed under section 115VA on presumptive basis - Following *Varun Shipping Co. Ltd. v. Addl. CIT [2011 (11) TMI 370 - ITAT*

MUMBAI] - When the income of the assessee from the business of operating ships is computed as per the special provisions contained in Chapter XII-G, only the expenses incurred by the assessee for earning income of the said business are deemed to be allowed and nothing else - The income of the assessee from the business of operating ships having been computed in accordance with the provisions of Chapter XII-G, only the expenses incurred for the said business are deemed to have been allowed and no addition to such income can be made by way of disallowance under section 14A on account of any expenditure incurred in relation to earning of exempt dividend income - Decided in favour of assessee. *Raj Shipping Agencies Ltd. versus Additional Commissioner of Income-tax*

➤ Eligibility for benefits of DTAA - DTAA between Indo-UAE - Held that: - The assessee is entitled to benefits of the DTAA thereby granting exemption from capital gains - Decided against Revenue. Source: *The Income Tax Officer (International Taxation) 3(1) Mumbai. Versus Shri Chandersen Jatwani*

PROVIDENT FUND

Highlights

➤ **EPFO ask firms to file PF claims well in time: EPFO to Field Staff**

To avoid harassment of employees, retirement fund body EPFO has directed its field offices to sensitize employers about the need to forward in time PF claims of outgoing workers. "All regional offices and sub-regional offices should sensitize the employers under their respective jurisdiction to comply with the provision of Para 72(5) of the EPF Scheme 1952 where the employer is duty bound to forward duly filled in and attested claim application to the respective EPF office within five days of receipt," says a circular of EPFO.

The Employees Provident Fund Organization (EPFO), which manages a subscriber base of over five crore and a corpus of about Rs 5 lakh crore, has been working hard to reduce the number of public grievances and improve services delivery.

The body had recently asked its field staff to settle all grievances of subscribers within 30 days.

Source: *PTI, dated: Dec 15, 2013*

➤ **India allows greater flexibility for pension fund investments**

India will allow a portion of the country's \$80 billion in employee pensions to be invested in a wider array of debt, including short-term bills, in a bid to boost returns and further develop domestic bond markets. Fund managers handling money on behalf of the Employees' Provident Fund Organization (EPFO) will also be given more flexibility to invest in corporate bonds, according to new rules from the Labour Ministry marking the first overhaul of investment rules in a decade. - Source: *Reuters, dated: Dec 4, 2013*

➔ **Broker hard sell bonds to provident funds**

Many brokers and intermediaries are hard selling bank bonds to provident funds (PFs), stoking concern about the credit risk of these securities following the rating downgrades of mid-size public sector banks in the last two months. There are a minimum of 500 exempted PFs in India. Under the exempted provident fund scheme, employers run their own trust of managing employee corpus. On an average, PFs invest between Rs 10 lakh and Rs 1 crore a month in these bonds.

Source: ET Burea, dated: Dec 5, 2013

CUSTOMS

Highlights

➔ Seeks to amend the notification no. 12/2012-Customs, dated 17th March, 2012 by adding the name of Kameng Hydro Electric Power Project, (600 MW) of North Eastern Electric Power Corporation Ltd. vide *notification 53/2013-Cus, dated: 26-12-2013.*

➔ Seeks to amend notification no. 93/2009-cus dated 11.09.2009 for adding additional categories in the list of exports not eligible under Focus Market Scheme and Incremental Export Incentive Scheme vide *notification 52/2013-Cus, dated: 26-12-2013.*

➔ *Notification 51/2013-Cus, dated: 20-12-2013 amends* Notification No. 12/2012-Cus, dated 17.3.2012 to increase the non-advalorem rate of BCD on natural rubber from Rs 20/kg to Rs 30 /kg.

➔ Amendment of notification no. 10/2008-Customs, dated 15th January, 2008 so as to further deepen the tariff concessions in respect of goods covered under the Comprehensive Economic Cooperation Agreement (CECA) between India and Singapore vide *notification no. 50/2013-Cus, dated: December 16, 2013*

➔ Seeks to revoke the imposition of anti-dumping duty on import of Polypropylene, originating in or exported from Oman vide notification 32/2013 – Cus (ADD), dated: Dec 02, 2013

➔ Clarification regarding exemption from Special Additional Duty of Customs (SAD) on goods cleared from the SEZ / FTWZ into the DTA - As per circular 44/2013, dated: 30-12-2013 benefit of SAD exemption on goods cleared from the SEZ / FTWZ unit into DTA unit on stock transfer basis for self-consumption i.e. otherwise than for sale as such, is not available under notification No.45/2005-Customs, dated 16.05.2005. In such cases, SAD would be leviable.

Case Laws

➔ Valuation - the value of new car which is required to be picked up for arriving at the value of second hand car on the basis of determination of formula has to be value exclusive of VAT of 15%.

Dr Jacob Pulliyel versus Commissioner of Customs (ICD) - 2013 (12) TMI 1092 - Cestat New Delhi – Customs

➔ Valuation of goods - royalty and the licence fee are not payable on the imported goods but on the goods manufactured and sold in India.

Commissioner of CUS. (Import), Mumbai versus Bridgestone India Pvt. Ltd. - 2013 (12) TMI 1089 - Cestat Mumbai – Customs

➔ Benefit of Notification No. 53/97-Cus. - substantive condition of the exemption notification has been fulfilled by the appellant and just because of some delay in installation of capital goods, which was condonable, the benefit of duty exemption cannot be denied.

Bholanath Industries Ltd. versus Commissioner of C. Ex., Allahabad - 2013 (12) TMI 986 - Cestat New Delhi - Customs

CENTRAL EXCISE

Highlights

➔ Extension of warehousing and acceptance of LUT in place of Bank Guarantee for export warehousing for Status Holder Manufacturer Exporter - *Circular 976/10/2013 dated: 12-12-2013.*

➔ Seeks to amend the notification No. 12/2012- Central Excise, dated 17th March, 2012 by adding the name of Kameng Hydro Electric Power Project, (600 MW) of North Eastern Electric Power Corporation Ltd. (NEEPCO) - 32/2013-CE, dated: 26-12-2013

➔ Seeks to amend notification no. 30/2012-cen ex, dated 09.07.2012 for adding additional categories in the list of exports not eligible under Focus Market Scheme and Incremental Export Incentive Scheme - 31/2013-CE, dated: 26-12-2013

Case Laws

➔ Disallowance of the value of rubber ring - Cost of rubber ring includes other costs to bring it to factory gate and other incidental costs – Held that:- The deduction in respect of bought out item should be limited to the cost of rubber ring only and not beyond that - Claim of deduction by the appellant being excess over the cost of the rubber ring, the excess amount had depressed the assessable value which should be dutiable - Mere information to the department does not erode the culpability nor with the passage of time legalizes an illegality – the contravention does not vanish by plea of time bar –thus, penalty was rightly imposed – Decided against assessee.

Levy of duty on the excess transport charges recovered from the buyers – Held that:- Levy of duty not being forming part of assessable value, such profit is out of scope of levy of duty under Central Excise Act, 1944 – Decided in favour of Assessee.

2013 (12) TMI 985 - CESTAT NEW DELHI - Central Excise M/s. Subhash Pipes Limited versus CCE, Delhi-IV

➔ Entitlement for Cenvat Credit - Process of cutting and slitting amounts to manufacture or not - Waiver of pre-deposit - Held that:- Applicant cleared the goods on payment of duty - in assessee's own case it was held that process undertaken by the applicant would amount to 'manufacture' - The applicant has made out a prima facie case for waiver of pre-deposit of entire amount of duty and equal amount of credit and penalty along with interest - Pre-deposits waived till the disposal - Stay granted.

2013 (12) TMI 980 - CESTAT CHENNAI - Central Excise
Nexus Electro Steel Ltd. versus Commissioner of Central Excise, Pondicherry

➔ When there was bona fide doubt as to non-excisability of the goods, the extended period of 5 years cannot be invoked - Mere failure or negligence in not taking license or not paying duty is not sufficient for invoking extended period.

Commissioner of C. Ex., Cus. & St. versus Kay Kay Press Metal Corporation - 2014 (1) TMI 7 - Gujarat High Court - Central Excise

SERVICE TAX

Highlights

➔ Clarifications on Service Tax Voluntary Compliance Encouragement Scheme vide Instruction issued in F. No. B1/19/2013-TRU (Pt.) dated: Dec 11, 2013

For details visit: <http://www.servicetax.gov.in/st-circulars-home.htm>

➔ Central Government seeks to amend notification no. 06/2013-ST dated 18.04.2013 for adding additional categories in the list of exports not eligible under Focus Market Scheme and Incremental Export Incentive Scheme vide notification no. 17/2013-Service Tax, dated: 26th December, 2013.

Case Laws

➔ Denial of CENVAT Credit - Outward transportation of the goods - CESTAT granted Credit - Held that:- By the amendment made with effect from 1st April, 2008 substituting the word "from" by the word "upto" all that has been done is to clarify the issue. Neither the services rendered to the customer for the purpose of delivering the goods at the destination was covered by the definition of input service prior to 1st April, 2008, nor is the same covered after 1st April, 2008. If the definition provided in Section 2(1)(ii) is read as a whole, it would appear that outward transportation charges or taxes paid in regard thereto is claimable only with regard to those transports which were made from one place of removal to another place of removal - judgment rendered by the learned Tribunal cannot be sustained and the same is, therefore, set aside - Decided against the assessee.

2013 (12) TMI 1025 - CALCUTTA HIGH COURT - Service Tax
Commissioner of Central Excise versus M/s. Vesuvius India Ltd.

➔ Demand of re-shelling of old sugar mill rollers - Calculation of service - Commissioner (Appeals) held that the value of material used in providing service is not to be taken into consideration while arriving at the assessable value of taxable service - Held that:- there is no maintenance contract or agreement. Therefore, there is no merit in the appeal filed by the Revenue, in view of this Board Circular dated 27.07.2005, wherein it has been clarified in para 16.4, that prior to 16.06.2005 maintenance or repair carried out under an agreement or contract was covered under the service tax. Repair or service carried out under a contract other than a maintenance contract was not covered within the purview of service tax - Revenue has only raised the issue of valuation of taxable service. In view of the above finding as the activity is not liable for service tax, we find that the issue of valuation will not survive - Decided against Revenue.

2013 (12) TMI 1022 - CESTAT MUMBAI - Service Tax
CCE versus SB RESHELLERS PVT LTD

➔ Waiver of pre-deposit of interest - Demand of interest on the amount of service tax - Held that:- applicants received certain amount from the flat owners during the year 2006-08 on the ground that in case there is any tax liability the same is to be paid from the security received from the flat owners. Service tax on the amount received by the applicant was paid in the year 2011. In these circumstances, we find that the applicants retained the amount in question received as deposit during 2006-08 till 2011 and earned interest on such amount - even after the Board's clarification in the year 2009 the applicants retained the amount and not returned the same to the flat owners - applicant had not made out a case for waiver of pre-deposit - Stay denied.

2013 (12) TMI 1018 - CESTAT MUMBAI - Service Tax
M/s JOSHI & ASSOCIATES versus COMMISSIONER OF CENTRAL EXCISE & SERVICE TAX

SEBI

Highlights

➔ Rationalization of Periodic Call Auction for Illiquid Scrips

Based on recommendations of SMAC and feedback received from market participants and stock exchanges, it has been decided to rationalize the periodic call auction mechanism vide circular CIR/MRD/DP/38/2013, dated: December 19, 2013.

a) For the purpose of this circular, scrip which trades in the normal market and is not shifted to trade for trade settlement shall be classified as illiquid on a stock exchange if the following conditions are met:

- i. Average daily turnover of less than Rs.2 lakhs calculated for previous two quarters and
- ii. The scrip is classified as illiquid at all exchanges where it is

traded

b) Of the scrips identified as per above criteria, scrips which satisfy any of the following conditions shall be excluded.

- i. Scrips with average market capitalization more than Rs.10Cr.
- ii. Scrips where company is paying dividend in at least two out of last three years.
- iii. Scrips where company is profitable in at least 2 out of last 3 years and not more than 20% of promoters shareholding is pledged in the latest quarter and book value is 3 times or more than the face value.

➤ Declaration and Undertaking regarding PCC, MCV or equivalent structure by FIIs

SEBI vide circular CIR/IMD/FIIC/1/2010 dated April 15, 2010 had mandated all Foreign Institutional Investors/ Sub Accounts to submit Declaration and Undertaking with regard to their opaque structure such as Protected Cell Companies (PCC), Multi Class Share Vehicles (MCV) or equivalent structure. In light of representations received it is clarified that if any applicant is required by its regulator or under any law to ring fence its assets and liabilities from other funds/ sub funds, such applicant shall not be treated as having opaque structure, provided: a) the applicant is regulated in its home jurisdiction, b) each fund/ sub fund in the applicant satisfies broad based criteria, and c) the applicant gives an undertaking to provide information regarding its beneficial owners as and when SEBI seeks this information - *Notification CIR/IMD/FIIC/21/ 2013, dated: December 19, 2013.*

➤ Deposit Requirements for members of the Debt Segment

Circular - CIR/MRD/DRMNP/37/2013, dated: December 19, 2013 defines deposit requirements for the members of the debt segment as under:

- Stock Broker / Proprietary Trading Member - SEBI circular dated: December 19, 2012 on Base Minimum Capital shall also be applicable to Stock Broker / Proprietary Trading Member of the debt segment.
- Clearing Member (CM) / Self Clearing Member (SCM) - The deposit shall be Rs.10 lacs. No exposure shall be granted against such deposit requirement of the Clearing Member/ Self Clearing Member.

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

Based on circular - CIR/MRD/DP/ 36 /2013, dated: December 16, 2013 the stock exchanges may consider shifting the trading in these securities to normal Rolling Settlement if 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. The Stock Exchanges are advised to report to SEBI, the action taken in this regard in the Monthly/Quarterly Development Report.

➤ Exchange Traded Cash Settled Interest Rate Futures (IRF) on 10-Year Government of India Security

As per Circular - CIR/MRD/DRMNP/35/2013 dated: December 05, 2013 it has been decided to permit stock exchanges to introduce Cash Settled Interest Rate Futures on 10-Year Government of India Security. The product specifications, position limits and risk management framework for cash settled futures on 10-year GoI security is given in Annexure-1. Two different designs (Option-A: Coupon bearing Government of India security as underlying and Option-B: Coupon bearing notional 10-year Government of India security with settlement price based on basket of Securities as underlying) are permitted for cash settled futures on 10-year GoI Security. Exchanges are permitted to launch contracts on either one or both of these options. The cash settled 10-year IRF is being introduced on a pilot basis and the product features would be reviewed based on the experience gained.

➤ Simplification of demat account opening process vide Circular - CIR/MIRSD/12/2013, dated: December 04, 2013

The existing Beneficial Owner-Depository Participant Agreements shall be replaced with a common document "Rights and Obligations of the Beneficial Owner and Depository Participant". The document annexed herewith shall be mandatory and binding on all the existing and new clients and depository participants. This will harmonize the account opening process for trading as well as demat account.

The Depository Participant shall provide a copy of Rights and Obligations Document to the beneficial owner and shall take an acknowledgement of the same. They shall ensure that any clause in any voluntary document neither dilutes the responsibility of the depository participant nor it shall be in conflict with any of the clauses in this Document, Rules, Bye-laws, Regulations, Notices, guidelines and circulars issued by SEBI and the Depositories from time to time. Any such clause introduced in the existing as well as new documents shall stand null and void.

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

➤ Illustrative format of Statement of Assets & Liabilities in SEBI (ICDR) Regulations, 2009 - CIR/CFD/DIL/15/2013, dated: December 3, 2013

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

FOREIGN TRADE POLICY

Highlights

➔ As per *Notification No. 58 (RE-2013)/2009-2014 dated: 18 December, 2013* Foreign Trade Policy has been amended to include Limited Liability Partnerships (LLPs) in the definition of “Group Company”. Neither partnership nor proprietorship firm would come within the ambit of definition of a “Group Company”.

➔ As per *Notification No 59 (RE-2013)/2009-2014, dated 19 December, 2013* export of onion for the item description at serial number 51 & 52 of Schedule 2 of ITC (HS) Classification of Export & Import Items shall be permitted subject to a Minimum Export Price (MEP) of US\$ 350 per Metric Ton F.O.B.

➔ Relaxations in policy for export of Wood Charcoal to Bhutan vide *Notification No. 60 (RE- 2013)/2009-2014 dated: 23th Dec, 2013.*

➔ Procedure for export of Value Added products of Red Sanders wood by Government of Andhra Pradesh - *Public Notice No. 42 (RE-2013)/2009-2014, dated: 3 December, 2013.*

Territory of Delhi as appropriate Government Treasury for the purpose of deposit of Value Added Tax dues in relation to a dealer who are registered or liable to be registered under the Act and from contractees (TAN holders).

Notification no. F.7 (400)/Policy/VAT/2011/PF/1107-1120 - dated 20-12-2013 - Delhi Value Added Tax.

➔ As per *Notification No. F.3(393)/Policy/VAT/2013/1086-1096 dated: 19/12/2013*, the department of Trade and Taxes has made it mandatory w.e.f. 1st fortnight of January, 2014, that details of programmes/ functions to be organized in Banquet Halls/ Farm Houses/ Marriage or party halls, hotels, open ground etc where food and/or liquor items are served and cost of booking exceeds Rs 1 Lakh per function is to be submitted through return in Form BE-2 at least 3 days before the start of fortnight.

➔ Certain procedures need to be followed by Special Auditor for conducting Special Audit under Section 58A of the DVAT Act, 2004 vide *Circular VAT - Delhi - No. F/V Audit/Spl. Audit/2012/4231-39 dated: December 19, 2013.*

For more details please visit: <http://www.charteredonline.in/2013/12/procedure-to-be-followed-by-special.html>

➔ Filing of R.10 block of Form 1 for 2009-10, 2010-11, 2011-12 and 2012-13 and for 2nd quarter return of 2013-14 extension of period thereof – *Circular - VAT - Delhi - No.29/2013. 14 dated: December 12, 2013.*

FOREX MANAGEMENT ACT

Highlights

➔ As per *Circular No. 81 A.P. (DIR Series)- RBI/2013-14/416, dated: December 24, 2013* it has been decided to permit such resident entities / companies in India, authorized by the Government of India, to issue tax-free, secured, redeemable, non-convertible bonds in Rupees to persons resident outside India to use such borrowed funds for the purpose of lending / re-lending to the infrastructure sector; and for keeping in fixed deposits with banks in India pending utilization by them for permissible end-uses.

➔ Amendment of the existing policy on issue of shares by unlisted Indian Companies under FCCB/ADR/GDR, pursuant to the Foreign Currency Convertible Bonds and Ordinary shares (Through Depository Receipt Mechanism) (Amendment) Scheme, 2013- *FEMA - No. Press Note No. 7 (2013 Series) dated: December 3, 2013 - FDI GUIDELINES.*

➔ External Commercial Borrowings (ECB) by Holding Companies / Core Investment Companies for the project use in Special Purpose Vehicles (SPVs) – *Circular - FEMA - No. 78 dated: December 3, 2013.*

VALUE ADDED TAX

Highlights

➔ Renotify Bank of Maharashtra located in National Capital

COMPANIES LAW

Highlights

➔ **Clarification with regard to applicability of section 182(3) of the Companies Act, 2013 vide Circular No. 19/2013, dated: 10.12.2013.**

(i) Companies contributing any amount or amounts to an Electoral Trust Company’ for contributing to a political party or parties are not required to make disclosures required under section 182(3) of companies Act, 2013. It will suffice if the Accounts of the company disclose the amount released to an Electoral Trust Company.

(ii) Companies contributing any amount or amounts directly to a political party or parties will be required to make the disclosures laid down in section 192(3) of the companies Act, 2013.

(iii) Electoral Trust companies will be required to disclose all amounts received by them from other companies/sources in their Books of Accounts and also disclose the amount or amounts contributed by them to a political party or parties as required by section 182(3) of companies Act, 2013.



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