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EDITORIAL

Indian economy is likely to grow in the range of 5.4 to 5.9 per cent in 2014-15: Economic Survey

Indian economy is likely to grow in the range of 5.4 to 5.9 per cent in 2014-15 overcoming the sub-5 per cent GDP growth of past two years, even as poor monsoon and disturbed external environment remain a cause for concern, says the Economic Survey.

“The growth slowdown in the last two years was broad based, affecting in particular the industry sector. Inflation too declined during this period, but continued to be above the comfort zone, owing primarily to the elevated level of food inflation”, said the Survey for 2013-14 tabled by finance minister.

A revival of India’s banking industry following the recent formation of a new, stable government is likely to be gradual, as per an industry report card, “Indian banks are banking on the new Government for revival,” published by Standard & Poor’s Ratings Services.

Shri Arun Jaitley estimated that public sector banks will need Rs.2.4 trillion of capital by 2018 to comply with Basel III international regulatory norms. “To meet this huge capital requirement we need to raise additional resources to fulfill this obligation,” he said. “While

preserving the public ownership, the capital of these banks will be raised by increasing the shareholding of the people in a phased manner through the sale of shares largely through retail to common citizens of this country.”

Risks to the stability of Indian banks have increased in the six months ended 30 March as asset quality stress remains high and lenders are weighed down by the slow pace of economic expansion and high inflation, the Reserve Bank of India (RBI) said in its bi-annual Financial Stability Report. The central bank predicts that gross non-performing assets (NPAs) of lenders will remain steady at 4-4.1% by the end of fiscal 2015, compared to 4% at the end of March 2014. However, there are chances that the NPA ratio could increase further to 5.5% if macroeconomic conditions deteriorate. The central bank also highlighted the risk of increased lending by insurance companies.

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

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BUDGET 2014-2015

Income Tax Highlights

1. Personal Income-tax exemption limit raised from Rs 2 lakhs to Rs 2.5 lakhs in the case of individual taxpayers, below the age of 60 years. Exemption limit raised from Rs 2.5 lakhs to Rs 3 lakhs in the case of Senior Citizens. No change in income tax rates.
2. Investment limit under section 80C of the Income-tax Act raised from Rs 1 lakh to Rs 1.5 lakhs.
3. Annual PPF ceiling to be enhanced to Rs.1.5 lakhs from Rs.1lakh
4. Government notified a minimum pension of Rs.1000 per month to all subscriber members of EP Scheme. Initial provision of Rs 250 crore.
5. Tax exemption on interest component on housing loan raised to Rs.2lakh from Rs.1.5lakhs
6. Introduction of range concept for determination of arm's length price in transfer pricing regulations
7. To remove tax arbitrage, rate of tax on long term capital gains increased from 10 percent to 20 percent on transfer of units of Mutual Funds, other than equity oriented funds
8. 10 year tax holiday extended to the undertakings which begin generation, distribution and transmission of power by 31.03.2017.
9. In case of non deduction of tax on payments, 30% of such payments will be disallowed instead of 100 percent
10. Income arising to foreign portfolio investors from transaction in securities to be treated as capital gains

Gainers

1. Basic custom duty on LCD and LEDs below 19 inch reduced to zero from 10 per cent.
2. CRT TVs exempted from customs duty to help poor
3. Reduction in the excise duty from 12 percent to 6 percent on footwear of retail price exceeding Rs500 per pair but not exceeding Rs 1,000 per pair.
4. To incentivize expansion of processing capacity, reduction in excise duty on specified food processing and packaging machinery from 10 percent to 6 percent.
5. For passenger facilitation, free baggage allowance increased from Rs 35,000 to Rs 45,000.
6. Concessional basic customs duty of 5 percent extended to machinery and equipment required for setting up of a project for solar energy production.

Losers

1. Cigarettes, gutkas, cigars to cost more - Specific rates of excise duty increased on cigarettes in the range of 11 per cent to 72 per cent. Excise duty increased from 12 percent to 16 percent on pan masala, from 50 percent to 55 percent on unmanufactured tobacco and from 60 percent to 70 percent on gutkha and chewing tobacco.
2. Imported electronics goods to cost more. A cess to be introduced
3. Sugary carbonated drinks to get costlier.
4. Withdraw concessional excise duty (2 percent without Cenvat benefit and 6 percent with Cenvat benefit) on smart cards and a uniform excise duty at 12 percent.
5. Basic customs duty on metallurgical coke increased from Nil to 2.5 percent in line with the duty on coking coal.

New Projects & Developments

1. Airports to be developed in tier 1 and 2 cities, 16 new port projects to be awarded this year
2. Investment in NHAI and state highways to the tune of Rs.37,887 crore, including Rs.3000 crore for North East
3. Rs.500 crore for solar power development project in Tamil Nadu and Rajasthan
4. Govt. proposes to set up 100 smart cities. Govt. to provide Rs.7,060 crore for development of such cities.
5. 20 new industrial clusters announced
6. Rs 11635 crore will be allocated for the development of Outer Harbour Project in Tuticorin for phase I.
7. Project on Ganges called " Jal Marg Vikas" to be developed between Allahabad and Haldia
8. Rs.500crore allocated for stabilizing prices of agricultural commodities
9. Rs.3600 crore set aside for National Rural Drinking Water
10. Rs.500 crore allocated for stabilizing prices of agricultural commodities
11. Allocation for National Housing Bank increased to Rs 8000 crore to support Rural housing
12. FM announces development of Metro rails in PPP mode in all cities of 20 lacs+population; Rs.100 crore set aside for Metro scheme in Ahmedabad and Lucknow
13. Rs.100 crores to set up virtual classrooms
14. Rs.500 crores for setting up 5 more IIMs and IITs
15. 24X7 customs clearance facility extended to 13 more airports in respect of all export goods and to 14 more sea ports in respect of specified import and export goods to facilitate cargo clearance.
16. SEZs will be developed in Kandla and JNPT. Comprehensive policy to be announced to promote Indian ship building industry

Foreign Direct Investment

1. Government to promote FDI selectively in sectors
2. The composite cap of foreign investment to be raised to 49 per cent with full Indian management and control through the FIPB route.
3. The composite cap in the insurance sector to be increased up to 49 per cent from 26 per cent with full Indian management and control through the FIPB route.
4. The manufacturing units to be allowed to sell its products through retail including Ecommerce platforms.

Common Man in Budget

1. Govt. committed to provide 24x7 power supply to all homes
2. Toilets in every home by 2019
3. Single KYC norms for all financial services and one demand account for all financial products
4. Propose to provide finance to 5 lakh landless farmers through NABARD
5. Rs 1000 crore provided for "Pradhan Mantri Krishi Sinchayee Yojna" for assured irrigation
6. Women's safety: Rs.100 crores for Beti Bachao, Beti Padhao Yojana
7. Rural Housing: Rs.8000 crores for National Housing Banking programme
8. The subsidy regime to be made more targeted for full protection to the marginalized, poor and SC/ST
9. Employment exchanges to be transformed into career centres. A sum of Rs 100 crore provided

INDIAN ECONOMY

News

➤ Finance minister Arun Jaitley presents Modi govt's first budgets

Prime Minister Narendra Modi's government presents its first budget on July 10, 2014.

Source: *Hindustan Times*, dated: July 10, 2014

➤ India's Modi eyes first labor overhaul in decades to create jobs

Prime Minister Narendra Modi has set in motion the first major revamp in decades of India's archaic labor laws, part of a plan to revive the flagging economy, boost manufacturing and create millions of jobs.

Source: *Reuters*, 29 Jun 2014

➤ India to present federal budget on July 10: government sources

India's new finance minister Arun Jaitley will present the federal budget for the 2014/15 financial year on July 10, government sources said, three days after the parliament begins its budget session.

Source: *Reuters*, 23 Jun 2014

➤ India's Modi government takes steps to control inflation

India's new government imposed export restrictions on certain farm commodities and ordered a crackdown on hoarding to control rising food prices, a day after wholesale price inflation hit a five-month high.

Source: *Reuters*, 17 Jun 2014

➤ New ECB long-term loans not likely to revive euro zone lending

The European Central Bank's latest offers for long-term cash won't revive lending in the region despite expectations for strong demand, a Reuters poll showed on 17th June, 2014.

Source: *Reuters*, 17 Jun 2014

➤ Central bank governor reassures as oil spike highlights India risks

India is ready to deal with any external shock arising from the Iraq crisis, its central bank chief said on Tuesday, even as a spike in oil prices heightens the inflation, growth and budget risks facing new Prime Minister Narendra Modi.

Source: *Reuters*, 17 Jun 2014

➤ India's Modi kicks into gear with defense, dam projects

India's new government kicked into gear this week, clearing billions of dollars worth of long-delayed defense projects, including a big navy base, as well as approving the scaling-up of one of the country's biggest dams.

Source: *Reuters*, 13 Jun 2014

➤ India's new government reveals plan for jobs, low inflation

India's new government will use public and private investment to create jobs for the millions who enter the workforce every year and will make containing inflation its top priority, President Pranab Mukherjee told parliament on 9th June, 2014.

Source: *Reuters*, 09 Jun 2014

➤ Services activity grows for first time in nearly a year

Activity in India's huge services industry expanded for the first time in nearly a year in May, driven by a surge in new business, a survey showed on 4th June, 2014.

Source: *Reuters*, 04 Jun 2014

➤ RBI eases inflation tone, loosens credit in gesture to Modi

Reserve Bank of India (RBI) governor Raghuram Rajan on Tuesday eased rules to spur bank lending and toned down his inflation rhetoric in moves set to be welcomed by a new pro-business government determined to revive economic growth.

Source: *Reuters*, 03 Jun 2014

➤ Expert views: RBI keeps key rate unchanged, loosens

Reserve Bank of India (RBI) Governor Raghuram Rajan kept the country's key policy repo rate unchanged at 8 percent on Tuesday, as widely expected, with consumer price inflation coming down this year after a series of tightening steps by the central bank.

Source: *Reuters*, 03 Jun 2014

➤ Online Trading Facility to Demat Account Holders – UCBs

It has been decided to allow only Scheduled Primary (Urban) Co-operative Banks, with prior approval of the Reserve Bank, to provide online trading facility to their demat account holders by entering into a tie-up with a broking entity subject to fulfilling the following criteria:

(i) Assessed networth of such UCBs should not be less than Rs 500 crore as per last inspection.

(ii) UCBs are Financially Sound and Well Managed, as per criteria prescribed in our circular UBD.CO.LS.(PCB).Cir.No.24/07.01.000/2013-14 dated October 1, 2013.

(iii) UCBs should be registered with SEBI as Depository Participants.

(iv) UCBs should have implemented Core Banking Solutions (CBS) fully and are offering Internet Banking services to their customers.

Source: *RBI/2013-14/645 dated: RBI/2013-14/645*

BANKING

Notifications/Circulars

➤ Export Credit Refinance Facilities

As per Circular No. RBI/2013-14/621, dated: Jun 03, 2014 it has been decided to reduce the eligible limit of Export Credit Refinance

(ECR) facility for schedule banks (excluding RRBs) from the level of 50 per cent of the outstanding rupee export credit eligible for refinance as at the end of the second preceding fortnight to 32 per cent with immediate effect.

➔ **Limit for Liberalized Remittance Scheme**

LRS for resident individuals has been increased from USD 75,000 to USD 125,000 vide Circular No. 138 (RBI/2013-14/624) dated: Jun 03, 2014.

➔ **Statutory Liquidity Ratio**

As per the announcement in the Second Bi-monthly Monetary Policy statement 2014-15 by Reserve Bank of India on June 3, 2014, it has been decided to reduce the Statutory Liquidity Ratio (SLR) of Regional Rural Banks from 23 per cent of the Net Demand and Time Liabilities (NDTL) to 22.50 per cent with effect from the fortnight beginning June 14, 2014 vide *circular no. RBI/2013-14/626 dated: Jun 04, 2014*.

➔ **Special Term Repo Auction**

Introduction of special term repo auctions of 28-day tenor for a notified amount up to 0.25 per cent of net demand and time liabilities (NDTL) of the banking system vide Circular No. RBI/2013-14/627 dated: Jun 04, 2014. The 28-day special term repo auction will usually be conducted on non-reporting Fridays. The first such special term repo auction will be conducted on June 6, 2014.

➔ **CRR for Non-Scheduled Primary (Urban) Co-operative Banks**

CRR for Non-Scheduled Primary (Urban) Co-operative Banks has been increased by 100 basis points from 3.00 per cent to 4.00 per cent of their total demand and time liabilities, on par with Scheduled Primary (Urban) Co-operative Banks, with effect from the fortnight beginning July 12, 2014 vide Circular No. RBI/2013-14/628 dated: Jun 05, 2014.

➔ **Foreign Direct Investment (FDI)**

In terms of the Schedule *ibid*, Foreign Direct Investment (FDI) is permitted up to 26 per cent under automatic route in insurance sector vide Circular No.139 (RBI/2013-14/629) dated: Jun 05, 2014.

➔ **Annual Turnover Target on behalf of Mid-segment and Retail investors for Primary Dealers (PDs)**

As per Circular No. RBI/2013-14/630 dated: Jun 05, 2014, it has been decided to enhance the minimum annual target for mid-segment and retail investors to 100 percent of minimum prescribed Net Owned Funds (NOF) for bank PDs and to 150 percent of minimum prescribed NOF for standalone PDs. This minimum annual target will be applicable for the period July 2014-June 2015. This target will be reviewed annually.

➔ **One Documentary Proof of Address - RBI further**

simplifies KYC Norms for Bank Accounts

Reserve Bank has been receiving representations/references from various quarters' especially migrant workers, transferred employees, etc. regarding problems faced in submitting a proof of current/permanent address while opening a bank account. Accordingly it has been decided to simplify the requirement of submission of 'proof of address' as follows:

a. Henceforth, customers may submit only one documentary proof of address (either current or permanent) while opening a bank account or while undergoing periodic updation. In case the address mentioned as per 'proof of address' undergoes a change, fresh proof of address may be submitted to the branch within a period of six months.

b. In case the proof of address furnished by the customer is not the local address or address where the customer is currently residing, the bank may take a declaration of the local address on which all correspondence will be made by the bank with the customer. No proof is required to be submitted for such address for correspondence/local address. This address may be verified by the bank through 'positive confirmation' such as acknowledgment of receipt of (i) letter, cheque books, ATM cards; (ii) telephonic conversation; (iii) visits; etc. In the event of change in this address due to relocation or any other reason, customers may intimate the new address for correspondence to the bank within two weeks of such a change.

Source: RBI/2013-14/634 dated: June 9, 2014

➔ **Need for bank branches/ATMs to be made Accessible to persons with disabilities**

UCBs are now advised to take appropriate steps to provide ramps at the entrance of the bank branches so that persons with disabilities / wheel chair users can enter bank branches and conduct business without difficulty. It is observed that some banks have not yet made at least one third of the new ATMs installed as talking ATMs with Braille keypads as advised vide our circular referred to above. It is, therefore, advised that banks should make all new ATMs installed from July 1, 2014 as talking ATMs with Braille keypads and lay down a road map for converting existing ATMs as talking ATMs with Braille keypads as advised in our circular dated April 24, 2009 *ibid* and the same may be reviewed from time to time by the Board of Directors/Customer Service Committee of the Board.

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

Source: Circular No. RBI/2013-14/637 dated: Jun 11, 2014

➔ **Annual Return on Foreign Liabilities and Assets**

Reporting by Indian Companies – Revised format

All Indian companies which have received FDI and/or made FDI abroad in the previous year(s) including the current year, should file the annual return on Foreign Liabilities and Assets (FLA) in the soft form to the Reserve Bank by July 15 every year vide *Circular No. 145 (RBI/2013-14/646) dated: Jun 18, 2014.*

➔ New features in RTGS System

RBI has decided to enable the 'Hybrid' and 'Future value dated transaction' features in the RTGS system with effect from July 14, 2014 vide *Circular RBI/2013-14/651 dated: Jun 20, 2014.* The Hybrid feature will be configured to do off-setting every 5 minutes. The transactions with normal priority would be settled in off-setting mechanism, with a maximum of two attempts i.e. the maximum time a transaction would be in "normal" queue is 10 minutes. If the transactions with normal priority are unable to be settled in offsetting mode within this time, the priority of the transaction would be automatically changed to "urgent". The parameter value will be set to 10%. This means that 10% of the balance in the settlement A/c would be taken for settlement in the offsetting mode.

➔ Recognizing E-Aadhaar as an 'Officially Valid Document' under PML Rules

Know Your Customer (KYC) Norms /Anti-Money Laundering (AML) Standards/ Combating of Financing of Terrorism (CFT)/ Obligation of Payment System Operators under Prevention of Money Laundering Act (PMLA), 2002 – e-KYC Service of UIDAI – Recognizing E- Aadhaar as an 'Officially Valid Document' under PML Rules vide *Circular RBI/2013-14/660, June 20, 2014.*

➔ Reporting of OTC transactions on F-TRAC-Hiving off to CDSIL

In view of the change in ownership of the F-TRAC platform, all eligible market participants are advised to report their OTC transactions in CPs, CDs and repo in corporate debt securities, CP, CD and non-convertible debentures of original maturity less than one year on the reporting platform of Clearcorp Dealing Systems (India) Ltd. (CDSIL) within 15 minutes of the trade for online dissemination of market information. Further, OTC transactions in CP, CD and repo in corporate debt securities, CP, CD and NCDs of original maturity less than one year will continue to be settled through the clearing house of the National Stock Exchange (NSE), i.e., the National Securities Clearing Corporation Limited (NSCCL), the clearing house of the Bombay Stock Exchange (BSE), i.e., Indian Clearing Corporation Limited (ICCL), and the clearing house of the MCX-Stock Exchange, i.e., MCX-SX Clearing Corporation Limited (CCL), as per the norms specified by NSCCL, ICCL and CCL from time to time.

Source: RBI/2013-14/659, dated: Jun 25, 2014

➔ Financial Inclusion by Extension of Banking

Services – Use of Business Correspondents

As per the recommendations of the Mor Committee, the existing guidelines on appointment of Business Correspondents (BCs) have been reviewed as under:

i) Eligible individuals/entities

As per extant instructions, Non-banking Finance Companies (NBFCs) are not allowed to be appointed as Business Correspondents (BCs) by banks. It has been decided that banks will be permitted to engage non-deposit taking NBFCs (NBFCs-ND) as BCs, subject to the following conditions:

- It should be ensured that there is no comingling of bank funds and those of the NBFC-ND appointed as BC.
- There should be a specific contractual arrangement between the bank and the NBFC-ND to ensure that all possible conflicts of interest are adequately taken care of.
- Banks should ensure that the NBFC-ND does not adopt any restrictive practice such as offering savings or remittance functions only to its own customers and forced bundling of services offered by the NBFC-ND and the bank does not take place.

ii) Distance criteria

In terms of circular DBOD No BL BC 43/22.01.009/2010-11 dated September 28, 2010, with a view to ensuring adequate supervision over the operations and activities of the retail outlet/sub-agent of BCs by banks, every retail outlet/sub-agent of BC is required to be attached to and be under the oversight of a specific bank branch designated as the base branch and the distance between the place of business of a retail outlet/sub-agent of BC and the base branch should ordinarily not exceed 30 kms in rural, semi-urban and urban areas and 5 kms in metropolitan centres. In case there is a need to relax the distance criterion, the District Consultative Committee (DCC)/State level Bankers Committee (SLBC) could consider and approve relaxation on merits in respect of under-banked areas etc. With a view to providing operational flexibility to banks and in view of the technological developments in the banking sector, it has been decided to remove the stipulation regarding distance criteria. The banks should, however, while formulating the Board approved policy for engaging BCs, keep in mind the objectives of adequate oversight of the BCs as well as provision of services to customers while deciding how to modify extant distance criteria.

Source: RBI/2013-14/653 dated: Jun 24, 2014

➔ Disclosure of sector-wise advances

Banks are advised to disclose sector-wise advances in the 'Notes to Accounts' to the financial statements as per the format given in the Annex from the financial year 2014-15 onwards. Accordingly, the disclosure requirements contained in the Annex under item "II. Sector wise NPAs" of our circular DBOD.BP.BC.No.79/21.04.018/2009-10 dated March 15, 2010 on 'Additional Disclosures by Banks in Notes to Accounts' shall be replaced by the disclosure requirements specified herein.

Source: RBI/2013-2014/647, dated: Jun 18, 2014

➤ Cross Border Inward Remittance under Money Transfer Service Scheme

Know Your Customer (KYC) norms/Anti-Money Laundering (AML) standards/ Combating the Financing of Terrorism (CFT)/ Obligation of Authorized Persons under Prevention of Money Laundering Act (PMLA), 2002 - Amendment to Section 13(2) - Cross Border Inward Remittance under Money Transfer Service Scheme vide *Circular No. 144 (RBI/2013-14/643) dated: June 16, 2014.*

For more details please visit: www.rbi.org.in > Notifications

➤ Money changing Activities - Powers of Director to impose Fine

With the enactment of Prevention of Money Laundering (Amendment) Act, 2012 and amendment to Section 13 of the Act which provides for “Powers of Director to impose fine”, the section 13(2) now reads as under:

“If the Director, in the course of any inquiry, finds that a reporting entity or its designated director on the Board or any of its employees has failed to comply with the obligations under this Chapter, then, without prejudice to any other action that may be taken under any other provisions of this Act, he may—

- a. issue a warning in writing; or
- b. direct such reporting entity or its designated director on the Board or any of its employees, to comply with specific instructions; or
- c. direct such reporting entity or its designated director on the Board or any of its employees, to send reports at such interval as may be prescribed on the measures it is taking; or
- d. by an order, levy a fine on such reporting entity or its designated director on the Board or any of its employees, which shall not be less than ten thousand rupees but may extend to one lakh rupees for each failure.”

In view of the above amendment, Authorized Persons may nominate a Director on their Boards as “designated Director” to ensure compliance with the obligations under the Prevention of Money Laundering (Amendment) Act, 2012.

Source: *Circular No. 143 (RBI/2013-14/642) dated: Jun 16, 2014*

➤ Section 42(1) of the Reserve Bank of India Act, 1934 and Section 18 & 24 of the Banking Regulation Act, 1949 (AACS)- FCNR (B)/NRE deposits – Exemption from Maintenance of CRR/SLR and Exclusion from ABC for Priority Sector Lending

It has been decided that the exemption granted on incremental FCNR (B) /NRE deposits from maintenance of CRR/SLR will be withdrawn with effect from reporting fortnight beginning June 14, 2014, i.e., only the eligible amount of incremental FCNR (B) and NRE deposits of maturities of three years and above from the base date of July 26, 2013, and outstanding as on June 13, 2014, would qualify for CRR/SLR exemption till their maturities/ pre-mature withdrawals. Further, advances extended in India against the above mentioned incremental FCNR (B)/ NRE deposits,

qualifying for exemption from CRR/ SLR requirements, will be eligible for exclusion from Adjusted Bank Credit, till their repayment, for computation of priority sector lending targets.

Source: *RBI/2013-14/639, dated: Jun 11, 2014*

➤ Introduction of Information System (IS) Audit for Urban Cooperative Banks

It is observed that since then some of the UCBs have adopted technology and have been offering electronic banking, tele banking, electronic clearing/funds transfer, electronic money, smart cards etc to its customers. With a view to integrating the range of services offered by bank branches, providing better customer services, generating MIS reports and various reports for regulators and Government of India. In view of the above and having regard to risks emanating from adoption of technology, there is a need to introduce IS Audit in UCBs. It is, therefore, advised that

- i. UCBs may adopt an IS audit policy, if not already done, appropriate to its level of operations, complexity of business and level of computerization and review the same at regular intervals in tune with guidelines issued by RBI from time to time.
- ii. UCBs may also adopt appropriate systems and practices for conducting IS audit on annual basis covering all the critically important branches (in terms of nature and volume of business).
- iii. Such audits should be undertaken preferably prior to the statutory audit so that IS audit reports are available to the statutory auditors well in time for examination and for incorporating comments, if any, in the audit reports.
- iv. IS audit reports should be placed before the board and compliance should be ensured within the time frame as outlined in the audit policy.

The above instructions may be implemented during the current accounting year i.e April 1, 2014 to March 31, 2015.

Source: *Circular No. RBI/2013-14/638, dated: Jun 11, 2014*

➤ Pledge of shares for business purposes in favour of NBFCs

As per *Circular No.141 (RBI/2013-14/633) dated: June 06, 2014*, AD Category – I banks has been give an the powers to allow pledge of equity shares of an Indian company held by non-resident investor/s in accordance with the FDI policy, in favour of the Non - Banking Financial Companies (NBFCs) – whether listed or not, to secure the credit facilities extended to the resident investee company for bona-fide business purposes / operations, subject to compliance with the conditions.

➤ Foreign investment in India – participation by registered FPIs, SEBI registered long term investors and NRIs in non-convertible/redeemable preference shares or debentures of Indian companies

Based on *Circular No.140 (RBI/2013-14/632) dated: Jun 06, 2014* it has now been decided to allow registered Foreign Institutional Investors (FIIs), Qualified Foreign Investors (QFIs) deemed as registered Foreign Portfolio investors, registered Foreign Portfolio Investors (FPIs), long term investors registered with SEBI – Sovereign Wealth Funds (SWFs), Multilateral Agencies, Pension/ Insurance/ Endowment Funds, foreign Central Banks to invest on repatriation basis, in non-convertible/redeemable preference shares or debentures issued by an Indian company in terms of A.P. (DIR Series) Circular No. 84 dated January 6, 2014 and listed on recognized stock exchanges in India, within the overall limit of USD 51 billion earmarked for corporate debt. Further, NRIs may also invest, both on repatriation and non-repatriation basis, in non-convertible/redeemable preference shares or debentures as above.

➤ **The Banking Laws (Amendment) Act 2012 – Amendments to Section 18 & 24 of Banking Regulation (B.R.) Act, 1949 (AACs) – Maintenance of Cash Reserve Ratio (CRR) for Non-Scheduled StCBs and CCBs and Statutory Liquidity Ratio (SLR) for StCBs and CCBs**

Pursuant to the enactment of the Banking Laws (Amendment) Act, 2012, giving powers to RBI to specify the percentage of CRR for Non-scheduled State cooperative banks (StCBs) and all Central cooperative banks (CCBs) and the percentage of SLR as well as the form and manner of holding SLR by cooperative banks, it has been decided to increase the CRR for Non-Scheduled StCBs and all CCBs by 100 basis points from 3.00 per cent to 4.00 per cent of their total net demand and time liabilities, on par with Scheduled StCBs, with effect from the fortnight beginning July 12, 2014 vide *Circular No. RBI/2013-14/631 dated: June05,2014*.

➤ **Foreign investment in the Insurance Sector – Amendment to the Foreign Direct Investment Scheme**

In terms of the Schedule *ibid*, Foreign Direct Investment (FDI) up to 26 per cent is permitted under automatic route in insurance sector vide Circular No. 139 dated: June 05, 2014.

➤ **Section 24 of the Banking Regulation Act, 1949 - Maintenance of Statutory Liquidity Ratio (SLR)**

As announced in the Second Bi-monthly Monetary Policy statement 2014-15 by Reserve Bank of India on June 3, 2014, it has been decided to reduce the Statutory Liquidity Ratio (SLR) of Regional Rural Banks from 23 per cent of the Net Demand and Time Liabilities (NDTL) to 22.50 per cent with effect from the fortnight beginning June 14, 2014.

Source: *RBI/2013-14/626 dated: Jun 04, 2014*

➤ **Liberalized Remittance Scheme (LRS) for**

resident individuals-Increase in the limit from USD 75,000 to USD 125,000

As indicated in paragraph 13 of the Second Bi-Monthly Monetary Statement, 2014-15, it has now been decided to enhance the existing limit of USD 75,000 per financial year (April-March) to USD 125,000 with immediate effect. Accordingly, AD Category –I banks may now allow remittances up to USD 125,000 per financial year, under the Scheme, for any permitted current or capital account transaction or a combination of both. The Scheme should not be used for making remittances for any prohibited or illegal activities such as margin trading, lottery, etc.

Source: *Circular No.138 (RBI/2013-14/624) dated: Jun 03, 2014*

INCOME TAX & WEALTH TAX

Notifications/Circulars

➤ **CBDT notifies new Wealth Tax Return Form & Rules for Online Filing**

CBDT has vide *notification No. 32/2014 dated 23.06.2014* prescribed new Wealth Tax Return Form BB w.e.f A.Y. 2014-15 instead of old form BA. CBDT has also prescribed that this form can be filed online with or without digital signature. For certain class of assessee i.e. Individual/HUF not liable to tax audit, e-filing is optional but for other class of assesseees i.e. Individual/HUF liable to audit and Companies return of net wealth in FORM BB shall be furnished electronically under digital signature.

➤ **CBDT notifies cost inflation index for FY 14-15 at 1024**

As per Notification No.31/2014/F.No.142/3/2014-TPL dated: 11th June, 2014, cost inflation index for FY 2014 - 15 is 1024.

Case Laws

➤ **Agricultural land sale profit excluded for Sec 115JB book profit computation**

Profit from sale of agricultural land, which is not “Capital Asset” u/s 2(14), to be excluded for purpose of computing book profit u/s 115JB; Item of income which does come under purview of Income tax cannot be subjected to tax under any of the provisions of the Act, therefore, sale of agricultural land which is exigible from tax, cannot be brought under purview of Sec 115JB; Provisions of Chapter XII-B (comprising Sec 115) to 115JB) do not operate to extend the scope of ‘total income’ u/s 5 on which charge to tax u/s 4 is attracted, but is only towards providing an alternative basis for computing the same; Relies on co-ordinate bench ruling in assessee’s own case in earlier year : Cochin ITAT

Source: *The Nilgiri Tea Estate Ltd. [TS-345-ITAT-2014(COCH)]*

➔ ITAT : Upholds exemption on converted agricultural land absent commencement of actual commercial activity

ITAT holds land as 'agricultural', though converted into commercial, thus compulsory land acquisition by NHAI not exigible to capital gains tax; Mere conversion of land from agricultural to commercial does not change character of land until actual commercial activity done on it; As assessee never carried any commercial activity on land (originally purchased as agricultural and subsequently converted into 'commercial') after its purchase, confirms 'agricultural' nature of land; Further, absent material brought on record that NHAI paid compensation treating it as commercial land, upholds CIT(A)'s order holding agricultural land, not being a capital asset u/s 2(14)(iii) : Jodhpur ITAT

Source: *Manju Devi Jagetia [TS-328-ITAT-2014(JODH)]*

➔ TDS inapplicable to export payment 'discount'; Nomenclature alone cannot determine payment nature

Payments to a German company on realization of exports, not liable for tax deduction at source u/s 195 or consequent Sec 40(a)(i) disallowance, as payments in the nature of trade discount, not bonus; Payment was not for rendering of any service but directly related to export sale and realization of amount; Though agreement termed it as 'bonus', nomenclature used in the agreement alone not sufficient to determine the nature of payment; CIT(A) did not give opportunity of being heard while ruling that since the amount was not related to the AY in question, it was not allowable being prior period expenditure; Remits matter back to CIT(A) to consider additional evidence filed by assessee : Mumbai ITAT.

Source: *Hilton Forge [TS-353-ITAT-2014(Mum)]*

➔ HC : No TDS on business service charges reimbursement to subsidiary on cost-sharing basis

HC upholds ITAT order holding payments to subsidiary company on 'cost sharing basis' as not liable to TDS, therefore, consequent Sec 40(a)(ia) disallowance not attracted; Payment of business service charges to subsidiary company essentially incurred in business of subsidiary and paid as salary to employees of subsidiary; Payment not for any service but reimbursement of expenses, therefore, no requirement to deduct tax; Conclusion reached upon by ITAT noticing undisputed factual position is a "possible view", thus, no substantial question of law arises : Bombay HC.

Source: *Emerson Process Management (India) Pvt. Ltd. [TS-369-HC-2014(BOM)]*

➔ ITAT : Immovable property for Sec 194LA TDS

includes 'structure', not merely 'land

TDS u/s 194LA attracted on compensation payments for compulsory acquisition (under Land Acquisition Act) even on structure portion of property, besides land portion, structure falls within ambit of 'immovable property'; TDS liability u/s 194LA not attracted if land / structure acquired under voluntary acquisition under Municipal Act or by any mutual agreement; Assessee, in the present case, acquired property under Land Acquisition Act besides voluntary acquisition under Municipal Act, thus, rejects reliance on CIT(A)'s order of earlier year as it dealt with a case of voluntary acquisition alone; Restores matter back to AO to verify whether payments made for compulsory acquisition or voluntary acquisition, and also to examine Sec. 201(1) applicability in light of SC ruling in Hindustan Coca Cola Beverage : Hyderabad ITAT. Source: *Greater Hyderabad Municipal Corporation [TS-368-ITAT-2014(HYD)]*

➔ ITAT: Grants Sec 244A interest on self-assessment tax paid pre return filing

ITAT allows Sec 244A interest on refund of self-assessment tax ('SA tax') paid much before return ('ROI') filing date; Rejects CIT(A)'s interpretation that tax paid did not fall under ambit of SA tax u/s 140A as it was not paid alongwith ROI, but paid on estimation basis prior to ROI filing date; Taxes paid prior to ROI filing date have to be construed as 'taxes already paid' u/s 140A(1) (i); Thus, payment of tax falls within ambit of SA tax u/s 140A, entitling assessee for Sec 244A interest; Relies on Karnataka HC ruling in Vijaya Bank and Delhi HC ruling in Sutlej Industries Ltd. : Mumbai ITAT

Source: *P.N. Writer & Co. Pvt. Ltd. [TS-374-ITAT-2014(Mum)]*

➔ ITAT: Takes strict view on TDS from Indian 'shipping agent' payments applying Circular 723

ITAT rules that CBDT Circular 723 makes Sec. 194C & Sec. 195 TDS provisions inapplicable only if assessee proves that payments were made to non-resident shipping companies which were assessed u/s 172 of the Act; Clarifies that assessee (a marble importer) ought to fulfil these conditions even when payments are made through Indian agents of foreign shipping companies; Sets-aside CIT(A)'s order as CIT(A) was carried away merely by residential status of agents while confirming disallowance in respect of payments made to shipping companies; Rejects Revenue's reliance on jurisdictional HC ruling in Orient Goa Pvt Ltd, as it dealt with demurrage charges, not freight & insurance charges as in the present case; Remands matter back to AO absent assessment of shipping companies : Mumbai ITAT

Source: *Raj Girish Karia [TS-376-ITAT-2014(Mum)]*

CENTRAL EXCISE

Notifications/Circulars

➤ Quarterly Return for the First Stage Dealer/ Second Stage Dealer/ Registered Importer

The Quarterly Return for the First Stage Dealer/ Second Stage Dealer/ Registered Importer - The quarterly return for the First Stage Dealer/ Second Stage Dealer/ Registered Importer for the period April-June, 2014 is required to be filed on or before 15th July 2014. Importers who are registered with Central Excise for issuing cenvatable invoices can e-file their quarterly returns now using the offline or online versions available in ACES. The offline version can be downloaded from <http://acesdownload.nic.in/> or from the Download link of the ACES website (<http://www.aces.gov.in>).

➤ Government extends excise duty concession on Motor Car and Capital Goods for a period of six months beyond 30th June, 2014 i.e. till 31st December 2014

In February 2014, the Government had reduced the excise duty on:

- Small cars, motorcycles, scooters, three wheelers and commercial vehicles from 12% to 8%;
- Mid-segment cars from 24% to 20%;
- Large cars from 27% to 24%

Now in order to provide a fillip to the capital goods and automobile sector, and to revive the economic growth, the Government of India has decided to extend these duty concessions beyond 30th June for a period of six months upto 31st December, 2014 vide *Notification No. 06/2014-Central Excise dated: 25th June 2014*.

Case Laws

➤ Waiver of pre-deposit of duty - manufacture

Applicants are putting Motorcycles and scooters to electrolyte and charge the battery of the two-wheelers - Demand is confirmed on the ground that this activity amounts to manufacture - Held that: - applicant being dealers only charging the battery by putting electrolyte. Prima facie this activity cannot be considered as manufacture of motorcycles. The pre-deposit of the remaining amount of dues are waived and recovery of the same is stayed during the pendency of the appeal - Stay granted.

Source: Sai Point Automobiles Pvt. Ltd. versus Commissioner of Central Excise, Nagpur [2014 (6) TMI 788 - CESTAT Mumbai - Central Excise]

➤ Waiver of pre-deposit of duty - Valuation of goods - Job work

Applicants are not including the value of waste and scrap retained by them in the value of finished products for the purpose of payment of duty - Held that: - Major portion of the demand is in respect of the

goods manufactured on behalf of Steel Authority of India Ltd. The applicants are paying duty at the sale price of Steel Authority of India Ltd. as per the provisions of Rule 10A of the Valuation Rules. In this situation, the value of waste and scrap retained by the applicant cannot be considered as additional consideration - In respect of the goods manufactured on behalf of KEC International Ltd., in similar situation in the case of Sanvijay Rolling & Engineering Ltd. vide order dated 15-11-2011, the Tribunal directed the assessee to pre-deposit part amount of duty and the Hon'ble Bombay High Court set aside the order passed by the Tribunal. In view of the above, the applicant has made out a strong case, therefore pre-deposit of the dues is waived and recovery of the same is stayed during the pendency of the appeal - Stay granted.

Source: Shilpa Steel & Power Ltd. versus Commissioner of Central Excise, Nagpur (2014 (6) Tmi 681 - Cestat Mumbai - Central Excise)

➤ Waiver of pre-deposit of duty - 100% EOU - Clearance of fruit pulp to their DTA unit - DTA unit got processed the fruit pulp and ultimately sold the juice

Revenue is of the view that the applicants and the DTA are related person, therefore the applicants are liable to pay duty on MRP on the juice cleared by the DTA unit - Held that: - applicants cleared fruit pulp and are liable to pay appropriate duty on the fruit pulp and not on the juice, hence the applicant has a prima facie case in their favour and the amount already deposited is sufficient for hearing of the appeal. Pre-deposit of the remaining dues is therefore waived and recovery thereof stayed for hearing of the appeal. - Stay granted.

Source: Mother Dairy Fruit & Vegetable Pvt. Ltd. versus Commr. of C. Ex., Mumbai-V [2014 (6) TMI 680 - CESTAT MUMBAI - Central Excise]

➤ Duty demand - Reversal of CENVAT Credit - Credit on destroyed goods

Goods destroyed in flood - Held that:- Goods lost in flood were semi-finished goods and duty on excisable goods is payable at the time of clearance only. Semi-finished goods cannot be cleared; therefore duty is not payable by the appellants. Following the decision of this Tribunal in Lakshmi Precision Tools Ltd. - [2005 (11) TMI 347 - CESTAT, CHENNAI], this Tribunal has categorically held that stock in progress damaged in fire accident, appellant not intending to claim remission of duty on any goods destroyed in fire accident, hence not filed any remission application nor reported the accident to the Central Excise department. In that circumstance, payment of duty is not sustainable. Further it was held that issue in the case of Elam Pharma Pvt. Ltd. (2010 (6) TMI 473 - CESTAT, AHMEDABAD) this Tribunal held that issue of reversal of credit arises only when the final product destroyed in fire. Admittedly, in this case the goods are in semi-finished condition lost in flood. Therefore, appellants are not required to reverse input credit also. - Decided in favour of assessee.

Source: *Urmi Chemicals versus Commissioner of Central Excise, MUMBAI-III [2014 (6) TMI 785 - CESTAT MUMBAI - Central Excise]*

CUSTOMS

Notifications/Circulars

Customs Broker Licensing Regulations 2013

Representations have been received in the Board regarding difficulties being faced on account of divergent practices at the time of renewal of Customs Brokers licenses under CBLR, 2013. It is represented that there is a need for clarity in regard to amount of security / bank guarantee that is required for the renewal of a license since some formations are asking for the enhanced security under CBLR, 2013. It is also contended that the documentation requirements at the time of renewal of license varies from one Customs House to another.

The matter has been examined by the Board. Regulation 8 of CBLR, 2013 mandates that before granting the license under regulation 7, the Commissioner of Customs shall require the successful applicant to enter into the bond and where specified a surety bond for due observance of the said Regulations and furnish a security in the form of bank guarantee, a postal security or National Saving Certificate (NSC) in the name of Commissioner of Customs for an amount of Rs. 5 lakhs for carrying out the business as Customs Broker. The amount of security has been enhanced from Rs. 75,000/- under Custom House Agents Licensing Regulations (CHALR), 2004 to Rs. 5 lakhs in CBLR 2013. Accordingly, the Board had issued Circular No.42/2004-Cus dated 10.06.2004 clarifying that at the time of renewal of licenses of Customs Brokers license, enhanced security will not apply and the same shall apply only to fresh licenses. No new factors have emerged to call for a review of this decision. Hence, it is clarified that the same dispensation shall apply under the present Regulations viz. CBLR, 2013. In other words, the enhanced security amount would not apply to holders of valid licenses issued under erstwhile regulations i.e. CHALR, 2004 or CHALR, 1984 who seek a renewal. Other conditions prescribed under the CBLR, 2013 will have to be satisfied. Source: *Circular No 8/2014-Customs dated: 13th June, 2014*

➤ Tariff Value in respect of some of the imported goods

As per *Notification No. 48/2014 - CUSTOMS (N. T.), dated: 30th June, 2014* CBEC amends principal Notification No. 36/2001-Customs (N.T.), dated: 3rd August, 2001 (last amendment vide Notification No. 46/2014-Customs (N.T.), dated: 13th June, 2014) and fixes the tariff values specified in column (4) of the Table below, in respect of the imported goods of the description specified in the corresponding entry in column (3) of the said Table and falling under Chapter or heading or sub-heading No. of the First Schedule to

the Customs Tariff Act, 1975 (51 of 1975).

TABLE-1

Sl. No	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value US \$ (Per Metric Tonne)
1	1511 10 00	Crude Palm Oil	854
2	1511 90 10	RBD Palm Oil	888
3	1511 90 90	Others – Palm Oil	871
4	1511 10 00	Crude Palmolein	896
5	1511 90 20	RBD Palmolein	899
6	1511 90 90	Others – Palmolein	898
7	1507 10 00	Crude Soyabean Oil	960
8	7404 00 22	Brass Scrap (all grades)	3956
9	1207 91 00	Poppy seeds	3255

TABLE-2

Sl. No	Chapter/ heading/ sub-heading/ tariff item	Description of goods	Tariff value US \$
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 321 and 323 of the Notification No. 12/2012-Customs dated 17.03.2012 is availed	428 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 322 and 324 of the Notification No. 12/2012-Customs dated 17.03.2012 is availed	688 per kilogram

TABLE-3

Sl. No	Chapter/ heading/ sub-heading/ tariff item	Description of goods	Tariff value US \$ (Per Metric Tonne)
1	080280	Areca nuts	1912

➔ Anti-dumping duty

- Levy of definitive anti-dumping duty on imports of homopolymer of vinyl chloride monomer (suspension grade), originating in or exported from Taiwan, the People's Republic of China, Indonesia, Japan, Malaysia, Thailand and the United States of America for a further period of five years vide Circular No. 27/2014-Cus (ADD), dt. 13-06-2014.
- Levy of definitive anti-dumping duty on imports of homopolymer of vinyl chloride monomer (suspension grade), originating in or exported from the European Union and Mexico for a period of five years vide Circular No. 26/2014-Cus (ADD), dt. 13-06-2014.
- Levy of definitive anti-dumping duty on imports of presensitised positive offset aluminum plates originating in or exported from People's Republic of China for a further period of 5 years vide Circular No. 25/2014-Cus (ADD), dt. 09-06-2014.

Case Laws

➔ Valuation - Sample medical equipments received as Gift - Mis declaration regarding value - Confiscation of goods - Redemption fine

Held that: - There is no restriction in the matter of import of medical equipments. Further, the duty payable on medical equipments is also low as may be seen from the fact that the duty demand is only about 10% of the CIF value. In this type of offence, involving only attempt to evade duty and no attempt to circumvent restrictions on import redemption fine and penalty should be based on duty that would have escaped assessment and not on the value of the item. Profit margin on sale of goods is a proper extension in cases of import of restricted goods without the necessary license. The adjudicating officer has put redemption fine of about 50% of the duty sought to be evaded and penalty of about 25% of duty sought to be evaded and these are reasonable and I do not find any reason to interfere with the impugned order - Decided against Revenue.

Source: *Cc, (Airport & Cargo), Chennai versus M/S. Wellcare Hospital & Research Institute [2014 (6) TMI 714 - CESTAT Chennai - Customs]*

➔ Waiver of pre deposit - duty on broken pieces of wrecked ship -

Customs included the cost of the broken ship, salvaging cost, transportation of broken pieces, etc. and as a result, differential duty - Held that:- wrecked ship when purchased had already reached Indian shore and therefore importation has already been taken place. Therefore, the issue is debatable and requires more detailed consideration of relevant provisions, relevant rules, precedent decisions on the subject. - Commissioner (Appeals) could have passed an order without insisting on any pre-deposit. - stay granted.

Source: *M/S Arihant Ship Breakers versus Commissioner of Customs [2014 (6) TMI 783 - CESTAT Bangalore - Customs]*

➔ Waiver of pre-deposit of penalty u/s 114 and 117 -

penalty on steamer agent - Export of prohibited goods

Assessee had no knowledge of bad deeds of exporter - Held that - There is no finding to show that the applicants were aware of the fact regarding export of prohibited goods. The applicant only supplied a container at the request of M/s. J.A. Maritime. In these circumstances, prima facie the applicants have a strong case in their favour. Therefore, pre-deposit of the penalty is waived and recovery of the same is stayed - Matter remanded back - Stay granted

Source: *IAL India Ltd versus Commissioner of Customs (Export)*

➔ Confiscation of goods - sugar for exportation - sub-standard quality

Whether the goods were liable for confiscation for violation of provisions of Section 113 (k) of the Customs Act, 1962 or not - Held that - goods can be held liable for confiscation on account of any willful act, negligence or default of the exporter, his agent of employee. From the facts of this case, it is clear that the appellant has taken proper care before the exportation of the goods. In this circumstance, it cannot be held that the appellants have violated the provisions of Section 113 (k) of the Act. In these circumstances, the goods are not liable for confiscation and consequently redemption fine and penalty are not imposable - Decided in favour of assessee

Source: *Al-Gyas Exports Pvt Ltd versus CC (E. P), Mumbai [2014 (7) TMI 184 - CESTAT Mumbai]*

➔ Penalty u/s 117 - violation of Section 61 of Customs Act, 1962 -

extension of time for warehousing the goods - Held that - no time limit has been prescribed for filing extension for warehousing of the goods. As no time limit is prescribed, therefore, appellant are at liberty to file application for extension of warehousing till the period they have not been asked to pay duty. In this case, admittedly, after expiry of the bonded period, no duty liability was fastened on the appellant and extension has been granted to them. In these circumstances, the appellant has not violated provision of Section 61 of the Customs Act, 1962 - penalty under Section 117 of the Customs Act, 1962 are not imposable - Decided in favour of assessee.

Source: *Cipla Ltd. versus Commissioner of Customs (Import), Nhava Sheva*

SERVICE TAX

Case Laws

➔ Works contract service

Waiver of pre-deposit of Service Tax-Classification of service- Works contract service or Site formation service-Excavation and Earth Moving, Demolition Service, cutting down trees, construction of structure etc. - Held that:- Applicant had initially not disputed the classification of the services rendered under the category of 'site formation service' but expressed their inability

to discharge the service tax being not reimbursed by the service receiver viz. M/s. Brahmaputra Cracker and Polymer Ltd. Prima facie, on scrutiny of the work order enclosed with the appeal memorandum, we find that the applicants are providing the services relating to earth filling, cutting of trees along with the services of raising of RCC structures etc. At this stage, it would be difficult to come to a conclusion whether the said services would fall under the scope of works contract service or site formation service without appreciation of evidences adduced by both sides as these services had been rendered against a common work order - stay granted partly.

Source: *M/S Super Infratech Pvt Ltd versus Commissioner of Service Tax [2014 (6) TMI 694 - CESTAT Kolkata - Service Tax]*

➤ **Valuation - works contract composition scheme - inclusion of advance termed as mobilization advance from their customer**

Held that: - there seems to be contradictory stand taken by the appellant himself, which needs to be verified. - another grievance of the appellant is that the lower authorities have demanded the tax on the mobilization amount separately, by applying the rate of service tax at 10%. - matter remanded back.

Valuation in respect of contract where composition scheme not opted by the assessee - Held that: - the two contracts, where the appellant did not exercise works contract would be assessed to duty in terms of Section 66. The lower authority would also examine the appellant's claim of exemption in respect of construction of roads, involved in one of the contracts, which stand exempted with retrospective effect. - matter remanded back - decided partly in favor of assessee.

Source: *M/s Coastal Projects Limited versus CCE & ST, Bhopal (2014 (6) TMI 692 - CESTAT New Delhi - Service Tax)*

➤ **Waiver of pre-deposit - Cenvat Credit - authorized service stations - Cenvat credit of service tax paid on post sale service**

Held that: - It does not appeal to commonsense how post service obligation of the appellant was a disintegrated activity to deny Cenvat credit. Prima facie there appears a case of balance of convenience in favour of appellant. Accordingly, there shall be waiver of pre-deposit during pendency of the appeal. - Stay granted.

Source: *Terex Equipment Pvt. Ltd. versus Commissioner of C. Ex., Noida [2014 (6) TMI 691 - CESTAT New Delhi - Service Tax]*

➤ **Denial of refund claim - CENVAT Credit - Business Support Service, online information and database access or retrieval service, maintenance and repair service, development and supply of content service**

Held that: - Respondents are providing three output services out of which two services are classifiable under the category of online information and database access or retrieval service, development

and supply of content services which is a separate category altogether and is to be accepted. Similarly the data delivery service provided by the respondent is also a taxable service under the same category. Therefore in respect of these two services, the CENVAT credit availed in respect of input services would be eligible. In respect of IT and system services, both sides agree that credit could not be available during the relevant period to the extent of invoices relatable to this service. The learned counsel agrees to quantify and submit a statement to the original authority giving details under each category which can be verified and decided afresh - Matter remanded back - Decided in favour of Revenue.

Source: *Commissioner of Customs, Central Excise and Service Tax versus M/S Excellence Data Research [2014 (6) TMI 730 - CESTAT BANGALORE - Service Tax]*

SEBI

Notifications/Circulars

➤ **Inter-Governmental Agreement with United States of America under Foreign Accounts Tax Compliance Act - Registration**

The Government of India has advised that India and the United States of America (US) have reached an agreement in substance on the terms of an Inter- Governmental Agreement (IGA) to implement Foreign Accounts Tax Compliance Act (FATCA) and India is now treated as having an IGA in effect from April 11, 2014. However, the IGA may be signed in due course. Information on FATCA is available at: <http://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-FATCA>.

As advised by the Government, the following points may be noted by all SEBI registered intermediaries:

a) Indian Financial Institutions would have time upto December 31, 2014 to register with US authorities and obtain a Global Intermediary Identification Number (GIIN). This time limit would also be applicable to Indian Financial Institutions having overseas branches in Model 1 jurisdictions, including those jurisdictions where an agreement under Model 1 has been reached in substance. Registration should be done only after the formal IGA is signed.

b) Overseas branches of Indian Financial Institutions in a jurisdiction having IGA 2 agreement or in a jurisdiction that does not have an IGA but permits financial institutions to register and agree to a Foreign Financial Institution (FFI) agreement, may register with US authorities within the stipulated time period and obtain a GIIN in accordance with the requirements to avoid potential withholding under FATCA.

c) Overseas branches of Indian Financial Institutions in a jurisdiction that does not have an IGA and does not permit financial institutions to register and agree to an FFI agreement may not

register and their overseas branches would eventually be subject to withholding under FATCA.

d) The Government has further advised that if registration of the parent intermediary/ head office is a pre-requisite for a branch to register, such intermediaries may register as indicated at (a) and (b) above.

Source: Circular - CIR/MIRSD/ 2/2014 dated: June 30, 2014

➤ Participation of FPIs in the Currency Derivatives segment

FPIs are permitted to trade in the currency derivatives segment of stock exchanges, subject to terms and conditions mentioned in this circular and aforesaid RBI circular. According to para I.1.d. of the SEBI Circular SEBI/DNPD/Cir-38/2008 dated August 06, 2008 regarding Exchange Traded Currency Derivatives is modified as under:

Appropriate mechanisms are implemented to prevent participation in Exchange Traded Currency Derivatives of “persons resident outside India”, as defined in Section 2(w) of the Foreign Exchange Management Act, 1999, except persons allowed under regulation 5B of Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2014.

Within the applicable position limits specified in para 12, positions taken by the FPIs in the currency derivatives segment of a recognized stock exchange shall be subject to the following conditions:

(a) FPIs may take long as well as short positions in the permitted currency pairs upto USD 10 million / EUR 5 million / GBP 5 million / JPY 200 million, as applicable, per stock exchange without having to establish the existence of any underlying exposure.

(b) FPIs shall ensure that their short positions at a stock exchange across all contracts in a permitted currency pair do not exceed USD 10 million / EUR 5 million / GBP 5 million / JPY 200 million, as applicable. In the event a FPI breaches the short position limit, stock exchanges shall restrict the FPI from increasing its existing short positions or creating new short positions in the currency pair till such time FPI complies with the said requirement.

(c) To take long positions in the permitted currency pair in excess of USD 10 million / EUR 5 million / GBP 5 million / JPY 200 million, as applicable, FPIs shall be required to have an underlying exposure in Indian debt or equity securities, including units of equity/debt mutual funds.

➤ Participation of domestic clients in the currency derivatives segment

RBI vide A.P. (DIR Series) Circular no. 147 dated June 20, 2014 has revised the participation requirements for the domestic par-

ticipants in the currency derivatives segment.

➤ Accordingly, within the applicable position limits specified in para 12, positions taken by the domestic clients shall be subject to the following conditions:

(a) Domestic clients may take long or short positions in the permitted currency pairs upto USD 10 million / EUR 5 million / GBP 5 million / JPY 200 million, as applicable, per stock exchange without having to establish the existence of any underlying exposure.

(b) Domestic clients may take positions in the permitted currency pairs in excess of USD 10 million / EUR 5 million / GBP 5 million / JPY 200 million, as applicable, subject to the conditions specified the RBI A.P. (DIR Series) Circular no. 147 dated June 20, 2014.

➤ Position limits in the permitted currency pairs

In modification to position limits specified vide SEBI circular CIR/MRD/DP/22/2013 dated July 08, 2013 for USD-INR contracts and in partial modification to the position limits specified for EUR-INR, GBP-INR and JPY-INR contracts vide SEBI circular SEBI/DNPD/Cir-52/2010 dated January 19, 2010, the revised

Currency Pair	Position limits
USD-INR	Gross open position across all contracts shall not exceed 15% of the total open interest or USD 100 million, whichever is higher.
EUR-INR	Gross open position across all contracts shall not exceed 15% of the total open interest or EUR 50 million, whichever is higher.
GBP-INR	Gross open position across all contracts shall not exceed 15% of the total open interest or GBP 50 million, whichever is higher.
JPY-INR	Gross open position across all contracts shall not exceed 15% of the total open interest or JPY 2000 million, whichever is higher.

position limits per stock exchange shall be as follows:

Position limits for Stock Brokers (bank and non-bank), Category I & II FPIs: The position limits shall be as given in the table below:

Currency Pair	Position limits
USD-INR	Gross open position across all contracts shall not exceed 6% of the total open interest or USD 10 million, whichever is higher.
EUR-INR	Gross open position across all contracts shall not exceed 6% of the total open interest or EUR 5 million, whichever is higher.
GBP-INR	Gross open position across all contracts shall not exceed 6% of the total open interest or GBP 5 million, whichever is higher.
JPY-INR	Gross open position across all contracts shall not exceed 6% of the total open interest or JPY 200 million, whichever is higher.

Source: Circular - CIR/MRD/DP/20/2014 dated: June 20, 2014

Position limits for Clients and Category III FPIs: The position limits shall be as given in the table below:

➤ Minimum Assets under Management (AUM) of Debt Oriented Schemes

As per Circular - Cir/ IMD/ DF/ 15 /2014 dated: June 20, 2014 it has been decided that:

- The minimum subscription amount of debt oriented and balanced schemes at the time of new fund offer shall be at least Rs.20 Crore and that of other schemes shall be at least Rs.10 Crore.
- An average AUM of Rs.20 Crore on half yearly rolling basis shall be maintained for open ended debt oriented schemes.

➤ Guidelines on disclosures, reporting and clarifications under AIF Regulations

Based on Circular - CIR/IMD/DF/14/2014 June 19, 2014, it is decided to provide certain clarifications on the AIF Regulations, increase transparency to the investors and provide reporting norms for AIFs as under:

- Submission of information to SEBI under sub-regulation (1) of Regulation (3) of AIF Regulations
- Disclosures in placement memorandum
- Clarification on certain aspects of the AIF Regulations
- Compliance Test Report (CTR)

For more details please visit: <http://www.sebi.gov.in>

➤ Investments by FPIs in Non-Convertible / Redeemable preference shares or debentures of Indian companies

In terms of the RBI circular A.P. (DIR Series) Circular No. 84 dated January 06, 2014, an Indian company is permitted to issue non-convertible/redeemable preference shares or debentures to non-resident shareholders, including the depositories that act as trustees for the ADR/GDR holders by way of distribution as bonus from its general reserves under a Scheme of Arrangement approved by a Court in India under the provisions of the Companies Act, as applicable, subject to no-objection from the Income Tax Authorities. Now, FPIs are permitted to invest on repatriation basis, in non-convertible/redeemable preference shares or debentures issued by an Indian company in terms of the above RBI circular and listed on recognized stock exchanges in India. The investments by FPIs in the abovementioned securities shall be reckoned against the Corporate Debt Investment Limits (US\$ 51 billion) vide Circular CIR/IMD/FIC/13/2014 June 17, 2014.

➤ Base Issue Size, Minimum Subscription, Retention of Over-Subscription Limit and further disclosures in the Prospectus for Public Issue of Debt securities

1. Minimum Subscription Limit:

It has been decided that the minimum subscription for public issue of debt securities shall be specified as 75% of the base issue. Further, if the issuer does not receive minimum subscription of its base issue size (75%), then the entire application monies shall be refunded within 12 days from the date of the closure of the issue. In the event, there is a delay, by the issuer in making the aforesaid refund, then the issuer shall refund the subscription amount along with interest at the rate of 15% per annum for the delayed period. However, the issuers issuing tax-free bonds, as specified by CBDT, shall be exempted from the above proposed minimum subscription limit.

2. Base Issue Size:

In any public issue of debt securities, it has been decided that the Base Issue size shall be minimum Rs 100 Crores.

3. Retention of Over-Subscription Limit:

a) Currently, in respect of public issue of NCDs, SEBI ILDS Regulations does not specify any maximum cap on the retention of over-subscription.

b) In general, issuers shall be allowed to retain the over-subscription money up to the maximum of 100% of the Base Issue size or any lower limit as specified in the offer document. However, for the issuers filing a shelf prospectus, they can retain oversubscription up to the rated size, as specified in their Shelf Prospectus.

c) The issuers of tax free bonds, who have not filed Shelf Prospectus, the limit for retaining the oversubscription shall be the amount, which they are authorized by CBDT to raise in a year or any lower limit, subject to the same being specified in the offer document.

This circular is available on SEBI website at www.sebi.gov.in.

➤ Know Your Client (KYC) requirements for Foreign Portfolio Investors (FPIs)

In the light of the *Circular - CIR/IMD/FIIC/11/2014 dated: June 16, 2014*, it has been decided as follows:

- DDPs are advised to share the relevant KYC documents with the banks concerned based on written authorization from the FPIs.
- Accordingly, a set of hard copies of the relevant KYC documents furnished by the FPIs to DDPs may be transferred to the concerned bank through their authorized representative.
- While transferring such documents, DDPs shall certify that the documents have been duly verified with the original or notarized documents have been obtained, where applicable. In this regard, a proper record of transfer of documents, both at the level of the DDP as well as at the bank, under signatures of the officials of the transferor and transferee entities, may be kept.

FOREIGN TRADE

Notifications/Circulars

➔ Export policy of Potato

Export of Potatoes is permitted subject of MEP of US\$ 450 per MT vide *Notification No. 85(RE-2013)/2009-2014 dated: 26 June, 2014*.

➔ Prohibition on import of milk and milk products from China

Prohibition on import of milk and milk products (including chocolates and chocolate products and candies/ confectionary/ food preparations with milk or milk solids as an ingredient) from China is extended for one more year, i.e., till 23.6.2015 or until further orders, whichever is earlier vide *Notification No. 84 (RE – 2013)/2009-2014*.

Item Description	Export Policy	Nature of Restriction
Pig Bristles & Hair (Unit in Kg)	Freew	Export to EU allowed subject to the following conditions: (i) A 'Shipment Clearance Certificate' is to be issued consignment-wise by the CAPEXIL indicating details of the name and address of the exporter, address of the registered plant, IEC No. of the exporter, plant approval number, nature of export product, quantity, invoice number and date, port of loading (Name of the port) and destination. (ii) After the shipment is made, the exporter shall also provide a 'Production Process' Certificate and/or Health Certificate to the buyer consignment-wise to be issued by CAPEXIL as per the requirement of EU.

➔ Export Policy of Onions

Export of onion for the item description at Serial Number 51 & 52 of Chapter 7 of Schedule 2 of ITC (HS) Classification of Export & Import Items shall be permitted subject to a Minimum Export Price (MEP) of US\$ 300 per Metric Ton F.O.B. or as notified by DGFT from time-to-time vide *Notification No 82 (RE – 2013)/2009-2014, dated: 17 June, 2014*.

➔ Exemption to Bhutan from the application of export bans by India on export of Milk Powder, Wheat, Edible Oils, Pulses and Non Basmati Rice

As per *Notification No 81 (RE – 2013)/2009-2014, dated: 13 June, 2014*, export of milk powder, wheat, edible oil, pulses and non basmati rice to Bhutan will be exempted from any ban and without any quantitative restrictions.

COMPANY LAW

Notifications/Circulars

➔ Extension of last date for filling DPT4 without additional fee up to August 30, 2014

Ministry has decided to grant extension of time for the period of 2 months i.e. up to 31-08-2014 without any additional fee in terms of section 403 of the Act to enable the companies for filing of statement under Form DPT4 with the Registrar vide *General Circular No. 27/2014 dated: 30th June, 2014*.

➔ Clarification with regard to format of annual return applicable for Financial Year 2013-14 and fees to be charged by companies for allowing inspection of records

Government has received requests for clarification about the applicability of form of annual return (MGT-7) prescribed under rule 11(1) of the Companies (Management and Administration) Rules, 2014 for financial year(s) commencing earlier than 1st April, 2014. It is now clarified that Form MGT-7 shall not apply to annual returns in respect of companies whose financial year ended on or before 1st April, 2014 and for annual returns pertaining to earlier years. These companies may file their returns in the relevant Form applicable under the Companies Act, 1956. Companies have also sought clarity about permitting free of cost inspection of records under rule 14(2) and rule 16 of the rules cited above and till a fee is prescribed for the purpose in the Articles. It is clarified that until the requisite fee is specified by companies, inspections could be allowed without levy of fee. *Source: General Circular No. 22/2014 dated: 25th June 2014*

➔ Clarification with regard to holding of shares in a fiduciary capacity by associate company under section 2(6) of the Companies Act, 2013

In continuation of the General circular No. 20/2013 dated 27/12/2013, it is clarified that the shares held by a company in another company in a 'fiduciary capacity' shall not be counted for the purpose of determining the relationship of 'associate company' under section 2(6) of the Companies Act, 2013 vide *General Circular no. 24/2014 dated: 25.06.2014*.

➔ Clarification relating to incorporation of a company i.e. companies incorporated outside India

Government has received references seeking clarity about the status of subsidiaries incorporated/to be incorporated by companies incorporated outside India. The matter has been examined in the Ministry in the light of sections 2(68), 2(71) and 2(87) of the New Act and there is no bar in the new Act for a company incorporated outside India to incorporate a subsidiary either as a public company or a private company. An existing company, being a subsidiary of a company incorporated outside India, registered under the Companies Act, 1956, either as private company or a public company by virtue of section 4(7) of that Act, will continue as a private company or public company, as the case may be, without any change in the incorporation status of such company vide *General Circular no. 23/2014 dated: 25.06.2014*.

➔ Clarification on applicability of requirement for resident director

Section 149(3) of the Companies Act, 2013 (Act) requires every company to have at least one director who has stayed in India for a total period of not less than 182 days in the previous calendar year. The matter has been examined. It is now clarified that the 'residency requirement' would be reckoned from the date of commencement of section 149 of the Act i.e. 1st April, 2014. The first 'previous calendar year' for compliance with these provisions would, therefore, be Calendar year 2014. The period to be taken into account for compliance with these provisions will be the remaining period of calendar year 2014 (i.e. 1st April to 31st December). Therefore, on a proportionate basis, the number of

days for which the director(s) would need to be resident in India during Calendar year - 2014, shall exceed 136 days.

Regarding newly incorporated companies it is clarified that companies incorporated between 1.4.2014 to 30.9.2014 should have a resident director either at the incorporation stage itself or within six months of their incorporation. Companies incorporated after 30.9.2014 needs to have the resident director from the date of incorporation itself.

Source: General Circular no. 25/2014 dated: 26th June, 2014

➔ The Companies (Meetings and Powers of Board) Amendment Rules, 2014

In accordance to Companies (Meetings and Powers of Board) Rules, 2014, Audit Committee under section 292A of the Companies Act, 1956 (1 of 1956) shall constitute their Audit Committee within one year from the commencement of these rules or appointment of independent directors by them, whichever is earlier. Provided further that public companies covered under this rule shall constitute their Nomination and Remuneration Committee within one year from the commencement of these rules or appointment of independent directors by them, whichever is earlier.

Source: Notification - Companies Law - Co. Law - F. No. 1/32/2013-CL-V Pt dated: 12-06-2014

➔ The Companies (Declaration and Payment of Dividend) Amendment Rules, 2014

Declaration of dividend out of reserves - No company shall declare dividend unless carried over previous losses and depreciation not provided in previous years or years are set off against profit of the company of the current years vide *Notification No. Companies Law - Co. Law - File No. 1/31/2013-CL.V, dated: 12-06-2014*.



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