

# 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.

**NOVEMBER 2013**

### **From the Editor's Desk...**

**Dear Reader,**

Greetings for the season.

May the beauty of Deepavali season, fill your home with Happiness and may the coming year provide you with all that bring you joy! Happy Diwali to you and your family.

Let's keep an eye on some important updates of the month: Exemption to specified goods when supplied to specified Institutions, Clarifications on Import of Gold by Nominated Banks /Agencies/ Entities and read many more...

We eagerly await your feedback on the bulletin.

**Yours truly,**

**Rajput Jain & Associates**  
**Chartered Accountants**



Your partners  
**for success**

**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**

# Table of contents

DIRECT TAX 3-4

RECENT JUDGEMENT

INDIRECT TAX 4-6

❖ SERVICE TAX

❖ CENTRAL EXCISE

CORPORATE LAWS 6-7

FEMA 7-8

INTERNATIONAL TAXATION 8-10

POLICY WATCH 10-11

INDUSTRY WATCH & CORPORATE HIGHLIGHT 11-14

GLOSSARY 15

“Adapting swiftly to the  
global business environment”





## DIRECT TAX



### ➤ **Extension of Date for Receipt of ITR-V's. In CPC, Bengaluru, For Assessment Years 2011-12 And 2012-13**

There are many taxpayers who have uploaded their Income Tax Returns electronically (without digital signature Certificate) for A.Y. 2011-12 [filed during F.Y. 2012-13] and for ITRs of A.Y. 2012-13 [filed on or after 1-4-2012], but have either not filed the corresponding ITR-V or have filed it with the local Income-tax office. ITR-V is accepted only at the Centralized Processing Center (CPC) of the Income-tax Department at Bengaluru by ordinary or speed post. Therefore, a final opportunity is being given to such taxpayers to regularize their Income-tax returns. All such taxpayers may mail the ITR-V, by October 31<sup>st</sup>, 2013, by ordinary post or speed post at Post Bag No. 1, Electronic City Post Office, Bengaluru 560100 (Karnataka).

### ➤ **Section 234B: A non-resident assessee which does not admit income chargeable to tax must be inferred to have induced the Indian payer not to deduct TDS and so it is liable for advance-tax interest**

#### **DIT vs. Alcatel Lucent USA Inc (Delhi High Court)**

The assessee, a USA company, supplied telecom equipments to customers in India. It claimed that it did not have a PE in India and that the income was not chargeable to tax. The AO rejected the claim and attributed 2.5% of the sale proceeds of the hardware as profit attributable to the PE in India. He also levied interest u/s 234B for failure to pay advance-

tax. Before the CIT (A), the assessee accepted that the income was chargeable to tax but argued, relying on *Jacobs Civil Incorporated 330 ITR 578 (Del)*, that as it was a foreign company and the income was liable for TDS, it was not liable to pay advance-tax. The CIT (A) and Tribunal accepted the assessee's contention. On appeal by the department to the High Court, held allowing the appeal:-

- There is a distinction between a case where the assessee admits that it has income chargeable to tax in India but does not pay advance tax on the basis that the Indian payer ought to have deducted tax at source u/s 195. In such a case (as was the fact situation in *Jacobs*), the assessee is entitled to take credit for the tax which was "deductible" by the Indian payer while computing its advance tax liability even though no tax was in fact deducted. However, in a case where the assessee does not admit any income in the return, this benefit is not available. An inference or presumption can be drawn that the assessee had represented to its Indian telecom dealers not to deduct tax from the remittances made to it even though there is no positive or direct evidence to that effect;
- The argument that the Indian parties should have discharged their TDS obligations u/s 195 despite the presumed request of the assessee is one of convenience or despair and not acceptable because in a practical view of the matter, the Indian payers could not have resisted the assessee's request given future business prospects and the need to keep the assessee in good humor;
- Also, having denied its tax liability and leading the Indian payers to believe that no tax was deductible it is inequitable & unfair on the assessee's part to shift the responsibility to the Indian payers & expect them to deduct tax from the remittances. The assessee must take responsibility for its *volte face*. Once liability to tax is accepted, all consequences follow; they cannot be avoided;



- Also, applying equitable principles, as the assessee deprived the revenue of the advance tax; it must pay compensation by way of interest.

Consider the impact of this verdict on Daimler Benz A.G 108 ITR 961 (Bom) (FB), Sedco Forex 264 ITR 320 (Utt), NGC Network 313 ITR 186 (Bom) & Madras Fertilizers 149 ITR 703 (Mad) where non-residents were held not liable to pay s. 234B interest on the basis that tax is “deductible” at source u/s 195 without any qualification.

➤ **Section 119 Of The Income-Tax Act, 1961 – Extension Of Due Dated For E-Filing Of Audit Report & Returns To October 31<sup>st</sup>, 2013**

**Order [F. No. 225/117/2013/ITA.II], dated October 24<sup>th</sup>, 2013**

In exercise of powers conferred under Section 119 of the Income-tax Act, 1961, the Central Board of Direct Taxes, in continuation to order u/s. 119 dated September 26<sup>th</sup>, 2013 in F. No. 225/117/2013/ITA.II, hereby directs that in cases where the ‘due date’ of furnishing reports of audit and corresponding income-tax returns was September 30<sup>th</sup>, 2013 and where the same are furnished electronically on or before October 31, 2013, such reports of audit and returns of income shall be deemed to have been furnished within the ‘due date’ prescribed under section 139 of the Income-tax Act, 1961.

## INDIRECT TAX



➤ **Synopsis of Notifications, Circulars & Letters of Service Tax**

**Central Government vide Notification No.14/2013-ST dated October 22<sup>nd</sup>, 2013** has amended Mega Exemption Notification No. 25/2012-

ST dated June 20<sup>th</sup>, 2012 by inserting Entry No. 19A granting exemption to services provided in relation to serving of food or beverages by a canteen maintained in a factory covered under the Factories Act, 1948, having the facility of air-conditioning or central air-heating at any time during the year.

**CBEC vide Circular No.173/8/2013-ST dated October 7<sup>th</sup>, 2013** has clarified on various issues related to applicability of service tax on services provided by restaurants:-

In a complex, if there is more than one restaurant, which are clearly demarcated and separately named but food is sourced from a common kitchen, only the service provided in the specified restaurant is liable to service tax and service provided in a non air-conditioned or non-centrally air-heated restaurant will not be liable to service tax. In such cases, service provided in the non air-conditioned / non-centrally air-heated restaurant will be treated as exempted service and credit entitlement will be as per the CENVAT Credit Rules, 2004.

Services provided by restaurants in other areas e.g. swimming pool or an open area attached to the restaurant are liable to service tax.

If goods are sold across the counter on MRP basis (fixed under the Legal Metrology Act) they have to be excluded from total amount for the determination of value of service portion.

➤ **Service tax liable to reimbursed from the service receiver**

Service tax is imposed upon the person to whom service is being provided and the same service provider is merely a collecting agency. Thus, where the agreement did not contain terms for payment of service tax by the service recipient and the service provider was made to pay service tax by the department, the High Court held that service provider was eligible to be reimbursed by the service recipient. [Bhagwati Security Services (Regd.) vs. UOI, (2013) 31 STR 537 (All.)]



➤ **Banking & Financial Services**



Where on facts, it was found that the assessee was in the business of leasing of aircraft parts/equipments for fixed monthly charges and the agreements:-

- Did not entitle or give an option to the lessee to own the asset at the end of the lease period;
- Did not transfer effective ownership of the asset and all the risks and rewards to the customers;
- Did not show that they covered more than 75% of the estimated economic life of the asset;

It was held that the services of the assessee would not be liable for service tax as “financial leasing including equipment leasing or hire purchase” under the category of “Banking & Financial Services”. [CST vs. Lufthansa Technik Service P. Ltd. (2013) 31 STR 730 (Tri – Del.).

➤ **Services provided by restaurants/ hotels:-**

The Kerala High Court held the levy of service tax on services provided by restaurants [clause (zzzzv)] and accommodation services provided by hotels, inns, guest house, club or campsite [sub clause (zzzzw)] as unconstitutional on the following grounds:

As regards services provided by restaurants, the Court held that supply of food or beverages “by way of or as part of any service”, is deemed to be a ‘sale’ under article 366(29-A)(f) and hence the State Government alone has the legislative competence to enact the law for imposing a tax on the service element forming a part of sale of such goods under entry 52 of the state list (i.e. tax on sale or purchase

of goods) and the Central Government in exercise of the residuary power under entry 97 of List I of the Constitution cannot impose service tax.

As regards services provide by hotels or guest house, the Court held it to be within the exclusive legislative function of the State under entry 62 of List II (i.e. tax on luxuries).

The High Court also allowed the petitioners to seek refund of the tax (if any) paid by them on the said services. [Kerala Classified Hotels and Resorts Association vs. UOI (2013) 31 STR 257 (Ker.)].

➤ **Supply of tangible goods**

On facts, where a company, a steel project owner, supplied machinery to its contractors for executing various jobs for the project for which it received hire charges from the contractors, the Supreme Court held that there was no ‘transfer of right to use goods’ and accordingly no sales tax under section 5E of the Andhra Pradesh General Sales Tax Act, 1957 would be leviable since:-

The effective control of the machinery even while the machinery was in use of the contractor was that of the company; The contractor was not free to make use of the machinery for the works other than the project work of the company or move it out during the period the machinery was in his use;

The condition that the contractor would be responsible for the custody of the machinery while it was on the site did not militate against company’s possession and control of the machinery. [State of Andhra Pradesh vs. Rashtriya Ispat Nigam Ltd, (2013) 31 STR 513 (S.C)].

➤ **Exemption to specified goods when supplied to specified Institutions**

Notification No. 10/1997-CE dated March 1st, 1997 exempts specified goods when supplied to specified institutions. The exemption is expanded and now exemption is also available for following goods when supplied to Departments and laboratories of Central and State Governments excluding hospital:-



- Scientific and technical instruments, apparatus, equipment including computers.
- Accessories, spare parts and consumables thereof.
- Computer software, CD ROM, recorded magnetic tapes, microfilms, microfiches and.
- Prototypes



To avail this exemption, at the time of clearance of these goods, the manufacturers have to produce a certificate from the head of the institution certifying that the said goods are required for research purpose only and the aggregate value of prototypes received by an institution does not exceed ` 50,000/- in a financial year.

*(Notification No. 28/2013-CE dated October 1<sup>st</sup>, 2013)*

## **CORPORATE LAWS**

- **Listing of specified securities of small and medium enterprises on the Institutional trading Platform in a SME Exchange without making an initial public offer**

The SEBI has issued Circular no. CIR/MRD/DSA/33/2013 In order to facilitate capital raising by small and medium enterprises including start-up companies which are in their early stages of growth and to provide for easier exit options for informed investors like angel investors, VCFs and PEs etc., from such companies, it has been decided to permit listing without an Initial Public Offer and trading of specified securities of small and medium enterprises

(SMEs) including start-up companies on Institutional Trading platform (ITP) in SME Exchanges. The legal framework for such listing and trading of the specified securities on the ITP was laid down vide SEBI (Listing of Specified Securities on Institutional Trading Platform) Regulations, 2013 (ITP Regulations). The salient features of the amendments made there under are also given in the circular.

- **Disclosure of Investor Complaints on websites of Stock Exchanges**



The SEBI has issued Circular no. CIR / MIRSD / 11/ 2013. In order to bring more transparency in the disclosure of complaint redressal status of the stockbrokers on the website of stock exchange, in consultation with the stock exchanges and the associations of stock brokers, it has been decided to modify the format by including following information:-

- Number of active clients of each stock broker. "Active client" means the client who has traded at least once in the last year.
- Percentage of number of complaints received as against number of active clients of the stock broker (to be calculated by dividing the number of complaints received against stock broker with number of active clients).
- Percentage of complaints resolved as against complaints received by the stock broker (to be calculated by dividing number of total complaints redressed with number of complaints received against stock broker).



The stock exchanges shall also disclose separately on several other matters that are specified in the above circular and come into effect from the quarter ended December 2013.

## FEMA



### ➤ **Export Outstanding Statement (XOS) Online Bank wide Submission A.P. (DIR Series) Circular No. 60 dated October 1<sup>st</sup>, 2013**

As per the existing regulations, AD Category-I banks are required to furnish to the Regional Office concerned of the RBI, a consolidated statement in Form XOS giving details of all export bills outstanding beyond six months from the date of export on a half yearly basis as at the end of June and December every year.

RBI has now decided that with effect from the half year ending December 2013, XOS submission should be made online and Bank-wide instead of the present system of branch-wise submission through the respective Regional Offices of RBI. Accordingly, AD Category-I Banks are advised to designate a Nodal Branch which shall be submitting the XOS data for the AD Bank as a whole. Further, the software for Bank wide online submission of XOS data would allow direct access to the all AD Category-I Banks to the RBI server to enable uploading of the XOS data directly to RBI server for which the necessary User ID and Password would be allotted to them in due course.

### ➤ **Amendments to the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000 [Notification No. FEMA 20/2000-RB dated May 3<sup>rd</sup>, 2000]**

#### **Notification No. FEMA. 289/2013-RB dated October 4<sup>th</sup>, 2013-Foreign Exchange Management**

(Transfer or Issue of Security by a Person Resident outside India) (Thirteenth Amendment) Regulations, 2013 – Amendment to Schedule 5 RBI has amended Schedule 5 of Notification No. FEMA 20/2000–RB to allow following categories of investors to purchase on repatriation basis, credit enhanced bonds subject to other conditions as specified in the Schedule 5:-

- Foreign Institutional Investor (FII);
- Qualified Foreign Investor;
- Long-term investors like Sovereign Wealth Funds (SWFs), Multilateral Agencies, Endowment Funds, Insurance Funds and Pension Funds and Foreign Central Banks registered with SEBI.

#### **Notification No. FEMA. 292/2013-RB dated October 4<sup>th</sup>, 2013 - Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Sixteenth Amendment) Regulations, 2013 – Amendment to Regulation 2.**

The Department of Industrial Policy and Promotion has, vide Press Note No. 2 (2013 Series) dated June 3<sup>rd</sup>, 2013 incorporated the following definition of 'Group Company' in the FDI policy, effective 5-4-2013 in paragraph 2.1 of the Consolidated FDI Policy as contained in Circular 1 of 2013:-

'Group Company' means two or more enterprises which, directly or indirectly, are in a position to:-

- Exercise twenty-six per cent, or more of voting rights in other enterprise; or
- Appoint more than fifty per cent, of members of board of directors in the other enterprise.



Consequently, RBI has amended the Regulation 2 of Notification No. FEMA 20/2000–RB by inserting aforesaid definition of ‘Group Company’ in clause (iva) vide Notification No. FEMA. 292/2013-RB dated October 4<sup>th</sup>, 2013.

➤ **Clarifications on Import of Gold by Nominated Banks /Agencies/ Entities**

**A. P. (DIR Series) Circular No.73 dated November 11<sup>th</sup>, 2013**

Considering the representations received relating to Advance Authorisation (AA) / Duty Free Import Authorisation (DFIA), and in consultation with the GOI, RBI has clarified that any authorization such as AA / DFIA is to be utilized for import of gold meant for export purposes only and no diversion for domestic use shall be permitted. For any AA / DFIA issued prior to August 14<sup>th</sup>, 2013 the condition of sequencing the imports prior to exports shall not be insisted upon.

Notwithstanding any of the foregoing directions, entities/units in the SEZ and EoUs, Premier and Star Trading Houses (irrespective of whether they are nominated agencies or not) are permitted to import gold exclusively for the purpose of exports only. Similarly, exports towards fulfillment of obligation under AA/DFIA scheme shall not qualify as export for the purpose of the scheme of 20:80

## INTERNATIONAL TAXATION



➤ **US Technology Resources Pvt. Ltd. vs. ACIT (ITA No. 222/COCH/2013) (Cochin ITAT)**

**Held**

On reference to the tax treaty, it indicates that the term ‘managerial service’ did not find place in Article 12(4) of the India US tax treaty. However, on a perusal of MOU under the tax treaty, it indicates that if technical or consultancy services make available technical knowledge, experience, skill, etc., then it would be considered as technical or consultancy services.

It was observed that consultancy services which were not of technical nature cannot fall under the ‘included services’. However, as per MOU of the tax treaty, the consultancy services which are technical in nature are to be considered as technical and consultancy services under the tax treaty.

On a perusal of management services agreement, extracted from CIT(A)’s order, it indicates that the US company provides highly technical services which were used by the taxpayer for taking managerial decision, financial decision, risk management decision, etc.

The Tribunal discussed the decisions in the case of De Beers India Minerals Pvt. Ltd., Raymond Ltd., Wokhardt Ltd, Intertek Testing Services India (P) Ltd and Sandvik Australia Pty Ltd and held that they are distinguishable from the facts of the present case.

Therefore, the expertise and technology which was made available by the US Company is technical service under Article 12(4) (b) of the tax treaty.

➤ **Eruditus Education Private Limited (AAR No. 1037 of 2011) (AAR)**

**Held**

The services rendered by the foreign university to the applicant involve expertise in or possession of special skill or knowledge that is ‘technical’ in nature. Thus the payment for the services falls under the definition of FTS, both under the Act and the tax treaty. However, the case of the applicant will fall in the



exclusion clause of Article 12(5) (c) of the tax treaty which reads as under

“Notwithstanding paragraph 4, ‘Fees for technical services does not include payment: ----- For teaching in or by educational institutions...”

There is no dispute regarding the fact that the foreign university is an educational institution and services rendered are in the nature of ‘teaching’. Thus the payments are not considered as FTS under the tax treaty.

Further the AAR held that the foreign university does not have a PE in India under Article 5(1) or 5(8) of the tax treaty in relation to the activity of conducting in-class teaching or through tele-presence in India.

Thus the payments were not chargeable to tax in India and there will not be any withholding tax implications.

➤ **Essar Oil Limited vs. ACIT (ITA No. 2428/Mum. / 2007), (ITA No. 2442 / Mum. / 2007) (Mum. ITAT)**

#### **Held**

The words and the phrase ‘may be taxed’ are not appearing in the statute but are appearing in the tax treaties. This phrase has not been defined or explained either in the Act, or in the respective tax treaties.

In the case of S.R.M. Firm and others the Madras High Court, inter alia, held that:

(a) The phrase ‘may be taxed’ means that the income which has been taxed in the Country of source, precludes the State of Residence for taxing the same and

(b) The OECD Commentary and other views taken by the international jurist cannot be referred to and relied upon.

In view of the decision of the Supreme Court in the case of Azadi Bachao Andolan & Anr., relying upon the foreign decisions and international views including that of the OECD Commentary on Model

Convention, such observation and findings of the Madras High Court judgment in S.R.M. Firm cannot be held as a law that OECD Commentary cannot be relied upon at all.

All the decisions of the High Court and Supreme Court including those in taxpayer’s case have been rendered in the context of issues involved on interpretation of section 90 of the Act, prior to AY 2004-05.

In pursuance of section 90(3) of the Act, the Central Government has issued the notification wherein it has been expressly provided that where the tax treaty provides that any income of a resident of India ‘may be taxed’ in other country, such income shall be included in his total income chargeable to tax in India in accordance with the provisions of Act, and relief shall be granted in accordance with the method of elimination or avoidance of double taxation provided in such tax treaty.

The interpretation and the clarification given by the Central Government have to be given precedence over the interpretation given by the Courts; at least once the Government, in exercise of statutory power has issued a notification clarifying its intent. Since the provision under which such a notification has been issued, has come with effect from 1 April, 2004, (i.e. the AY 2004-05), such a notification will have retrospective effect from the AY 2004-05.

The phrase ‘may be taxed’ has to be understood in a way to mean that the Country of source has a right to tax without removing the right of tax to the country of resident. Based on the above, the business income from PE in Oman and Qatar and also the capital gain from sale of assets in these countries will be included in the total income of the taxpayer in India. Further, the credit of taxes paid there will be given as per the relevant provisions of the tax treaty.

➤ **Director Income Tax (It), Delhi-II, New Delhi Vs. M/S Maersk Company Ltd (2013-Tii-17-Hc-Ukhand-Intl).**

Whether the salaries can be charged to tax in India if as per treaty between India – Denmark, if the stay of



employees does not exceed 183 days and the salaries are either not borne by a PE or any resident of India?

As the residence status of employer is of UK, will it affects the taxability of remuneration to Danish employees in India? Will the income be taxable if the employer has a PE in India?

#### **Held**

Tribunal found as a fact that each of the 13 Danish nationals were remunerated in respect of employment in India for a period not exceeding 183 days in the concerned fiscal year and that the remuneration was paid by or on behalf of an employer, who is not a resident of the country and, in any event, the remuneration was not borne by a permanent establishment or a fixed base, which the employer has in India. Tribunal, accordingly, held that those remunerations are, therefore, in view of the said treaty, taxable at Denmark and not in India.

It is being contended that the assessee is not a resident of Denmark; instead it is a resident of UK. That is of hardly any importance, inasmuch as, treaty requires employer to be a non-resident of India and not necessarily a resident of Denmark. Even if the assessee has a permanent establishment or fixed base in India, the same is of no consequence, inasmuch as, it is to be shown and established that the remuneration is borne by that establishment or fixed base, which the assessee has in India. Tribunal has noted that the remuneration was not borne by any permanent establishment or a fixed base, which the assessee had, if any, in India. No question of law has arisen in these appeals. They are basically questions of facts and the decisions rendered are based on accepted facts. Accordingly, revenue appeal is dismissed.

## **POLICY WATCH**

### ➤ **Government approves 13 FDI proposals**

Government has cleared 13 Foreign Direct Investment



FDI proposals totaling INR 12.58 billion and referred Axis Bank's proposal for increasing foreign equity amounting to about INR

62.66 billion for consideration of the cabinet. Among major proposals approved are that of Shantha Biotechnics (INR 7.55 billion), Equitas Holdings (INR 2.22 billion), and Stork Titanium (INR 1.56 billion). Shantha Biotechnics has been given permission to buy out the shares held by NRIs and Indian residents and to infuse fresh equity investment.

### ➤ **India provides INR 1 billion grant to Bhutan to boost economy**

India has provided INR 1 billion as a grant to Bhutan for the new government's Economic Stimulus Plan (ESP).

As requested by Bhutan, India has committed to provide INR 5 billion to Bhutan outside the 11th Plan assistance. As per the plan, the government seeks to address the issues regarding the non-availability of loans. The additional capital is to be given as loan to productive sectors that contribute to the national goals via youth employment, SMEs, Entrepreneurship and startup business, agro-business, import substitution, construction, housing, green business development and women empowerment.

### ➤ **RBI signs cooperation pact with central banks of Australia & NZ**

The Reserve Bank of India has signed cooperation agreement with central banks of Australia and New Zealand (NZ) for exchange of information. The



Memorandum of Understanding provides a formal, yet legally non-binding, channel for information exchange between the supervisors. With this, the Reserve Bank has signed such agreements with 18 supervisors. This provides for sharing of information on health of the supervised entities, cooperation between the supervisors during on-site examinations, frequent meetings between the supervisors and preserving the confidentiality of information shared.

➤ **IRDA allows insurers more flexibility to invest**

The Insurance Regulatory and Development Authority (IRDA) has increased the sector specific exposure limit for investments by insurers from 15% to 20% of their total investment. Up till now, insurers, both life and non-life, were permitted to take an exposure in a specific sector up to 15% of their investments (which includes debt and equity), with the exception of banking and financial services where the limit is 25% and infrastructure where there is no exposure limit.

➤ **PMG clears projects worth INR 4,300 billion**

The Prime Minister's Project Monitoring Group (PMG) set up to track stalled large investment projects and has cleared 128 projects worth over INR 4,300 billion so far. Of this, it has given priority to troubled projects from the power sector and has resolved all issues on 94 projects, entailing an investment of over INR 3,800 billion. The PMG was set up in June to resolve specific issues of projects and fast tracking them. The issues and clearances of the stalled projects depend on their current stage and include environment and forest clearances, land acquisition, lack of co-ordination between various government departments and clearances stuck at the state government level.

➤ **Cabinet defers FDI investment norms on pharma & housing**

Cabinet has deferred the consideration of proposals to relax Foreign Direct Investment (FDI) norms in the housing sector and to reduce the FDI cap to 49% in critical areas of the pharma segment. The department also proposed conditions for foreign

firms such as mandatory investment in research and development and non-compete clauses in the shareholders pact. Currently, India permits 100% FDI in the pharma sector through automatic approval route in new projects, while for existing pharma companies, it is allowed only after approval from the Foreign Investment Promotion Board. In the housing sector, the DIPP has proposed relaxing FDI norms, including easing conditions for exit for foreign investors before the three year lock in period.

**INDUSTRY WATCH & CORPORATE HIGHLIGHT**

**COMPANY HIGHLIGHTS**

➤ **India allows Bangladesh to import motorcycles through land route**

India has allowed Bangladesh to import motorcycles through the land customs stations, a move that is expected to give a boost to exports of country's two-wheel makers. This was one of the key demands of Bangladesh that has been met by India and motorcycles can now be shipped from Petro pole and Agartala land customs stations. Bangladesh has also agreed to review the restrictions on goods that can be imported or exported through each land customs station as part of reciprocity. There are 53 land customs stations between Bangladesh and India. Both sides have identified 16 out of them as of 'high bi-lateral importance' to upgrade infrastructure.

➤ **Railway Ministry sets up High Speed Rail Corporation**

The Railways Ministry has officially launched the High Speed Rail Corporation (HSRC) of India. The subsidiary of state-owned railway project promoter Rail Vikas Nigam Ltd, HSRC has been established to



develop high speed corridors suitable for operation at speeds up to 350 km/h. It will prepare studies and specifications for the proposed Mumbai - Ahmedabad high speed line. It would also look at other corridors selected by the government, and support the latter in finalizing financing and implementation models.

➤ **Telecom department plans incentives to attract INR 8,740 billion FDI**

Government is likely to formulate an incentive package to attract INR 8,740 billion of Foreign Direct investment (FDI) in the telecom sector, over 50% of which is proposed in the products manufacturing space. The move follows an internal Planning Commission estimate that nearly 93% of the INR 9,438 billion projected investment requirement in telecom sector during the 12th Plan (2012-17) will have to be shouldered by private telecom companies.

➤ **Government making efforts to boost PPP in highways sector**

Government is making continuous efforts to create a conducive environment for boosting Public Private Partnership (PPP) projects in the highways sector which is a thrust area.

The Centre has in this year budget, announced setting up of a regulatory mechanism on which work is going on, besides the issues of debt management/debt refinancing, institutional strengthening, restructuring of projects, revision of CA which are being examined and under regular review and revision.

➤ **Ministry of Finance clears special purpose Vehicle proposal for electronic clusters**

The ministry of finance has cleared IT and Telecom Ministry's proposal on the structure and functioning of special purpose vehicles required for implementation of Electronics Manufacturing Clusters (EMC). The government will provide financial assistance to EMCs through SPVs governing them. For new EMCs, the assistance will be up to 50% of the project cost subject to a ceiling

of INR 500 million for every 100 acre of land. For brown-field EMCs, the assistance limit is up to 75% of the project cost subject to a ceiling of INR 500 million. Under National Policy on Electronics, the government has set a target to set up 200 clusters to promote manufacturing in the sector. Each cluster will house full eco-system- factories, product design centre, educational institute etc, required for development and production of an electronic product. State-owned transmission utility Power Grid Corporation (PGCIL) is currently laying down the transmission network for the project.

➤ **Internet user base touches 200 million in Oct 2013**

Indian Internet user base has reached 200 million in October, 2013. The rise in user base is 40% over 2012 when total number of Internet users stood at around 120 million. The rise of Internet users is attributed to the increasing number of users preferring to shop online or pay bills. Factors such as affordable smart phones and low internet pricing on mobile phones have helped this user base to grow. Currently, that is pegged at 110 million and it is estimated to reach 130 million by this year-end.

➤ **Kerala's first private international airport gets approval**

India's first private international airport to be built in Aranmula in Kerala's Pathanamthitta district has been given all clearances, the final from the ministry of environment and forests. The proposed INR 20 billion KGS Aranmula International Airport complex will be constructed over 700 acres, of which KGS has already acquired 500 acres. The site is located about 110 km from the state capital Thiruvananthapuram. Kerala would have five airports, including three in operation at Thiruvananthapuram, Kochi and Kozhikode, and at Kannur.

➤ **Scania sets up assembly plant in India**

Sweden's Scania Commercial Vehicles has set up an assembly plant in India to manufacture about 2,500 heavy haulage trucks besides 1,000 inter-city buses and coaches annually at a factory near Bangalore.



Currently the localization is 18% for trucks and 100% for bus bodies. The initial investment will be INR 2.50 billion. The facility will serve as the company's head office and centre for all commercial operations. The operations will consist of final assembly of trucks with bodywork and building of complete coaches along with a service workshop and a central parts warehouse.

➤ **Bharti Airtel to acquire Warid's Congo-Brazzaville operations**



Bharti Airtel has entered into an agreement with the Warid Group to fully acquire Warid Congo. Warid's revenue is placed at around USD 80-90 million. Industry experts estimate the acquisition to be worth US 100-120 million. This acquisition will result in Bharti Airtel leading in the Congo market by number of subscribers (2.6 million post acquisition) and taking out Warid, the number three operator that had been raising competitive intensity by reducing prices in the market.

➤ **CCI gives green signal to Mitsubishi-Hitachi joint venture**

Competition Commission of India (CCI) has approved the proposal of Japanese companies Mitsubishi Heavy Industries and Hitachi to integrate their businesses in certain segments including power generation operations. As per the proposed deal, Mitsubishi Heavy Industries and Hitachi would combine their businesses in thermal power generation system, geothermal power system environmental equipment and fuel cells into a newly incorporated joint venture entity. Mitsubishi Heavy Industries and Hitachi would hold equity interest in the ratio of

65:35 in the new entity which would be jointly controlled by the firms.

➤ **Hero Moto Corp to roll out two-wheelers in United States**

Hero Moto Corp will roll out its two-wheelers in the United States and Canada which will enable the Indian bike manufacturer becomes a truly global player. Hero has appointed its American technology partner Erik Buell Racing (EBR) as the exclusive distributor and plans to eventually set up manufacturing and assembly plants in the North America in due course. EBR will be distributing Hero motorcycles in the United States and Canada on an exclusive basis starting summer of 2014.

➤ **Oracle India ties up with IEG**

ORACLE India has signed an agreement with the Institute of Electronic Governance (IEG) of Andhra Pradesh to implement Oracle Academy's computer science curriculum in 400 educational institutions in the State. About 50,000 students and 1,000 faculties in the State will be exposed to Oracle technologies. Oracle Academy content and courseware will also be offered as elective modules in at least 100 institutions. As part of the MOU, 150 faculty Members will participate in train-the-trainer courses, enabling them to use Oracle Academy infrastructure to train other teachers.





➤ **India's domestic air traffic rises 16% in October 2013**

India's domestic air traffic grew almost 16% in August despite substantial volatility in the overall growth rate and weak economic conditions. The capacity in the domestic sector in the country rose 8.5% over August 2012 and load factor climbed 4.5 percentage points to 71.9. On international passenger traffic, Asia-Pacific carriers recorded an increase of 8.6% compared to August 2012.



## Statutory compliance calendar for the month of November 2013

Due date	Statutory compliance under Act	Particulars	Governing Authority
			
06/02/2013	Service Tax	Payment of monthly service tax for the month of October by all tax payers electronically	Central Board of Excise and Custom
	Central Excise	Payment of monthly central excise duty for the month of October on goods by assesses other than SSI units electronically	Central Board of Excise and Custom
07/02/2013	Income Tax	Deposit of Income Tax TCS and TDS deducted in October	Central Board of Direct Tax.
	NBFC-ND-SI	Monthly return of source and application of funds, profit and loss account, asset classification	Reserve Bank of India.
	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.
10/02/2013	Central Excise	Monthly central excise return in form ER-1/ER-2 by other than SSI	The Central Board of Trustees , The Employees' Provident Fund Scheme, 1952
	NBFC-ND-SI	Monthly statement of short term dynamic liquidity in form NBS-ALM 1	Reserve Bank of India.
	Central Excise	Monthly return of receipts and consumption of Principal Inputs by specified manufacturers of excisable goods in form ER-6	The securities and exchange board of India Act-1992
11/11/2013	ESIC	Filing half yearly ESIC return	The employees' state insurance Act-1948. Ministry of labour and employment.
15/11/2013	Provident Fund	(a) Payment of monthly dues of Provident Fund for the month of October	The Central Board of Trustees , The Employees' Provident Fund Scheme, 1952
		(b) Monthly return in form 5 for employees joining Provident Fund during October 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 October	
21/11/2013	ESIC	Payment of ESIC contribution for the month of October	The employees' state insurance Act-1948. Ministry of labour and employment.
25/11/2013	Provident Fund	Monthly contribution statement (abstract) in form 12A, along with copy of receipted challans regarding payment of contribution.	The Central Board of Trustees , The Employees' Provident Fund Scheme, 1952



### Glossary

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

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



**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

