

Tax & Corporate law Bulletin

RAJPUT JAIN & ASSOCIATES **CHARTERED ACCOUNTANTS**

RJA

COMMITTED TO
PROVIDE
INNOVATIVE
SOLUTIONS



Rajput Jain & Associates is a **Chartered Accountant** firm offering its clients a full range of services. The firm has been setup by a group of young, enthusiastic, highly skilled and motivated professional who have taken experience from the top consulting firm and are extensively experienced in their chosen fields. The firm has been providing a wide array of accounting, auditing, taxation, assurance and business advisory service to various clients and other stakeholders.

We are the exclusive member in India of the Association Of International Tax Consultants , an association of independent professional firm represented throughout Europe, US, Canada, South Africa, Australia and Asia.

APRIL 2012

From the Editor's Desk...

Dear Reader,

Greetings for the season.

Let your dreams fly high, start the new financial year with enthusiasm and make it more productive than the previous one.

Some important updates of the month are as follows: Change in the provisions for filing return of income and introduction of new income tax return forms, Section 2(1A): Company supplying seeds to farmers under agreement income derived by company is not agricultural income and read many more...

We eagerly await your feedback on the bulletin.

Yours truly,

Rajput Jain & Associates

Chartered Accountants

**For further details,
Please contact....**

CA. Swatantra Singh

Singh.swatantra@carajput.com

CA. Sushil Singh

Sks_978@carajput.com

CA. Navneet Gupta

info@carajput.com

CA. Manoj Kumar Singh

support@carajput.com

**Corporate office: P-6/90,
Connaught circus,
Connaught Place,
New Delhi-110001**

**Phone No: - 011- 23343333,
011-43520194,**



Your partners
for success

Table of contents

DIRECT TAX 3-4

RECENT JUDGEMENT



INDIRECT TAX 4-8

❖ SERVICE TAX

❖ CENTRAL EXCISE



CORPORATE LAWS 8-10

FEMA 10-12



POLICY WATCH 12-14



INDUSTRY WATCH & CORPORATE HIGHLIGHT 14-17

GLOSSARY

“Adapting swiftly to the
global business environment”



DIRECT TAX

➤ **Change in the provisions for filing return of income and introduction of new income tax return forms**

Notification No.14/2012[F.No.142/31/2011-TPL] /S.O. 626(E) dated 28th March, 2012.

- An individual or HUF must file the return of income electronically under his digital signature for AY 2012-13 and subsequent years if his total income exceeds 10 Lakhs.
- A resident individual or HUF must file return of income electronically under digital signature for AY 2012-13 and subsequent years if –
 - (a) He has assets (including financial interest in any entity) located outside India;
 - (b) Signing authority in any account located outside India.
- The prescribed ITR Form Sahaj – ITR-1 and Sugam – ITR-4S cannot be used by a resident individual or resident HUF to file return of income if–
 - (a) He has assets (including financial interest in any entity) located outside India;
 - (b) Signing authority in any account located outside India.
- New Return Forms: Sahaj – ITR-1, ITR-2, ITR-3, Sugam – ITR-4S, ITR-4 and ITR –V are prescribed.

RECENT JUDGEMENTS

COURT DECISIONS

➤ **Section 2(24)(iv) : Interest on interest free loans availed by assessee from two companies in which she was director could not be treated as deemed income**

The assessee has availed interest free loans from two companies. Assessing Officer taxed the alleged interest as deemed benefit under section 2 (24) (iv) of the Act, which was confirmed by the CIT (Appeals).

Income Tax Appellate deleted the addition. On appeal by revenue, the court held that the interest on interest free loans availed by assessee from two companies in which she was a director could not be treated as her deemed income in terms of section 2 (24) (iv) of the Act. *CIT v. Madhu Gupta (2012) 205 Taxman 303 (P&H)*

➤ **Section 10A: Profit for purpose of deduction under section 10A, should be allowed without setting off unabsorbed loss and depreciation)**

The assessee claimed the exemption under section 10A, without setting off of unabsorbed loss and depreciation, which was allowed by the Assessing Officer. The said order was revised under section 263. In an appeal by the assessee the revision order was quashed. On appeal by the revenue, the High court on merit held that profit for purpose of deduction under section 10A should be allowed without setting off of unabsorbed loss and depreciation and refrained the opinion as regards the jurisdiction under section 263. The order of Tribunal was confirmed the appeal of revenue was dismissed. *CIT v. Tyco Electronics Tools India (P) Ltd (2012) 205 Taxman 403 (Karn) (High Court)*

➤ **Section 2(1A): Company supplying seeds to farmers under agreement income derived by company is not agricultural income**

The assessee company is in the business of cultivation, production and marketing of open-hybrid seeds both for the domestic and international market and entered in to agreement with the farmers for production of open-hybrid seeds for its own benefit or on behalf of its overseas principals. Assessee Company supplied the seeds, supervised the cultivation of seeds. After harvesting, the company purchased from farmers at fixed price.

Assessee Company has done the process of cleaning, grading and converted into certified seeds. Assessee has claimed entire income is exempt under section 10(1). Assessing Officer denied the exemption. On appeal before the Tribunal the tribunal opined that 10 percent of the net profit should be treated as business

income and balance 90 percent of the net profit as agricultural income exempt from tax. On appeal to High Court by revenue the court held that the income is not agricultural income. *CIT v. Namdhari Seeds P. Ltd (2012) 341 ITR 342 (Karn) (High court)*

➤ **Section 10(14): Reimbursement of expenses certified by LIC can be held taxable**

The assessee a development officer of LIC filed the return of income claiming deduction in respect of incentive bonus, conveyance allowance and additional conveyance allowance received from LIC. The Assessing Officer rejected the claim of assessee. On appeal to the Tribunal, the Tribunal held that where LIC certified that reimbursement of expenses incurred in performance of duties of Office, of employment the same has to be held as not taxable for the purpose of exemption under section 10. *Satish Gupta v. ITO (2012) 134 ITD 686 (Delhi) (Tribune)*

➤ **Section 32: Machineries discarded due to obsolescence and which have not been used in manufacturing of product depreciation is not allowable**

The assessee had been claiming depreciation on block of assets. The Assessing Officer held that two machineries had been discarded and that once the assets had been discarded treating them as obsolete; the same should have been considered for reduction of the block for computing the depreciation on the same. The Assessing Officer has added back the depreciation in the total income. On appeal the Commissioner (Appeals) conformed the order of Assessing Officer. On appeal to the Tribunal, the Tribunal allowed the claim of assessee. On appeal by revenue the Court held that depreciation is not allowable in respect of machineries which have been discarded due to obsolescence and which have not been used in manufacturing of product. Order of tribunal reversed.

CIT v. Luwa India Ltd (2012) 205 Taxman 342 (Karn) (High Court)

INDIRECT TAX

SERVICE TAX



Synopsis of notifications, Circulars & Letters

CBEC vide Notification No. 1/2012-ST dated 17th March, 2012 has extended the exemption to service provided by association of dyeing units under the category of "Club or Association Services"(Section 65(105)(zzze)) in relation to common facility set-up for treatment and recycling of effluents and solid waste discharged by dyeing units with a financial assistance from the Central or State Government as provided by Notification No. 42/2011-ST dated 25th July, 2011 to all associations including registered co-operative societies.

CBEC vide Notification Nos. 7,8 & 9/2012-ST all dated 17th March, 2012 has further 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, 2012.

CBEC vide Notification No. 2/2012-ST dated 17th March, 2012 has increased the rate of service tax from 10.3% to 12.36% (including Education Cess) to be effective from 1st April, 2012.

➤ **CBEC vide Notification No. 3/2012-ST dated 17th March, 2012 has made Following amendments to Service Tax Rules, 1994**

- **Rule 2(cd)** is inserted so as to provide that “partnership firm “includes a “limited liability partnership.”
- **Rule 4A** is amended whereby the time limit for issuance of invoice is extended from 14 days to 30 days from the date of completion of service or receipt of payment whichever is earlier. Similar extension is granted for issuance of invoice in case of “continuous supply of services.” Similarly, in case of taxable services of banking & other financial services, the above time limit for issuance of invoice is extended to 45 days.
- **6th proviso to Rule 4A** is inserted whereby no invoice is required to be issued where the service provider receives an amount up to 1,000/- in excess of the amount indicated in the invoice & such service provider has opted to determine the point of taxation as per the POT Rules, 2011. Corresponding amendments are made in Rule 3 of the Point of Taxation Rules, 2011.
- **3rd proviso to Rule 6(1)** is inserted whereby the provisions of Rule 6(1) would not apply in case of taxable services exported as per Rule 3(1) of the Export of Service Rules, 2005 where the payment is received within the period specified time by RBI including such extended period. Corresponding amendments are made in Rule 7 in the Point of Taxation Rules, 2011.
- **4th proviso to Rule 6(1)** inserted where by individuals & partnership firms whose aggregate value of taxable services provided from all the registered premises is 50 lakhs or less in the previous financial year are granted an option to pay service tax on receipt basis in respect of value of taxable services provided or to be provided up to ` 50 lakhs in current financial year. Consequently, Rule 7 of the Point of Taxation Rules, 2011 is amended to omit the reference to 8 service providers who

were given the facility to pay the service tax on receipt basis.

- **Rule 6(7A)** is amended whereby the rate of Service Tax payable by the insurer carrying on life insurance business has been increased from 1.5% to 3% in Respect of first year premium.
- **Rule 6(7B)** is amended whereby the rate of service tax payable by foreign exchange broker including an authorised dealer in foreign exchange or authorised money changer is upwardly revised by 20% to commensurate with increase in rate of Service Tax.
- **Rule 6(7B)** is amended whereby the rate of service tax payable by distributor or selling agent for services of promotion, marketing, organizing or assisting in organizing lottery is revised from 6,000/- to 7,000/- & from 9,000/- to 11,000/-.

➤ **CBEC vide Notification No. 4/2012-ST dated 17th March, 2012 has made following amendments to Point of Taxation Rules, 2011**

- The definition of “continuous supply of services” under Rule 2(c) is amended whereby continuous supply of service means any service which is provided, or to be provided continuously or on recurrent basis, under a contract, for a period exceeding 3 months with the obligation for payment periodically or from time to time or where the Central Government, by a notification in the Official Gazette prescribes provision of a particular service to be a continuous supply of service, whether or not subject to any condition. Consequently, Rule 6 containing the provisions related to “continuous supply of services” is omitted.
- Rule 5 is amended whereby the time limit for issuance of invoice in case of new services is maintained at 14 days in spite of extension of time limit for issuance of invoice to 30/45 days in Rule 4A of the Service Tax Rules, 1994.
- Rule 8A is inserted whereby the powers are granted to the Central Excise Officer to determine the point of taxation to the best of his

judgment in cases where the point of taxation cannot be determined as per POT Rules, 2011 as the date of invoice or the date of payment or both are not available.

➤ **CBEC vide Notification No. 6/2012-ST dated 17th March, 2012 has superseded Notification No. 26/2010-ST dated 22nd June, 2010 on abatement granted to Transport service by air**

The abatement of 60% is granted to taxable services of “transport of passengers through air (Section 65(105) (zzzo))” subject to condition that no CENVAT Credit of duty paid on inputs/capital goods used for providing such taxable service is availed. The erstwhile Notification No. 26/2010-ST dated 22nd June, 2010 as amended by Notification No. 4/2011-ST dated 1st March, 2011 prescribed the rates of service tax payable for such taxable service as under:

- **Domestic (Economy):** lower of 10% of value of ticket or 150/- per journey.
- **International (Economy):** lower of 10% of value of ticket or 750/- per journey.
- **Domestic/ International (other than Economy):** 10% on value of ticket.

➤ **CBEC vide Notification No. 11/2012-ST dated 17th March, 2012 has made Following amendments to Service Tax (Determination of Value) Rules, 2006**

- Rule 2A is amended whereby besides the existing provisions for calculating the value of taxable service involved in execution of a works contract as referred in Proposed Section 66E (8), following additional provisions are introduced: Where the value has not been determined under existing provisions, the service tax payable shall be determined in following manner:
- In case of works contract entered into for execution of original works, service tax shall be payable on 40% of the total amount charged for the works contract.

- Where the gross amount charged for execution of original works includes the value of land, service tax shall be payable on 25% of the total amount charged for the works contract.
- In case of other works contracts including completion & finishing services such as glazing, plastering, floor and wall tiling, installation of electrical fittings (not covered under original works), service tax shall be payable on 60% of the total Amount charged for the works contract.
- The term “original works” is defined to mean all new construction & all types of additions and alterations to abandon or damaged structures on land that are required to make them workable.
- The term “total amount” is defined to mean the sum total of gross amount and the value of all goods, excluding the VAT, if any, levied on goods and services supplied free of cost for use in or in relation to execution of works contract under The same contractor any other contract.
- Where the value of goods or services supplied free of cost is not ascertainable, the same shall be determined on the basis of fair market value of the goods or services that have closely available resemblance.

CENTRAL EXCISE



➤ **Expanding the scope of the term “Manufacturer”**

The Following processes are also been deemed to be manufacture: The process of affixing or embossing trade name or brand name on article of jewellery or

articles of gold smiths or silversmiths wares of precious metal or of metal clad with precious metal. Process of oiling, pickling in respect of goods of other article of nickel. Process of cutting, slitting and printing of aluminium foils. Process of matching, batching and charging lithium ion batteries of battery packs. The Impact Therefore, if any of the above process is carried out by an assessee will be deemed to be manufacture and will be liable to pay excise duty.

➤ **Definition of inter-connected undertaking Provision with respect to imprisonment of seven years**

- **Issue of Show Cause Notice**
- **Benefit of Reduced Penalty**
- **Notification No. 9/2012 Amendment in provisions with respect to precious metal Jewellery**

The Change Definition of inter-connected undertakings has been introduced in the Excise Act, 1944 itself by deleting the reference of Monopolies Restrictive Trade Practice Act, 1969. The History Earlier reference of Monopolies Restrictive Trade Practice Act, 1969 was given to refer the definition of “Inter-Connected Undertakings” The Change the imprisonment of seven years, in case of offences relating to any excisable Goods can now be invoked only if the duty element is more than 30 lakh. The History Earlier monetary limit for invoking the provision of imprisonment of seven years was one lakh. The Impact Now, provision with reference to imprisonment of seven years can be invoked only if duty element in case of offence relating to any excisable goods is more than 30 Lakh.

The Change For the purpose of computing the period of five/one year for issuance of Show Cause Notice, the period of stay shall be excluded, where service of notice is Stayed by an order of a court or tribunal.

The History Earlier, there was no specific provision with regards to exclusion of period stay for the

purpose of computing the time period of five/one year.

The Impact Even if stay has been granted by the court/tribunal, Central Excise officer will have an option to issue the SCN by excluding period of stay.

➤ **Benefit of Reduced Penalty**

The Change Benefit of reduced penalty of twenty five per cent of amount of duty for short levy or non-levy of duty shall be available only if the reduced penalty has also been paid along with interest within 30 days of communication of order.

The history earlier there was ambiguity, whether penalty was also required to be paid along with duty or not to avail the benefit of reduced penalty. Now, the same has been clarified.

In order to avail the benefit of reduced penalty in case of short-levy or non levy of duty, assessee is required to pay amount of penalty within thirty days of communication of order.

➤ **Notification No.9/2012 Amendment in provisions with respect to precious metal Jewellery**

- For the purpose of claiming the benefit of SSI exemption, in case of articles of jewellery (other than silver jewellery), the value of aggregate clearance of home consumption by a manufacturer from one or more factories, or from a factory by one or more manufacturer for the financial year 2011-12 shall be calculated at 30% of transaction value i.e. value declared in the invoice. In case of articles of jewellery, tariff value for the purpose of calculation of SSI exemption shall be 30 per cent of transaction value.
- It is now made compulsory for every person who gets articles of jewellery (heading No. 7113) produced or manufacture on job work to obtain registration, maintain accounts, pay duty leviable on such goods and comply with procedural requirements as if he is a manufacturer even if he is not a manufacturer.

Because of above amendment, the person who gets articles of jewellery produced or manufactured on job work needs to comply with all the provisions of excise law and discharge excise duty liability even though said person is not a real manufacturer.

➤ **Notification No.13/2012 Periodicity of filing of return by manufacturer claiming exemption**

Manufacturer, to whom exemption has been granted either absolutely or subject to certain conditions from the duty of excise, is required to give information regarding receipt, consumption, closing stock of the goods "Quarterly" to the assistant commissioner or deputy commissioner. The above provision will help in reduction of compliance of the manufacturer.

CORPORATE LAWS

➤ **Guidelines for credit rating agencies**

The SEBI has issued Circular No. CIR/MIR SD/3/2012 dated. 1st March, 2012 and stated that under the SEBI (Credit Rating Agencies) Regulations, 1996, a Credit Rating Agency (CRA) has been defined as a body corporate which is engaged in the business of rating of securities offered by way of public or rights issues.

The term "Securities" has been defined in Clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956. It is observed by SEBI that the CRAs registered with SEBI also carry out rating of other securities / instruments and loans / facilities provided by banks which are not regulated by SEBI. Such ratings are being used by the other regulators or their regulated entities for the specified purposes.

SEBI hence considers it desirable that in addition to the review/accreditation process put in place by these regulators, if any; such ratings should also be governed by the same stringent norms as applicable for rating of securities issued by way of public and rights issues. Hence, it has been decided in

consultation with the CRAs and also with other regulators that for the above mentioned ratings, CRAs shall follow the applicable requirements pertaining to rating process. It is also stated by SEBI that the half-yearly internal audit for the CRAs as prescribed by SEBI shall also cover the above mentioned ratings.

➤ **Registration of Companies or LLPs by Professionals**

The MCA has issued General Circular No. 02/2012 dated. March 1st, 2012 clarifying that where at the time of incorporation of companies, one of the objects is to carry on the business of banking, insurance or to practice the profession of Chartered Accountancy, Cost Accountancy and Company Secretaries, then the concerned Registrar of Companies shall incorporate the same only on production of in principle approval/NOC from the concerned regulator/professional institutes. It is also clarified that where one of the objects is to carry on the business/profession of architecture, then the concerned Registrar of Companies/Registrar of LLP shall incorporate the same only on production of the in-principle approval/NOC from the concerned regulator.

➤ **Convergence of Indian accounting standards with IFRS for UCBS**



The RBI has issued Circular No. UBD.CO.BPD. No. 25/12.05.001/2011-12 dated. 6th March, 2012 reiterating that the Core Group constituted by the Ministry of Corporate Affairs, Government of India had approved in March 2010, a road map for convergence of Indian Accounting Standards (Ind-

AS) with the International Financial Reporting Standards (IFRS).

In the Annual Policy Statement 2010-11 of the Reserve Bank issued on 20th April, 2010, it was stated that Urban Cooperative Banks (UCBs) having net worth in excess of 300 crore would, while preparing its accounts, converge with IFRS in tandem with the time schedule given for scheduled commercial banks and accordingly convert their opening balance sheet as on 1st April, 2013 in compliance with IFRS converged Ind-AS.

UCBs having net worth in excess of 200 crore but not exceeding 300 crore would convert their opening balance sheet as on 1st April, 2014 in compliance with IFRS converged Ind-AS. UCBs having net worth in excess of 200 crore are, therefore, advised to take necessary steps to ensure that they are in readiness to adopt the IFRS converged Ind-AS from 1st April 2013 or 1st April 2014 as the case may be.

➤ **Time line extended for DIN holders to submit PAN**

The MCA has issued General Circular No. 04/2012 dated. 9th March, 2012 extending the timeline for filing Form DIN-4 by DIN holders for furnishing PAN and to update PAN details up to April 30, 2012.

➤ **Committee constitution to formulate a policy document on Corporate governance**

The MCA has issued General Circular No. 03/2012 dated. 7th March, 2012 stating that while the issue of how corporates decide to carry on their affairs, is largely a matter of their choice subject to conformity with the law, the increasing importance of businesses to the economies and complexities of operating in an inter-dependent world have brought home the need for business chambers, professions, regulators and even the Governments to take interest in this aspect. Also, concerns relating to the quality of corporate governance system and the need to maintain its integrity and public accountability have resulted in a number of public interventions all over the world including the well known Cadbury Code (1992) and

the Sarbanes-Oxley Act (2002) of the UK and US respectively.

In India, too, a few elements of good corporate governance find mention in legal frameworks like the listing agreement of SEBI and a few of the provisions of the Companies Bill, 2011. More detailed guidelines are also available, including the Voluntary Code on Corporate Governance of the CII (1998) and the National Voluntary Guidelines on Corporate Governance of this Ministry (2009) which are currently under revision by a Committee under the Chairmanship of Shri Kiran Karnik.

The MCA states that a need has, however, been felt to also have a formal policy document that synthesizes the disparate elements in diverse guidelines, draws on innovative best practices adopted by specific companies it is only intended to ensure that board and management practices and other processes conform to more standardized norms. A concept paper on the subject entitled "Concept Paper on National Corporate Governance Policy, 2012" was earlier released and which was meant to facilitate public discussion and in ascertaining views of all stakeholders and suggesting a policy document by the Committee constituted.

➤ **Non-reckoning fixed deposits with banks by NBFCS as financial Assets**

The RBI has issued Circular No. DNBS (PD) CC.No.259 /03.02.59/2011-12 dated 15th March, 2012 stating that it has come to its notice that some NBFCS obtain registration from the RBI, park their funds in fixed deposits with commercial banks but do not commence NBF activities for several years thereafter. This is also certified to the effect that the companies are conducting NBF activities, justifying the continued holding of the Certificate of Registration (COR) issued by the Bank. The RBI now clarifies that the RBI issues a COR for the specific purpose of conducting NBF activities and investment in fixed deposits cannot be treated as financial assets and receipt of interest income on fixed deposits with banks cannot be treated as income

from financial assets as these are not covered under the activities mentioned in the definition of “financial institution” in section 45I(c) of the RBI Act 1934.



Banking and Non-Banking Financial Institutions

Besides, bank deposits constitute near money and can be used only for temporary parking of idle funds, and/or in the above cases, till commencement of NBFIs business. Also, the NBFC which is in receipt of a COR from the Bank must necessarily commence NBFC business within six months of obtaining COR and if the business is not commenced within a period of six months from the date of issue of COR, the COR will stand withdrawn automatically.

➤ Lending against security of single product – gold jewellery by NBFCs

The RBI has issued Circular No. RBI/2011-12/46 7/DNBS.CC.PD.No.265/03.10.01/2011-12 dated 21st March, 2012 stating that it has observed that NBFCs that are predominantly engaged in lending against collateral of gold jewellery have recorded significant growth in recent years both in terms of size of their balance sheet and by physical presence.

Given the rapid pace of their business growth and the nature of their business model, it was noted by the RBI that this carries inherent concentration risk and is exposed to adverse movement of gold prices. As a prudential measure, it has been decided that

- All NBFCs shall hereafter maintain a loan-to-value (LTV) ratio not exceeding 60 per cent for

loans granted against the collateral of gold jewellery and disclose in their balance sheet the percentage of such loans to their total assets.

- NBFCs that are primarily engaged in lending against gold jewellery (such loans comprising 50 per cent or more of their financial assets) shall maintain a minimum Tier 1 capital of 12 per cent by 1st April, 2014. It is also advised that NBFCs should not grant any advance against bullion / primary gold and gold coins.

➤ Guidelines on fair practices code for NBFCs

The RBI has issued Circular No. DNBS.CC.PD.No.266 /03.10.01/2011-12 dated 26th March, 2012 referring to its earlier circular on Fair Practices Code (FPC) for all NBFCs to be adopted by them while doing lending business. The guidelines inter alia covered general principles on adequate disclosures on the terms and conditions of a loan and also adopting a non-coercive recovery method. The RBI has now reviewed the guidelines in view of the creation of a new category of NBFCs viz., NBFC-MFIs and also rapid growth in NBFCs’ lending against gold jewellery.

The revised guidelines are issued under section 45-L of the RBI Act, 1934 (Act 2 of 1934) and of all the powers enabling it in this behalf, are in supersession of its earlier Circular and named as “Guidelines on Fair Practices Code for NBFCs”. The Guidelines have also incorporated the earlier instructions on ‘Complaints about excessive interest charged by NBFCs and on ‘Clarification regarding re-possession of vehicles financed by NBFCs for reference.

FEMA

➤ Clarification on delegation of power – in Establishment of Branch Offices (BO) / Liaison Offices (LO) in A.P. (DIR Series) Circular No. 88 dated March 1st, 2012

It has been clarified that transfer of assets of LO / BO to subsidiaries or other LO / BO or any other entity is permitted only with the specific approval of the

Central Office of the Foreign Exchange Department,
RBI.

➤ **Foreign Institutional Investor (FII) investment
in 'to be listed' debt securities**

**A.P. (DIR Series) Circular No. 89 dated March 1st,
2012**

Presently, as per the Foreign Exchange Management (Transfer or issue of Security by a person resident outside India) Regulations, 2000 as amended, the Securities and Exchange Board of India (SEBI) registered FIIs are allowed to invest only in listed non- convertible debentures (NCDs) / bonds issued by an Indian company.

SEBI has, vide their circular CIR/IMD/FIIC/18/2010 dated November 26th, 2010 issued instructions on the revised allocation of investment limits to FIIs. In terms of paragraph 8 of the circular, SEBI has allowed FIIs to invest in 'to be listed' debt securities. Accordingly, it has been decided that SEBI registered FIIs/subaccounts of FIIs can now invest in primary issues of NCDs/ bonds only if listing of such bonds/NCDs is committed to be done within 15 days of such investment. In case the NCDs/bonds issued to the SEBI registered FIIs / sub-accounts of FIIs are not listed within 15 days of issuance to the SEBI registered FIIs / sub-accounts of FIIs, for any reason, then the FII/sub-account of FII shall immediately dispose of these bonds/NCDs either by way of sale to a third party or to the issuer and the terms of offer to FIIs / sub-accounts should contain a clause that the issuer of such debt securities shall immediately redeem/ buyback the said securities from the FIIs/sub-accounts of FIIs in such an eventuality.

➤ **Clarification on Liberalized Remittance
Scheme (LRS) for Resident Individuals**

**A.P. (DIR Series) Circular No.90 dated March 6,
2012**

RBI has clarified that:

- The LRS facility is available to all resident individuals including minors. In case of

remitter being a minor, the LRS declaration form must be countersigned by the minor's natural guardian.

- Remittances under the facility can be consolidated in respect of family members subject to individual family members complying with the terms and conditions of the scheme.
- Remittances under the scheme can be used for purchasing objects of art subject to the provisions of other applicable laws such as the extant Foreign Trade Policy of the Government of India.

➤ **Prior intimation to the RBI for raising the
aggregate FII / Non-Resident Indian (NRI)
limits for investments under the Portfolio
Investment Scheme**



**A.P. (DIR Series) Circular No. 94 dated 19th
March, 2012**

The RBI has clarified that the Indian company raising the aggregate FII investment limit of 24% to the sectoral cap/ statutory limit, as applicable to the respective Indian company or raising the aggregate NRI investment limit of 10% to 24%, must necessarily intimate the same to the RBI, immediately, as hitherto, along with a Certificate from the Company Secretary stating that all the relevant provisions of the extant Foreign Exchange Management Act, 1999 regulations and the Foreign Direct Investment Policy, as amended from time to time, have been complied with. The RBI monitors the ceilings on FII/ NRI/ PIO investments in Indian companies on a daily basis.

For effective monitoring of foreign investment ceiling limits, the RBI has fixed cut-off points that are two percentage points lower than the actual ceilings. Once the aggregate net purchases of equity shares of the company by FIIs/NRIs/PIOs reaches the cut-off point of 2 per cent below the overall limit, the RBI cautions all the designated bank branches not to purchase any more equity shares of the respective company on behalf of any FIIs/ NRIs/ PIOs without prior approval of the RBI.

The link offices have to intimate the RBI about the total number and value of equity shares/ convertible debentures of the company proposed to be bought on behalf of their FIIs /NRIs /PIOs clients. On receipt of such proposals, the RBI gives clearances on a first-come-first served basis till such investments in companies reaches the respective limits (such as 10 / 24 / 30 / 40/ 49 per cent limit or the sectoral caps/statutory ceilings), as applicable. On reaching the aggregate ceiling limit, the RBI advises all designated bank branches to stop purchases on behalf of their FIIs/ NRIs/ PIOs clients.

➤ **Foreign Exchange Management (Deposit) Regulations, 2000 – Credit to Non Resident (External) Rupee (NRE) Account**

A.P. (DIR Series) Circular No. 95 dated 21st March, 2012:-

An individual resident in India is allowed to borrow a sum not exceeding US\$ 2, 50,000 or its equivalent from her / his close relatives outside India, subject to The conditions mentioned in Regulation 5(6) of Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000, as amended From time to time.

It has now been decided that AD Category-I banks may allow repayment of such loans to NRE / Foreign Currency Non-Resident (Bank) [FCNR(B)] account of the lender concerned subject to the condition that the loan to the resident individual was extended by way of inward remittance in foreign exchange through normal banking channels or by debit to the

NRE / FCNR(B) account of the lender and the lender is eligible to open NRE / FCNR(B) account within meaning of the Foreign Exchange Management (Deposit) Regulations, 2000, as amended from time to time (Deposit Regulations). Such credit shall be treated as an eligible credit to the NRE / FCNR (B) account in terms of Para 3(j) of Schedule 1 read with Para 5 of Schedule 2 of Deposit Regulations.

POLICY WATCH

➤ **Foreign firms with minor bank links may get to do proprietary trading**

Foreign Finance companies having banking linkage may get to undertake proprietary trading. However, in the wake of intense scrutiny since the 2008 global crisis, the sector may only be opened up marginally. The move follows many companies approaching the finance ministry and RBI after a blanket rejection of their proposals. RBI has agreed to re-examine the regulatory regime in the case of foreign companies where its parent is not a bank. All non-banking finance companies with banking linkage will have to get RBI's nod before they can undertake proprietary trading. However, finance companies having a banking parent will still not be able to secure RBI's green signal. Non-Banking Financial Company (NBFCs) which carry out 18 activities allowed under the current FDI policy, can continue with proprietary trading if registered with a financial sector regulator.

➤ **RBI allows cross border remittances through mobiles**

The RBI has permitted banks to enable cross border remittance between bank accounts through the medium of mobile, subject to clearance from the local regulator. Banks will have to be responsible for ensuring quality of funds, adherence to know your customer and so on. The RBI has enabled loading of funds received from overseas under the Money Transfer Service (MTS) Scheme on to a prepaid payment instrument issued by a bank to the recipient of the funds. Transactions in mobile banking have been showing an uptrend.

During February 2012, more than Rs 2.8 million transactions for close to Rs 1.96 billion were transacted. Also, 300% increase in volume and more than 200% in value terms as compared to Rs 700,000 transactions for close to Rs 616 million during February 2011. At present, 65 banks have been approved for conduct of mobile banking out of which 47 banks have commenced offering these services.

➤ **SEBI allows stock exchanges to list, but with conditions**



The Stock exchanges and depositories will be allowed to list, the Securities and Exchange Board (SEBI) of India decided on 2nd April 2012. Listing will be restricted to those stock exchanges that address the conflict of interest between business expansion and their role as a frontline regulator. The Jalan Committee had recommended that exchanges, depositories and clearing corporations should not be allowed to list because of their frontline regulatory role. SEBI has implemented the Jalan committee's recommendation only for clearing corporations, barring them from listing. However, SEBI has not allowed exchanges to list on themselves. Also, they have to operational for at least three years to list. This is because Clearing Corporations (CCs) bear the risk of guaranteeing that securities and funds change hands between the buyer and the seller without any glitches on the exchanges.

➤ **Government plans uniform license fee across all communications services**

The government is set to introduce a Uniform Licence Fee (ULF) of 8% across all communications services to remove any room for trade in the revenue sharing model followed in the telecom sector. It will be introduced in a phased manner over the next two years. Apart from a notification, Department of Telecommunications (DOT) will also have to make necessary changes to the universal access service license, as the telecom license is known.

Under the revenue sharing model, communications services companies pay a percentage of their Adjusted Gross Revenue (AGR) as license fee. AGR refers to the firm's revenue after adjusting for service tax, inter-connection charges and other revenue that does not directly accrue to the company. Under the new proposal, operators paying 10% of AGR will move to 9% next year and to 8% by April 2014. Similarly, Internet service providers, currently paying nothing, will start paying 4% next year and 8% in 2014.

➤ **FII's invest US\$ 62.33 million in equity market in April 2012**

Foreign Institutional Investors (FIIs) made a net investment of US\$ 62.33 million in the equity market up to April 13, 2012. During January-March 2012, net inflows stood at around US\$ 8.52 billion. Since the beginning of 2012, investment by overseas investors into the Indian stock market has reached US\$ 8.57 billion, out of which US\$ 5.10 billion was invested in January, US\$ 4.88 billion in February 2012 and the remaining US\$ 1.62 billion in March 2012. The strong FII inflow during January-March 2012 was mainly due to reversal in the Reserve Bank of India's monetary policy stance and subsequent impact of the improved liquidity position.

➤ **Government to insist on 100% domestic sourcing for telecom projects**

The government is likely to insist on 100% domestic sourcing for three major telecom projects worth nearly Rs 360 billion shutting off foreign vendors who were hoping to bag a portion of these contracts.

In a related development, the telecoms department has also dismissed concerns raised by the Commerce Ministry and issued a cabinet note seeking approval for its proposed policy that will give preferential access and tax cuts to indigenously manufactured telecoms equipment. This policy also mandates that both state-owned and private mobile phone companies buy up to 80% of their networks hardware from domestic companies by 2020.

The telecoms department has already approved sector regulator's recommendations that mobile phone companies be mandated to source 80% of their network equipment and other related infrastructure from domestic manufacturers by 2020. But this also includes network and other hardware produced by the manufacturing units of foreign vendors located in India. These new rules, aimed at making the country a mobile equipment manufacturing hub, will be part of the new telecoms policy that is set to be unveiled in April 2012.

INDUSTRY WATCH & CORPORATE HIGHLIGHTS

➤ **Toyota to invest Rs 14 billion assemble Camry in Bangalore**

Japanese auto major Toyota Kirloskar Motor Pvt. Ltd is planning to assemble mid-class luxury sedan Camry at its Bangalore factory from July 2012 expects to roll it out in August 2012. Despite an increase in duty, the company decided to go ahead with the plan, while acknowledging a price impact. The focus in India will be semi-urban and rural markets, to support our growth. Therefore the number of dealers would be increased from 173 to 225 by year-end. Also as part of the phase-II expansion, the company was planning to add 100,000 units by 2013, with an investment of around Rs 8 billion. This would add to a total capacity of around 310,000 units a year in Toyota's two plants in Bangalore. It would also invest around Rs 5 billion in engine and transmission facility. Meanwhile, Toyota today flagged off its first export consignment of 247

units of the Ethos series to the South African market via Encore Port.

➤ **Bajaj Auto raises stake in KTM Power Sports to 47%**

BAJAJ Auto, India's second-largest two-wheeler maker, has tightened its hold on KTM Power Sports by buying another 6.3%, taking its stake in the Austrian motorcycle to a little over 47%. The purchase was made through Bajaj Auto International Holdings (BAIHBV), a Netherlands-based wholly-owned subsidiary of Bajaj Auto. Bajaj Auto is the second-largest shareholder in KTM. The company's supervisory board has approved a 5 year bond issue to raise 75 million subject to regulatory approval.

This increase in stake will develop further confidence among investors and boost their integration process. Bajaj Auto supplied about 11,000 out of 81,000 bikes that KTM sold in 2011. This year the company plans to scale the numbers up to 40,000 KTMs and eventually produce 50% of all KTM motorcycles by 2015. During January- February 2012, KTM sold close to 8,400 units against BMW's cumulative sales of around 8,250- 8,300 units. The company aims to sell 25,000-30,000 motorcycles in India this year and over 200,000 units globally in 2015.

➤ **L&T buys British firm Thales for Rs 240 Million**

Larsen & Toubro (L&T) has acquired the UK-based provider of ship control and automation systems Thales for 3 million pounds (Rs 240 Million) to use British firm's technology for commercial and naval ships. The acquisition by L&T's electrical and automation business division is aimed at expanding the automation offerings for ships. Thales is the UK based holding company of Servo watch Systems, Bond Instrumentation & Process Control and Servo watch of US. This is a small acquisition for 3 million pounds, but with this acquisition we get technology for automation systems for marine space.

Thales offers Integrated Platform Management System (IPMS) and Integrated Bridge System (IBS)

solutions for naval warships and mercantile marine ships, vessels and floating systems. Servo watch is a supplier of advanced integrated ship control systems, including alarm and monitoring, automation, platform management and bridge, navigation, communication and multimedia packages, for new build and retro-fit markets. As a part of its restructuring process, the \$11.7 billion-engineering conglomerate L&T plans to hive off its electrical and automation business for potential value unlocking.

➤ **Indian oil meal exports volume up by 8% in 2011-12**



The Indian oil meal export in 2011-12 has clocked an 8% growth in volume and touched a figure of 5,480,083 tons as compared to 5,071,779 tons in 2010-11. In value terms there has been a marginal growth of 1% to Rs 83 billion in 2011-12 as compared to Rs 82 billion in the previous fiscal. The export of oil meals during March 2012 is reported at 575,972 tons compared to 579,907 tons in March 2011.

Oil meal import by Japan from India during April 2011 to March 2012 reported at 1,296,436 tons compared to 1,259,870 tons last year consisting of 1,266,840 tons of soybean meal and 29,596 tons of rapeseed meal. Vietnam, another major market, imported 903,554 tons compared to 853,869 tons last year consisting 668,114 tons of soybean meal, 58,715 tons of rapeseed meal and entire quantity of 176,725 tons of rice bran extraction. South Korea, a major

importer of oil meal imported 836,223 tons compared to 624,699 tons last year, consisting of 427,229 tons of rapeseed meal, 317,106 tons of cast or seed meal and 91,888 tons of soybean meal.


➤ **TAFE to make two models of tractors for US:-**



India's Tractors and Farm Equipment Ltd (TAFE) will start making two models of high horse power (HP) tractors later this year for US-based AGCO Corp. AGCO will sell the tractors in Africa, Turkey, South America and other overseas markets. The cost of manufacture in Turkey is high compared to here. There may be saving in freight outgo but not in the manufacturing cost. The city-based TAFE is also participating in the development of AGCO's world tractor project called Centurion. The US company plans to roll out 50-125 hp tractors under the Centurion family and in the process save a sizeable sum by having common components across the models. AGCO holds around 23% stake in TAFE. The company would make the Centurion tractors in India and ship them out during the second calendar quarter of 2013.

➤ **Aviation sector allowed to raise up to \$1 billion in ECB**

The implementation of External Commercial Borrowing (ECB) norms to meet capital requirements in the power and road sectors, the finance ministry paved the way for implementing the measures announced in the Budget for the airline sector.

Statutory compliance calendar for the month of April 2012			
Due date	Statutory compliance under Act	Particulars	Governing Authority
			
07/04/2012	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
10/04/2012	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.
15/04/2012	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.
21/04/2012	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.
25/04/2012	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
	Service Tax	Half Yearly filling of service tax return in Service Tax-3	Central Board of Excise and Custom
30/04/2012	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
ITR	Income tax return

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

BUSINESS ADVISORY

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

TAXATION SERVICES

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

AUDIT & ASSURANCE

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

OUTSOURCING ACCOUNTANTS

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

RBI, FEMA, SEBI Services

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



We are the exclusive member of in India of the Association of International Tax Consultants, an association of independent professional firms represented throughout worldwide.



Grow your business with one change

DISCLAIMER

The contents of this document are for information purposes and general guidance only and do not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice.

No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication and Rajput Jain & Associates disclaims all responsibility for any loss or damage caused by errors/ omissions whether arising from negligence, accident or any other cause to any person acting or refraining from action as a result of any material in this publication.



CONTACT US!

BRANCHES / AFFILIATES:-

The head quarter of **Rajput Jain & Associates**, Chartered Accountant is located in Delhi, India. Beside this **Rajput Jain & associates** has presence all over India, with Nepal, and United States of America, Australia, through its associates / affiliates.

CORPORATE OFFICE

P-6/90, Connaught Place, Connaught Circus,
New Delhi-110001, India.

Phone No: -011-23343333.

DELHI BRANCH

204, Prakash Chamber, 6 Netaji Subhash
Marg, Main Road Daryaganj, New Delhi-
110002, India.

Phone No: - +91-9871857333; 011-43520194.

UTTAR PRADESH BRANCH

B-2, Shanchar Vihar, ITI Mankapur, District
Ghonda, Uttar Pradesh, 271308241, India.

Phone No: - +91-9811322785.

NEPAL BRANCH

Building No:-65, Ward No: - 10, Lakhe Chaur
Marg, Kathmandu Metropolitan Kathmandu,
Nepal.

FINANCE &
Accounting Solutions

Integrity, Service, Resources



While every care has been taken in the preparation of this Bulletin to ensure its accuracy at the time of publication, Rajput Jain & associates, chartered Accountant assumes no responsibility for any errors which despite all precautions, may be found therein. Neither this bulletin nor the information contained herein constitutes a contract or will form the basis of a contract. The material contained in this document does not constitute/substitute professional advice that may be required before acting on any matter.

All logos and trademarks appearing in the newsletter are property of their respective owners.

**THANK
YOU**

FOR CHOOSING

RJA

