

Tax & Corporate law Bulletin

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February 2012

From the Editor's Desk...

Dear Reader,

Greetings for the season.

Welcome to February, Unending favour, prosperity and good health are our wishes to all are readers. Wishing you the very best in all your endeavours this month and beyond.

Let's have a look on some important updates of the month: Interest on tax refund received by a foreign company taxable as interest income and not as business income, Key amendments to Combination Regulations under the Competition Act 2002 and read many more...

We eagerly await your feedback on the bulletin.

Yours truly,

Rajput Jain & Associates
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“Adapting swiftly to the
global business environment”



DIRECT TAX

➤ **Liability of the Liaison offices in India**

The Finance Act, 2011 introduced section 285 in the Income Tax Act, 1961 with effect from 1 June 2011 to provide for filing of an annual statement by a non-resident having a Liaison Office (LO) in India with the jurisdictional Assessing Officer within 60 days from the end of a financial year in the prescribed form.

In connection with the above, the Central Board of Direct Taxes (CBDT) has provided for Rule 114DA in the Income Tax Rules 1962 and prescribed the annual statement, Form No. 49C, to provide for the information and particulars to be furnished by the non-resident having LO in India. The salient features of the said rule are:-

- **Signing of Annual statement:** Annual statement is required to be verified by a Chartered Accountant or by a Signatory duly authorised in this behalf by the non-resident.
- **Format for filing of annual statement:** Annual statement is required to be furnished in electronic form along with the digital signature following the procedure to be prescribed by the Director General of Income-tax (Systems).
- **Prescribed Information:** The form prescribes information to be provided, amongst others on:
 - India specific financial details for the financial year i.e., receipts, income and expenses of the non-resident person from or in India and not only of the LO;
 - Details of all purchases, sales of material, and services from/to Indian parties during the year by the non-resident person (not limited to transactions made by LO).
 - Details of any salary or compensation of any sort payable outside India to any employee working in India or for services rendered in India

- Total Number of employees working in the LO/LOs during the year
- Details of agents/representative/distributors of the non-resident person in India and names & addresses of the top five parties in India with whom the L.O. has been doing the liaisoning
- Details of Products or services for which liaisoning activity is done by the LO
- Details of any other entity for which liaisoning activity is done by the LO
- Details of Group entities present in India as Branch Office/Companies/LLPs etc., incorporated in India and nature their business activities
- Details of other LOs of the Group entities in India
- Other Group entities operating from the same premises as the office of the LO

➤ **Relief to Salaried Employees**

The primary objective of this notification is to exempt those salaried taxpayers from the requirement of filing income-tax returns, who have (i) total income not exceeding Rs.5, 00,000, and (ii) the total income consists only of income chargeable to income tax under the head Salaries and interest income from savings bank account if such interest income does not exceed Rs.10, 000.

Further, such salaried taxpayer would be eligible for exemption from filing a return of income only if tax liability has been discharged by the employer by way of Tax Deducted at Source (TDS) and the deposit of the same to the credit of the Central Government. For this purpose, taxpayer has to intimate his interest income to the employer during the course of the year.

➤ **Interest on tax refund received by a foreign company taxable as interest income and not as business income**

Mumbai Tribunal in its recent decision in the case of **Bechtel International Inc. vs. Assistant Director of Income Tax** (ITA No. 5198 and 6998/Mum/2010 dated 8th February, 2012) held that the interest on

income tax refund is taxable as interest income and not as business income.

➤ **Amendments to the procedure for processing of returns filed under the Centralized Processing of Returns Scheme, 2011**

The Finance Act, 2008 introduced certain provisions for computerized processing of returns on a pilot basis through the Centralised Processing Centre (CPC) for faster processing of returns. Though the scheme was introduced in 2008, a notification of the manner in which the Scheme would work was issued only recently by the Central Board of Direct Taxes (CBDT).

This notification, which became effective from 4th January 2012, provides guidelines and clarifications on the manner in which tax returns which are filed electronically by taxpayers would be processed and related matters.

Highlights of Notification

- **Filing of return** – All acknowledgements (ITR-V) of e-filed returns duly verified are to be sent to Centralized Processing Centre either through ordinary or speed post within time stipulated by the Director General of Centralized Processing Centre (DG). Centralized Processing Centre can call for fresh ITR-V where earlier ITR-V cannot be considered for technical reasons.
- **Date of filing of return** – Date of transmitting data electronically would be the date of furnishing the return where the ITR-V has been furnished in the prescribed manner within the time stipulated.
- **Revision of return** – Where original return is e-filed, a revised return cannot be filed by any other means except by e-filing; Centralized Processing Centre will only process the revised return and no action would be taken on the original return if it has not already been processed.
- **Defective return** – Where a return is treated as defective (for example due to incomplete or inconsistent information), notice of defects

would be provided to the taxpayer via e-mail or suitable communication on the e-filing website. The taxpayer should then upload the rectified return within the time specified by the Commissioner of Centralized Processing Centre. The Commissioner may condone the delay. Where the taxpayer does not respond, the Commissioner can process the return on the basis of information available with him.

- **Invalid return (return treated as not filed at all)** – A return will be treated as invalid if , It has been e-filed using a software not validated and approved by the Director General; or The ITR-V that is furnished after the prescribed time is rejected on account of it being unsigned, illegible, mutilated, bad quality or not as per specification. The return can be treated as invalid by the Commissioner where the taxpayer does not respond to the notice of defective return within the time specified in the notice.
- **Processing of tax return** – Taxpayers would need to interact with Centralized Processing Centre via written or e-mail communication in the formats specified and personal appearance of the taxpayer or his authorized representative not required. CPC would refer to data of tax payments (provided by deductors for Tax Deducted at Source [TDS] or collectors for Tax Collected at Source [TCS] or authorized banks for advance / self-assessment taxes) to process returns. Centralized Processing Centre would provide intimation of refund / tax payable via e-mail and such intimation deemed to be notice of demand where tax is determined as payable. If a return cannot be processed for any reason, Commissioner to transmit the return to the jurisdictional Assessing Officer.
- **Rectification of return** – Application for rectification to be filed electronically in prescribed format and intimations to be provided by Centralized Processing Centre electronically.
- **Set-off of prior year tax demands** – Centralized Processing Centre would use the details of outstanding tax demand as uploaded in their systems by the Assessing Officer.

- **Appellate proceedings** – Assessing Officer to represent the tax department in case of appeals filed in respect of returns processed by CPC.
- **Mode of communication by Centralized Processing Centre** – Notices / orders / other communication can also be sent by CPC by placing the copy of these on the “My Account” menu of the taxpayer on the tax website. The other modes allowed are via post / e-mail. The date of electronically posting such communication shall be deemed to be the date of service of the communication. The intimation, orders and notices shall be computer generated and need not carry physical signature of the person signing it.

This notification helps in clarifying the guidelines for taxpayers who e-file their tax returns. Taxpayers would now need to also frequently check their accounts on the tax website to track orders / notices on a timely basis. They will also need to keep in mind the prescribed modes of corresponding with the CPC -this is different for responding to queries versus applying for a rectification.

Source: Notification No. 3/2012 – CBDT

INDIRECT TAX

SERVICE TAX



➤ **Synopsis of notifications, Circulars & Letters:-**

CBEC vide Order No.1/2012-ST dated 9th January, 2012 has extended the date of filing of half yearly service tax return for the period April to September, 2011 from 6th January, 2012 to 20th January, 2012. The original due date was 25th October, 2011 which is extended for the 3rd time.

CENTRAL EXCISE

➤ **TARIFF NOTIFICATIONS:-**

- **Exemption to Khandsari Sugar and other parts of Sewing Machine**

Through this notification, Khandsari Sugar and other parts of sewing machine have been exempted from the levy of Central Excise Duty and the corresponding notifications no. 3/2006 and 6/2006 respectively has been amended to this effect.

INTERNATIONAL TAX ALERTS

Payments made by a distributor for purchase of software for resale is royalty and subject to tax withholding

Facts:-

- Citrix Systems Asia Pacific Pty. Limited (the Applicant), a company incorporated in Australia, is engaged in the business of providing software services which help in virtualization, networking and application delivery. The Applicant entered into non- exclusive agreements with independent Indian distributors for the distribution and sale of its software and hardware products in India.
- The arrangement provided that the hardware products be shipped to the distributors who in turn would supply them to re-sellers and end-user customers. As regards the software no physical deliveries of the products are made to the distributors, but the end-user customer was required to download the software from the server of the Applicant. However, the distributors were invoiced for the software, and who in turn invoiced the resellers/ end customers.
- The distributors also facilitated the sale of Citrix Subscription Advantage Programme, a package of support services which included product

version updates, the subscription advantage news and update and secure portal access.

Issues before the AAR:-

Whether the payments received by the Applicant from the distributor for sale of software products and Citrix Subscription Advantage Program was in the nature of “royalty” as defined in Section 9(1) (vi) of the Income-tax Act, 1961 (“the Act”) and/or under Article 12 of India-Australia tax treaty (“DTAA”) and therefore subject to withholding tax under section 195 of the Act?

Observations and Ruling of the AAR:-

- The expression “copyright” has been defined in the Copyright Act to mean the exclusive right to do or authorize doing of any of the acts referred to therein in respect of a work or any substantial part thereof. Additionally, in case of a computer programme, the copyright would include the right to sell or give on commercial rental or offer for sale or for commercial rental, any copy of the computer programme.
- The owner of a copyright can grant an exclusive license to another to exploit the copyright or he can also grant a mere licence limited in point of right, limited in point of user, limited in point of duration. A lawful possessor of a computer programme (which can be an assignee, an exclusive licensee or a licensee of the program) has also got a right absolute or limited to use the copyright.
- On a software being assigned or licensed for use, there is involved an assignment of the right to use the embedded copyright in the software or a license to use the embedded copyright, the Intellectual Property Right (IPR) in the software. Such software cannot be divorced from the IPR of the creator of the software embedded therein.
- Software is nothing but a programme and other operating information used by a computer and so the sale or licensing of software for use passes to the grantee a copyright as defined in the Copyright Act. Thus, the sale or licensing of the software involves the grant of a right to use the

copyright in the software. Thus when software is transferred or licensed for use, it takes within it the copyright embedded in the software.

- Royalty under the Act has been defined as consideration for the transfer of all or any rights (including the grant of license) in respect of any copyright. The words „including the grant of license’ indicate an expansive definition and should be understood simplicitor, as the grant of a license.
- Royalty under DTAA refers to payments made as consideration for the use of or right to use of any copyright, patent, etc. which could be construed to be wider than the one contained in the Act as it includes consideration for the use of a copyright in addition to the consideration paid for the right to use a copyright.
- The distinction sought to be made between a copyright and copyrighted article appears to be illusory as when a copyrighted article is permitted or licensed to be used for a fee, the permission involves not only the physical or electronic manifestation of a programme, but also the use of or the right to use the copyright embedded therein.
- Further the Copyright Act, the Act or the DTAA do not use the expression „copyrighted article”, which could have been used if the intention was as claimed by the applicant.
- The practice in Canada, the USA and other developed countries, allowing the use of protected software for a consideration by way of a contract was to treat the income as royalty and has also been stated in the commentary by Klaus Vogel.
- The sale or licensing for use of copyrighted software amounts to the grant of a right to use a copyright.

Conclusion:-

The AAR held that the payments received by the Applicant from the distributor for sale of the software product or in respect of Citrix Subscription Advantage Programme are in the nature of royalty as defined in the Act as well as under the DTAA. The

AAR also observed that there being divergence in views on the question at the different legislative levels, an authoritative pronouncement by the Supreme Court could settle this controversy.

Source: Citrix Systems Asia Pacific Pvt. Limited (AAR No.822 of 2009 dated 6 February, 2012).

➤ **Key amendments to Combination Regulations under the Competition Act 2002**

The provisions of Competition Act, 2002 relating to Regulation of Combinations have been in force with effect from 1st June, 2011. After gaining experience of implementation of the Combination Regulations for almost nine months, The Competition Commission of India (CCI), has amended the Regulations with a view to provide relief to the corporate entities.

➤ **Key changes in the Combination Regulations**

Amendment in Exemptions

• **Exemption limit increased to 25 percent of shares or voting rights** - Where the post acquisition stake of the acquirer pursuant to an acquisition is less than 25 percent of the shares or voting rights; there is no need to notify the CCI. Prior to the amendment, acquisitions of shares or voting rights up to 15 percent were exempted under Schedule I to the Regulations.

• **Intra-group amalgamation** - A new clause 8A has been introduced in the Schedule I to exempt a merger involving a holding company and its subsidiary wholly owned by enterprises belonging to the same group and/or mergers involving subsidiaries wholly owned by enterprises belonging to the same group.

• **Acquisitions pursuant to buyback and rights issue** - An Acquisition of shares or voting rights pursuant to buy-back of shares not leading to acquisition of control have now been included in the list of exempted transactions under Schedule I. Further the restriction of subscription to rights issue

to the extent of their 'entitled proportion' has also been removed.

Threshold calculation in an asset sale

Where, in a series of transactions, assets are being transferred to an enterprise for the purpose of such enterprises entering into a further acquisition or merger with another person or an enterprise, a new provision for the purpose of computation of the threshold limits has been introduced, the value of assets and turnover of the enterprise whose assets are being transferred shall also be attributed to the value of assets and turnover of the enterprise to which the assets are being transferred.

Amendments to Forms

• **Form – I**

Form I remains the default form for filing notifications with the following changes:

- a) For uniformity, distinction for filling up Part I for certain types of transactions and Part II for the remaining transactions has been removed.
- b) Also, a provision has been introduced for parties to provide details of value of the assets and turnover in tabular format.
- c) Copy of the acquisition agreement or board resolution for merger as mentioned in Section 6(2) is to be annexed to the Form.

• **Form - II**

- a) Parties retain the option of filing Form II, especially in those cases where there may be significant horizontal overlap with a combined market share of more than 15% in the relevant market and/or a significant vertical relationship with a combined market share of more than 25 percent in the relevant market.

Press Release dated 24th February 2012.

FEMA

➤ Liberalization in procedures relating to export and import

The Reserve Bank of India (RBI) has liberalized the existing procedure relating to export and import as under:

Export of goods:

The RBI has permitted Authorised Dealer (AD) Category I bank (AD bank) to allow exporters to receive advance towards export of goods which would take more than one year to manufacture and ship and the export agreement provides for shipment of goods extending beyond the period of one year from the date of receipt of advance payment. (Currently, prior approval of the RBI is required for receipt of advance towards export of goods where the export agreement provides for shipment of goods beyond the period of one year.)

Some of the key conditions to be complied with are as follows:

- Advance to be utilized for export and not for any other purpose
- The application should not have refund advance payment in excess of 10% received in the last three years
- The rate of interest, if any, payable on the advance payment shall not exceed the London Inter-Bank Offered Rate (LIBOR) + 100 basis point
- AD bank to undertake the Know-Your-Customer (KYC) process and due diligence of overseas buyers and ensure compliance with the Anti-money laundering (AML) standards
- Progress payment, if any, should be received directly from the overseas buyers strictly in terms of the contract, and,
- The documents covering the shipment should be routed through the same AD Bank.

In the event the exporter is unable to make the shipment, partly or fully, refund of unutilized portion

of advance payment/payment of interest would require prior RBI approval.

➤ Release of foreign exchange for imports

Indian importers are now permitted to make remittance towards import of goods amounting to USD 5000 or its equivalent (currently USD 500) without any documentation. The remittance request needs to be accompanied by a simple letter from the applicant containing the basic information, viz. its name and address, name and address of the beneficiary, amount to be remitted and the purpose of remittance.

These are positive steps towards reducing procedural difficulties faced by exporters and importers.

Source: A.P. (DIR Series) Circular No. 81 and 82 dated 21 February 2012

➤ Simplification of procedure for External Commercial Borrowings

The Reserve Bank of India (RBI) has further simplified existing procedures with respect to External Commercial Borrowings (ECB) by delegating additional powers to Authorised Dealer – Category I (AD) banks to improve following requests of Indian borrowers, subject to prescribed conditions:

Kind of Request	Route	Conditions
Reduction in amount of ECB	Automatic Route	<ul style="list-style-type: none"> • Consent letter obtained from lender • Average maturity period is maintained
Change/modification in the drawdown schedule of ECB when original maturity period is not maintained	Automatic /Approval route	<ul style="list-style-type: none"> • No change in repayment schedule • Reduction in the original average maturity period as reported in Form 83 and the ECB

		<p>continues to be in compliance with the stipulated minimum average maturity period as per the ECB policy</p> <ul style="list-style-type: none"> Any change in all-in-cost is only due to change in average maturity period and the ECB continues to be in compliance with the stipulated minimum all-in-cost ceiling as per the ECB policy
Reduction in all-in-cost ceiling	Automatic /Approval route	<ul style="list-style-type: none"> Consent letter obtained from lender

In all the above requests, the AD bank would need to ensure that the borrower has submitted the monthly ECB-2 returns and the

“Journey of Professional Knowledge and Information transformation should continue”

➤ **Clarification on regulation of interest rates for Small Savings Schemes**

DGBA.CDD. No. H- 4836 /15.02.001/2011-12 dated 20th January, 2012

As per the decision of the Government on Comprehensive Review of National Small Savings Fund (NSSF), the rate of interest on small savings schemes will be aligned with G-Sec rates of similar maturity with a spread of 25 basis points (bps), with two exceptions. The spread on 10 year National Savings Certificate (NSC) will be 50 bps and on Senior Citizens Savings Scheme, 2004 (SCSS, 2004) 100 bps. The interest rates for every financial year

will be notified before April 1st of that year. Notifications on changes in the interest rates, in various small savings schemes with effect from December 01, 2011 have already been issued by Government of India. Some other important points:

- As per the rules of small savings schemes, the rate of interest on an investment made in all schemes except PPF, 1968 on a particular date, remains unchanged for the entire duration of the investment, till maturity, irrespective of the revisions in subsequent years.
- The above clarification may be brought to the notice of the branches of the banks operating the PPF Scheme, 1968 and SCSS, 2004

➤ **Export of Goods and Services– Forwarder’s Cargo Receipt**

A.P. (DIR Series) Circular No. 65 dated January 12th, 2012

Authorized Dealers are allowed to accept Forwarder’s Cargo Receipts (FCR) issued by International Air Transport Association (IATA) approved agents, in lieu of bill of lading, for negotiation/collection of shipping documents, in respect of export transactions backed by letters of credit, if the relative letter of credit specifically provides for negotiation of this document in lieu of bill of lading even if the relative sale contract with the overseas buyer does not provide for acceptance of FCR as a shipping document, in lieu of bill of lading.

Further, authorized dealers may, at their discretion, also accept FCR issued by Shipping companies of repute/IATA approved agents (in lieu of bill of lading), for purchase/discount/collection of shipping documents even in cases, where export transactions are not backed by letters of credit, provided their 'relative sale contract' with overseas buyer provides for acceptance of FCR as a shipping document in lieu of bill of lading. However, the acceptance of such FCR for purchase/discount would purely be the credit decision of the bank concerned that, among others, should satisfy itself about the bona fides of the transaction and the track record of the overseas buyer

and the Indian supplier since FCRs are not negotiable documents. It would be advisable for the exporters to Ensure due diligence on the overseas buyer, in such cases.

- **Qualified Foreign Investors allowed to invest directly in Indian equity market –Scheme for Investment by Qualified Foreign Investors in equity shares Press Release dated January, 1st 2012 issued by GOI**



A.P. (DIR Series) Circular No. 66 dated January 13th, 2012

Presently, only FIIs/sub-accounts and Non-Resident Indians (NRIs) are allowed to directly invest in Indian equity market. In this arrangement, a large number of foreign investors termed as Qualified Foreign Investors (QFIs – defined to mean non-resident investors, other than SEBI registered FIIs and SEBI registered FVCIs, who meet the KYC requirements of SEBI), in particular, a large set of diversified individual foreign nationals who are desirous of investing in Indian equity market do not have direct access to Indian equity market. In the absence of availability of direct route, many QFIs find difficulties in investing in Indian equity market.

As a first step in this direction, QFIs have been permitted direct access to Indian Mutual Funds schemes. As a next logical step, the Government of India (GOI) has now been decided to allow QFIs to directly invest in Indian equity market in order to widen the class of investors, attract more foreign funds and reduce market volatility and to deepen the Indian capital market.

Accordingly the RBI has issued a circular on January 13, 2012 to allow QFIs to purchase on repatriation basis equity shares of Indian companies subject the Terms and conditions specified in the circular.

Further SEBI has also allowed investment by QFIs vide its Circular No. CIR/IMD/FII&C/3/2012 dated January 13, 2012. The QFIs shall include individuals, groups or associations, and resident in a foreign country which is compliant with FATF and that is a signatory to IOSCO’s multilateral MoU. QFIs do not include FII/sub-accounts

- **Revision in Scheme for Investment by Qualified Foreign Investors in Rupee Denominated Units of Domestic Mutual Funds**

A.P. (DIR Series) Circular No. 66 dated 13th January, 2012

As per the extant provisions, the funds received from the QFIs into this account shall be remitted to the domestic MF either on the same day of the receipt of The funds from QFIs or by next business day in case money is received after business hours, failing which the funds would be immediately repatriated back to the QFI’s overseas bank account.

The redemption proceeds of the units shall be repatriated to the overseas bank account of the QFI within 2 working days of the same having being received in the rupee pool account of the DP. It has been decided that the time period for which funds can be kept in the single rupee pool bank account of the DP under the scheme for investment by QFIs in units of domestic Mutual Funds has been increased to 5 working days.

It has also been decided to allow credit of dividend payments to QFIs on account of units of mutual funds held by them to the single rupee pool bank account subject to the condition that in case dividend payments are credited to the single rupee pool bank account they shall be remitted to the designated overseas bank accounts of the QFIs within 5 working days (including the day of credit of such funds to the single rupee pool bank account). Within these 5 working days, the dividend payments can be also utilized for fresh purchases of units of domestic mutual funds under this scheme, if so instructed by the QFI.

CORPORATE LAWS

➤ **Direct investment in Indian equity markets by qualifying foreign Investors**

The Ministry of Finance has issued Press Release dated 01.01.2012 whereby it has now decided to allow Qualified Foreign Investors (QFIs) to directly invest in Indian equity markets in order to widen the class of investors, attract more foreign funds, and reduce market volatility and to deepen the Indian capital market. This was followed up by issuance of a detailed Circular CIR/IMD/FII&C/3/2012 dtd. 13.01.2012. QFIs have been already permitted to have direct access to Indian mutual funds schemes pursuant to the Budget announcement of 2011-12. The QFIs shall include individuals, groups or associations, resident in a foreign country which is compliant with Financial Action Task Force (FATF) and that is a signatory to International Organization of Securities Commission's (IOSCO) multilateral MoU but shall not include FIIs/sub-accounts. The salient features of the scheme are as under:

- RBI would grant general permission to QFIs for investment under portfolio Investment scheme (PIS) route similar to FIIs.
- The individual and aggregate investment limit for QFIs shall be 5% and 10% respectively of the paid-up capital of Indian company. These limits shall be over And above the FII and NRI investment ceilings prescribed under the PIS route for foreign investment in India.
- QFIs shall be allowed to invest through SEBI registered qualified depository participant (QDP). A QFI shall open only one Demat account and a trading account with any of the qualified DP. The QFI shall make purchase and sale of equities through that DP only. To become a QDP, a SEBI registered DP shall fulfill certain criteria provided in the above Circular including having paid-up capital of 50 crore or more, shall be either a clearing

bank or clearing member of any of the clearing corporations, shall obtain prior approval of SEBI before commencing the activities relating to opening of accounts of QFI, etc.

- DP shall ensure that QFIs meet all KYC and other regulatory requirements, as per the relevant regulations issued by SEBI from time to time. QFIs shall remit money through normal banking channel in any permitted currency (freely convertible) directly to the single rupee pool bank account of the DP maintained with a designated AD category - I bank. Upon receipt of instructions From QFI, DP shall carry out the transactions (purchase/sale of equity).
- DP shall be responsible for deduction of applicable tax at source out of the redemption proceeds before making redemption payments to QFIs.
- Risk management, margins and taxation on such trades by QFIs may be online similar to the facility available to the other investors.

The Circular also provides for listing of eligible transactions for QFI and Methodology for account opening and manner of operation by QFI in detail.

➤ **Dissemination of Credit information of Suit-filed Accounts**

The RBI has issued Circular No. RBI/2011-12/408/UBD.CO.BPD. Cir.No.19/09.11.200/2011-12 dated 13th February, 2012 reiterating that in addition to Credit Information Bureau (India) Ltd. (CIBIL), Certificate of Registration (COR) has been issued to three CICs, viz. Experian Credit Information Company of India Pvt. Ltd., Equifax Credit Information Services Pvt. Ltd. and High Mark Credit Information Services Pvt. Ltd. to commence the business of credit information under the Credit Information Companies (Regulation) Act, 2005. Later, the Credit Information Bureau (India) Ltd. has also been registered under Circular No. DBOD No. CID.BC.84/20.16.042/2011-12 dtd. March 05, 2012.

The RBI has now advised to submit the quarterly list of suit filed accounts of ₹ 1 crore and above, classified as doubtful or loss, to CIBIL and/or to any other credit information company which has obtained CoR from RBI and of which the bank is a member.

➤ **Indian Government Accounting Standards (IGAS)**

The MCA has issued Notification No. 268(E) dated, 13th February, 2012 notifying the Indian Government Accounting Standards (IGAS) in terms of the powers to the government conferred under clause (2) of Article 293 of the Constitution to make loans to the States, subject to such conditions as may be laid down by or under any law made by Parliament, any sums required for the purpose of making such loans being chargeable to the Consolidated Fund of India. The objective of the Standard is to lay down the norms for recognition, measurement, valuation and reporting in respect of loans and advances made by the Union and the state governments in their respective financial statements to ensure complete, accurate, and uniform accounting practices, and to ensure adequate disclosure on loans and advances made by the governments consistent with best international practices. It is provided that this standard applies to loans and advances given by the government for incorporation and presentation in the financial statements of the government.

In the above notification, various formats are provided like the ones given below for disclosures in the financial statements of the union government and the state governments respectively:

- Statement of loans and advances made by the Union/State Government further sub-divided into several sections as under:
 - a) Section:-1 Summary of loans and advances loan group-wise
 - b) Section:- 2 Summary of loans and advances: sector-wise (in lakhs of rupees)

c) Section: - 3 Summary of repayments in arrears from state or union territory government and other loan entities.

- Detailed statement of loans and advances made by the union/state government further sub-divided into several sections as under:

a) Section:1 Major and minor head-wise details of loans and advances

b) Section: 2 Repayments in arrears from state or union territory governments

c) Section: 3 Repayments in arrears from other loan entities or institutions.

POLICY WATCH

➤ **SEBI eases preferential allotment norms**

The Securities and Exchange Board of India (SEBI), the capital market regulator, lifted restrictions on broad-based institutions, such as insurance companies and mutual funds, subscribing to preferential issues of companies. According to earlier regulations, these institutions were not allowed to participate in preferential allotments if they had sold holdings in the issuer companies in the preceding six months. Further, on allotment, they were required to lock in their entire pre-preferential holdings in such companies for a period of six months from the date of preferential allotment. Both these restrictions have now been lifted.

It has been decided to exempt insurance companies and mutual funds, which are broad-based investment vehicles representing public at large, from regulations related to sale and lock-in of their pre-preferential shareholding in issuer companies. However, the lock-in on shares allotted in the preferential issue, will remain unchanged. Some of the larger Asset Management Companies (AMCs) that already have significant holdings in companies and want to increase those further through preferential allotments will be benefitted. At present, not many AMCs participate in preferential allotments

➤ **DIPP told to set rules for FDI in power exchanges**

The government has set the ball rolling for Foreign Direct Investment (FDI) in power exchanges. The finance ministry has asked the Department of Industrial Policy and Promotion (DIPP) to design a FDI policy for power exchanges on the lines of commodity exchanges. There is a need for clear FDI regime for power exchanges. At present, FDI in power exchanges is not explicitly banned but the rules not specifically provide for foreign investment on the lines of commodity exchanges. FDI is permitted in power exchanges up to 49%.

The current scheme of FDI policy contemplates the concept of negative list. In light of the evolving business scenario, the negative list itself needs to be relooked. Negative list stipulates that sectors not mentioned in it are the ones in which FDI is permitted. Currently, India has two power exchanges, the other being National Stock Exchange (NSE) promoted Power Exchange India. The thinking among the policy makers is that FDI policy should be rationalized and simplified to encourage overseas investment in sectors as the country needs foreign capital to support a 9% growth. Infrastructure sectors such power are receiving government's special attention.

➤ **Government to extend help to Corporate sectors**

The government would extend a helping hand to the corporate sector to fulfill the ambition of attaining high GDP and an inclusive growth. The new Companies Bill has brought new changes in tune with the state of the economy at this point of time. The government is willing and ready to extend helping hand to the corporate sector because the corporate sector has a major role to play in meeting the ambition of high GDP and inclusive growth. Also calling for mopping up of more resources from the equity market which should be stressed is to enhance confidence of retail investors in equity and corporate governance.

➤ **Government proposing to set up more manufacturing zones**

The government is proposing to set up five more National Manufacturing Investment Zones (NMIZs), in addition to the seven ready for implementation, to boost the sector's contribution to growth. Seven such NMIZs are ready for implementation in the Delhi-Mumbai industrial corridor and five more are proposed in different parts of the country. The NMIZs will be spread over 5,000 hectares each with world class infrastructure, clean technologies and skill development institutes. In dynamic global environment, India suffers from power and transport infrastructure gaps, making its products less competitive. The government has set a target of 25% share of Gross Domestic Product (GDP) growth from manufacturing by 2022 and 100 million additional jobs from the sector.

➤ **World Bank plans to fund skill development in India**

The World Bank (WB) plans to fund skill development initiatives in India and provide technical assistance to the National Skill Development Corp. (NSDC) in executing its mission. The World Bank may initially provide Rs.4 billion and lend further support depending on the success of the initiative. NSDC, which has a mandate to train as many as 150 million people over the next 10 years, currently has a corpus of Rs. 15 billion, of which it has committed Rs. 11.9billion for skill training so far. NSDC has so far signed agreements with 46 training partners, 38companies and eight sector skill councils. The partners have a target to train 60.6 million people by2022

➤ **India agrees to allow investments from Pakistan**

The government's decided to lift the ban on investments from Pakistan in return for concessions from across the border. Allowing investment from Pakistan is one of the elements of the trade and investment related measures to improve business links between neighbors. Even during the commerce

secretary-level talks in November 2011, the issue was discussed but a commitment was not given. Since then, a go-ahead has been received from the home ministry but it may be a while before the rules are actually notified. Getting Most Favored Nation (MFN) status is a key demand for India, which has been pending with Islamabad since 1996 and even now there are few signs of Pakistan actually moving ahead with the decision. The rules would stipulate the modalities such as security clearance and approval from the Foreign Investment Promotion Board.

➤ **RBI to permit non-banking entities to set up ATMs**

In a bid to accelerate the growth and penetration of Automated Teller Machine (ATM) in the country, the Reserve Bank of India plans to permit non-banking entities to set up, own and operate ATMs. ATMs rolled out by non-banks will be like White Label ATMs (WLA) and will provide ATM services to customers of all banks. Non-bank entities proposing to set up WLA have to apply to the RBI seeking authorization under the Payment and Settlement Systems Act 2007.

Such entities should have a minimum net worth of Rs. 1 billion at the time of making the application and on a continuing basis after issue of the requisite authorization. The WLA operator will have to declare one "Sponsor Bank", which will serve as the Settlement Bank for the settlement of all the service transactions at the WLAs. The Sponsor Bank should be a member of one of the ATM networks authorized by the RBI and also be a member of the Real Time Gross Settlement (RTGS).

➤ **SEBI eases advertising code for mutual fund industry**

SEBI has loosened the advertising code for the mutual fund industry making it more principle-based, rather than rule-based. The rationale behind the change in the advertising code was that the existing regulations were rule-based and imposed a lot of restrictions. With respect to the amendment, SEBI has mandated that the advertising, which would

include all forms of communication, should avoid extensive use of technical or legal terminology.



It should also be devoid of any extensive details which may detract the investors. Information contained in the advertisement should be timely and consistent with the disclosures made in the documents, such as the scheme information document, statement of additional information and key information memorandum. The standard warning in print form is required to be in legible fonts. In the audio visual format, the advertisement is required to be in 14 words running for at least 5 seconds. This may be considered as clear and understandable.

INDUSTRY WATCH & CORPORATE HIGHLIGHT

➤ **Small IT companies will play a big role in future**

Small IT companies will play a big role in the growth of IT sector in the coming decade. The IT industry in the country would be of the size of \$100 billion and by the end of 2020 the target of Nasscom was to achieve \$225 billion, giving employment to 10 million people. Currently, 3 million people were employed in the sector. It would bring revolutionary changes in the future. Unlike in the rest of the world, in India IT would reach the masses through the mobile phone. Citizens' services would be delivered

in future by employing IT. In the agriculture sector too IT would play a big role in future.

➤ **Infosys and Wipro among top global companies in smart-grid software**

Infosys and Wipro have been named among the top seven vendors in the world of smart-grid software; Smart grids are those that have electrical devices with embedded software that can give out a fund of data in order that the grid may be better managed. Software is a key part of smart grids. Infosys and Wipro are in the elite company of five other global giants IBM, Oracle, Siemens, Accenture and Schneider Electric. The companies have solutions such as back-end solutions, remote infrastructure maintenance, CRM, systems integrations. Wipro and Infosys also know smart grid. India is seen as the place where smart grid could be built from the scratch, leap frogging several technologies that emerged and expired in the last several years.

➤ **Duron Energy plans expansion in India**

Duron Energy Private Ltd, the Indian subsidiary of US-based Distributed World Power, a maker of affordable off-grid solar energy solutions, is looking to rise up to \$10 million venture capital to fund its expansion in India. The company, started in 2008, has recently completed the pilot marketing of its plug-n-play solar lighting solutions in two states of Karnataka and Uttar Pradesh and is now looking at an aggressive expansion across the country. Duron is develop by Idea lab, a California-based incubator of technology companies and is positioned as a provider of clean energy solutions for powerless homes in rural and semi-urban areas. It has already install edits home lighting solutions in about 3,200 villages in the states of Karnataka and Uttar Pradesh. Its product range comprises solar home lighting systems, solar home systems and solar UPSs.

➤ **Airlines to be allowed to expand overseas operations**

Indian airlines including state-run Air India will now be allowed to use maximum permissible bilateral flying rights, allowing them to expand their overseas

operations. India has been under-utilizing its bilateral agreements under self-imposed restrictions because struggling Air India, the country's flag carrier, was unable to use the maximum limit. Under the new arrangement, code share operations will be encouraged.]

➤ **Amway Corporation to commission its India manufacturing plant in 2014**

US-based direct selling Fast Moving Consumer Goods (FMCG) company Amway Corporation will commission its first own manufacturing centre in India in 2014, investing Rs.3billion. The plant is scheduled to start production from 2014. The new plant in the country, which is the company's second biggest market in Asia after China, will produce its flagship brand Nutrilite and beauty products. Amway will also set up its corporate office in the National Capital Region (NCR), investing Rs.1 billion. The company achieved double-digit growth in India mainly due to experimental marketing and brand awareness and penetration of products in semi-urban and rural areas. The company, which clocked a turnover of Rs.21.30 billion for the fiscal year 2011, aims to cross the Rs.25 billion-mark in 2012.

➤ **Hutch to buy Orange Austria as Asia firms shop in Europe**

Hong Kong's Hutchison 3G will buy Orange Austria from France Telecom and a private equity fund in a deal valued at €1.3 billion (\$1.7 billion) including debt, expanding the corporate footprint of Asia's richest man in Europe. The deal by the unit of Hutchison Whampoa follows a cluster of outbound M&A transactions from Asia in early 2012 as firms with strong cash piles and low debt buy assets in Europe.

It is definitely a positive for the future development as the acquisition cost can be lower in the current economic climate. Hutchison 3G Austria already operates under the '3' brand, competing against Deutsche Telekom AG's T-Mobile and A1. As a second leg of the deal, Hutchison will sell some of Orange Austria's assets to Telekom Austria for 390

million Euros, Telekom. Orange Austria is jointly owned by France Telecom and Mid-Europe Partners. It competes with Britain's biggest mobile operator, Everything Everywhere a Joint Venture of Orange and T-Mobile Telephonic SA's O2 and Vodafone Group Plc.

➤ **Idea Cellular signs an agreement with Opera Software to provide super mobile browsing**

Idea Cellular the country's third largest mobile phone company has signed a deal with Opera Software to offer a customized Opera Mini mobile web browser to subscribers. Opera Mini is a mass-market web browser providing a rich web experience for Smartphone users. With Opera's cross-platform UI framework, operators can deploy a consistent experience, look, and feel across their product offerings.

Opera Mini helps drive data traffic increases the Average Revenue per User (ARPU) and claims to provide the best user experience on any phone. Idea customers will be able to download this co-branded version of Opera Mini on their devices from the end-March 2012. In emerging markets like India, the mobile phone will soon become the primary way of accessing the Internet. Opera Mini is the ideal enabler for the Web on all mobile phones, bringing the full Internet to all devices, regardless of device constraints and platform.

➤ **Airport retail business tops \$1 billion revenue**

Airport retail business in India topped \$1 billion in revenue during 2011, on the back of robust growth in passenger traffic and more people shopping on the go. The business is growing at 17-18 % annually, emerging as a viable platform for retailers and operators of the new airports. Beauty, personal care, alcohol and tobacco emerged as the top three categories in the duty-free section, while food & beverage, books, periodicals and stationery took the top spot within the duty-paid segment. Globally, airports registered approximately \$43 billion in sales, with the likes of London Heathrow and Seoul's Incheon being the most lucrative ones. The Delhi

domestic-cum international terminal (T3) has a retail area of around 200,000 sq ft and built to tap the potential of retail revenues. No wonder airport operators like GMR and GVK, who started off with exorbitant rental rates, are now moving towards a revenue-share model. Malls still work on a per sq-ft rental model, with the exception of a few.





➤ **Honda Motor plans diesel variant of Brio to increase market share**



HONDA
The Power of Dreams

Honda Motor could introduce the diesel variant of its high-selling compact car 'Brio' in India this year. The carmaker is testing its newly developed diesel technology, common rail i-DTEC (Earth Dreams Technology), on the Brio and could introduce it in a 1.2-litre version. The diesel variants of its City sedan and Jazz hatchback, carrying larger engines, will be introduced later. The company had earlier planned to introduce diesel vehicles in 2013.

Honda is committed to bringing its diesel technology to key markets like India. And to ensure that Honda diesel is best suited to local conditions and offers optimum performance levels. The Japanese automaker, which entered India in 1995, has seen sales fall 27% in the first nine months of the current fiscal, largely because it was unable to introduce any diesel variants, which have become popular in India because of the rising cost of petrol. Diesel cars, which registered a 26% rise in sales in the first nine months of the current fiscal, accounted for about 60% of the passenger vehicles sold in the country.

Statutory compliance calendar for the month of February 2012			
Due date	Statutory compliance under Act	particulars	Governing Authority
			
06/02/2012	Service Tax	Payment of monthly service tax for the month of January by all tax payers electronically	Central Board of Excise and Custom
	Central Excise	Payment of monthly central excise duty for the month of January on goods by assesses other than SSI units electronically	Central Board of Excise and Custom
07/02/2012	Income Tax	Deposit of Income Tax TCS and TDS deducted in January	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.
10/02/2012	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.
15/02/2012	Provident Fund	(a) Payment of monthly dues of Provident Fund for the month of January (b) Monthly return in form 5 for employees joining Provident Fund during January 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 January	The Central Board of Trustees, The Employees' Provident Fund Scheme, 1952
21/02/2012	ESIC	Payment of ESIC contribution for the month of January	The employees' state insurance Act-1948. Ministry of labour and employment.
25/02/2012	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

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

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- Succession Planning.
- Strategic Decision Appraisal
- Risk, Uncertainty and Change Management Services
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