

Tax & Corporate law Bulletin

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JULY 2010

From the Editor's Desk...

Dear Reader,

Greetings for the season.

Welcome to July, Unending favour, prosperity and good health are my wishes for you. Wishing you the very best in all your endeavors this month and beyond. Let us have a look on some updates of this month: - Eligible projects or schemes, expenditure on Health Foundation and Research Centre, Profits from supply of 'shrink-wrapped' software is not 'royalty', Kingfisher Airlines plans Rs 350 crore equity infusion and Read many more...

We eagerly await your feedback on the bulletin.

Yours truly,

Rajput Jain & Associates
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Table of contents

DIRECT TAX	3
RECENT JUDGEMENTS	3-5



INDIRECT TAX

❖ SERVICE TAX	5-6
❖ CENTRAL EXCISE	6-7



FEMA	7-9
CORPORATE LAWS	9-10



POLICY WATCH	10-11
INDUSTRY WATCH & CORPORATE HIGHLIGHT	11-13



GLOSSARY	15
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DIRECT TAX

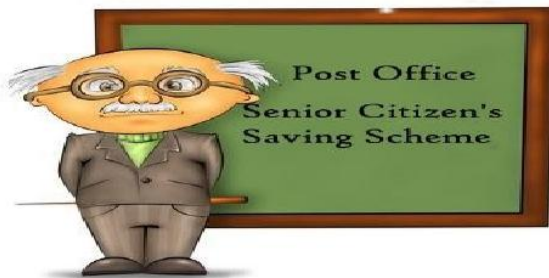
- **Mandatory filing of income-tax returns electronically in Form No. ITR-6 with digital signature by all companies**



Press Release No. 402/92/2006 - MC (35 OF 2010), dated 12th July 2010: The Central Board of Direct Taxes (CBDT) has amended the Rules relating to electronic filing of Income-tax returns.

As per the amended Rules, it is now mandatory for all companies to file Income-tax return electronically in Form No. ITR-6 with digital signature, earlier, companies could file their electronic returns with or without digital signature.

- **Senior Citizens Savings Scheme (Amendment) Rules, 2010 - Amendment in rule 8**



Notification No. G.S.R. 639(E), dated 28th July 2010

The Central Government hereby makes the following rules to further amend the Senior Citizens Savings Scheme Rules, 2004, namely:

- These rules may be called the Senior Citizens Savings Scheme (Amendment) Rules, 2010.
- They shall come into force on the date of their publication in the Official Gazette.

In case of death of a depositor before maturity, the account shall be closed and deposit refunded on an application in Form 'F' along with interest as applicable to the scheme till the date on which the depositor expired, to the nominee or legal heirs in case the nominee has also expired or nomination as provided in rule 6 was not made, as the case may be.

RECENT JUDGEMENTS

- **Default u/s 194C does not result in sec. 40(a)(ia) disallowance if TDS paid before due date of filing ROI**

Bapushaeb Nanasaheb Dhumal vs. ACIT (ITAT Mumbai)

Fact of the case

The assessee made payments to sub-contractors during the previous year and though section 194C requires TDS at the stage of payment/credit, did not do so. The tax was, however, deducted on 31st March and paid over in Sept before the due date for filing the return. The AO took the view that while the payment made to the sub-contractor for March was allowable, the payments for the earlier months were disallowable u/s 40(a)(ia).

This was confirmed by the CIT (A). Failure to deduct or deposit tax as per section 194C or Chapter-XVII makes the assessee liable to the consequences provided under the said Chapter-XVII. However, section 40(a)(ia) is in addition to Chapter XVII. Section 40(a)(ia)(A) provides that if tax is deducted during the last month of the previous year and paid on or before the due date of filing of return as per section 139(1), then such sum shall be allowed as deduction. In cases where tax is deducted other than the last month of previous year but is deposited before the last day of the previous year, then it will be allowed as deduction. Therefore, the conditions for allowing of deduction are prescribed u/s 40(a)(ia) itself and Chapter-XVII and section 194C are not relevant.

Held

Failure to deduct or deposit tax as per section 194C or Chapter-XVII makes the assessee liable to the consequences provided under the said Chapter-XVII. However, section 40(a)(ia) is in addition to Chapter XVII. Section 40(a)(ia)(A) provides that if tax is deducted during the last month of the previous year and paid on or

before the due date of filing of return as per section 139(1), then such sum shall be allowed as deduction. In cases where tax is deducted other than the last month of previous year but is deposited before the last day of the previous year, then it will be allowed as deduction.

Since the assessee had (belatedly) deducted tax in the last month of the previous year i.e. March 2005 and deposited the same before the due date of filing the return u/s 139(1), deduction had to be allowed u/s 40(a)(ia) (A).

➤ **If brokerage offered to tax, the principal debt qualifies as a “bad debt” u/s 36(1)(vii) r.w.s. 36(2)**

DCIT vs. Shreyas S. Morakhia (ITAT Mumbai Special Bench)

Fact of the case

The assessee, a broker, claimed deduction for bad debts in respect of shares purchased by him for his clients. The AO rejected the claim though the CIT (A) upheld it. On appeal by the Revenue, the matter was referred to the Special Bench. Before the Special Bench, the department argued that u/s 36(2), no deduction on account of bad debt can be allowed unless “such debt or part thereof has been taken into account in computing the income of the assessee”.

It was argued that as the assessee had offered only the brokerage income to tax but not the value of shares purchased on behalf of clients, the latter could not be allowed as a bad debt u/s 36(1)(vii).

Held

The amount receivable on account of brokerage is a part of debt receivable by the share broker from his client against purchase of shares and once such brokerage is credited to the P&L account and taken into account in computing his income, the condition stipulated in section 36(2)(i) gets satisfied. Whether the gross amount is reflected in the credit side of the P&L A/c or only the net amount is finally reflected as profit after deducting the corresponding expenses or only the net amount of brokerage received by the share broker is reflected in the credit side of the P&L account makes no difference because the ultimate effect is the same.

The contention of the Revenue that the sale value of the shares remaining with the assessee should be adjusted against the amount receivable from the client so as to arrive at the actual amount of bad debt should be raised, if permissible, before the Division Bench.

➤ **Profits from supply of ‘shrink-wrapped’ software is not ‘royalty’**

Velankani Mauritius vs. DDIT (ITAT Bangalore)

Fact of the case

The assessee, a Mauritius company, was engaged in supply of software. It supplied “off-the-shelf” “shrink-wrapped” software to Infosys Technologies and took the view that the profits there from was not taxable in India as it did not have a Permanent Establishment in India. The AO assessed the profits as royalty u/s 9(1)(vi) of the Act and this was confirmed by the CIT (A).

The Delhi Special Bench held that the crux of the issue was whether the payment was for a copyright or for a copyrighted article. If it was for a copyright, it had to be classified as ‘Royalty’ under the Act and the DTAA. If it was for a copyrighted article, then it only represented the purchase price of an article and could not be considered as Royalty either under the Act or under the DTAA. This principle was upheld by the AAR in Airports Authority of India and the ITAT in Sonata Software 6 SOT 700 and it was held that the payments took the character of purchase and sale of goods; and as there is no PE in India, no income accrued or deemed to accrue or arise in India.

Held

The Delhi Special Bench held that the crux of the issue was whether the payment was for a copyright or for a copyrighted article. If it was for a copyright, it had to be classified as ‘Royalty’ under the Act and the DTAA. If it was for a copyrighted article, then it only represented the purchase price of an article and could not be considered as Royalty either under the Act or under the DTAA. This principle was upheld by the AAR in Airports Authority of India and the ITAT in Sonata Software 6 SOT 700 and it was held that the payments took the character of purchase and sale of goods; and as there is no PE in India, no income accrued or deemed to accrue or arise in India.

Immense support can be drawn from Tata Consultancy Services v. State of AP 271 ITR 401 (SC) where it was

held that though copyright in a software programme may remain with the originator of the programme, the moment copies are made and marketed; it becomes goods which are assessable to sales-tax. It was held that even intellectual property become “goods” once put to a media whether in the form of books or computer disks or cassettes. Accordingly, profits on sale of software cannot be assessed as royalty either under the Act or under the DTAA.

INDIRECT TAX

Service tax



- **Regarding levy of service tax on all taxable services relating to transmission and distribution of electricity**

Central Government vide Notification No. 45/2010-Service Tax dated 20th July, 2010

The Central Government hereby directs that the service tax payable on said taxable services relating to transmission and distribution of electricity provided by the service provider to the service receiver, which was not being levied in accordance with the said practice during the period up to 26th day of February, 2010 for all taxable services relating to transmission of electricity, and the period up to 21st day of June, 2010 for all taxable services relating to distribution of electricity, shall not be required to be paid in respect of the said taxable services relating to transmission and distribution of electricity during the aforesaid period.

- **Regarding services provided by state governments under Centrally Sponsored Schemes (CSS)**

Central Government vide Circular No.125/2010 dated 30th July, 2010

The State government agencies were involved in setting up of bio-gas plants in villages. Certain expenses incurred by the State governments or their departments/ agencies during the course of setting up of such bio-gas plants were reimbursed by the central government by way of a grant under the CSS. Jurisdictional service tax authorities demanded service tax from the State government department/agency, saying that the reimbursements received by the concerned State government department/agency (as service provider) are nothing but consideration for installation and commissioning service received from the central government (service receiver).

State governments are bound to implement the centrally sponsored schemes on receipt of a grant. The fact that State governments are implementing agencies for the Central government within the framework of CSS does not make them service providers. Consequently, Central government cannot be taken as service receiver. Grant released by the Central government under a centrally sponsored scheme cannot be presumed as consideration for providing a taxable service.

Levy and collection of service tax on State government agencies/departments implementing CSS under a central grant, is not legally tenable and therefore in such cases service tax should not be demanded.

- **Issuance of notifications after enactment of the Finance Act, 2010**

Central Government vide Circular No. D.O.F.No.334/03/2010-TRU dated 01st July, 2011

Certain new taxable services were introduced and certain changes in the scope of the existing taxable services (under section 65, with consequential changes in section 66 of the Finance Act, 1994) were made under section 76 of this Act. The provisions of section 76 (A) & (B) (except retrospective provisions relating to commercial coaching and training and renting of immovable property services) were to come into effect from a date to be notified, which is also known as appointed date.

Services provided or payments made prior to the effective date As these changes become effective from 01 July 2010, activities that are covered under taxable service categories due to above additions or modifications, would start attract service tax from this

date. It is however, possible that a part or full payment of the consideration for such services provided after the appointed date has already been received prior to that date, i.e. advance payments. Any amount received after 01.07.2010 by the service provider/ person liable to pay the tax would be subjected to tax.

- **Transport of passenger by Air service :** Service tax on transport of passengers by air was extended to cover all domestic and international air passengers embarking in India with effective tax rates as given below:
 - a. Ten percent (current rate of service tax) of the gross value of the ticket or rupees one hundred per journey, whichever is less, for passengers travelling in any class, within India.
 - b. Ten percent (current rate of service tax) of the gross value of the ticket or rupees five hundred per journey, whichever is less, for passengers embarking in India for an international journey in economy class. The aforesaid rates are subject to non-availment of CENVAT credit. Exemption from service tax has also been provided on journeys to and from North-Eastern States (i.e. Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura) from the service tax.
- **Sponsorship Service:** The Sponsorship Service' was amended to remove the exclusion available for sponsorship pertaining to sports. The measure was taken to prevent exclusion benefiting certain sponsored sports events, which are organized by private organizations or business entities as commercial ventures. However exemption is provided for sponsorship services with reference to certain sports championships or tournaments, such as national tournament.
- **Transmission of Electricity:** taxable service provided by a distribution licensee or a distribution franchisee authorised to distribute power under the Electricity Act, 2003 for distribution of electricity is also exempt from levy of service tax.

Central excise



- **Amendments in the NOTIFICATION No. 6/2006-Central Excise, dated the 1st March, 2006**

Notification No. 31/2010 - C.E. dated 28th July, 2010

The Central Government, on being satisfied that it is necessary in the public interest to do so, hereby makes the following amendment in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), published in the Gazette of India, namely:

- Such goods are exempted from the duties of customs leviable under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and the additional duty leviable under Section 3 of the said Customs Tariff Act when imported into India;
- The Chief executive officer of the project furnishes an undertaking to the Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, having jurisdiction, to the effect that –
 - a. The said goods will be used only in the said project and not for any other use; and
 - b. In the event of non compliance of sub-clause (i) above, the project developer will pay the duty which would have been leviable at the time of clearance of goods, but for this exemption.

- **Tolerance of breakage of bottles due to handling during storage and clearance-reg.**

Circular No. 930/20/2010-CX dated 9th July, 2010

Tolerance of 0.5% is allowed on account of breakage of bottles due to handling in the course of movements from the manufacturing area to bonded store rooms and breakages during storage and clearance there-from. At the relevant time, the scheme of MODVAT/CENVAT credit was not available to the assessee and, therefore, there was no issue of reversal of credit taken on bottles, which were subsequently broken/ destroyed. If the value of any input is written off, the cenvat availed on the same is required to be reversed. Therefore, if the final product (i.e. bottled beverage) is broken/ destroyed then remission can be claimed and if the bottle (input) is written off by the assessee as destroyed, the same is required to be dealt with as per the provisions of Rule 3(5B) of CENVAT Credit Rules, 2004.

FEMA



➤ **India's forex reserves up at \$279.422 billion**

The foreign currency assets, which are a major component of the reserves, grew by \$1.13 billion during the week to \$253.26 billion from \$252.12 billion. Foreign currency assets expressed in US dollar terms include the effect of appreciation or depreciation of non-US currencies, such as euro, sterling and yen, held in the reserves.

India's reserve position in the International Monetary Fund also inched up to \$1.328 billion as compared to \$1.325 billion.

➤ **Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2010:**

Notification No. FEMA 210/RB-2010

In the Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000, for Regulation 5A, the following shall be substituted namely:--
“5A. Permission to a person resident in India to enter into currency futures or currency options:

A person resident in India may enter into currency futures or currency options on a stock exchange recognized under section 4 of the Securities Contract (Regulation) Act, 1956, to hedge an exposure to risk or otherwise, subject to such terms and conditions as may be set forth in the directions issued by the Reserve Bank of India from time to time.”

➤ **Current Account Transaction**

Schedule I: (Transactions which are prohibited)

- Remittance out of lottery winnings.
- Remittance of income from racing/riding, etc or any other hobby.
- Remittance for purchase of lottery tickets, banned/prescribed magazines, football pools, sweepstakes etc.
- Payment of commission on export made towards equity investment in joint ventures/wholly owned subsidiaries abroad of Indian Companies.
- Remittance of dividend by any company to which the requirement of dividend balancing is applicable.
- Payment of commission on exports under Rupee State Credit Route, except commission up to 10% of invoice value of exports of tea and tobacco.

Schedule II: (Transactions which require prior approval of the Central Government)

Purpose of Remittance	Ministry/Department of Govt. of India whose approval is required.
(1) Cultural tours	Ministry of Human Resources development (Department of

	Education and Culture)
(2)Advertisement in foreign print media for the purposes other than promotion of tourism, foreign investments and international bidding (exceeding US\$ 10000) by a State Government and its Public Sector Undertakings.	Ministry of Finance, Department of Economic Affairs
(3)Remittance of freight of vessel chartered by a PSU	Ministry of Surface Transport (Chartering wing)
(4)Payment of import (through ocean transport) by a Government department or a PSU on c.i.f basis	Ministry of Surface Transport (Chartering wing)
(5)Multi-modal transport operators making remittance to their agents abroad.	Registration Certificate from the Director General of Shipping
(6)Remittance of hiring charges of transponders by	Ministry/Department
(a) TV Channels	Ministry of Information and broadcasting
(b) Internet service providers	Ministry of communication and Information technology
(7)Remittance of container detention charges exceeding the rate prescribed by the Director General of Shipping	Ministry of Surface Transport (Director General of Shipping)
(8)Remittance under technical collaboration agreements where payment of royalty exceeds 5% of local sales and 8% on exports and lump sum payment exceeds US \$2 million.	Ministry of Industry and Commerce

(9)Remittance of prize money/sponsorship of sports activity abroad by a person other than International /National/State Level sports bodies , if the amount involved exceeds US\$ 100,000	Ministry of Human Resource Development (Department of Youth Affairs and Sports)
(10)Remittance of membership of P&I Club(Protection and Indemnity Club)	Ministry of Finance (Insurance Division)

Schedule III: (Transactions which require prior approval of Reserve Bank of India)



- Release of exchange exceeding US \$ (10,000) or its equivalent in one calendar year, for one or more private visits to any country (except Nepal and Bhutan)
- Gift remittance exceeding US \$ 5,000 per remitter/donor per annum.
- Donation exceeding U S \$(10,000) per remitter/donor per annum.
- Exchange facilities exceeding US\$ (100,000) for persons going abroad for employment.
- Exchange facilities for emigration exceeding US\$(100,000) or amount prescribed by country of emigration.
- Release of foreign exchange exceeding US \$25000 to a person , irrespective of period of stay, for business travel or attending a conference or specialized training or for maintenance expenses of patient going abroad for medical treatment or check-up abroad or for accompanying as attendant to a patient going abroad for medical treatment/check up.

- Commission per transaction to agents abroad for sale of residential flats or commercial plots in India exceeding the US\$25000 or 5% of the inward remittance whichever is more.

➤ **Direct Investment by Residents in Joint Venture (JV)/ Wholly Owned Subsidiary (WOS) Abroad**

RBI/2009-10/21, Master Circular No.01/2009-10

Joint ventures are perceived as a medium of economic co-operation between India and other countries. Transfer of technology and skill, sharing of results of R&D, access to wider global market, promotion of brand image, generation of employment and utilisation of raw materials available in India and in the host country are other significant benefits arising out of such overseas investments. The Reserve Bank has been progressively relaxing the rules and simplifying the procedures both for current account as well as capital account transactions.

PROHIBITION: Indian parties are prohibited from making investment in a foreign entity engaged in real estate or banking business, without the prior approval of the Reserve Bank.

GENERAL PERMISSION: In terms of Regulation 4 of the Notification, general permission has been granted to persons residents in India for purchase / acquisition of securities in the following manner:

- out of funds held in RFC account;
- as bonus shares on existing holding of foreign currency shares; and
- when not permanently resident in India, out of their foreign currency resources outside India. General permission is also available to sell the shares so purchased or acquired.

CORPORATE LAW

➤ **REVISED PRICING GUIDELINES FOR TRANSFER OF SHARES / DEBENTURES UNDER FDI**

Circular No. RBI/2009-10/445 A. P. (DIR Series



The changes in the guidelines relate to cases of transfer by resident to non-resident, transfer by non-resident to resident, etc. The revised pricing guidelines specifically relate to situations where the shares of an Indian company are traded on stock exchange or where the shares of an Indian company are not listed on stock exchange or are thinly traded.

➤ **MORTGAGE OF PROPERTY TO NBFC AND FINANCE OF HOUSING PROJECTS**

The RBI has issued circular referring to a case which came up before the Mumbai High Court where it was observed that the bank granting finance in housing, should insist on projects, disclosure of the charge or any other liability on the plot in question or development project being duly made in the brochure or pamphlet, etc. The Court also added that this obviously would be part of the terms and conditions on which the loan may be sanctioned by the bank. Hence, keeping this in view, while granting finance to housing / development projects, NBFCs also should stipulate as a part of the terms and conditions that,

- The builder / developer / owner / company would disclose in the Pamphlets / Brochures / advertisements etc., the name(s) of the entity to which the property is mortgaged, and
- The builder / developer / owner / company should indicate in the pamphlets / brochures, that they would provide No Objection Certificate /

permission of the mortgagee entity for sale of flats / property, if required.

➤ **MANDATORY REQUIREMENT OF PERMANENT ACCOUNT NUMBER (“PAN”)**



Circular No.CIR/MRD/DP/22/ 2010 dated 29th July, 2010

It has now come to SEBI's notice that despite follow up, investors are not furnishing the PAN details. Hence, in order to ensure better compliance with the Know Your Client (KYC) norms, it has been decided that with effect from 16 August, 2010 such PAN non-compliant demat accounts shall also be “suspended for credit” other than the credits arising out of automatic corporate actions. It is also clarified that other credits including credits from IPO/FPO/Rights issue, off-market transactions or any secondary market transactions shall not be allowed into such accounts.

➤ **ADDITIONAL MODE OF PAYMENT THROUGH ASBA IN MFs**

Circular No.IMD/DF/6/2010 dated. 28th July, 2010

The SEBI has issued in relation to additional mode of payment permissible through ASBA in Mutual Funds and which was compulsory to the investors for all NFOs launched on or after July 01, 2010. It has now been decided to defer the date of implementation and that Mutual Funds / AMCs shall provide ASBA facility to investors for all NFOs launched on or after October 1, 2010.

➤ **OTC TRANSACTIONS IN CERTIFICATES OF DEPOSIT (CDS) AND COMMERCIAL PAPERS (CPs)**

Circular No.CIR/IMD/DF/6/2010 dated 30th July, 2010

The SEBI has issued circular stating that earlier Fixed Income Money Market and Derivatives Association of India (FIMMDA) was requested by RBI to set up a reporting platform to capture all OTC transactions in CDs and CPs, pursuant to a decision to introduce a reporting platform for all secondary market transactions in CDs and CPs. It has now been decided that all SEBI Regulated entities shall report their OTC transactions in CDs and CPs on the FIMMDA reporting platform within 15 minutes of the trade for online dissemination of market information.

➤ **OPTIONS ON USD-INR SPOT RATE**

Circular No.CIR/DNPD/5/2010 dated 30th July, 2010

The SEBI has issued circular regarding Exchange Traded Currency Derivatives in relation to which it has now been decided to permit introduction of options on USD-INR spot rate on currency derivatives segment of Stock Exchanges and that eligible Stock Exchanges may do so after obtaining prior approval from SEBI. The details in terms of product design and risk management framework for options on USD-INR spot rate are as given under Annexure I to this Circular and the revised position limits are as given under Annexure II to this Circular. This Circular is applicable with immediate effect.

POLICY WATCH

➤ **New priority order to regulate gas flow to power projects**

"Under the new guidelines, state-run firms' expansion projects of 1000 MW and more would be given top priority. This is because the projects would have a shorter gestation period and need fuel at the earliest," said a power ministry official who did not wish to be named. Gas-based projects proposed to be commissioned in the 11th and 12th Plan will benefit the most from the new guidelines. Work on about 7000 MW of projects proposed for the 11th Plan and another 20,000 MW in the early part of the 12th Plan has not progressed due to the lack of

clarity over allocation of gas. A few private sector projects such as those of Reliance

Energy in the Maharashtra, Gujarat and Andhra Pradesh will also benefit. The power ministry had earlier sought about 40 million standard cubic metre per day (mmscmd) of gas from oil and gas ministry for new power projects.

A fallback allocation implies that the sector will get gas if the firm allocation of other sectors is not fully consumed due to some reason. The total approved production of the block is 80 mmscmd while estimates suggest production could be scaled up to about 120 mmscmd.

➤ **Railways Q1 freight earnings up 8.33% as economy gathers steam**

The Railways carried 218.35 million tonnes of commodity freight during April-June period as compared to 213.24 mt carried during the corresponding period last year, registering an increase of 2.4%, data released on Friday showed. The Railways generated revenue of Rs 14,915 crore from commodity freight traffic during April-June quarter as compared to Rs 13,769 crore during the corresponding period last year.

Out of the total earnings of Rs 4,870 crore from freight traffic during June this year, Rs 1,926 crore came from transportation of 32.94 million tonnes of coal, followed by Rs 708 crore from 9.45 million tonnes of iron ore for exports. The Net Tonne Kilo Metres (NTKM) went up from 1,38,779 million during April-June 2009 to 1,45,342 million during April-June 2010, showing an increase of 4.73%. The earnings from the passenger movement grew by 6.69%.

➤ **Govt mulling extending RSBY to cover domestic workers**

A government task force has favoured that Rashtriya Swasthya Bima Yojana (RSBY) should cover domestic workers. Other recommendations by the task force

include welfare measures like old age benefits. In its report, the task force said that RSBY should be the first welfare scheme to be extended to the domestic workers. The smart cards used under RSBY can later be used to load other welfare schemes rolled out for the household helpers. The task force underscored that domestic workers should be identified and registered by the State Labour Department and they should be included in the Central List of scheduled employment under the Minimum Wages Act, 1948 for fixation and enforcement of minimum wages. State governments which have not fixed minimum wages for domestic work should prepare one.

➤ **First quarter deficit at 10% of FY11 target on 3G inflows**

At the end of the first quarter (April-June), the Centre's fiscal deficit was only Rs 40,196 crore or a mere 10.5% of the budget estimate of Rs 3,81,408 crore for the entire year. In the corresponding period last year, the Centre's fiscal deficit was 31% of the full year target, indicating that the government will better its target of 5.5% of the GDP for the entire 2010-11. The government earned Rs 1 lakh crore from the sale of third generation spectrum as against the budgeted Rs 35,000 crore. Direct and indirect tax receipts too have risen sharply, with the first quarter advance tax payments growing at its fastest pace since 2005 at 31.4%.

Tax receipts were Rs 83,994 crore and total expenditure was Rs 2,42,208 crore for the first three months of the current fiscal year. The Prime Minister's Economic Advisory Council has also pegged the centre fiscal deficit for the current fiscal year to be slightly lower than the government's budgeted 5.5% of GDP because of the gains from the spectrum auction and buoyant tax collections.

INDUSTRY WATCH & CORPORATE HIGHLIGHT

➤ **Havells to relaunch Sylvania brand in India after 17 years**

Electrical equipment maker Havells said it will relaunch 'Sylvania' brand in India, 17 years after it was discontinued, with investing Rs 120 crore in marketing and network expansion this year. The company, which will now form a separate entity called Sylvania India, is targeting the 'Sylvania' range to become a Rs 500-crore brand in the next five years.

In 2007, Havells had acquired Frankfurt-headquartered Sylvania for \$300 million through its Dutch subsidiary Havell's Netherlands BV.

➤ **Toyota to produce engines and gearboxes for Etios**

Toyota Kirloskar Motor announced that it would produce engines and gearboxes for Toyota Etios at its second plant here with an initial capacity of 70,000 units. TKM subsidiary Toyota Kirloskar Auto Parts (TKAP) has two plants with a total investment of Rs 500 crore. One of them produces 52,000 engines per annum for the domestic market while the second plant, with a production capacity of 170,000 gearboxes, partly provides for the Innova and the rest is exported to Thailand and Argentina.

TKAP would invest an additional Rs 500 crore, part of which would go towards increasing the number of transmission boxes to approximately 240,000 per year and in setting up a third plant with a capacity of 100,000 engines per year, of which 70,000 would be for the Etios and the balance for exports, he said, adding the third plant would employ 500 people. TKAP currently produces manual transmissions for the Fortuner manufactured in India, Thailand and Argentina. It also produces axles and propeller shafts for the Innova manufactured in India. Production of engines and gear boxes for the Etios will further localise production. TKM set up its first plant with an investment of Rs 1,700 crore. The second plant involving an investment of Rs 3,200 crore is the one which will manufacture Etios.

➤ **DLF to buy out Dubai World in JV for Rs 200 crore**

DLF is buying out the property arm of Dubai World, its foreign partner in the 50:50 joint venture to make Bidadi Knowledge City. A wholly-owned arm of DLF will buy out the stake owned by Limitless Group, which is a part of Dubai World, for around Rs 200 crore. Dubai World is the investment vehicle of the Dubai government. DLF will buy the 50% held by two Limitless Group entities for a price less than the net worth of the shares, as per the deal. The discount would amount to Rs 10 crore for the entire block of shares held by Limitless.

Limitless is likely to be paid around \$42.8 million, compared with its investment of \$50.5 million. Limitless will get less in dollar terms, due to change in forex rates during the past three years. In rupee terms, however, it would be paid almost the same money it had invested.

The Karnataka government was to secure the land for the project, but, couldn't initiate the acquisition process and last year returned the Rs 400 crore that was funded equally by the two partners. The JV then tried to acquire land on its own, but failed and that prompted the exit of Limitless.

Another reason Limitless' exit is the financial crisis leading to losses that gripped Dubai. This has also forced restructuring of Dubai World and, in particular, Limitless' global real estate investments. Early this year, another investment arm of Dubai World, Istithmar, sold off its stake in Indian budget carrier SpiceJet. The deal will also free up money currently blocked. Post the transaction, DLF can use the funds for other projects.

➤ **Oracle to expand partner network to smaller cities, towns**

With an aim to garner bigger business opportunities, Oracle India Private Limited is planning to expand its partner network to smaller cities and towns (Tier-II, Tier-III cities) across the country

To increase its reach in smaller town and cities, the company has launched the Oracle Partner Network (OPN), a specialised programme designed to allow

the valued partner community to differentiate themselves and reap the benefits of being recognised by customers for their expertise on Oracle technology. At present, Oracle India has over 1,000 partners in the country delivering software solutions based on the Oracle platform

The partners specialize in industry-specific software that is used extensively across all major sectors in India, including telecom, financial services, manufacturing and retail, among others. Besides this, Oracle India is also focusing on customers from both big and mid-size enterprises. The company already had some of the key partners within its OPN, such as Infosys, Sonata, Tata Consultancy Services and HCL Info systems.

➤ **Kingfisher Airlines plans Rs 350 crore Equity infusion**



As part of its financial restructuring plan to reduce debt burden, Kingfisher Airlines will infuse equity amounting to Rs 350 crore during this financial year. Besides this, the airline, which has unsecured loans and preference capital worth Rs 395 crore from the United Breweries (UB) Group, will convert them into equity during the ongoing fiscal.

Moreover, the airline has also initiated the process to raise \$200 million through a global depository receipts (GDR) issue this fiscal, for which Citibank, Morgan Stanley, CLSA and UBS have been roped in.

It is estimated that as on March 31 2010, Kingfisher has an outstanding debt of Rs 6,000 crore and bulk of them are long term loans. The debt burden, however, has come down from Rs 7,413 crore on December 31, 2009.

➤ **Jet Airways back in black, Q1 net profit at Rs 3.5 crore**

Jet Airways, the country's largest private airline, has returned to the black in the June quarter due to higher passenger air traffic. Naresh Goyal-led Company has recorded a net profit of Rs 3.5 crore in the June quarter against a net loss of Rs 225.33 in the year-ago period. Revenue rose by 25% to Rs 2,965 crore.

Global as well as Indian carriers have seen a spurt in demand in 2010 on the back of improved economic conditions, resulting in higher load factors as well as yield growth. Backed by this resurgence in demand, the company recorded a 35% growth in domestic traffic, higher than the industry average of 23% in the April-June period. Domestic traffic accounted for 44% of total revenue while the remaining 56% came from international operations. Jet carried 3.55 million passengers in the June quarter, up 37% in the year ago period. Its seat load factor also increased from 76.5% to 80.1%. Share prices of Jet Airways lost 2.26% to close at Rs 614.10 in a flat Mumbai market, prior to the results were announced.

➤ **IOC reports net loss of Rs 3,388.49 crore in Q1**

State-owned Indian Oil Corporation (IOC) reported a net loss of Rs 3,388.39 crore in the first quarter on account of selling fuel below cost. The company accrued the losses as it was forced to sell petrol, diesel, domestic cooking gas LPG and kerosene below their actual cost and was not compensated by the government for it. IOC lost Rs 11,013.85 crore in revenues in April-June quarter. Of this, it got Rs 3,671.26 crore from upstream firms, Oil and Natural Gas Corp (ONGC), GAIL India and Oil India.

Consequent to non-revision of retail selling price in line with international prices, the company has suffered net under-realisation of Rs 7,342.59 crore on sale of petrol, diesel, PDS kerosene and domestic LPG.

Statutory compliance calendar for the month of July 2010			
Due date	Statuary compliance under Act	particulars	Governing Authority
			
06/07/2010	Service Tax	Payment of monthly service tax for the month June by all tax payers electronically	Central Board of Excise and Custom
	Central Excise	Payment of monthly central excise duty for the month of June on goods by assesses other than SSI units electronically	Central Board of Excise and Custom
07/07/2010	Income Tax	Deposit of Income Tax TCS and TDS deducted in June	Central Board of Direct Tax.
	NBFC-D	Monthly return of exposure to capital markets in form NBS-6 by NBFC having total assets of 100 crore and above	Reserve Bank of India.
	NBFC-ND-SI	Monthly return of source and application of funds, profit and loss account, asset classification	Reserve Bank of India.
10/07/2010	Central Excise	Monthly central excise return in form ER-1/ER-2 by other than SSI	Central Board of Excise and Custom
	Central Excise	Monthly return of receipts and consumption of Principal Inputs by specified manufacturers of excisable goods in form ER-6	Central Board of Excise and Custom
	NBFC-ND-SI	Monthly statement of short term dynamic liquidity in form NBS-ALM1	Reserve Bank of India.
15/07/2010	Income Tax	Advance income tax under section 211 of Income Tax Act by corporate (second installment) and non-corporate assesses (first installment)	Central Board of Direct Tax.
	Provident Fund	(a) Payment of monthly dues of Provident Fund for the month of June (b) Monthly return in form 5 for employees joining Provident Fund during June along with declaration in form 2 furnished by the employees (c) Monthly return of Provident Fund in form 10 of employees leaving the service during June	The Central Board of Trustees , The Employees' Provident Fund Scheme, 1952
21/07/2010	ESIC	Payment of ESIC contribution for the month of June	The employees' state insurance Act-1948. Ministry of labour and employment.
25/07/2010	Provident Fund	Monthly contribution statement (abstract) in form 12A, along with copy of receipted challans regarding payment of contribution.	The Central Board of Trustees , The Employees' Provident Fund Scheme, 1952
30/07/2010	Bonus	Bonus can be paid by 30th November, but usually paid before 30th September so that deduction from income tax can be claimed in the previous year itself	The Payment of Bonus Act, 1965
	Environment	Environment statement in form V to State Pollution Control Board	The Water (Prevention and Control of Pollution) Cess Act, 1977 . Central and State Pollution Control Boards
	NBFC-D	Annual statutory return in form NBS-1 by NBFC and MNBC and NBS-1A by RNBC	Reserve Bank of India.

Glossary

AAR	Authority of Advance Rulings
ADR	American Depository Receipt
ALP	Arm's Length Price
AO	Assessing Officer
AP	Association of Persons
APA	Advance Pricing Agreement
ATM	Automated Teller Machine
AY	Assessment Year
BCD	Basic Customs Duty
BI	Body of Individuals
BP	Balance of Payments
CA	Chartered accountant
CAD	Current Account Deficit
CBDT	Central Board of Direct Taxes
CBEC	Central Board of Excise & Customs
CENVAT	Central Value Added Tax
Customs Act	Customs Act, 1962
CPI	Consumer Price Index
CSR	Corporate Social Responsibility
CD	Countervailing Duty
DDT	Dividend Distribution Tax
DTA	Domestic Tariff Area
ECB	External Commercial Borrowings
ESI	Employee's state insurance
FDI	Foreign Direct Investment
FEMA	Foreign Exchange Management Act
FERA	Foreign Exchange Regulation Act
FII	Foreign Institutional Investors
FIPB	Foreign Investment Promotion Board
FPI	Foreign Portfolio Investment
FTS	Fees for Technical Services
FY	Financial Year
GDP	Gross Domestic Product
GDR	Global Depository Receipt
GI	Government of India
GST	Goods and Services Tax
HUF	Hindu Undivided Family
ICAI	Institute of chartered accountant
IFRS	International Financial Reporting Standard
IDR	Indian Depository Receipt
IIP	Index of Industrial Production
IRDA	Insurance Regulatory Development Authority
ITR	Income tax return

LCD	Liquid-crystal Display
MP	Madhya Pradesh
MP	Market price
MF	Mutual fund
MSME	Micro Small and Medium Enterprises
NBFC	Non Banking Finance Company
NHAI	National Highway Authority of India
NPS	National Pension Scheme
NRI	Nonresident in India
NABARD	National Bank for Agriculture and Rural Development
OEM	Original Equipment Manufacturer
OET Act	Odessa Entry Tax Act, 1999
PSU	Public Service Undertakings
P&L	Profit & loss
PF	Provident fund
POTR	Point of Taxation Rules
QE	Quantitative Easing
QFI	Qualified Foreign Investor
RBI	Reserve Bank of India
REF	Renewable Energy Fund
REIT	Real Estate Investment Trust
Rules	Income-tax Rules, 1962
SA	Standard on Auditing
SAD	Special Additional Duty
SC	Scheduled Caste
SC	Supreme Court
SEBI	Securities and Exchange Board of India
SEZ	Special Economic Zone
ST	Scheduled Tribes
ST	Service Tax
STP	Software Technology Park
STR	Service Tax Rules
STCG	Short Term Capital Gain
TIN	Transaction identification number
TNNM	Transactional Net Margin Method
Tribunal	Income tax Appellate Tribunal
TDS	Tax Deducted at Source
TPO	Transfer Pricing Officer
TED	Terminal Excise Duty
VAT	Value Added Tax
VCC	Venture Capital Companies
VCF	Venture Capital Fund
WPI	Wholesale Price Index
WT	Wealth tax
WB	World bank

BUSINESS ADVISORY

- Growth Planning
- Succession Planning.
- Strategic Decision Appraisal
- Risk, Uncertainty and Change Management Services
- Strategic Decision Implementation – National and Global Platform
- Wealth Management Services.

TAXATION SERVICES

- Direct Taxation Advisory
- Service Tax, Excise duty, VAT Registration Services
- Tax Planning Strategy– Optimum use of Corporate Tax Incentives.
- Implementing and Operating in the tax consolidation regime
- Preparation of return of Income Tax, Service Tax, Excise Duty and VAT.

AUDIT & ASSURANCE

- Statutory Audit including Tax Audit & VAT Audit
- Internal Audit and Concurrent Audit
- Management Audit and Operational Audit
- Cost Audit/Reviews
- System and process control reviews.
- Secretarial Audit.

OUTSOURCING ACCOUNTANTS

- Annual financial report preparation
- Preparation of general and special purpose statutory accounts
- Processing Payroll
- Cash management reporting
- Accounting system reviews
- Financial analysis
- General Accounting Support, as required by client.

RBI, FEMA, SEBI Services

- Setting up Liaison Office, Branch Office and Project Office.
- RBI Consulting
- Private Equity Finding Advisory.
- Project Financing.
- Credit Rating.
- Business Asset Valuation.
- Due Diligence.



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