

Tax & Corporate law Bulletin

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January 2011

From the Editor's Desk...

Dear Reader,

Greetings for the season.

May the old year take away all the sorrows and miseries as it goes by and fill up your upcoming days with sunshine and happiness now and always. New Year arrives with hopes and it gives us new courage and belief for a very new start. Wishing all are readers a very Happy New Year.

Now let us have a look on some of the important developments during the month:- Instructions Regarding Parameters for Processing of E-TDS Returns, Deduction u/s 10B for exports of Software made in India, Exemption benefit granted to packaged or canned software dealers is now withdrawn, Amendments to SEBI equity listing agreement and read many more...

We eagerly await your feedback on the bulletin.

Yours truly,

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“Adapting swiftly to the
global business environment”



DIRECT TAX

➤ Tax Deduction at Source from salaries u/s 192

The CBDT vide circular no. 8/2010 dated December 13th, 2010 contains the rates of deduction of income tax from the payment of income chargeable under the head "Salaries" u/s 192 of the Income-Tax Act during F.Y. 2010-11 and explains certain related provisions of the Income-tax Act.

➤ CBDT Instructions Regarding Parameters for Processing of E-TDS Returns

CBDT vide Instruction No. 8/2010 CF No.275/73 [2009-IT (B)] dated December 8th, 2010 Clarifies the following regarding the parameters for processing of E-TDS returns.

These instructions supersedes earlier instructions No. 11/2007 dated December 18th, 2007 in this regards issued under F. No. 385/56/2007-IT(B).These instructions will apply to all TCS/TDS cases under all the direct enactments. It will come into force immediately.

Where default on account of short deduction is less than 10 for each deductee, the demand is round off to zero and,

After considering above, deduct or wise demand/default If any, of ` 100/-or less will also be ignored for further action.

The DDO in such cases may be warned to be careful in future so as to ensure that they do not become habitual in short deduction of tax.

RECENT JUDGEMENT

➤ **Lachman Dass Bhatia Hingwala vs. ACIT (Delhi High Court – Full Bench)**

Sec. 254(2) Tribunal entitled to recall order in entirety to rectify apparent mistake

In this appeal, the ITAT passed an order. Later on, it passed a fresh order recalling the earlier one by taking a view that there was an apparent mistake in the original order and fixed the case for fresh hearing. The assessee challenged this move by filing a writ petition before the Delhi High Court and challenged the powers of the ITAT in recalling entire order. The assessee argued that while the ITAT could rectify apparent mistakes but could not recall the order in its entirety. On these facts, the High Court upheld the view of the ITAT and held that Tribunal is entitled to recall order in entirety to rectify apparent mistake.



➤ **Hotel Leela Venture vs. Ag. ITO (Kerala High Court)**

Recovery proceedings - No coercive recovery - if first appeal ready for hearing

In this case, the assessee has filed appeals before the Commissioner (Appeals) and the appeals were also posted for hearings. The AO without considering the pendency of appeals has issued demand notices and took steps to attach the bank account of the assessee. The assessee has filed writ petition before the Kerala High Court and challenged the move which was opposed by the department on the ground that the assessee had been seeking adjournments for hearing before the Commissioner (Appeals). The High Court was pleased to allow the writ petition and held that:-

- The appellate authority is directed to dispose of the appeals at the earliest possible, after affording an opportunity of hearing to the

assessee, at any rate within a period of one month from the date of receipt of a copy of the Court's judgment;

- Till such time orders are passed by the appellate authority, recovery steps shall be kept in abeyance;
- If there is any non-cooperation from the part of the assessee, the appellate authority is at liberty to finalize the appeals without providing any further opportunity of hearing.

➤ **Zylog Systems vs. ITO (ITAT Chennai Special Bench)**

Sec. 10B - foreign expenditure for self purposes – turnover retained abroad – Whether could be reduced from “export turnover”

In this case, the assessee was engaged in the business of development of software by way of on-site and off-shore development and had a branch in USA for which separate accounts were maintained.

➤ **Deduction u/s 10B for exports of Software made in India**

Fact of the case

The assessee had claimed deduction u/s 10B in respect of the exports of software made. In computing the export turnover, the AO held that an amount of Rs. 3.33 Crore incurred by the USA branch constituted “expenses incurred in foreign exchange in providing technical services outside India” and had to be deducted from the export turnover as provided in section 10B.

He also said that the turnover of the USA branch to the extent of Rs. 15.14 Crore had to be reduced from the export profits as it had not been received in convertible foreign exchange in India within the period specified in Section 10B (3) but retained abroad. On appeal, the CIT (A) upheld the claim of the assessee with regard to Rs. 15.14 Crore while he rejected the claim with regard to the expenditure of 3.33 Crore. The assessee as well as the department

filed appeals before the Tribunal. A special bench was constituted to decide the issue.

Held

The special bench decided both the issues in favour of the assessee and held that

- As regards the expenditure of Rs. 3.33 Crore incurred abroad, though the definition of “export turnover” in section 10B excludes “expenses incurred in foreign exchange in providing technical services outside India”, expenses incurred in a foreign country towards pay roll etc in connection with staff in the foreign branch is not covered because there is no provision of technical services to any outside agency but it is towards fulfillment of the object to develop software. A person cannot provide services to self. Even as per Circular Nos. 621 dated December 19th, 1991 and 694 dated November 23rd, 1994 expenditure incurred on site abroad is eligible for deduction u/s. 10B;
- As regards the turnover of Rs. 15.14 Crore retained abroad, one limb of the Government cannot be allowed to defeat the operation of the other limb. While section 10B requires the foreign exchange to be brought to India within the prescribed period, the RBI permits the assessee to retain the said foreign exchange abroad for specific purposes. RBI is the competent authority for section 10B as well. The result is that the reinvestment of export earning is deemed to have been received in India and thereafter to have been repatriated abroad.

➤ **Vodafone Essar Ltd vs. Dispute Resolution Panel (Delhi High Court)**

Section 144C Dispute Resolution Panel (DRP) Cogent and germane reasons. In this case, DRP has given directions u/s 144C. The assessee filed a Writ Petition to challenge the order of the Dispute Resolution Panel (DRP) on the ground, inter alia, that the DRP had not given any reasons in support of its directions to the AO. Before the Delhi High Court,

the DRP accepted that they should have given cogent and germane reasons for their directions in the order and its order deserves to be quashed.

INDIRECT TAX

Service tax

Synopsis of notifications & circulars on service tax

- **CBEC Vide Circular No. 131/13/2010-ST dated 7th December, 2010** has clarified that hire charges collected by electricity transmission/distribution companies from the consumers towards installation of electricity meters is not liable to service tax since the same



is an essential activity having direct & close nexus with transmission & distribution of electricity and the same is covered by exemption to transmission of electricity vide Notification No.11/2010-ST dated 27th February, 2010.

- **Central Government vides Notification No.51/2010-ST & 52/2010-ST both dated 21st December, 2010** has rescinded Notification No.2/2010-ST & Notification No.17/2010-ST both dated 27th February, 2010. Both the erstwhile notifications provided exemption to taxable services of providing the right to use information technology software for commercial exploitation including right to reproduce, distribute and sell information technology software and right to use software components

for the creation of and inclusion in other information technology software products (Clause v of Section 65(105) (zzzze)) for packaged or canned software intended for single use and packed accordingly, from the whole of service tax subject to conditions mentioned in the said notifications.

- **Central Government vide Notification No.53/2010-ST dated 21st December, 2010** has exempted the taxable services of providing the right to use information technology software for commercial exploitation including right to reproduce, distribute and sell information technology software and right to use software components for the creation of and inclusion in other information technology software products (Clause v of Section 65(105)(zzzze)) for packaged or canned software from whole of service tax subject to following conditions:-

- The value of the said goods domestically produced or imported, for the purposes of levy of Central Excise Duty or the additional duty of customs leviable U/s. 3(1) of the Customs Tariff Act, 1975, if imported, as the case may be, has been determined under section 4A of the Central Excise Act 1944 (hereinafter referred to as "such value"); and
- The appropriate duties of excise on such value have been paid by the manufacturer, duplicator or the person holding the copyright to such software, as the case may be, in respect of software manufactured in India; or
- The appropriate duties of customs including the additional duty of customs on such value, have been paid by the importer in respect of software which has been imported into India;
- A declaration made by the service provider on the invoice relating to such service that no amount in excess of the retail sale price declared on the said goods has been recovered

from the customer. The terms “appropriate duties of excise” & “appropriate duties of customs” are defined for the purpose of said notification.

➤ **Central Government vide Notification No.54/2010-ST dated 21st December, 2010** has amended Notification No.24/2009-ST dated 27th July, 2009 whereby the erstwhile exemption to taxable services of management, maintenance or repairs of road is extended to management, maintenance or repair of bridges, tunnels, dams, airports, railways & transport terminals.

➤ **Central Government vide Notification No.55/2010-ST, Notification No.56/2010-ST & Notification No.57/2010-ST all dated 21st December, 2010** has deferred the levy of service tax on taxable services provided by Government Railways to any person in relation to transport of goods by rail (Section 65(105)(zzzp)) to 1st April,2011. Central Government vide Notification No.58/2010-ST dated 21st December, 2010 has exempted the taxable services of general insurance business provided under the Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme, approved by the GOI & implemented by the Ministry of Agriculture, from whole of service tax.

Central Excise



➤ **Exemption benefit granted to packaged or canned software dealers is now withdrawn**

Notification No. 17/2010 CE dated February 27th 2010 was providing exemption, to any person who

was engaged in transferring right to use the packaged or canned software, from excise duty on the consideration received for transfer of right to use such goods under Section 4 of Central Excise Act, 1944. Now such Notification is rescinded. **(Notification No. 35/2010 – C.E. dated 21st December, 2010)**

➤ **Amendment in Notification 49/2008 – NT relating to the abatement scheme**

Further amendment to Notification No. 49/2008 – NT dated 24th December, 2008 is made whereby sale of packaged or canned software is now covered under MRP based valuation under Section 4A of Central Excise Act, 1944 and an abatement of 15% is introduced thereon. Such notification defines “packaged software or canned software” as Software developed to meet the needs of variety of users, and which is intended for sale or capable of being sold off the shelf.

(Notification No. 30/2010 – C.E (NT) dated 21st December, 2010)

➤ **Clarification on exemption to goods cleared from industrial units in the States of Uttarakhand and Himachal Pradesh**

Notification Nos. 49/2003-CE & 50/2003-CE dated 10th June, 2003 provide full exemption to goods cleared from Industrial units in the States of Uttarakhand and Himachal Pradesh, for a period of ten years from the date of commencement of commercial production . Such Exemption is available to new units set up or existing units which have undergone expansion before the cut-off date, i.e. on or before 31 December, 2010. The Board has clarified that any addition/modification in the plant or machinery or on the production of new products by an eligible unit after the cut-off date is permissible. However, the period of exemption would remain 10 years from the date of being eligible and would not be extended on account of such addition/change. **(Circular No. 939/29/2010 – CX dated 22nd December, 2010).**

FEMA

➤ **Comprehensive Guidelines on Over the Counter (OTC) Foreign Exchange Derivatives and Overseas Hedging of Commodity Price and Freight Risks**

RBI/2010-11/ 338 December 28th, 2010 A.P. (DIR Series) Circular No. 32. Comprehensive Guidelines on Over the Counter (OTC) Foreign Exchange Derivatives and Overseas Hedging of Commodity Price and Freight Risks
In the light of developments in the domestic and international financial markets, RBI has revised the extant guidelines on OTC foreign exchange derivatives, commodity price and freight risks in consultation with the banks, corporate and other stake holders. The revised comprehensive Guidelines on OTC Foreign Exchange Derivatives and Overseas Hedging of Commodity Price Risk and Freight Risk would be effective from February 01, 2011. Further, Comprehensive Guidelines on Derivatives issued by RBI on April 20, 2007 and subsequent amendments thereto would also apply, mutatis mutandis, to the foreign exchange derivatives.



Participation by Full-Fledged Money Changers (FFMCs) and Authorised Dealers Category-II (ADs Category-II) in the Currency Futures and the Exchange traded Currency Options markets

RBI has modified the guidelines contained in A.P. (DIR Series) Circular No. 5 dated August 6th, 2008 and A.P. (DIR Series) Circular No. 5 dated July 30th, 2010 on trading of currency options contracts on recognized stock / new Exchanges.

RBI has now decided that the FFMCs and the ADs Category-II [which are not Regional Rural Banks (RRBs), Local Area Banks (LABs), Urban Co-operative Banks (UCBs) and Non-Banking Financial Companies (NBFCs)], having a minimum net worth of 5 crore, may participate in the designated currency futures and currency options on exchanges recognized by the Securities and Exchange Board of India as clients only for the purpose of hedging their underlying foreign exchange exposures. FFMCs and the ADs Category-II, which are RRBs, LABs, UCBs and NBFCs, may be guided by the instructions issued by the respective regulatory departments of the RBI in this regard.

CORPORATE LAW

➤ **Amendments to SEBI equity listing agreement**

[Circular No. CIR/CFD/DIL/10/2010 dated 16th December, 2010].

The SEBI has issued Circular amending the Equity Listing Agreement (The LA) with respect to various continuous disclosures made by listed entities in relation to the following matters:-

- Amendments to Clause 35 – Disclosure relating to share holding pattern (effective immediately):-
 - a) Disclosure of shareholding pattern prior to listing of securities,
 - b) Disclosure of shareholding pattern of listed entities pursuant to material changes in the capital structure,
 - c) Disclosure in respect of Depository Receipts issued overseas,
- Amendments to Clause 40A – Minimum public share holding (effective immediately).
- Amendments to Clause 5A - Uniform procedure for dealing with unclaimed shares (effective immediately).

- Amendment to Clause 20 & 22- Corporate Announcement (effective 1 January, 2011)
- Amendment to Clause 21 - Notice Period (effective 1 January, 2011).
- Insertion of Clause 53 - Disclosures regarding agreements with the media companies (effective immediately).
- Insertion of Clause 54 – Maintenance of a website (effective 1st April, 2011).

➤ **Certification of associated persons in the securities markets**

[Circular No. LAD-NRO/GN/2010-11/21/29390 dated 10th December, 2010].

The SEBI has issued Circular amending the SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007 clarifying that the following category of associated persons, i.e., persons associated with a registered stock-broker/trading member/clearing member in recognised stock exchanges, who are involved in, or deal with, any of the following, namely:-

- Assets or funds of investors or clients,
- Redressal of investor grievances,
- Internal control or risk management, and

Activities having a bearing on operational risk shall be required to have a valid certification from the National Institute of Securities Markets (NISM) by passing the NISM-Series-VII: Securities Operations and Risk Management Certification Examination as mentioned in the NISM communiqué/Press Release.

NISM/Certification/Series-VII: SORM/2010/01 dated November 11th, 2010, read with Annexure-I and II thereto. is also provided that the stock-broker/trading member/clearing member It shall ensure that all persons associated with it and carrying on any activity as specified above as on the date of this notification obtain valid certification within two

years from the said date of notification and further that a stock-broker/trading member/clearing member who employs any associated persons specified in this paragraph after the date of this notification shall ensure that the said associated persons obtain valid certification within one year from the date of their employment.

➤ **Acceptance of third party address as correspondence address**

[Circular No.CIR/MRD/DP/37/2010 dated 14th December, 2010]. The SEBI has issued Circular based on representations received from market intermediaries seeking guidance and clarifications whether to accept and capture the address of some person (third party) other than the beneficial owner (BO) as a correspondence address in the details of the Demat account of the BO. SEBI has clarified that it has no objection to a BO authorizing the capture of an address of a third party as a correspondence address, provided that the Depository Participant (DP) ensures that all prescribed 'Know Your Client' norms are fulfilled for the third party also. The DP shall obtain proof of identity and proof of address for the third party.

The DP shall also ensure that customer due diligence norms as specified in Rule 9 of Prevention of Money Laundering Rules, 2005 are complied with in respect of the third party. SEBI has also stated that the depository participant should further ensure that the statement of transactions and holding are sent to the BO's permanent address at least once in a year. It is clarified that the above provision shall not apply in case of PMS (Portfolio Management Services) clients.

➤ **Easy exit scheme, 2011 ("EES, 2011")**

The Ministry of Corporate Affairs (MCA) has issued the EES, 2011 on 3rd December, 2010 since it was observed by the MCA that that certain companies were registered under the Companies Act, 1956, but due to various reasons some of them are inoperative since incorporation or commenced

business but became inoperative later on and are not filing their due documents timely with the Registrar of Companies. These companies may be defunct and may be desirous of getting their names struck off from the Register of Companies. In order to give an opportunity to the defunct companies for getting their names struck off from the Register of Companies, the Ministry had launched a Scheme namely, “Easy Exit Scheme, 2010” under Section 560 of the Companies Act, 1956 during May-Aug, 2010. A large number of companies availed this scheme. However, on huge demand from corporate sector, the Ministry has decided to re-launch the Scheme as, “**Easy Exit Scheme, 2011**” under Section 560 of the Companies Act, 1956.

The Scheme shall come into force on the 1st January, 2011 and shall remain in force up to 31st January, 2011. The scheme is applicable to any “defunct company” which has active status on Ministry of Corporate Affairs portal may apply under EES, 2011 in accordance with the provisions of this Scheme for getting its name struck off from the Register of Companies.

The scheme is not applicable to certain companies like listed companies, companies that have been delisted, section 25 companies, vanishing companies, companies facing inspection or investigation, companies accepted public deposits which are either outstanding or the company is in default in repayment of the same, company having secured loan, company having management dispute, company in respect of which filing of documents have been stayed by court or Company Law Board (CLB) or Central Government or any other competent authority and company having dues towards income tax or sales tax or central excise or banks and financial institutions or any other Central Government or State Government Departments or authorities or any local authorities. The scheme provides a simple procedure for making an application. One may note that the MCA may initiate action against defaulting companies once the scheme period is over.

➤ **Submission of balance sheet and profit & loss account by NBFCs :-**

[Notification No.DNBS.217/CGM (US)-2010 dated. 01-12-2010].

The RBI has issued Notification amending the Non-Banking Financial (Deposit Accepting) Companies Prudential Norms Directions, 2007 and Non-Banking Financial (Non-Deposit Accepting) Companies Prudential Norms Directions, 2007 and providing that every NBFC shall finalize its balance sheet and profit and loss account as on March 31 every year within a period of 3 months from the date to which it pertains. For example, balance sheet as on March 31st of a year shall be finalized by June 30th of the year.

INTERNATIONAL TAXATION

➤ **E-Funds Corporation vs. ADIT [2010-TII-165-ITAT-DEL-INTL]**

Facts

- The taxpayer, a US company, provided services:-
 - ATM Management Services.
 - Electronic Payments.
 - Decision Support and Risk Management.
 - Professional Services viz. business process management, IT outsourcing services, software application development, maintenance and installation services.
- It's wholly owned indirect subsidiary, e – Funds India, entered into agreement with the taxpayer for rendering services in the nature of Call centre services. Financial shared services and data entry and Software development services during the years under consideration for which it was remunerated on a cost plus basis. The AO held that taxpayer had business connection under domestic tax law and also PE in India under Article 5(1) and Article 5(2) (i) of the tax treaty

and attributed income to the PE based on the proportion of Written down Value of the gross global assets vis-à-vis the assets in India.

Issues

Whether the taxpayer constitutes business connection under the domestic tax laws or PE under the tax treaty by virtue of the activities outsourced to E-Funds India?

Whether such PE had profits attributable in India and alternatively whether the method of attribution as adopted by the AO and modified by the CIT(A) is incorrect since it results in quantification of excessive profits being attributable to the PE in India?

Held

- The taxpayer had business connection in India due to following reasons:-
 - Both tax payers and eFunds India are under legal obligation to provide services to clients of tax payers;
 - E-Funds India did not have the requisite material assets to perform the functions independently and did not bear significant risk;
 - The corporate office in India was responsible for overseeing the global operations of the eFunds Group and the Sales Team undertakes marketing efforts for affiliates of eFunds Corporation.
- The taxpayer had PE in India due to the reasons that the Article 5(1) of the treaty does not require that place of business be owned, rented or otherwise under possession or control of the enterprise in order to constitute PE but the place should be fixed in the context of the nature of business being carried out and also no time period test is prescribed for permanence which has to be determined in the context of nature of business being carried on.

- The activities cannot be considered to be preparatory and auxiliary as they constituted the core income generating activities. The Tribunal held that the profits attributable to Indian operations to be worked out in the proportion of Indian assets to the global assets.

➤ **Rolls Royce Industrial Power Ltd. vs. ACIT [2010-TII-139-ITATDEL-INTL]**

Facts

The taxpayer, a tax resident of UK, was awarded a contract for operation and maintenance (O&M contract) of a power plant for 10 years by Spectrum Power Generation Ltd. The taxpayer declared income as business receipts under article 7 of the tax treaty. The Assessing Officer (AO) held that the receipts from O&M contract are in the nature of FTS as per Section 9(1) (vii) of the Act. It was further held that such income was taxable as business profits under Article 7 of the tax treaty, but as it was FTS, it would be taxable on a gross basis@30 percent in terms of Article 7(5) of the tax treaty read with Section 44D2 and 115A3 of the Act.

Held

The bench held that it is important to make a distinction between rendering of services and carrying out of work. Carrying out of work also may require technical expertise but it does not convert a works contract into a service contract. When the taxpayer operates a power plant, it actually carries out work and gets paid a price for it. It does not render any service and is not paid any fee for rendering any service.

The taxpayer is neither making available technical knowledge, experience nor is it developing and transferring the technical plan or design and therefore 13(4) (c) of the tax treaty is not applicable. The expression “make available” enables the recipient of services to execute the job himself which was wholly absent in this contract. Amounts received by the taxpayer are purely business receipts under Article 7 of the tax treaty. Article 7(5) of the tax treaty restricts

expenditure to such expenditure “which are allowed under the provisions of and subject to the limitations of the domestic law of the other State in which the permanent establishment is situated.”

Article 7(5) of the tax treaty could never envisage a situation where entire expenditure is disallowed thereby converting profits into gross receipts. The limitation cannot be read to being no deduction. Therefore, a correct and harmonious interpretation of Article 7(5) of the tax treaty with Section 44D of the Act would be that this disallowance under section 44D (b) of the Act would not apply wherever Article 7 of the tax treaty is being applied.

The taxing of a non-resident U.K. company in a manner which is more burdensome vis-a-vis an Indian company would lead to discrimination. This would also amount to unfavorable treatment being meted out to the taxpayer vis-a-vis the Indian company doing identical business in India. Accordingly, the taxpayer is entitled to protection of Article 26 of the tax treaty and should not be subjected to tax on gross basis in India.

➤ **Robert Bosch GMBH vs. ACIT [2010-TII-149-ITAT-BANG-INTL]**

Facts

The taxpayer, a German Company, entered into a technical collaboration agreement (the Agreement) with Motor Industries Company Limited (MICO) for the supply of knowhow, right to use the technology, patent, design etc. MICO to pay 5 percent royalty to the taxpayer on all the products manufactured by it.

As per the altered terms of the agreement, no royalties on the sales made to the taxpayer provided the prices invoiced by MICO for these contract products do not include any value for royalties. AO held that since the invoices raised by MICO on the taxpayer were already reduced by the value of royalty, the same was deemed to have been paid to the taxpayer by MICO without deduction of tax and

consequently, there was understatement of income by the taxpayer to that extent.

Held

The Tribunal observed that the AO who concluded the assessment in the case of MICO could have analyzed the pros and cons of the agreements entered into between the taxpayer and MICO, and the TDS deductible under Section 195 of the Act and/or could have taken recourse under the Transfer Pricing provisions of the Act.

The taxpayer had arranged its affairs in such a way that the receipt of royalty was eliminated and to that extent payment on purchases was reduced. Charging royalty from MICO for the products supplied to the taxpayer and the same to be added back to the invoice by MICO will have nil effect. The taxpayer has every right to arrange itself legally in a position in order to reduce its incidence of tax.

The AO is not justified in arriving at a conclusion that the royalty receivable in the hands of the taxpayer having been adjusted against the purchase consideration payable to MICO lead to evasion of income from taxation.

POLICY WATCH

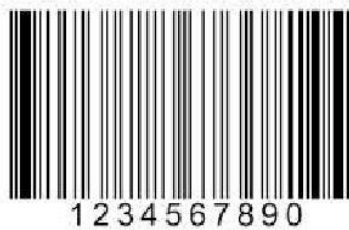
➤ **Government resolves tax issues clears way for IFRS launch by April**



The ministry of corporate affairs has resolved tax hurdles for the implementation of the International Financial Reporting Standard (IFRS) with the tax department. The ministry was getting positive

response from companies in regards to the implementation. Ministry is also confident that deadline of April 2011 for the transition to the new international accounting norms will be met. According to the road map laid out by the corporate affairs ministry, companies will have to prepare their accounts as per the new norm in a phased manner, beginning with companies that have a net worth of over Rs 10 billion.

➤ **Bar coding made mandatory for pharma exports from July 2011**



The bar coding on all medicine packs meant for exports has been made mandatory by the Commerce Ministry with effect from July 1st, 2011 to

trace and track the medicines to its source of origin. In a public notice issued on January 10, 2011, the Directorate General of Foreign Trade specified that the rule mandates all exporters of pharmaceutical products to be equipped with the technology to affix barcodes during the interim period. Furthermore, the track and trace technology that should be used by drug exporters should conform to the GS-1 standards at all levels of packaging. GS-1 is a global organization that designs and implements such standards.

While primary-level packs will see incorporation of 2D (two-dimensional) bar codes on medicines at strip, vial and bottle encoding of unique product identification code, batch number, expiry date and serial number, similar details will be displayed on the secondary and tertiary (shipper or carton) using 1D or 2D barcodes.

➤ **RBI cuts fee on outstation cheques:-**

The Reserve Bank of India (RBI) has decided to lower the service charge for outstation cheques up to Rs 5,000 but allowed banks to levy a higher fee for cheques above Rs 100,000. According to the revised

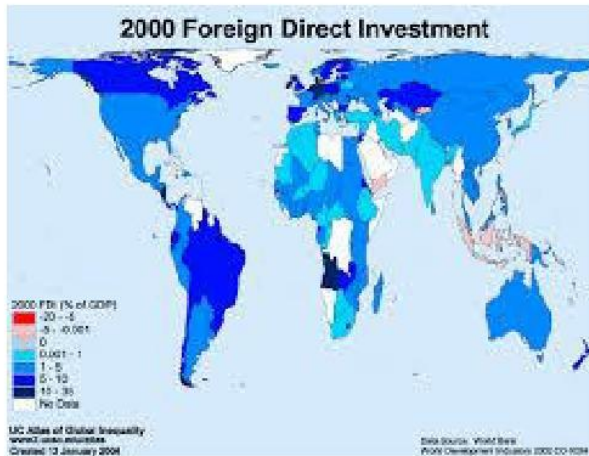
schedule, in case of outstation cheques up to Rs 5,000, the service charge has been halved to Rs 25. For amounts between Rs 5,001 and Rs 10,000, the levy has been retained at Rs 50. For cheques between Rs 10,001 and Rs 100,000, the charge remains unchanged at Rs 100. The service charges have to include all charges such as those for postal, courier and handling, though service tax is outside the ambit. For cheques above Rs 100,000, banks would be free to levy any fee as part of RBI's move towards providing greater freedom. At present, banks can charge up to Rs 150 per cheque. The same dispensation has been put in place in case of cheques covered under speed clearing. In case of local clearing, processing charges have been raised by 50 paise per cheque.

World Bank approves \$162 million loan to Rajasthan

The World Bank has approved a \$162.7 million loan to Rajasthan to help improve livelihood opportunities in 17 districts of the state. The funding for the Rajasthan Rural Livelihoods Project will help improve economic opportunities for rural communities, especially women and marginal groups, in 9000 villages of the state. The project aims to help the state government raise income levels for some 400,000 rural poor households in Rajasthan. It will channel funds for income-generating activities through some 33,000 Self Help Groups (SHGs), link selected SHGs to markets and also helps develop skills for unemployed rural youth.

The credit is provided by the World Bank's fund for the poorest, the International Development Association (IDA), and has 35 years of maturity and a 10-year grace period. Besides, the multi-lateral funding agency has also approved \$7.98 million additional finance for an ongoing watershed development project in Uttarakhand that will help rural communities increase agriculture productivity as well as rural incomes through a decentralized watershed management approach.

➤ **UK wants India to open retail, raise defense FDI cap**



Britain wants India to open up retail sector and further liberalize the defense and financial services to promote economic growth and deal with the food security problem. The issues are likely to be discussed for Business, Innovation and Skills during the visit of UK's delegates to India. At present, the government allows 51% FDI in single brand retail and 100% in the cash-and-carry (wholesale) formats, while FDI in multi-brand retail is prohibited. In defense and insurance sectors, 26% FDI is permitted. The UK has strong expertise in areas like retail, infrastructure, energy, financial services and defense. The visit is aimed at further identifying opportunities for British and Indian companies to work together to realize ambitious goals of economic growth in areas like infrastructure development.

➤ **MNP, telecom companies to focus on retaining customers**

The long-awaited nationwide rollout of mobile number portability, the facility that empowers customers to dump their cell phone operator without losing their phone numbers, was flagged off by Prime Minister, even as service providers flooded the market with a slew of freebies and attractive offers to retain their customers. The facility will compel mobile companies to improve the quality of their services and networks while also forcing them to come out with slew of innovative schemes and discounts to retain their high-end postpaid customers

who were largely neglected during the tariff cuts last year. Flagging off the service of mobile number portability will enhance competition in the telecom market, augmenting the sector's growth.

The telecom service providers will seek to improve the range and quality of their services in order to retain their existing subscribers and also to attract subscribers from other operators. This should further spur the growth of the Indian telecom sector; the launch of MNP had been deferred four times due to reasons ranging from operators not being ready with their networks to security concerns, before it was launched in Haryana last year. The introduction of MNP in the world's fastest-growing telecommunications market by subscriber additions may force companies to reduce tariffs, which are already among the lowest in the world, in a bid to retain customers and attract new subscribers.

INDUSTRY WATCH & CORPORATE HIGHLIGHT

➤ **Automobile industry higher excise payment up 54%**

The automobile industry has paid 54% higher excise in the first half of the current fiscal as auto sales peaked on floating economy fuelling customer demand. The industry, which grew by 31% in the first six months, contributed 119 billion as excise duty during the first half as compared with 7,684 paid in the same period last year. The government raised the excise duty by 2% across all vehicles in the last year's budget.

In December 2008, it had reduced the tax by 4% to induce demand on the back of global financial crisis. Currently, most automotive segments pay a flat 10% excise while big cars are taxed at 22%. The auto industry's contribution to net excise collection of 608 billion went up to 20% in the first half of the fiscal from 18% in the previous year. The industry posted its highest ever production of 10 million vehicles in

the April-December period. The production is expected to get a further boost with strong demand



Automobile Industry

for cars from domestic market and a higher export of two wheelers to various overseas markets.

➤ **Forex reserves up by \$ 3.4 billion to \$ 297.41 billion**

India's foreign exchange (Forex) reserves rose by \$ 3.4 billion to \$ 297.41 billion for the week ending January 14, 2011 on the back of rise in the value of foreign currency assets. The foreign currency assets, the biggest component of the Forex reserves segment, has increased by \$ 3.30 billion to record \$ 267.86 billion during the week under review from \$ 264.56 billion in the previous week, according to the Reserve Bank of India (RBI).

The foreign currency assets expressed in \$ terms include the effect of appreciation or depreciation of non-US currencies such as British pound sterling, euro and Japanese yen held in reserves. Furthermore, the value of Special Drawing Rights (SDRs) also increased by \$ 73 million to \$ 5.10 billion and reserves with the International Monetary Fund (IMF) reflected an increase by \$ 28 million to \$ 1.98 billion for the week ended January 14, 2011

➤ **India to become fourth largest passenger vehicle market in three years**

India is poised to become the world's fourth largest Passenger Vehicles (PV) market in three years, with an investment requirement of around US\$ 20 billion for the construction of nine new plants to address the growing demand. The Indian PV market is expected to touch 3.5 million units mark in the next three years. The Indian PV market, currently the seventh

largest, is expected to grow at 15-20% every year till 2013. India will even cross Japan by selling about five million PVs by 2017-18 in the next three years; India will need 6 to 9 new car plants with an average annual capacity of 150000 units, requiring an investment of at least US\$ 15-20 billion.

➤ **India set to get Asia's first tidal power plant**

The proposed commissioning of a 50-Mw tidal power project off the coast of Gujarat in 2013, India is ready to place its first "seamark" that will be a first for Asia as well. London-based marine energy developer Atlantis Resources Corporation, along with Gujarat Power Corporation Ltd, has signed a Memorandum of Understanding (MoU) with the Gujarat government to start this project. The cost for the plant is expected to be in the vicinity of Rs 75 billion. This plant is also expected to be scaled up to 250 Mw. Due to the high investment in setting up the project, a typical tidal power project is expected to break even between 8 and 12 years after commissioning.



Despite the long gestation period to make it commercially viable, tidal power has unparalleled environmental advantages. The power off taker would be Gujarat Power Corporation. The final cost of power per unit will be determined at the completion of Front-End Engineering and Design (FEED) phase, but was expected to be competitive when compared to the large solar power projects planned for development in Gujarat. The project is currently owned by Atlantis and GPCL and project equity participants will be sought at the completion

of FEED phase.

➤ **Indian car market growth second fastest globally**

A surging economy and new models saw passenger vehicle sales in India boom in 2010, making the country the world's second-fastest growing market, ahead of developed ones like Japan, Brazil, US and UK, lagging only to China. The country grew at the fastest pace in sales of commercial vehicles, even ahead of China, mainly backed by growth in infrastructure.



This fast pace, though, is likely to moderate as rising interest rates and firmer commodity prices coupled with high inflation, are set to dampen sentiments and pull down the demand. Sales of passenger vehicles grew 31% in India in January-November 2010, ahead of 10% growth in Japan, 9% in Brazil, 5% in the US and 3% in the UK. Sales in China, which has emerged as the world's biggest car market, grew 39%, according to figures provided by Society of Indian Automobile Manufacturers (Siam). Some of the other big markets could not even manage to stay afloat as France shrank 1% and Italy 7%.

➤ **Tata, partner to hold 100% in African unit**

TATA Steel and its Australian Joint Venture (JV) partner Riversdale Mining are acquiring full ownership of the \$1-billion Benga power plant in Mozambique for an undisclosed amount.

They are buying out Elgas 50% stake in Benga, which is expected to generate electricity in the next two years. Riversdale, in which Tata Steel is the

largest shareholder, takes the full control in the Benga power plant as this would accelerate the development of the project, and it will also help in bringing in new strategic investors to the project. Riversdale is subject to a takeover from Rio Tinto, which has offered \$3.9 billion. The coal-fired Benga power project is expected to produce 500 to 600 MW in the first phase and thereafter to 2,000 MW. After buying out Elgas in the Benga power project, the new shareholding pattern will be Tata Steel with a 35% and Riversdale with 65%. Coal for the power plant will be provided from Riversdale's coal mine, which is also in Benga. And the electricity generated from the power plant would be used to feed Riversdale's Zambeze project and distribute it to South Africa's power network.





➤ **L&T to be split into 9 firms**



L&T Infotech

India's top engineering and construction company, Larsen & Toubro, has started a restructuring plan to split the conglomerate into nine companies. Each of the nine "independent companies" will manage its own profit and loss account and have a separate chief executive and chief financial officer and human resources.

Some of these companies could be spun out of L&T and listed on the stock markets. Power, hydrocarbon, machinery and product, switchgear, heavy engineering, infrastructure, building and factories, metals and minerals and electrical businesses make up the nine companies.

Statutory compliance calendar for the month of January 2011			
Due date	Statutory compliance under Act	particulars	Governing authority
			
06/01/2011	Service Tax	Payment of monthly service tax for the month of December by all tax payers electronically	Central Board of Excise and Custom
	Central Excise	Payment of monthly central excise duty for the month of December on goods by assesses other than SSI units and quarterly payment of excise by SSI electronically	Central Board of Excise and Custom
07/01/2011	Income Tax	Deposit of Income Tax TCS and TDS deducted in December	Central Board of Direct Tax.
	SEBI	Quarterly report for grievances of beneficial owners related to depository services to depositories	The securities and exchange board of India Act-1992
	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.
	SEBI	Quarterly certificate on Demat/remit shares to depositories	The securities and exchange board of India Act-1992
10/01/2011	Central Excise	(a) Monthly central excise return in form ER-1/ER-2 by other than SSI. (b) Quarterly return by SSI in form ER-3 (c) Quarterly return by assesses paying 1%/2% excise duty and not manufacturing any other goods in form ER-8.	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.
	NBFC-D	Quarterly submission of Monetary and Supervisory return in form NBS-5 by NBFC having public deposits of ` 20 crore and above as per last audited balance sheet	Reserve Bank of India.

15/01/2011	Income Tax	(a) Quarterly Income Tax TDS/TCS statement in form 24Q/26Q/27EQ (Other than Government) (b) Quarterly return in form 27Q in respect of TDS from interest, dividend or any other sum payable to non-residents	Central Board of Direct Tax.
	Provident Fund	(a) Payment of monthly dues of Provident Fund for the month of December (b) Monthly return in form 5 for employees joining Provident Fund during December 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 December	The Central Board of Trustees, The Employees' Provident Fund Scheme, 1952
	SEBI	Quarterly Corporate Governance Compliance Certificate by listed companies to stock exchanges under clause 49(VI) (ii) of Listing Agreement.	The securities and exchange board of India Act-1992
	Central Excise – Dealers	First stage dealer and second stage dealer to submit quarterly return	Central Board of Excise and Custom
	NBFC-D	(a) Quarterly Return of Statutory Liquid Assets in form NBS-3 by NBFC (NBS-3A by RNBFC) only if they are accepting public deposits (b) Quarterly report of frauds involving ` one lakh or more in form FMR-3 and frauds outstanding in form FMR-2.	Reserve Bank of India.
21/01/2011	SEBI	Payment of ESIC contribution for the month of December	The securities and exchange board of India Act-1992
	ESIC	Monthly contribution statement (abstract) in form 12A, along with copy of receipted challan regarding payment of contribution.	The employees' state insurance Act-1948. Ministry of labour and employment.
25/01/2011	Provident Fund	Monthly contribution statement (abstract) in form 12A, along with copy of receipted challan regarding payment of contribution.	The Central Board of Trustees, The Employees' Provident Fund Scheme, 1952

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
CIT	Commissioner of Income Tax
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

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- Business Asset Valuation.
- Due Diligence.



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