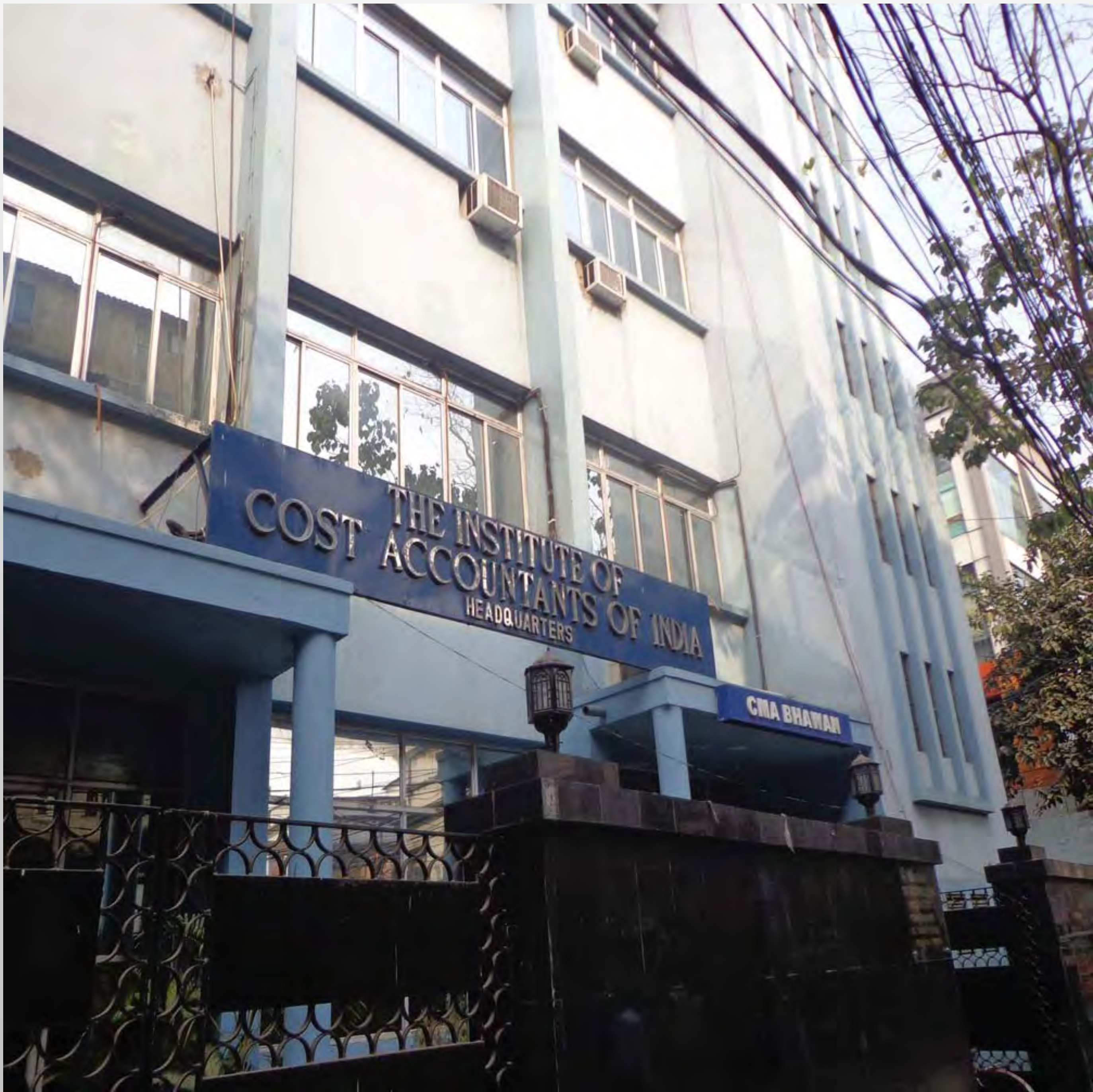
CMA E - BULLETIN

The Institute of Cost Accountants of India

(Statutory Body under an Act of Parliament)

JULY 2013 • Vol. 1 • No. 4



www.icmai.in

Editorial Preface

Greetings!!!

We are pleased to release the fourth issue of *"CMA E-Bulletin"* before our esteemed readers. We have inserted one important segment in this issue viz. "Indian Economy" for the benefit of the readers. The "Guest Column" has also been incorporated in this issue like the previous one. Hope you will enjoy reading this issue of e-bulletin. We look forward to your valuable suggestions and comments for further improvement.

Contents

Chairman's Message

The Indian economy is now going under stagflation phase. India's growth prospects continue to remain below trend even as most of the major economies are witnessing moderate improvements. Last week Government data showed industrial output shrank 1.6 %. The sectors which registered growth rate of over 5 % are construction, trade, hotels, transport and communication, financing, insurance, real estate and business services, and community, social and personal services. There may be slow growth in the sectors of agriculture, forestry and fishing (1.8 %), manufacturing (1.9 %) and electricity, gas and water supply (4.9 %). The growth in the mining and quarrying sector is estimated to be (0.4 %).

I hope the relevant updates on different sectors of our economy compiled here will be much useful for the readers.

CMA Manas Kr. Thakur
Chairman
Research, Innovation & Journal Committee

President's Message

Fiscal deficit is putting the Indian economy into more stress. The rupee's recent steep fall against the dollar reflects economic and fiscal weakness. Exports fell 4.6 % in June 2013, compared to 2012. India's GDP growth fell to 4.8 % in the first quarter, a decadal low, and is expected to fall further. The inflation rose to 4.86 % in June, a three-month high. The consumer price index has risen to close to 10 % in June, as food and vegetable prices increase. CMAs can play a pivotal role in this crucial juncture of our economy through cost leadership.

It gives me immense pleasure that "CMA E-Bulletin" is being published successfully every month since April 2013. Hope this e-bulletin will enrich the readers about the different segments of our economy providing the current updates.

CMA Suresh Mohanty
President
The Institute of Cost Accountants of India

Guest Column

Offshore Financial Centres and Tax Evasion, Money Laundering and Terrorist Financing

Offshore Financial Centres (OFCs) constitute an important part of the international financial system. Six of the top eleven international financial centres – London, New York, Hong Kong, Singapore, Zurich and Geneva (Switzerland), Tokyo, Seoul and Frankfurt (Germany) are in OFCs.

OFCs (many of which are tax havens) are mostly small island states where transactions with non-residents far outweigh transactions related to residents and which provide incentives like low or zero taxation, moderate or light financial regulation, banking secrecy and anonymity. An OFC is not directly under the control and supervision of the authorities of a particular country and found useful by drug traffickers, corrupt politicians, tax evaders, money launderers and terrorists. The services provided by OFCs cover financial services by banks and other agents, including the taking of deposits from and lending to non-residents, fund management, insurance, trust business, asset protection, corporate planning and tax planning. Many important OFCs have only few domestically owned financial institutions and little non-financial economic activities but a large number of *brass-plate* or *shell* companies, i.e., firms without any *real* existence other than a brass nameplate at its registered address. OFCs allow internet banking, enabling individuals or corporations to open and operate accounts without setting foot in a bank.

Global attention on OFCs increased since the 1997-98 *Asian financial crises* which brought to the forefront the alarming impact of money laundering on financial markets. The success of the OFCs led to their scrutiny and regulation by international organisations regulating like the Financial Stability Board, OECD, Financial Action Task Force, IMF, and BIS's Committee on the Global Financial System.

In the Indian context, the OFCs pose a threat. The Swiss Banking Association Report, 2006 showed the amounts of bank deposits in Switzerland by foreign nationals as follows: India $1,456 billion, Russia $ 470 billion, UK $390 billion, Ukraine $100 billion and China $ 96 billion. Switzerland agreed to amend its laws to accommodate India's demand for providing it with the list of tax evaders who have parked money in its banks and amend the double taxation treaty. However, in 2010, the Swiss Central Bank estimated the total liabilities of Swiss banks toward Indian account holders at about $2.5 billion. This may indicate that the money withdrawn has been invested in other OFCs.

It is already known that bulk of the FDI inflows to India is from Mauritius. FDI inflows from Mauritius have been $ 73.7 billion (38.1 per cent of the total FDI inflows) from April 2000 to March 2013. Clearly this is a part of the Indian black money hidden away in Switzerland and other tax havens, which is being routed through Mauritius, back into India for tax-free investment. A new Tax Information Exchange Agreement with Mauritius has been negotiated. Besides, the two countries are working on a new Double Taxation Avoidance Agreement. However, the India-Mauritius DTAA review is stuck over differences on the type of Limitation of Benefits clause to be inserted in the tax treaty.

In 2010, India became a member of the FATF, an inter-governmental body to combat money laundering and terrorist financing. India also became member of the Egmont Group in May, 2007. The Financial Intelligence Unit-India (FIU-IND) is a member of the Egmont Group, an international organization providing forum for FIUs in the fight against money laundering, terrorist financing and other financial crimes. In May 2011, the FIU-IND signed bilateral MoUs with fifteen countries to facilitate the exchanges of intelligence concerning financial transactions suspected of being related to money laundering and terrorist financing.

Dr. Jita Bhattacharyya
Professor, Department of Commerce
University of Calcutta

Indian Economy

Foreign investment rules relaxed for various sectors :

India relaxed foreign direct investment rules on Tuesday in a broad swathe of industries including telecoms, single brand retail and oil and gas in a bid to lure capital inflows, prop up a sliding currency and rev up growth.

India will achieve revenue target in 2013-14 :

As per the Hon'ble Finance, Minister Mr. P. Chidambaram India will achieve its overall budgeted revenue target in the fiscal year to March.

RBI, bond investors head for pricing clash :

The RBI rejected all bids in a $2 billion sale of Treasury bills on Wednesday, highlighting the increased prospect of a clash with investors over the appropriate price for debt securities during a period of surging yields.

RBI to help mutual funds facing surge in redemptions :

The RBI said on Wednesday that it would provide asset managers with critical access to special funding as the sector faces a surge in redemption requests.

India's measures to stem rupee slide in 2013 :

India's boldest attempt yet to stem a rout in the rupee delivered only a modest lift in the currency but sent bond and stock prices tumbling on Tuesday, sparking concern the unexpected measures inflict too much pain for limited gain .

RBI measures on liquidity necessary for growth :

According to the Mr. Montek Singh Ahluwalia , the short-term measures taken by the RBI to curb rupee liquidity are necessary for growth and will not make a significant difference to the long-term rates .

India will fully fund current account deficit :

According to Hon'ble Finance, Mr. P. Chidambaram India will "fully and safely" fund its current account deficit this fiscal year without depleting its forex reserves .

Economy likely to grow 6 % in FY14 :

According to Hon'ble Finance, Mr. P. Chidambaram India - India's economy is likely to grow at 6 percent or slightly more for the current fiscal year to March 2014.

Inflation quickens in June, adds to Government Woes :

India's headline inflation picked up for the first time in five months in June, driven by higher food prices, adding to the economic challenges facing Prime Minister Manmohan Singh's government and reducing the odds of an early national election.

Core wholesale inflation seen at around 2.1 % in June :

India's core wholesale price index in June was estimated to have risen around 2.1 percent in June from a year earlier, easing from an annual rise of around 2.4 percent in May.

Bank loans up 13.7 % y/y in two weeks to June 28 :

As per the Reserve Bank of India's weekly statistical supplement Indian bank loans rose 13.7 % from a year earlier in the two weeks to June 28, while deposits were up 13.8 percentage.

June trade deficit narrows, helped by clampdown on gold imports :

India's trade deficit narrowed in June from a 7-month high the previous month, helped by a slowdown in gold imports, but the relief may not last long as low prices and the coming wedding season are expected to bolster demand for the yellow metal.

June headline inflation seen higher, driven by a weaker rupee :

India's headline inflation probably picked up again in June as a weaker rupee pushed up manufacturing and fuel costs but it was still within the Reserve Bank of India's comfort level, according to a Reuter's poll.

Iran asks India to settle all oil payment in rupees :

According to a Govt. source Iran has asked India to settle all oil trade including $1.53 billion owed to Tehran in the partly convertible rupee as the sanctions-hit nation cannot find an alternative payment channel

RBI extends relaxation on ECB cost ceiling till Sept 30 :

The Reserve Bank of India has extended its relaxation of the all-in-cost ceiling for issuers of external commercial debt until September 30, thus making it easier for banks and companies to raise overseas funds for several more months.

India looks to US in struggle to boost FDI, revive rupee :

Finance Minister Mr. P. Chidambaram won investor approval last year for plans to rein in fiscal deficit but he is struggling to push through proposals to relax rules on foreign direct investment in defense, telecoms, pharmaceuticals and retail. Economists say it is critical for India to boost FDI because the long-term nature of the investment has a more stable influence on the economy. On the other hand, the fickle flows of portfolio investment can have a destabilizing impact. In June alone, $7 billion in portfolio investment fled the country amid a wider emerging markets selloff over concerns that the United States was preparing to rein in its monetary stimulus.

Indian Economy in Short:

- Snapping declining trend of four months, inflation rose to 4.86 per cent in June as kitchen items like onion, rice and other cereals became costlier, adding to the woes of the government.
- Indian Railways expects a huge movement of food grains across the country, once the UPA government's proposed Food Security Bill is passed.
- Retail inflation for industrial workers rose marginally to 10.68 per cent in May on account of increase in the prices of food items, cigarette, country Liquor, electricity charges and allopathic medicines.
- Indian markets are being too pessimistic about the current account deficit, the finance ministry said on Thursday, after data earlier showed the gap had been lower than expected. Current Account Deficit (CAD) touched a record high of 4.8 per cent of GDP in 2012-13 on rising gold and oil imports, though still better than market expectation, bringing relief to the government.
- India's unemployment rose by 2% during July 20011-June 2012, almost the same rate as in 2009-10, as the economic slowdown prompted companies to slow hiring to cut cost.
- Expressing disappointment over RBI's decision to keep key rates unchanged, India Inc said the time was appropriate for cut in interest rates to revive the country's economic growth.
- Expressing concerns over price situation, the RBI today said expensive food items like cereals and vegetables has continued to put pressure on overall inflation rate.

Banking

Master Circular–Basel III Capital Regulations :

RB I/2013-14/70
DBOD.No.BP.BC.2 /21.06.201/2013-14
Dated : July 1, 2013

Please refer to the Master Circular No. DBOD.BP.BC.16/21.06.001/2012-13 dated 2-7-

2012, consolidating therein the prudential guidelines issued to banks till that date on Capital Adequacy and Market Discipline New Capital Adequacy Framework (NCAF). Basel III Capital Regulations is being implemented in India with effect from April 1, 2013 in a phased manner. Accordingly, instructions contained in the aforesaid Master Circular have been suitably updated / amended by incorporating relevant guidelines, issued up to June 30, 2013 and is being issued as Master Circular on 'Basel III Capital Regulations'. The Basel II guidelines as contained in the Master Circular DBOD.No.BP.BC.9/21.06.001/2013-14 dated July 1, 2013 on 'Prudential Guidelines on capital Adequacy and Market Discipline- New Capital Adequacy Framework (NCAF)' may, however, be referred to during the Basel III transition period for regulatory adjustments / deductions up to March 31, 2017.

➤ *Export of Goods and Services– Project Exports :*

RBI//201 2-13/548
A.P. (DIR Series) Circular No.118
Dated : June 26, 2013

Attention of Authorized Dealers is invited to Para B.7 (i) and C.5 (i) of Memorandum of Instructions on Project and Service Exports (PEM), enclosed to A. P. (DIR Series) Circular No. 32 dated October 28, 2003, in terms of which an exporter undertaking Project Exports and Service contracts abroad should submit DPX1, PEX-1 and TCS-1 to the Approving Authority (AA) within 15 days of entering into contract for grant of post-award approval. On a review, it has been decided to increase the time limit and henceforth the exporter undertaking Project Exports and Service contracts abroad should submit form DPX1, PEX-1 and TCS-1 to the Approving Authority (AA) within 30 days of entering into contract for grant of post-award approval. All other instructions issued in terms of PEM, notified vide A. P. (DIR Series) Circular No. 32 dated October 28, 2003, shall remain unchanged.

➤ *Buyback / prepayment of Foreign Currency Convertible Bonds (FCCBs):*

RBI/2012-13/544
A.P. (DIR Series) Circular No. 115
Dated : June 25, 2013

Attention of Authorized Dealer Category-I (AD Category-I) banks is invited to A.P. (DIR Series) Circular No. 39 dated December 08, 2008, A.P. (DIR Series) Circular No. 75 dated June 30, 2011 and A.P. Circular No. 1 dated July 05, 2012 on the captioned subject. Considering the developments in the global financial markets and on a review of the aforesaid scheme, it has been decided that the existing scheme of Buyback / Prepayment of FCCBs under the approval route which expired on March 31, 2013 may be continued till December 31, 2013 and shall stand discontinued thereafter.

➤ *ECB Policy -Import of Services, Technical know-how and License Fees :*

RBI/2012-13/552
A.P. (DIR Series) Circular No.119
Dated : June 26, 2013

Attention of Authorized Dealer Category-I (AD Category-I) banks is invited to the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000, notified vide Notification No. FEMA 3/2000-RB dated May 3, 2000 and the A.P. (DIR Series) Circular No. 5 dated August 1, 2005 relating to the (ECB), as amended from time to time. As per the extant guidelines, eligible borrowers can raise ECB for investment such as import of capital goods new projects, modernization / expansion of existing production units in the real sector industrial sector including SME, infrastructure sector as defined under the ECB policy and entities in service sector viz. hotels, hospitals and software companies.

➤ *Import of Gold by Nominated Banks /Agencies:*

RBI/2012-13/557
A.P. (DIR Series) Circular No. 122
Dated : June 27, 2013

Attention of Authorised Persons is drawn to our A.P. (DIR Series) Circular No. 103 dated May 13, 2013 & A.P. (DIR Series) Circular No. 107

dated June 04, 2013, on the captioned subject in terms of which, it was decided to restrict the import of gold on consignment basis by banks, nominated agencies/ premier / star trading houses who have been permitted by Govt. of India, to import gold only to meet the genuine needs of the exporters of gold jewellery. Further, it was advised that all Letters of Credit to be opened by Nominated Banks / Agencies for import of gold under all categories will be only on 100 per cent cash margin basis and imports of gold will necessarily have to be on Documents against Payment (DP) basis.

➤ Security and Risk Mitigation Measures for Card Present and Electronic Payment Transactions :

RBI/2012 -1 3/540

DPSS (CO) PD No.2377 / 02.14.003 / 201 2-13

Dated : June 24, 2013

A reference is invited to our circular dated 22-09-2011 on security issues and risk mitigation measures related to Card Present transactions and circular dated February 28, 2013 on security and risk mitigation measures for electronic payment transactions wherein various timelines were indicated for accomplishment of tasks for securing card and electronic payment transactions. In this regard, representations have been received from the stakeholders for extending the timelines indicated in the above circulars. A review of banks' preparedness for securing card as well electronic transactions indicated that technical glitches like field visits to all the ATM and POS locations, certification delays, re-carding / fall back related issues, non-preparedness of the acquirers leading to rejections, issuers concerns, etc. were hampering the smooth & timely transition to the desired environment for such transactions.

➤ Marginal Standing Facility Rates :

RBI/2013-2014/140

FMD.MOAG. No.79 /01.01.001/2013-14

Dated : July 16, 2013

RBI announced various measures to address the exchange rate volatility. As a part of the measures, it has been decided to recalibrate the Marginal Standing Facility (MSF) rate at 300 basis points above the policy Repo rate under the Liquidity Adjustment Facility with immediate effect. Consequently, the Marginal Standing Facility (MSF) rate will now be **10.25 %.**

➤ Standardization and Enhancement of Security Features in Cheque Forms/Migrating to CTS 2010 standards :

RBI/2013-14/141

DPSS.CO.CHD.No./133 / 04.07.05 / 2013-14

Dated : July 16, 2013

Please refer to the instructions contained in our Circular no. DPSS.CO.CHD. No.1622 / 04.07.05/2012-13 dated March 18, 2013 wherein the timeline for withdrawal of residual non-CTS-2010 standard cheques was extended up to July 31, 2013 subject to a review in June 2013. Banks were also advised to report the progress made towards migration to CTS-2010 on a monthly basis. On a review of the position and the progress made by banks in this direction, it has been noticed that while banks have begun to issue fresh cheques in the CTS-2010 format there is still a large volume of non-CTS-2010 format cheques being presented in image-based clearing. Accordingly, it has been decided to put in place the following arrangements for clearing of residual non-CTS-2010 standard cheques.

➤ Housing Sector: New sub-sector CRE (Residential Housing) within CRE & Rationalisation of provisioning, risk-weight and LTV ratios :

RBI/201 2-13/538

DBOD.BP.BC.No. 104/08.12.015/2012-13

Dated: June 21, 2013

Please refer to paragraph 82 of the Monetary Policy Statement 2013-14 on 'Commercial Real Estate Residential Housing: Prudential Norms', announced on May 3, 2013, which sated that a separate sub-sector of 'CRE-Residential Housing' will be carved out of CRE sector. As loans to the residential housing projects under the Commercial Real Estate Sector exhibit lesser risk and volatility than the CRE Sector taken as a whole, it has been decided to carve out a separate sub-sector called Commercial Real Estate Residential Housing from the CRE Sector. CRE-RH would consist of loans to builders/developers for residential housing projects (except for captive consumption) under CRE segment. Such projects should ordinarily not include non-residential commercial real estate. However, integrated housing projects comprising of some commercial space can also be classified under CRE-RH, provided that the commercial area in the residential housing project does not exceed 10% of the total Floor Space Index of the project. In case the FSI of the commercial area in the predominantly residential housing complex exceeds the ceiling of 10%, the project loans should be classified as CRE and not CRE-RH. The above-mentioned CRE-RH segment will attract a lower risk weight of 75% and lower standard asset provisioning of 0.75% as against 100% and 1.00%, respectively for the CRE segment.

➤ *Trade Credits for Imports into India –Review of all-in-cost ceiling :*

RBI/2013-14/132

A.P. (DIR Series) Circular No.9

Dated : July 11, 2013

RBI reviews all-in-cost ceiling of Trade Credits for imports into India. It had been decided that for availment of trade credit, period of trade credit should be linked to operating cycle and trade transaction.

➤ *Direct Benefit Transfer Scheme :*

RBI/2013-14/129

RPCD.CO. LBS.BC.No.11/02.01.001/2013-14

Dated : July 9, 2013

While reviewing progress of seeding of Aadhaar number in bank accounts, banks are advised to proactively take steps to open a large number of bank accounts, seed these accounts with Aadhaar numbers and view it as a sustainable & scalable business opportunity.

➤ *ECB Policy—Non-Banking Finance Company– Asset Finance Companies :*

RBI/2013-14/126

A.P. (DIR Series) Circular No. 6

Dated : July 8, 2013

Till date, Non Banking Finance Companies under Asset Finance Companies category were allowed to avail ECBs, but only under approval route. RBI now decides that NBFC-AFCs can avail ECBs under automatic route so long as minimum average maturity period is five years.

➤ *Department of Industrial Policy and Promotion :*

RBI/2013-14/117

A.P. (DIR Series) Circular No.01

Dated: July 4, 2013

Department of Industrial Policy and Promotion (DIPP) issues guidelines for calculation of total foreign investment in Indian companies, transfer of ownership and control of Indian companies and downstream investment by Indian companies.

➤ *Payment of interest on overdue public deposits :*

RBI/2013-14/121

DNBS.PD/CC.No.350/03.02.001/2013-14

Dated : July 4, 2013

RBI provides detailed procedures for payment of interest by NBFCs on public deposits that have been frozen under directions from government authorities.

➤ *Bank Rate :*

RBI/201 3-14/138

Ref: DBOD.No.Ret.BC. 31 /12.01.001/2013-14

Dated : July 15, 2013

As announced in the Press Press Release 2013-2014/100 dated July 15, 2013, the Bank Rate stands adjusted by 200 basis points from 8.25 per cent to 10.25 per cent with effect from July 15, 2013. All penal interest rates on shortfall in reserve requirements, which are specifically linked to the Bank Rate, also stand revised as indicated in Annex.

Annex
Penal Interest Rates which are linked to the Bank Rate

Item	Existing Rate	Revised Rate (Effective from July 15, 2013)
Penal Interest rates on shortfalls in reserve re-quirements (depending on the duration of shortfalls)	Bank Rate plus 3.0 % points (11.25%) or bank Rate plus 5.0 % points (13.25%)	Bank Rate plus 3.0 % points (13.25) or Bank Rate plus 5.0 % points (15.25%)

Revision in Bank Rate :

RBI/201 3-14/139
UBD BPD (PCB) Cir. No.1/16.11.00/2013-14
Dated : July 15, 2013

Please refer to our circular UBD BPD (PCB) Cir. No.48/16.11.00/2012-13 dated May 03, 2013 on the captioned subject. As announced in the Press Release 2013-2014/100 dated July 15, 2013, the Bank Rate stands revised by 200 basis points from 8.25 per cent to 10.25 % with effect from July 15, 2013. All penal interest rates on shortfall in reserve requirements, which are specifically linked to the Bank Rate, also stand revised as indicated in the Annex. The interest rate on refinance for SSI under Section 17(2) (bb) read with Section 17(4) (c) of the Reserve Bank of India Act, 1934, also stands revised to 10.25 per cent with effect from July 15, 2013.

Foreign Trade

Amendments to Foreign Trade Policy :

Notification No. 25 (RE-2013)/ 2009-2014
Dated: 3rd July, 2013

Cut and polished diamonds of 0.10 carat or above can be exported and thereafter re-imported duty free after certification by authorized laboratories. Earlier this was allowed for diamonds of size 0.25 carat and above only.

Amendments to Foreign Trade Policy :

Notification No. 28 (RE-2013)/2009-2014
Dated: 24th July, 2013

A SEZ unit/Developer/ Co-developer may be allowed to dispose of in DTA any waste or scrap, including any form of metallic waste and scrap, generated during manufacturing or processing activity, without an authorization, on payment of applicable Customs Duty as per the amendments made to Foreign Trade Policy 2009-14.

Validity of IEC for EOQ/SEZ :

Circular No.2 (RE-2013)/2009-2014
Dated: 26th July, 2013

DGFT has decided that an IEC will remain valid irrespective of a firm's status as a DTA unit or an EOU or a SEZ/ EHTP/STP/BTP unit and prescribed the procedure to be followed in case a firm/unit is de-bonded and converted to DTA.

Income Tax

Extension of due date for filing of Returns of Income from 31.07.2013 to 05.08.2013 :

The due date for filing return of Income has been extended from 31.07.2013 to 05.08.2013.

Special counters for filing returns of Income from 31st July, 2013 to 5th August, 2013 :

In view of extension of due date for filing of return of Income, special arrangements has been made for accepting the returns of income from 01.08.2013 to 05.08.2013 (including 3rd and 4th August, being Saturday and Sunday, respectively) to facilitate the tax payers to file their returns.

Due Date for Filing the returns of Income extended for the state of Uttarakhand :

Considering the large-scale devastation due to recent natural calamity in the State of Uttarakhand, the CBDT, in exercise of powers conferred under section 119 of the Income-tax Act, 1961, hereby extends the 'due-date' for filing Returns of Income required to be furnished by 31st July, 2013 to 31st October, 2013, in respect of income-tax assessee's residing or assessed in the State of Uttarakhand.

TDS Returns :

The Income Tax Department through NSDL has released the latest File Validation Utility (FVU) version 3.8 on 29/06/2013 which would be applicable from 01/07/2013. Both regular TDS returns and correction statements will have to be validated through this new FVU.

For details

www.incometaxindia.gov.in

Direct Taxes Code bill to be introduced in monsoon session :

Direct Tax Code (DTC) Bill to be introduced during the forthcoming monsoon session of the Parliament vide ET dated 4th July, 2013.

CBDT withdraws Circular on PSM method, amends Circular on Development centres :

CBDT withdraws circular no. 2 on Profit Split Method (PSM), says circular appeared to give impression that PSM was most preferred method in cases involving unique intangibles; Amends Circular no. 3 to clarify meaning of phrases such as 'economically significant functions' and 'low or no tax jurisdiction'; Rescission of circular No.2 and amendment and reissue of circular No.3 will clear all ambiguities; Safe Harbour rules under consideration, to be issued shortly; CBDT Press Release.

No cost, No capital gains tax on additional FSI; follows B.C. Srinivasa Setty ruling :

Additional FSI acquired at no additional cost; Additional FSI became available to the assessee due to operation of development control regulation; Transfer only of rights of additional FSI; Given no cost, no capital gain could be charged following SC decision in B.C. Shrinivas Shetty; Relied on jurisdictional HC ruling wherein held that transfer only in year of giving possession : Mumbai ITAT.

Bhatia Nagar Premises Co-operative Society Ltd. [TS-321-ITAT-2013(Mum)]

Specific CIT's registration as Income Tax Practitioner mandatory before representation :

Certificate of registration as "Income Tax Practitioner" issued by CIT, mandatory to practice before Revenue authorities and ITAT; Mere possession of educational qualification or passing prescribed exams not sufficient; Without certificate of registration from CIT, person not authorised to appear before Revenue and ITAT; Filing of combined power of attorney by advocate and ITP, a wrong practice; Urges advocates /members of bar not to sign blank order-sheet in proceedings; CIT provided no reason for rejection of registration application u/s 12AA other than no show of documents; In absence of reasoned order for rejection and contrary personal affidavit from representative, matter restored to CIT : Agra ITAT.

Samagra Vikas Mahila Samiti [TS-324-ITAT-2013 (AGR)]

Valuation by Valuation Officer u/s 50C to be adopted; Denies further rebate :

Assessing Officer bound to accept value determined by Valuation Officer, if lower than stamp duty valuation, as per Sec. 50 C r.w.s 16A of Wealth Tax Act; Assessee contended for higher rebate over market value due to irregular shape of plot transferred; ITAT rejects assessee's contention for further reduction in the value determined by Valuation Officer u/s 50C(3); Since in assessee's case, value determined by Valuation Officer was less than stamp- duty valuation, AO bound to adopt the same : Delhi ITAT.

Dr.Yashpal Agarwal [TS-286-ITAT-2013(DEL)]

MAT & MAT credit neither arbitrary nor ultra-virus the Constitution :

Quashes assessee's petition challenging constitutional validity of MAT u/s. 115JA and MAT credit u/s 115 JAA; Provisions neither arbitrary nor unreasonable; Book profit u/s 115 JA falls within definition of "income" u/s 2(24); Tax as computed on the basis of book profits is a tax on income; Article 14 does not forbid reasonable classification and to be tested on the basis of whether it bears a reasonable nexus with object of the statute; In matters of fiscal legislation, the legislature enjoys a greater degree of flexibility and discretion in respect of classification : Delhi HC.

Ester Industries Ltd. [TS-311-HC-2013(DEL)

No TDS on transmission charges, being part of sale contract of gas :

Transmission charges paid by assessee-buyer to the seller (GAIL) of natural gas forms an essential part of the sale contract; Entire transaction constitutes "contract for sale " and not 'works contract'; TDS provisions not applicable; No difference whether transmission charges part of consolidated sale bill or raised separately as long as raised by the seller; However, TDs u/s 194C applicable on transmission charges paid for natural gas transmitted by GAIL, but purchased from third parties; Relied on Gujarat HC ruling in Krishak Bharati Co-operative Ltd and CBDT Circular 9 of 2012 : Lucknow ITAT.

Kribhco Shyam Fertilizers Ltd. [TS-284-ITAT-2013 (LKW)]

Allows depreciation on client acquisition cost, being intangible asset :

Allows depreciation u/s 32(1)(ii) on client acquisition cost in a slump sale agreement; Payment held to be towards acquiring intangible asset, being "business or commercial rights of similar nature"; The acquired customer base provides an impetus to the business of the assessee since customers with proven track record acquired; Such customers are an assured source of economic benefit to the assessee; SC ruling in Smifs Securities followed : Hyderabad ITAT.

SKS Micro Finance Ltd. [TS-283-ITAT-2013(HYD)]

Sec 80IA deduction not restricted to laying new power distribution network :

Deduction u/s 80IA(4)(iv)(b) allowed for profits derived from transmission or distribution of power through new network; Generation of power not a pre-condition for claiming deduction, since the 3 clauses of 80IA (4)(iv) are mutually exclusive not cumulative; Tax holiday available to any of the 3 activities viz. generation of power, distribution/ transmission of power and modernization of existing distribution/transmission network; Jaipur ITAT ruling in Maharaja Shree Umaid Mills Ltd and Finance Minister's budget speech relied upon; Deduction cannot be restricted to activity of laying of such network of new lines; Proviso to Clause (b) Sec. 80IA(4)(iv) appears to throttle down the benefit given by the main enactment : Cochin ITAT.

Kinfra Exports Promotion Industrial Parks Ltd. [TS-291-ITAT-2013(COCH)]

Consideration for goodwill taxed as capital gains, not as 'business income' :

Rejects taxation of amount received towards goodwill on conversion of sole proprietorship into partnership as "non-compete" fees; AO failed to demonstrate that there was agreement under which assessee agreed not to carry out any activity related to business; Assessee carried on same business as partner instead of as sole proprietor; Any business concern, run successfully for more than 25 years at a particular location, would automatically generate goodwill of its own; Income from transfer of goodwill taxable as long term capital gains & not business income : Cochin ITAT.

Shri K.S. Mathew [TS-277-ITAT-2013(COCH)]

Resulting company's appeal post demerger valid, Appeals by demerged company create duplicity:

Post demerger, appeal should be filed in the name of 'resulting company' and not in the name of demerged company; 'Resulting company' has right to be a party to litigation and is legally answerable and accountable; Burden of tax liability on resulting company gives an inherent right to defend litigation; Appeal filed by resulting company valid and appeals filed by demerged company on protective basis are duplicate appeals and not maintainable in eyes of law; In demerger, the parties can file revised Form No 36 as per Rule 26 of ITAT rules to effect change of name, instead of filing new appeal : Ahmedabad ITAT.

Cairn Energy Gujarat BV [TS-275-ITAT-2013 (Ahd)]

Upholds Sec 54 EC exemption before set-off of long term capital loss :

Exemption u/s 54EC for investment in specified bonds available on long term capital gains (LTCG) before set-off of long term capital loss (LTCL); Rejects Revenue's contention that effect of Sec 70(3) (loss set off) to be given before Sec. 54EC; Sec. 54EC not on different footing vis-a-vis similar sections (like Sec. 54/ 54EA/ 54EB) despite no specific mention of Sec. 54EC in Sec. 45(1) : Madras HC.

Vijay M.Mahtaney [TS-314-HC-2013(MAD)]

Allows exemption u/s 54 EC on investment out of advance, despite actual sale later:

Investment in REC Bonds before the date of actual sale also eligible for Sec 54EC exemption from capital gains; Investment was made on the basis of agreement to sale; Earnest money/ advance forms part of the sale consideration and if invested in specified assets before the date of transfer of the asset, qualifies for exemption u/s. 54EC; Relies on CBDT Circular No. 359 dated May 10, 2003 in the context of Sec 54E; Relies on Nagpur ITAT ruling in Bhikulal Chandak HUF : Pune ITAT.

Subhash Vinayak Supnekar. [TS-315-ITAT-2013 (PUN)]

Delhi HC overrules ITAT, Deemed speculative definition u/s 73 Explanation applies to share derivative:

Loss from trading of derivatives in shares held as 'deemed speculative'; When underlying asset (i.e. shares) is covered by Sec 73 explanation, derivatives deriving its values from shares falls within the Explanation to Sec 73(4); Overrules ITAT ruling; Exclusion of derivatives from definition of speculative transactions u/s 43 limited to computation of business income; It cannot be applied to deeming fiction created by statute u/s 73; Definition enacted for only a restricted purpose or objective should not be applied to achieve other ends or purposes : Delhi HC.

DLF Commercial Developers LTD [TS-316-HC-2013(DEL)]

Advances for project allowed as 'application' of funds u/s 11(5), not investment :

Upholds tax relief u/s 11 to a society formed at the instance of Government's Ministry; Advances towards project implementation to be treated as 'application of income' and not investment from grant; The word 'applied' in Sec 11(2) need not necessarily imply 'spent'; Rejects AO's contention that application of funds by assessee was not according to Sec 11 (5); Interest earned by assessee not considered as income since government had an overriding title on it : Delhi ITAT.

Natrip Implementation Society. [TS-319-ITAT-2013 (DEL)]

Upholds addition of provision for doubtful advances to book profit u/s 115 JB :

Upholds addition of provision for doubtful advances in computing book profit u/s 115JB; Rejects assessee's interpretation of term 'set aside' used in clause (i) of Explanation to Sec 115JB which reads as 'amount or amounts set aside as provision for diminution in the value of any asset'; Addition to book profit not limited to amount separated out as a reserve fund, as stated by assessee; Simple meaning of clause (i) is that amounts appropriated as provision for diminution in the value of asset are to be included in book profit : Mumbai ITAT.

I Dream Productions Pvt. Ltd. [TS-329-ITAT-2013 (Mum)]

➤ Deletes Sec 40 (a) (ia) disallowance, Interprets 'due date' as date of filing tax return :

Dismisses Revenue's appeal and deletes disallowance u/s 40(a)(ia) of the Act for failure deduct tax on professional fees u/s 194J; No violation of TDS provisions where assessee following cash system, made payment in March 2007 and TDS deposited in April 2007; Interprets amendments to Sec 40(a) since 2007 -2010; The expression "said due date" as per proviso to Sec 40(a)(ia) refers to the due of filing tax return and not the due date of making TDS payment; Relies on SC ruling in SC ruling in Allied Motors (P) Limited in the context of Sec 43B : Delhi HC.

Rajinder Kumar [TS-312-HC-2013(DEL)]

➤ Foreign agency commission not taxable in India, TDS not applicable :

Disallowance u/s 40(a)(i) for failure to deduct tax not applicable on payment of commission to foreign agents; Commission income not taxable in India as services rendered outside India and in absence of PE in India; No Sec. 40(a)(ia) disallowance applicable to shortfall in TDS on payments to residents; Reliance placed on SC ruling in GE Technology Centre & Calcutta HC ruling in S. K. Tekariwal : Chennai ITAT.

Leather India [TS-303-ITAT-2013(CHNY)]

➤ Foreign exchange fluctuations, a part of export turnover, eligible for 80 HHC deduction :

Difference due to foreign exchange fluctuation should be included in the value of goods for computing export turnover to claim Sec 80HHC deduction; Amount was ultimately received in Indian currency as total amount for export of goods; Rejects Revenue's contention that difference attributable to fortuitous circumstances and hence, not eligible for Sec 80 HHC deduction; Unabsorbed depreciation and carried forward losses to be set-off to arrive at the total income for deduction u/s 80HHC; Relied on its own ruling in JK Industries : Karnataka HC.

Novell Software Development (I) Pvt. Ltd [TS-269-HC-2013(KAR)]

Customs

➤ Notification No. 37 / 2013– Customs :

Dated : July 22, 2013

Amends notification No. 46/2011-Customs, dated 1st June, 2011 so as to include Hilsa Fish (HS 03038910) imported from Myanmar under India-ASEAN Free Trade Agreement.

➤ Notification No. 36/ 2013- Customs :

Dated : July 22, 2013

Amends S. No. 139A of notification No. 12/2012 -Customs, dated 17-03-2012 so as to allow any importer to import Liquefied natural gas (LNG) and natural gas (NG) for supply to a generating company for generation of electrical energy at Nil rate of Customs duty.

➤ Seeks to notify Tiruchirappalli Airport for courier import and export operations :

Notification No.74/2013-Customs (N.T.)
Dated: 12th July, 2013

CBEC makes regulations to amend the Courier Imports and Exports (Clearance) Regulations, 1998, namely:-

(1) These regulations may be called the Courier Imports and Exports (Clearance) Amendment Regulations, 2013.

(2) They shall come into force on the date of their publication in the Official Gazette.

(3). In the Courier Imports and Exports (Clearance) Regulations, 1998, in regulation 2, in sub-regulation (2), in clause (a), for the words "Calicut" the words "Calicut, Trichirappalli shall be substituted.

Note: The principal Notification No.87/98-Customs (N.T.), dated the 9th November, 1998 was published in the Gazette of India, Extraordinary vide number G.S.R. 662(E), dated the 9th November, 1998 and was last amended vide Notification No.84/2011-Customs (N.T.), dated the 29th November, 2011, published in the Gazette of India vide number G.S.R 847(E), dated the 29th November, 2011.

➤ *Introduction of RMS in Exports :*

Circular No. 23/2013 - Customs

Dated 24th June, 2013

Risk Management Systems (RMS) is also introduced in exports in addititon to imports as a trade facilitation measure and for selective interdiction of high risk consignments for Customs control.

➤ *Standard Unit Quantity Code (UQC) :*

Circular No. 26 /2013 –Customs

Dated: 19.07.2013

CBEC notes that Standard Unit Quantity Codes (UQC) indicated in the Customs Tariff Act, 1975 are not being uniformly declared by importers and exporters for the same items across different Customs locations. This impacts data quality and makes comparisons and aggregations difficult. The use of non-uniform UQCs for the same item also vitiates the quality of the NIDB data and reduces its utility to the assessing officers, who are unable to ascertain the contemporaneous values or assessment practice of a given item in different Customs locations. Therefore, the solution lies in improving the quality of data by using standard UQCs.

In this regard, it is seen that the Customs Tariff Act, 1975 prescribes only a single Unit Quantity Code (UQC) against each Tariff Item, and it is the requirement of the law that the same is properly declared by importers/exporters/ Customs Brokers in the Bills of Entry/Shipping Bills.. Accordingly, it is directed by the Board that Customs field formations should ensure that only the correct and prescribed Standard UQC as per the Customs Tariff Act, 1975 is mentioned in Bills of Entry/ Shipping Bills.

Anti-Dumping Duty

➤ *Notification No.12/2013 Customs (ADD) :*

Dated: 25-06-2013

Seeks to extend the levy of anti-dumping duty imposed vide notification No. 75/2008-Customs, dated the 10th June, 2008 on imports of 'Acetone', originating in, or exported from, Korea RP for a further period of one year i.e. upto and inclusive of 9th June, 2014

➤ *Notification No.13/2013-Customs (ADD) :*

Dated : 25-06-2013

Seeks to extend the levy of anti-dumping duty imposed vide notification No. 74/2011-Customs, dated the 12th August 2011 on imports of 'Pentaerythritol', originating in, or exported from, Chinese Taipei for a further period of one year i.e. upto and inclusive of 27th April, 2014.

➤ *Notification No.14/2013 Customs (ADD) :*

Dated : 03-07-2013 :

Seeks to impose anti-dumping duty on imports of 'Acetone', exported from M/s Chang Chun Plastics Co Ltd, Chinese Taipei and were subjected to provisional assessment by order vide notification No. 44/2011-Customs, dated the 27th May, 2011.

➤ *Notification No.15/2013 Customs (ADD) :*

Dated : 03-07-2013

Seeks to levy anti-dumping duty imposed on imports of 'Poly Vinyl Chloride Resin, originating in, or exported from, European Union.

Notification No.16/2013 Customs (ADD) :

Dated :t 05-07-2013

Seeks to extend the levy of anti-dumping duty imposed vide notification No. 133/2008-Customs, dated the 12th December, 2008 on imports of 'Rubber Chemicals', originating in, or exported from, Peoples's Republic of China for a further period of one year i.e. upto and inclusive of 4th May, 2014.

Notification No.17/2013 Customs (ADD) :

Dated : 05-07-2013

Seeks to extend the levy of anti-dumping duty imposed vide notification No. 92/2011-Customs, dated the 20th September, 2011 on imports of 'Rubber Chemical', originating in, or exported from, Korea RP for a further period of one year i.e. upto and inclusive of 4th May, 2014.

Service Tax

Service Tax Return

Service Tax return (ST-3) for the period October'12 to March'13 is now available for e-filing. It can be downloaded from the offline utility from http://acesdownload.nic.in/ or from 'DOWNLOADS' Section of ACES website.

Exemption on services provided to SEZ authorized operations

Notification No. 12 / 2013-Service Tax

Dated: 1st July, 2013

Special Economic Zones (SEZs) are exempted from service tax that is leviable under section 66B of Finance Act, 1994. Exemption shall be provided by way of refund of service tax paid on specified services received by SEZ Unit or the Developer subject to certain conditions.

For more details

www.servicetax.gov.in/servtax_notfns_index.htm

SEBI

FII/QFI investments in Security Receipts :

Circular: CIR/IMD/FIIC/9/2013

Dated : July 9, 2013

Foreign Institutional Investors investments in Security Receipts issued by Asset Reconstruction Companies should be within FII limit on corporate bonds prescribed from time to time. Investments in Security Receipts issued by Asset Reconstruction Companies by FII's shall be reckoned against extant Corporate Debt Limits.

Revised Position Limits for Exchange Traded Currency Derivatives :

Circular: CIR/MRD/DP/ 22 /2013

Dated : July 8, 2013

In view of recent turbulent phase of extreme volatility in USD-INR exchange rate, it has been decided to curtail position limits and increase margin requirements for Currency Derivatives as follows:

- **Margins:** Initial and extreme loss margins shall be increased by 100% of the present rates for USD-INR contracts in Currency Derivatives.

- **Client level position limits**: The gross open position of a client across all contracts shall not exceed 6% of the total open interest or 10 million USD, whichever is lower.

- **Non-bank Trading Member position limits:** The gross open position of a Trading Member, who is not a bank, across all contracts shall not exceed 15% of the total open interest or 50 million USD whichever is lower.

Stock Exchanges are directed to:

- Take necessary steps to put in place systems for implementation of the circular, including necessary amendments to the relevant byelaws, rules and regulations;

- Implement provisions of this circular with effect from July 11, 2013;

- Bring the provisions of this circular to the notice of the trading members/clearing members and also disseminate the same on its website.

This circular is being issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

➤ *Arbitration Mechanism in Stock Exchanges–Investor Service Centre :*

Circular: CIR/MRD/ICC/21/2013

Dated : July 5, 2013

Stock Exchanges with nation-wide terminals shall set up investor service centres at Bangalore, Pune, Jaipur, Gaziabad, Lucknow, Gurgaon, Patna and Vadodara. These centres shall provide investor grievances redressal mechanism and arbitration facility (arbitration as well as appellate arbitration). Presently, these facilities are being provided at 8 centres viz. Delhi, Mumbai, Kolkata, Chennai, Ahmedabad, Hyderabad, Kanpur and Indore.

Provident Fund

➤ *EPFO to launch online provident fund claim settlement facility in July :*

Source: Press Trust of India

Dated : June 30, 2013

The Employees' Provident Fund Organisation (EPFO) will launch online provident fund transfer and withdrawal facility in the first week of July, benefiting over 50 million subscribers. "We are planning a soft launch of facility to apply online for transfer and withdrawal of the provident fund on July 3 or 4," K K Jalan, EPFO's recently appointed central provident fund commissioner, told PTI. EPFO is expecting 1.2 crore claims in the current fiscal year. Its own estimates indicate that as many as 5, 38,704 claims were pending as on June 11 this year. The body has already called all zonal heads for a meeting on July 5 to work out a plan to settle a large number of claims in three days. The facility will also enable subscribes to track online the status of their applications on transfer or withdrawals.

➤ *EPFO to keep interest rate on PF unchanged at 8.5% in 2013-14 :*

Source: Press Trust of India

Dated : June 23, 2013

Retirement fund body EPFO is likely to pay an interest rate of 8.5 per cent on provident fund deposits for 2013-14 to its over five crore subscribers, the same as provided in 2012-13. "The rate of interest on PF deposits is unlikely to be changed for the current fiscal at 8.5 per cent," a source privy to the development said. Employees' Provident Fund Organisation (EPFO) paid 8.5 per cent interest rate to its subscribers in 2012-13 which was higher than 8.25 provided in the 2011-12 fiscal.

Value Added Tax

➤ *No.F.7(433)/Policy-II/VAT/2012/458-469 :*

Dated: July, 17, 2013

If the Goods Receipt Number (GR) is not available in advance, Form T-2 would need to be filed without Goods Receipt Number. However, the GR Number would need to be updated within 24 hours of receipt of the goods by the Delhi dealer. In such cases the Delhi dealer shall not dispose of/sell/dispatch such goods till the GR number in Form T-2 is updated online. The other contents of the Notification No. 7(433)/ Policy-II/ VAT/2012/180-190 dated 17/05/2013 shall remain the same.

No.F.3(356)/Policy/VAT/2013/ 412-423 :

Dated: July, 11, 2013

Dealers who have elected to pay tax under section 16 of the Act, that the retail invoice issued under sub section (4) of Section 50 of the Act, besides containing the particulars as specified in sub section (5) of Section 50 of the Act, henceforth shall also contain the following words at the top of the invoice: *"Composition Dealer" (Not eligible to charge VAT on Bill) .*

No. F.3(364)/Policy/VAT/438-449 :

Dated: July, 11, 2013

All the TAN holders responsible for deduction of TDS under section 36A of the Delhi Value Added Tax Act, 2004 (hereinafter referred to as 'the Act'), shall issue TDS certificate electronically in Form DVAT-43 duly generated from the departmental website, to the contractor(s). A unique ID will be generated on such certificates. The contractor(s) shall mention unique ID Number(s) in his return Form DVAT-16/DVAT-17 for claiming credit under section 36A(6) of the Act. All TAN holders shall file the return in Form DVAT-48, online through the departmental website, for each quarter commencing from the quarter ending 30th June, 2013.

No.F.3(4)/Fin. (Rev-I)/2013-14/ DS-VI/519 :

Dated: July, 09, 2013

No.F.3(4)/Fin.(Rev-I)/2013-14/DS-VI/519.

No.F.3(6)/Fin. (Rev-1)/2013-14/ DS VI/499 :

Dated: July, 04, 2013

Amendment in the Central Sales Tax (Delhi) Rules,2005.

No.F.5(54)/Policy-II/VAT/2012-13/325-336 :

Dated: June, 20, 2013

Amendments in the entry at Sl.No.1 in Part-A, for the sub entry at Sl.No.57, the following shall be substituted, namely:-

"(57) Grand Duchy of Luxembourg

For official use: All purchases made against a single tax invoice subject to the restriction that the minimum invoice limit shall be Rs.9000/- excluding tax.

For personal use of diplomats: The minimum invoice limit shall be Rs.18, 000/- excluding tax. Exemption/Refund of VAT shall not be granted on food items, drinks and meals."

No.F.7(453)/Policy/VAT/2012/ 298-308 :

Dated: June, 18, 2013

With effect from 1st July, 2013, the application for registration in Form DVAT-04 under section 19 of the Delhi Value Added Tax Act, 2004, shall be submitted online by the applicant dealer on the departmental website. Further, such dealer shall also submit a hard copy of the application with supporting documents, within three working days of electronic filing of such application, in the concerned ward.

" India will fully and safely fund its current account deficit this fiscal year without depleting its forex reserves. "

— **Mr. P. Chidambaram**

(Hon'ble Finance Minister—Government of India)

Please send your feedback at

research@icmai.in

For Further Development of

CMA E—BULLETIN

DIRECTORATE OF RESEARCH, INNOVATION & JOURNAL

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

HEADQUARTERS

CMA BHAWAN, 12, SUDDER STREET, KOLKATA-700 016, INDIA
PHONES: +91-33-2252 1031/1034/1035/1492/1602/1619/7143/7373
Fax: +91-33-2252-7993/1026

DELHI OFFICE

CMA BHAWAN, 3, INSTITUTIONAL AREA, LODHI ROAD,
NEW DELHI –110003, INDIA
PHONES: +91-11-24622156/57/58, 24618645
Fax: +91-11-43583642

OFFICE OF RESEARCH, INNOVATION & JOURNAL

CMA BHAWAN, 4TH FLOOR, 84, HARISH MUKHERJEE ROAD,
KOLKATA - 700 025, INDIA
Board: +91-33-2454-0086/87/0184, Fax: +91-33-2454 0063

Behind Every Successful Business Decision, there is always a CMA

UPDATED UPTO JULY 20, 2013

Editor : CMA (Dr) Debaprosanna Nandy