

Tax & Corporate law Bulletin

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APRIL 2011

From the Editor's Desk...

Dear Reader,

Greetings for the season.

May God keep you away from harm and sadness in the upcoming month. Let your dreams fly high, start the new financial year with enthusiasm and make it more productive one.

Let's have an eye on some important updates of the month: Streamlining procedure for scrutiny of income-tax returns, Annual return on foreign liabilities and assets, Din Process– Simplified, NBFCs not to be partners in partnership firms and read many more...

We eagerly await your feedback on the bulletin.

Yours truly,

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global business environment”



DIRECT TAX

➤ **Income-Tax (First Amendment) Rules, 2011- Amendment in Rules 6DDA, 6DDB and Appendix-II**

The CBDT vide its Notification No. 14/2011 [F. NO. 142/25/2008-SO (TPL)], dated March 9th, 2011 has amended Rules 6DDA, 6DDB and Appendix-II w.e.f. April 1st, 2011. As per the said amendment, the stock exchange shall ensure that transactions (in respect of cash and derivative market) once registered in the system are not erased. The stock exchange shall also ensure that the transactions once registered in the system are modified only in cases of genuine error and maintain data regarding all transactions (in respect of cash and derivative market) registered in the system which have been modified and submit a monthly statement in Form No. 3BB to the Director General of Income-tax (Intelligence), New Delhi within 15 days from the last day of each month to which such statement relates. Form 3BB has also been notified in Appendix II.

➤ **Streamlining procedure for scrutiny of income-tax returns**

**Press Release [No. 402/92/2006-MC (07OF2011)],
Dated March 14th, 2011**

Central Board of Direct Taxes has reviewed its scrutiny selection procedure. In order to redress the grievance, it has been decided that during the financial year 2011-12, cases of senior citizens and small taxpayers, filing income-tax returns in ITR-1 and ITR-2 will be subjected to scrutiny only where the Income Tax department is in possession of credible information. Senior citizens for this purpose would be individual taxpayers who are 60 years of age or more. Small taxpayers would be individual and HUF taxpayers whose gross total income, before availing deductions under Chapter VI-A, does not exceed Rupees ten lakh.

➤ **Instruction regarding standard operating procedure on filing of appeals / special leave petition (SLPs) by income tax department in the supreme court and related matters**

The CBDT vide instruction No. 4/2011 dated March 9th, 2011 issued the instruction in supersession of all earlier instruction on the subject with a view to ensure filing of appeals / SLPs within the period prescribed.

In view of the number of appeal/SLPs are being filed with inordinate delay and repeated displeasure expressed by the Hon'ble Supreme Court on the present state of affairs, LD Attorney General for India has advised the board to work towards a "Zero Delay Regime" in the matters of filing of appeals SLPs.

The CBDT has issued the timeliness for processing proposals at different level for strict adherence by all concerned with a view to ensure timely filing of appeals SLPs in Supreme Court. The directions are also made regarding monitoring compliance of this instruction. This will apply in respect of orders / judgments of High Court pronounced on or after 10th March, 2011.

➤ **Taking opinion of technical experts and bringing on record technical evidence in case of complex and substantial issues -directions of the Hon'ble supreme court**

The CBDT vide instruction No. 5/2011 dated March 30th, 2011 based on the observation made by the Supreme Court in an order dated August 12th, 2010 in the case of CIT (Delhi) vs. Bharti Cellular Ltd issued the following direction;

In view of these directions in all cases that are taken up for scrutiny, the Assessing Officer / Transfer Pricing Officers should frame assessments only after bringing on record appropriate technical evidence that may required in a case. The process of identification of such cases and initiation of the proceedings to obtain the technical evidence should

be taken up well in advance before the date of limitation. The officer concerned shall bring such cases to the notices of the CCIT/DGIT concerned, who look into the complexities of the technical issues and monitor the progress of the case and if required assist in obtaining the opinion of the technical experts in the relevant field of expertise and endeavor to arrange for the opinion of the concerned technical expert well within time. Further, the evidence so gathered shall be made available to the assessee and reasonable opportunity provided before the assessment order is passed.

After a reference is made to an expert in the above manner, intimation must be sent of the Board through Member (IT) in the following Performa:-

Name of Case and Assessment year	Brief description of the technical issue involved	Name and Address of the expert	Tax effect

RECENT JUDGMENTS



➤ Receipt of Non-Competition fees

There is a dichotomy between receipt of compensation by an assessee for the loss of agency and receipt of compensation attributable to the negative/restrictive covenant. The compensation received for the loss of agency is a revenue receipt whereas the compensation attributable to a negative / restrictive covenant is a capital receipt.

Payment received as non-competition fee under a negative covenant was always treated as a capital receipt till the assessment year 2003-04. It is only vide Finance Act, 2002 with effect from April 1st, 2003 that the said capital receipt is made taxable u/s 28(va). The amendment to S. 28(va) is amendatory and not clarificatory.

Guffic Chem (P) Ltd vs. CIT [2011] 10 taxmann.com105 (SC) AY1997-98.

➤ Remuneration to partners

The Central Board of Direct Taxes cannot issue a circular which goes against the provisions of the Act. The CBDT can only clarify issues but cannot insert terms and conditions which are not part of the main statute. A delegate or person authorized to issue delegated legislation cannot virtually set at naught the provisions of the main statute. CBDT Circular No.739 dated March 25th, 1996 imposing condition that the partnership deed should specify the amount of remuneration or should give a specific method of quantifying such remuneration, otherwise deduction cannot be allowed cannot be sustained. The CBDT circular can only be held to be valid if it is in terms of the main section.

Section 40(b)(v) does not lay-down any condition of fixing the remuneration or the method of remuneration in the partnership deed. All that the section provides is that in case the payment of remuneration made to any working partner is in accordance with the terms of the partnership deed and does not exceed the aggregate amount as laid down in the subsequent portion of the section the deduction is permissible. Therefore, if in the partnership deed it was clearly mentioned that the partners would get remuneration calculated as per the provisions of the Income-Tax Act which means that this would not exceed the maximum amount provided under the Act.

Durga Dass Devki Nandan vs. ITO High Court of Himachal Pradesh ITA No. 4 of 2005 dated 11th March 2011.

➤ **DIT vs. Maersk Co Ltd as agent of Mr. Henning Skov (Utt High Court - Full Bench) dated April 20th, 2011**

U/s 208, an employee is not liable to pay advance tax on salary because u/s 192 there is an obligation on the employer to deduct tax at source. The employee cannot foresee that the tax deductible under a statutory duty imposed upon the employer would not be so deducted. The employee proceeds on the assumption that the deduction of tax at source has statutorily been made or would be made and a certificate to that effect would be issued to him. If the employer fails to deduct tax at source, the employee becomes liable to pay the tax directly. However, the liability to pay interest remains upon the person responsible to deduct the tax at source. The department is entitled to proceed against the employer u/s 201(1A).

(Sedco Forex 264 ITR 320 (Utt) & other judgements followed)

➤ **CIT vs. Cadbury India Ltd (Delhi High Court) dated April 13th, 2011**

On facts, there is no reason to disbelieve the assessee that the deduction u/s 194C was being done on the misconceived professional advice given by the CAs. Since the payment were to be deducted from CFA no benefit was to be derived by the assessee for making lesser or inaccurate deductions. No malafide intention of any kind can be attributed to the assessee for deducting tax under one provision of law than the other. This was neither the case of malafide intention nor that of negligent intention or want of bonafide, but a case of misconceived belief of applicability of one provision of law. It cannot be said judiciously that the assessee failed to comply with s. 194-I & 194-J without reasonable cause

➤ **M/s Durga Dass Devki Nandan vs. ITO (HP High Court) dated April 11th, 2011**

Section 40(b) (v) allows a deduction of payment of remuneration to a working partner if it authorized by

the partnership deed and not in excess of the limits. Sec. 40(b) (v) does not lay-down any condition that the partnership deed should fix the remuneration or the method of quantifying remuneration. Accordingly, CBDT circular No. 739 dated March 25th, 1996 which requires that either the amount of remuneration payable to each individual should be fixed in the agreement or the partnership agreement deed should lay down the manner of quantifying such remuneration goes beyond s. 40(b) (v). The CBDT cannot issue a circular which goes against the provisions of the Act. The CBDT can only clarify issues but cannot insert terms and conditions which are not part of the main statute. A partnership deed which provides that the remuneration would be as per the provisions of the Act meaning thereby that the remuneration would not exceed the maximum remuneration provided in the Act is valid and deduction is admissible

INDIRECT TAX

Synopsis of Notifications, Circulars & Letters on

Service Tax:-



CBEC vide letter F. No. 276/282/2010-CX.8A (Pt.) dated 2nd December, 2010 has instructed the field officers to apply the ratio of decision of The Hon'ble Punjab & Haryana High Court in the case of M/s. Shubh Timb Steels Limited vs UOI (2010) TIOL 765. The said decision has upheld the validity of

retrospective amendment made to The Finance Act, 1994 vide The Finance Act, 2010 as regards applicability of service tax on “Renting of Immovable Property”.

Central Government vide Notification No. 19/2011-ST, Notification No.20/2011-ST & Notification No.21/2011-ST all dated 30th March, 2011 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 July, 2011.

Vide Notification No.12/2011-ST dated March 1st, 2011, w.e.f. 1-4-2011, Technical Testing & Analysis Services (Section 65(105) (zzh)) are reclassified in Rule 3(1) (iii) of the Export of Service Rules, 2005 from erstwhile classification under Rule 3(1) (ii). Consequently, vide Notification No. 22/2011-ST dated March 31st, 2011, reference to Section 65(105) (zzh) (Technical Testing & Analysis Services) is omitted from 2nd proviso to Rule 3(1) (ii) of the ESR, 2005. Similar amendment is made in the Taxation of Services (Provided from Outside India & Received in India) Rules, 2006 vide Notification No.23/2011-ST dated March 31st, 2011.

Central Government, vide Notification No. 24/2011-ST dated March 31st, 2011, has amended Rule 2B of the Service Tax (Determination of Value) Rules, 2006 thereby the words “reference rate for that currency for that day” in Rule 2B are substituted for words “reference rate for that currency at that time”.

Excise Notifications:-

➤ Exemption to vaccines specified under the National Immunization Programme:-

Unconditional full exemption is granted to vaccines specified under the National Immunization Programme from Basic Excise Duty through amendment in Notification No. 4/2006-ST dated 1st March, 2006.

(Notification No. 19/2011-CE dated 3rd March, 2011)

➤ 1% Basic excise duty levied on mobile handsets: -

Basic Excise duty of 1% is levied on mobile handsets including cellular phones falling under Chapter 85 of the Central Excise Tariff Act, 1985. (Notification No. 20/2011-CE dated 24th March, 2011)

➤ Amendment to Notification No. 1/2011-CE dated 1st March, 2011 levying 1% duty on 130 items:-

- Full exemption from excise duty is restored on silicon wafers, falling under Chapter 28 or 38, for manufacture of solar cells/modules through amendment in Notification No. 1/2011
- Earlier primary gold i.e. gold in any unfinished or semi finished form including ingots, bars, blocks slabs, billets, shots, pellets, rods, sheets, foils and wires falling under Chapter 7114 was excluded from scope of “articles of various precious metals (other than jewellery)”. Now the Explanation to this effect is deleted
- The mobile handsets including cellular phones falling under tariff headings 8517, 8525 and 60 are now excluded from this notification and a separate notification is issued levying 1% excise duty. The implication is that the conditions to be observed under this notification would not be required to be observed by them hence forth
- 1% Excise duty is levied on Chapter ID 8601 to 8606 except railway track machines falling under tariff item 86040000 through Notification No. 1/2011. However, the tariff ID was wrongly mentioned as 86400000 which is now rectified. (Notification No. 21/2011-CE dated 24th March, 2011)

➤ **Amendment to Notification No. 2/2011-CE dated 1st March, 2011 levying 5% duty on certain specified items:-**

- Full exemption from Excise duty is restored on silicon wafers, falling under Chapter 28 or 38, for manufacture of solar cells/modules through amendment in Notification No. 2/2011
- Concessional rate of 5% Excise duty was not available on “goods falling under Chapter 30 which are clearly not to be used as fertilizers or in the manufacture of other fertilizers, whether directly or through the stage of an intermediate product”. However, now such concessional rate would not apply only on “goods falling under Chapter 30 which are clearly not to be used as fertilizers”
- Earlier primary gold i.e. gold in any unfinished or semi finished form including ingots, bars, blocks slabs, billets, shots, pellets, rods, sheets, foils and wires falling under Chapter 7114 was excluded from scope of “articles of various precious metals (other than jewelry)”. Now the Explanation to this effect is deleted.
- The mobile handsets including cellular phones falling under tariff heading 8517, 8525 and 60 are now excluded from this notification and a separate notification is issued levying 1% excise duty. The implication is that the conditions to be observed under this notification would not be required to be observed by them hence forth.
- 5% Excise Duty is levied on Chapter ID 8601 to 8606 except railway track machines falling under tariff item 86040000 through Notification No. 1/2011. However, the tariff ID was wrongly mentioned as 86400000 which is now rectified.

(Notification No. 22/2011-CE dated 24th March, 2011)

CORPORATE LAW

➤ **Payment Of MCA Fees – Electronic Mode**

The MCA has issued General Circular No. HQ/9/2002- Computerization dated 9th March, 2011 in relation to payment of MCA fees by electronic mode. The MCA has stated that it has reviewed the processes involved in delivery of important services to stakeholders, with a view to identify and improve the components causing delay in disposal of applications. The MCA observed that payment confirmation is found to be a major bottleneck in delivery of services in respect of offline payment made by physical challans and it was also found that often there was a delay in confirmation of payments by physical challans, as banks have been given a reporting time of T+3 days, as per payment procedure approved by the C&AG/T being the transaction date. This led to delay in creation of work item for disposal of an application/e-form, leading to inconvenience of stakeholders.

➤ **Amendment to definition of infrastructure loan**

The RBI has issued Circular No. 213/03.10.001/2010-11 dated March 16th, 2011 stating that the term “infrastructure Loan” has been defined in para 2(viii) of Non- Banking Financial (Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2007 and Non-Banking Financial (Non- Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2007. The RBI has now includes “telecom towers” also as an infrastructure facility for availing credit facility. It is further clarified that only Credit Rating Agencies (CRAs) approved by the Reserve Bank can give the rating to Infrastructure Finance Companies (IFCs), and hence, it has been decided to substitute “credit rating agency accredited by RBI” in place of “accredited CRAs” appearing in para 19A (iii) of the Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2007.

It was also found that wherever fees were paid online in the system, the work item was created faster and the approvals were speedier as banks follow T+1 for reporting online payments. Hence, in the interest of stakeholders, with a view to improving service delivery time, the MCA has decided to accept payments of value up to 50,000, for MCA 21 services only in electronic mode w.e.f. 27th March, 2011. For the payments of value above ` 50,000, stakeholders would have the option to either make the payment in electronic mode, or under a paper challans. However, such payments would also be required to be made in electronic mode w.e.f 1st October, 2011.

➤ **Annual return on foreign liabilities and assets –introduction of reporting by Indian companies**



The RBI has issued A.P. (DIR Series) Circular No. 45 dated March 15th, 2011 and has stated that currently Part B, which is an annual return of all investments made in the company during a financial year, is required to be submitted directly by the Company to the Director, Balance of Payment Statistics Division, Department of Statistics and Information Management, Reserve Bank of India, C-9, 8th floor, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051, by June 30 of every year. Now, in order to capture the statistics relating to Foreign Direct Investment (“FDI”), both inward and outward, in a more comprehensive manner, as also to align it with international best practices, Part B of the Form FC-GPR is replaced by a separate ‘Annual Return on Foreign Liabilities and Assets’ (format given in the above Circular).

The return should be submitted by July 15 of every year to the Director, Balance of Payment Statistics Division, Department of Statistics and Information Management (DSIM), Reserve Bank of India, C-9, 8th floor, Bandra Kurla Complex, Bandra (E), Mumbai- 400 051. The return should be submitted by all the Indian companies which have received FDI and/or have made FDI abroad (i.e., overseas investment) in the previous year(s), including the current year. The return format gives the concepts and definitions useful in filling the Annual Return on Foreign Liabilities and Assets. It is clarified that these directions will come into force with immediate effect. One may refer to the above citation for further details and the format of the annual return.

➤ **Listing agreement for securitized debt instruments**

The SEBI has issued Circular No. MD/DF/5/2011 dated March 16th, 2011 stating that in order to develop the primary market for securitised debt instruments in India, SEBI had notified the SEBI (Public offer and Listing of Securitised Debt Instruments) Regulations, 2008 which provided for a framework for issuance and listing of securitised debt instruments by a special purpose distinct entity (SPDE). Listing of securitised debt instruments would help improve the secondary market liquidity for such instruments. Hence, with a view to enhance information available in the public domain on performance of asset pools on which securitised debt instruments are issued, SEBI has put in place a Listing Agreement for securitised debt instruments.

The Listing Agreement provides for disclosure of pool level, tranche level and select loan level information. The Listing Agreement for securitised debt instruments as given in the Annexure to the above Circular shall come into force with immediate effect for all securitised debt instruments, as defined under regulation 2(1)(s) of the SEBI (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008, seeking listing on the Stock Exchange. In respect of listed securitised debt instruments, it is clarified that SPDEs which make

frequent issues of securitised debt instruments are permitted to file umbrella offer documents on the lines of a 'shelf prospectus'. In order to ensure uniform market convention for secondary market trades of securitised debt instruments, actual/actual day count convention, shall be mandatory for all listed securitised debt instruments.

➤ **NBFCs not to be partners in partnership firms**

The RBI has issued Circular No. DNBS.PD/ CC.NO. 214/03.02.002/2010-11 dated 30th March, 2011 noting that some NBFCs have made large investments in / have contributed capital to partnership firms and in view of the risks involved in NBFCs associating themselves with partnership firms, it has been decided to prohibit NBFCs from contributing capital to any partnership firm, or to be partners in partnership firms. In cases of existing partnerships, the RBI has advised that NBFCs shall seek early retirement from the partnership firms.

➤ **Filing of balance sheet and profit and loss account in XBRL Mode**

The MCA has issued General Circular No. 9/2011 dated March 31st, 2011 and has stated that it has decided to mandate certain class of companies to file balance sheets and profit and loss account for the year 2010-11 onwards by using extensible Business Reporting Language (XBRL) taxonomy. The financial statements required to be filed in XBRL format would be based upon the taxonomy on XBRL developed for the existing Schedule VI, as per the existing, (non converged) Accounting Standards notified under the Companies (Accounting Standards) Rules, 2006. This taxonomy is being hosted on the website of the Ministry at www.mca.gov.in shortly. The Frequently Asked Questions (FAQs) about XBRL have been framed by the Ministry and they are being annexed as Annexure I with the above referred circular for the information and easy understanding of the stakeholders. All companies that are part of coverage in Phase I would be the following class of companies which will be required to file the financial statements in XBRL form only from the year 2010-2011:

- All companies listed in India and their subsidiaries, including overseas subsidiaries;
- All companies having a paid-up capital of ` 5 crore and above or a turnover of 100 crore or above.
- All companies covered by Phase-I would be permitted to file up to 30th September, 2011 without any additional filing fee. The MCA has taken care of training requirement for the purpose and has stated that stakeholders desirous to have training on the XBRL or on taxonomy related issues, may contact the persons as mentioned in Annexure II annexed to the above circular

➤ **Process of incorporation of companies (form-1) and establishment of principal place of business in India by foreign companies**

The MCA has issued General Circular No. 6/2011 dated March 8th, 2011 stating that the MCA has received various representations regarding time taken by the Registrar of Companies for registration of Form-1 and Form-44 which the MCA has got the same examined by the Business Process Reengineering Group under MCA-21 and in order to speed up and simplify the process of incorporation of companies and establishment of principal place of business in India by foreign companies for reduction in time taken by the Registrar of Companies, the following procedure is recommended:-

- Only Form-1 shall be approved by the ROC Office. Forms 18 and 32 shall be processed by the system online.
- There shall be one more category, i.e., incorporation forms (Form 1A, Form 37, 39, 44 and 68) which will have the highest priority for approval.
- Average time taken for incorporation of a company should be reduced to one (1) day only.

Simultaneously, the MCA has made minor changes in e-forms 18 and 32 to enable them to be taken on record through the STP mode for the above procedure and a notification will be issued separately to amend these forms.

➤ **Din Process– Simplified**

The MCA has issued General Circular No. 5/2011 dated March 4th, 2011 and has re-examined the process of allotment of Director's Identification Number ("DIN") to be obtained under section 266B of the Companies Act, 1956. It has stated that the present process is cumbersome and time consuming and based on representations received that the documents required to be submitted should be simple to prove the existence/residence of a person who intends to become a director of a company. Pursuant to the recommendations of the Group constituted to examine this, and in order to speed up and simplify the process to obtain a DIN, the following procedure is recommended:-

- Application for DIN will be made on e-Form and that no physical submission of documents shall be accepted and for this purpose Scanned documents along with verification by the applicant will be attached with the e-Form. Only online fee payment will be allowed i.e. no challans payment.
- The application can also be submitted online by the applicant himself using his DSC.
- DIN 1 e-Form can be digitally signed by the professional who shall also confirm that he has verified the particulars of the Applicant given in the application.
- Where the DIN 1 is verified by the professional, the DIN will be approved by the system immediately online.
- In other cases the DIN cell will examine the application and same shall be disposed of within one or two days.

It is clarified that penal action will be taken as per provisions of section 628 of the Act against the applicant and the professional certifying the DIN application in case of false information / certification in addition to action for professional misconduct and revocation of DIN allotted on false information. In this manner, allotment of DIN will take place on the same day. This procedure will also apply to filing of DIN 4 for intimating changes in particulars of Directors. The above procedure will be applicable from the date of issue of a notification for the purpose which is being separately issued.

- **Limits for obtaining guarantee for advance remittance for import of goods**

Circular no.: A.P. (DIR series) circular no. 56 dated April 29th, 2011



With a view to liberalize the procedure, RBI has enhanced the limit for obtaining an unconditional, irrevocable standby Letter of Credit (LC) or a guarantee from an international bank of repute situated outside India or a guarantee of an AD in India, if such a guarantee is issued against the counter guarantee of an international bank of repute situated outside India, for an advance remittance exceeding USD 100,000 or its equivalent. The said limit is now increased with immediate effect to USD 200,000 or its equivalent for importers (other than a Public Sector Company or a Department/Undertaking of Central/State Governments where the requirement of bank guarantee is to be specifically waived by the Ministry of Finance, Government of India).

INTERNATIONAL TAXATION



➤ **Intelsat Corporation vs. ADIT (2011-TII-44-ITAI-DEL-INTL) Dated 04th March, 2011**

Facts

The taxpayer, a tax resident of USA, was owner and operator of global network of telecommunication satellites located in outer space. It was engaged in the business of transmitting telecommunication signals to and from the earth stations.

The taxpayer entered into contracts with TV Channels and Internet Service providers to lease its transponder capacity and bandwidth to various customers in India and outside India, who used the transponders for their business in India.

The taxpayer for the year under consideration filed nil return of income after claiming its income not taxable in India.

Issues

Whether the payments received for leasing of transponder capacity and bandwidth can be taxed as 'royalty' under the Section 9(1) (vi) of the Act.

Held

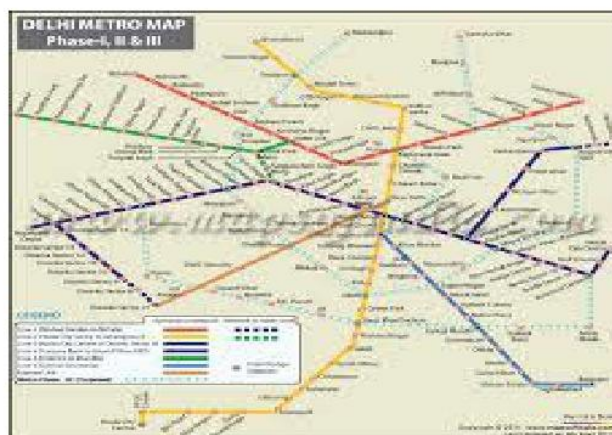
The Tribunal relied on the decision of the Delhi High Court in the case of Asia Satellite Communication Co. Ltd. vs. DIT (2011-TII-05-HC-DEL-INTL) and held that the payments received by the taxpayer cannot be considered as 'royalty' under the provisions of Section 9(1) (vi) of the Act.

The Tribunal also held that since the receipts are not taxable under the Act, in view of the provisions of Section 90(2) of the Act there is not need to apply the provisions of the India-USA tax treaty.

INDIAN ECONOMY AT A GLANCE

➤ **Delhi government gives approval for Rs 300 billion Metro Phase - III**

The Delhi government gave the approval for Phase III of the Delhi Metro network, paving the way for the Centre to give its sanction to the project plan. The third phase, which covers 108km, including the extension of the Dwarka line to Najafgarh, will cost Rs 300 billion with taxes. The alignment of Phase III remains from Mukundpur to Yamuna Vihar and Janakpuri (west) to Noida Botanical Garden. The alignment covers a large part of the city, much along the same route as the Ring Road.



This is expected to ease the traffic situation with easy connectivity between the Metro network and the surface-level Ring Road. The plan will now be sent to the empowered committee in the ministry of urban development for approval, to be sent thereafter to the Group of Ministers (GOM) for final sanction. The cabinet decided to get the DPR (detailed project report) prepared on a priority basis for extension of the existing Dilshad Garden-Rithala line up to Bawana.

➤ **Government plans to issue Biometric PAN cards**

The government has decided to issue biometric PAN cards to taxpayers across the country to weed out the problem of duplicate and fake ones. The decision was taken recently by the finance ministry and it comes in the wake of a Comptroller and Auditor General (CAG) report that asked the Income Tax department to ensure that a single taxpayer is not issued multiple cards. The proposed new biometric Permanent Account Number (PAN) cards would bear the I-T assessee's fingerprints. There could be an option to existing PAN card holders to opt for the biometric cards, but it may not be mandatory. The finance ministry and the I-T department had put on hold the biometric PAN card project last year to avoid duplication with the UID numbers to be issued by Nandan Nilekani's Unique Identity Authority of India (UIDAI). The biometric PAN card project is on again. The step will be very important when it comes to stopping the misuse of this vital identity document. The biometric PAN card was proposed by the then finance ministry in 2006 to counter the problem of duplicate PAN cards which were uncovered during Income-Tax searches and raids by police and other enforcement agencies.

POLICY WATCH

➤ **Government to auction 5 mega transmission lines worth over 60 billion**

The government will in the next two months call global tariff bids to award contracts for laying five mega transmission lines worth Rs 64.85 billion. At least 30 companies including Tata Power, Lanco Infratech, L&T Transco Pvt Ltd, GMR Energy, Gammon India, Patel Engineering Ltd, Simplex Infrastructures Ltd, JSW Energy, CESC Ltd and Soma Enterprise are likely to bid for the projects. Foreign players like Spain's Isolux Corsan and Instalaciones Inabensa have also been eyeing an entry into the Indian power transmission space. The five projects would be bid out by state-run Power

Finance Corporation (PFC) and Rural Electrification Corporation (REC). An empowered committee, which deals with tariff-based competitive bidding for transmission projects at interstate level, has recommended that the five transmission schemes be taken up through tariff based competitive bidding route.

➤ **Government plans to offer tax breaks to industrial users for saving water**

The government is planning to offer incentives, such as tax breaks, to big industrial users if they are able to reduce wastage of water in order to promote judicious use of water. The incentives may feature in the new National Water Policy, which is being prepared by the water resources ministry and the Planning commission. The policy is likely to be introduced next year.

Industrial wastage of water has emerged as a big concern among a growing realization of an imminent water crisis. The per capita availability of water in India is 1,600 cubic meters. A level of less than 1,700 cubic meters is considered a 'water stressed' condition and less than 1,000 cubic meters is a 'water scarcity' condition.

➤ **Government liberalizes FDI policy to boost inflows**



Relaxing the rules for Foreign Direct Investment (FDI) in the country, the government decided to permit the issuance of equity to overseas firms against imported capital goods and machinery. Furthermore, the norms for overseas investment in production and developments of seeds have been

liberalized. After stakeholder consultations, the government has now decided to permit issue of equity, under the government route, in Import of capital goods/ machinery/ equipment (including second-hand machinery).

This measure, which liberalizes the conditions for conversion of non-cash items into equity, is expected to significantly boost the prospects for foreign companies doing business in India. In the agriculture sector, FDI will now be permitted in the development and production of seeds and planting material without the stipulation of having to do so under controlled conditions.

➤ **Government allows companies to trade equity for capital goods imports**

The government allowed companies to issue equity against import of capital goods instead of cash payments, a development that will make it easier for companies to conduct their business. The government has now decided to permit issue of equity, under the government route, in the following cases. Import of capital goods/machinery/ equipment (including second-hand machinery), Pre-operative/ pre-incorporation expenses (including payments of rent etc), as per the present arrangement, only External Commercial Borrowings, or lump-sum fee, or royalty can be converted into equity. Further, the government also eased rules for companies looking to issue convertible instruments, by allowing them to fix the issue price on the date of issue itself.

INDUSTRY WATCH & CORPORATE HIGHLIGHT

➤ **Direct tax up at record Rs 4500 billion**

The government has collected an all-time high income tax of Rs 4500 billion in 2010-11, at least Rs 40 billion more than the revised budget estimate of Rs 4460 billion. This is in addition to all-time high refund of Rs 720 billion that the Central Board of Direct Taxes (CBDT) has made till March 31, 2011

by clearing backlogs. In previous years, the tax collection figures were bloated by delayed refunds, giving a wrong picture to net direct tax collection. The early refunds have also saved the government nearly Rs 45 billion towards interest payments. Delhi has cleared 82,000 refunds between April 1 and 10; Jaipur 35,343; Ahmedabad 33,610; Chennai 30,158 and Pune 19,522, clearing the entire backlog.

➤ **India added over 20 million mobile users in February**

Telecom operators added a whopping 20.2 million mobile subscribers in February 2011, taking the total number of telephone users in the country to 826.25 million. According to data released by the Telecom Regulatory Authority of India (TRAI), the mobile subscriber base increased to 791.38 million at the end of February from 771.18 million in the preceding month, registering a growth of 2.62%. With this, the overall tele-density (telephones per 100 people) in India reached 69.29%. However, the number of active mobile subscribers during the month was only 562.98 million. Broadband subscription reached 11.47 million in the reported month from 11.21 million in January, growing 2.34%.

➤ **PPP policy gaps to be filled in core push**



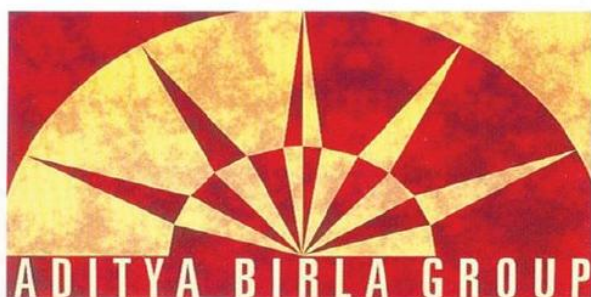
The government is framing a national policy for Public-Private Partnership (PPP) in infrastructure projects to eliminate the inconsistencies in current rules and make infrastructure more attractive to foreign investment. The policy will clearly spell out the rights of a private sector investor in a PPP

infrastructure project. It is likely to cover areas such as implementation, monitoring and dispute resolution that have emerged as the key concerns in PPP framework. The PPP model is now being extended to not just different sectors, but also sub-sectors, making it imperative to define what exactly a PPP project. Experts say a clear national policy will help in leveraging public funds through private participation in infrastructure.

➤ **Trade between India and Canada to treble by 2015**

The trade between India and Canada is expected to reach USD 15 billion by 2015. The bilateral trade was 4.6 billion Canadian Dollars in 2008-09. The exports from Canada were of 2.4 billion Canadian Dollars, while the imports were of 2.2 billion Canadian Dollars. Canada wants to ensure that it is more diversified rather than being confined to products. The diversification could be in sectors like technology and services. The commitment to the comprehensive economic trade agreement signed with India last year will change the landscape of trade Canada expects to conclude a trade agreement with the European Union by this year-end, which could potentially throw open an estimated 17 trillion USD market. Canada offers business opportunities in areas of green technology, life sciences, healthcare, agriculture and research and development.

➤ **Aditya Birla buys Swedish pulp co for \$340 million**



Aditya Birla group announced the buyout of Domsjo Fabriker, a leading Swedish specialty pulp and bio-refinery company for \$340 million. The latest acquisition has been routed through its global

companies, Thai Rayon Public Company (Thailand) and Indo Bharat Rayon (Indonesia), which have acquired the marquee pulp company from a Swedish consortium. The group will pump in an additional \$75 million into expansion, taking the total cost to \$415 million, which will be funded through a combination of debt and internal accruals. This marks the group's fourth acquisition in the pulp and fiber sector. The other was the Atholville Pulp Mill and the Nackawic Pulp Mill in New Brunswick, Canada and the Jingwei Fibers Company in China.

➤ **Satyam inks pact with GENIVI Alliance**

IT firm Mahindra Satyam has joined automotive and consumer electronics industry association, GENIVI Alliance, which develops in-vehicle reference platform. This will support vehicle infotainment applications such as music, news and multimedia, navigation and location services, telephony, internet services and more. Mahindra Satyam will enhance the quality of the infotainment solutions, focus on accelerating innovation and deliver a compelling value proposition to its customers.

➤ **Wipro buys part of SAIC IT business for \$150 million**



WIPRO
Applying Thought

India's third-largest technology services company Wipro Technologies announced the purchase of a portion of the IT business of Science Applications International Corporation (SAIC) for \$150 million. The purchase covers only the IT business of the firm's oil and gas vertical which provides consulting, system integration and outsourcing services to oil

majors. The acquisition, Merger & Acquisition (M&A) deal, is expected to help Wipro gain capabilities in areas such as petro-technical data management and petroleum application services and digital oil fields. SAIC primarily supports the upstream operations of oil and gas majors and has 1,450 employees who would move to Wipro across North America, Europe, India and Middle East, as part of the deal.

➤ **Vodafone to buy out Ruia for \$5 billion**

Vodafone and Essar have agreed on a pre-nuptial settlement for \$5 billion. Essar had a put option allowing it to sell a 22% stake to Vodafone, which held a call option to buy the remaining 11% if Essar chose to exercise its option. These options were to expire on May 8, after which both sides would have been forced to negotiate a price,



which many analysts say would most certainly have been less than \$5 billion because the Indian telecom sector has seen a significant downward re-rating since 2007. The \$5-billion figure had been agreed in 2007 when Vodafone bought into the Indian company, and, in the process, granted options to Essar to enable it to sell its entire stake at that value. Essar could sell a part of it at an independently appraised fair value.

➤ **Hero Honda to pay 45 billion yen to Honda for licensing till 2014**

India's largest two wheeler-maker Hero Honda will pay Honda 45 billion yen till 2014 as part of a new licensing agreement signed between the Hero Group





and the Japanese auto major after deciding to part ways on their Joint Venture (JV). Hero Honda Motors Ltd (HHML) amount is in line with its existing rate of royalty payment, which is about 2.7% to 2.8% of net sales. Honda and HHML have signed a new licensing agreement, which enables HHML to continue producing, selling and servicing its current products.

➤ **Tatas plan 40km / litre diesel Nano**



TATA Motors is planning to launch a Nano model that will run 40 kilometers on a litre of diesel, matching the mileage of a typical 180cc motorcycle. It will be the most fuel-efficient car in India. The launch is expected this financial year. Bosch India, which is helping Tata Motors to develop the engine for the model have worked with Tata Motors for Nano's petrol version. The car has a two-cylinder, 700cc engine which develops healthy power without compromising on fuel economy.

Although official test figures have not been revealed, company expects it to run 40 km on one litre of diesel. At 40km/litre, the running cost of the new Nano will be Rs 1/km. The capacity of the fuel tank is expected to be 15 liters. However, Bajaj Auto, too, is working on a petrol car with Renault and Nissan and aims to offer 40km/litre. The car is slated for launch in 2012. Nano is the largest-selling Tata model in India with monthly sales of around 8,500. The country's largest selling car, Maruti Alto, records monthly sales of 25,000 a month.

Statutory compliance calendar for the month of April 2011			
Due date	Statutory compliance under Act	particulars	Governing Authority
			
07/04/2011	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
10/04/2011	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.
15/04/2011	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 March (b) Monthly return in form 5 for employees joining Provident Fund during March 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 March	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.
21/04/2011	SEBI	Quarterly return of shareholding pattern to stock exchange as per clause 35 of Listing Agreement	The securities and exchange board of India Act-1992
	ESIC	Payment of ESIC contribution for the month of March	The employees' state insurance Act-1948. Ministry of labour and employment.
25/04/2011	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
	Service Tax	Half Yearly filling of service tax return in Service Tax-3	Central Board of Excise and Custom
30/04/2011	Income Tax	Deposit of Income Tax TCS and TDS deducted in March	Central Board of Direct Tax.

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

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

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

TAXATION SERVICES

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- 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
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- Management Audit and Operational Audit
- Cost Audit/Reviews
- System and process control reviews.
- Secretarial Audit.

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