

Tax & Corporate law Bulletin

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FEBRUARY 2013

From the Editor's Desk...

Dear Reader,

Greetings for the season.

May this month God heal all your wounds and take you out of all the problems you are facing. God help you and bless you.

Let's have a look on the updates of this month:- Amendment to SEBI (Certification of Associated Persons in the Securities markets) Regulations, Guidelines on Identification of Beneficial Ownership, CST compensation deal clears path for GST and read many more...

We eagerly await your feedback on the bulletin.

Yours truly,

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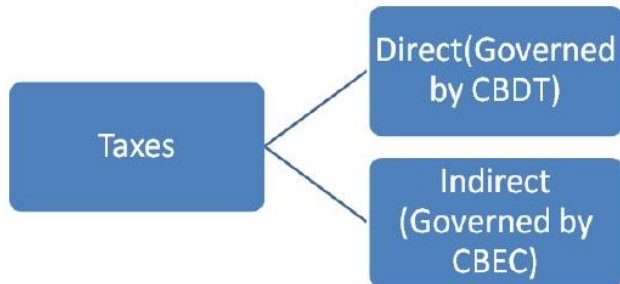
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“Adapting swiftly to the
global business environment”



DIRECT TAX



- **Section 10A read with sections 10AA & 10B of Income-Tax Act, 1961 – clarification on issues relating to export of computer software Circular No.1/2013 (F No. 178/84/2012-ITA.I) dated January 17th, 2013**

The Indian software industry has been the beneficiary of direct tax incentives under the provisions like sections 10A, 10AA & 10B in respect of profits derived from the export of computer software. These provisions prescribe incentives to “units” or “undertakings”, established under different schemes, which are/were deriving profits from export of computer software subject to fulfilling the prescribed conditions. The software companies had represented to CBDT that there were several issues arising from the above mentioned provisions that are giving rise to disputes between them and the Income Tax authorities, leading to denial of tax benefits and consequent litigation and therefore require clarification. In the above notification, the Board has examined various issues highlighted by software industry and issued clarifications.

- **Section 90 of Income-Tax Act, 1961 – agreement for avoidance of double taxation and prevention of fiscal evasion with Netherlands – amendment Notification No. 2/2013 [F. No. 501/02/1983-FTD-I] dated January 14th, 2013**

The Protocol for amending the Convention between the Republic of India and the Kingdom of Netherlands for avoidance of double taxation and for prevention of fiscal evasion with respect to taxes on Income and on Capital was signed at Hague on the 10th day of May, 2012. The Central Government has directed that all the provisions of the said Protocol as set out in the Annexure to the above notification, shall be given effect to in the Union of India in respect of Income and on Capital arising from the November 2, 2012.

- **Section 90 of the Income-Tax Act, 1961 – double taxation agreement – agreement for exchange of information for tax purposes with foreign jurisdictions – guidelines for inbound and outbound requests Instruction No 1 of 2013 [F. No. 500/90/2007-FTD-1] dated January 17th, 2013**

India has entered into a number of Double Taxation Avoidance Agreements (DTAAs) and Tax Information Exchange Agreements (TIEAs) and has also joined the Multilateral Convention on Mutual Administrative Assistance in Tax Matters and SAARC Limited Multilateral Agreement. These agreements contain the legal framework for receiving and providing information for tax purposes available with the other countries/jurisdictions, which tax authorities of a country cannot access using their own powers, as the Information lies outside the territorial jurisdiction of the country. The Income Tax Authorities entrusted with administration of the Income-Tax Act, 1961, may make requests for information in conformity with the Relevant provisions of the DTAAs/TIEAs/Multilateral Agreements, if they are of the view that information received from a foreign jurisdiction would be helpful in assessment and determination of income, collection and recovery of taxes, investigation of tax matters or prosecution in relation to tax matters. The detailed guidelines for making such requests have been provided in above notification.

RECENT JUDGEMENTS

- **Income from property let out to a director to be taxed as business income in the hands of the company**

Facts

The assessee-company was owner of a property being two flats. These flats are given to a director and shareholder of company.

The assessee had declared income from property as business income and the actual rent received had been shown as annual value. It submitted that the flats had been held as a business asset and as per memorandum of association it was business of the company to let out properties.

The Assessing Officer held that leasing out the property could not be considered as trade or commerce. He, therefore, assessed the rental income under the head 'Income from house property'.

He did not accept the argument that fair rental value should be assessed on the basis of rent received. He made enquiry and after analyzing the comparative rates observed that the average rent charged in respect of similar flat in the same society was at Rs. 125 per sq. ft. He, therefore, adopted the fair rent at Rs. 125 per sq. ft. and assessed the income from house property after reducing the statutory deduction at the rate of 30 per cent under section 24(a).

Held

65 per cent of rental income received from director had to be treated as business income and rental income received from shareholder had to be assessed as income from house property.
Woodland Associates (P.) Ltd. vs. Income-tax Officer

- **Where assessee, a share broker, had purchased entire retail clientele business of a sub-broker for a certain consideration, it was eligible for depreciation under section 32(1)(ii) on payment made to sub-broker**

Facts

During the year, the assessee, a share broker, had purchased entire retail clientele business of a company 'AFC' for a consideration of Rs. 2.50 crores.

The assessee had booked these expenses as purchase of goodwill and claimed depreciation thereon. It stated that it had purchased an intangible asset in the form of clientele business of company 'AFC' and, therefore, eligible for depreciation under section 32(1) (ii).

The Assessing Officer held that the case of the assessee did not fall in any of the category to make it eligible for depreciation under clause (ii) of section 32(1). The depreciation was allowable only to assets which were kept depreciating over a period of time due to damage, wear and tear and obsolescence. The clients did not depreciate and moreover they were tangible. Therefore, they did not fulfill the conditions of intangibility.

Any capital asset tangible or intangible had to be put to use. The commercial right that the assessee had claimed to have purchased had not been put to use during the year. Accordingly, he disallowed the claim of depreciation on goodwill.

Held

Purchase of clientele business by assessee from company 'AFC' was a right which could be used as a tool to carry on business therefore; assessee was eligible for depreciation on payment made to 'AFC'.
Sources: India Capital Markets (P.) Ltd. Vs Deputy Commissioner of Income-tax

- **Hypothetical tax not to be treated as income – Mumbai Tribunal echoes jurisdictional High Court verdict**

Facts

Bikram Sen (the tax payer) was an employee of American Express Bank Limited (the employer). His salary was paid both in India and the United States

(US) during the tax year 1995-96 (Assessment Year 1996-97).

The tax payer was covered by the tax equalization policy of the employer and hence his salary was subject to hypothetical tax deduction to the extent of US tax liability.

The employer had grossed up the incremental liability (India liability as reduced by the hypothetical US tax liability) and included the same as perquisite.

The Assessing Officer (AO) held that since the entire India tax liability had to be borne by the employer, the same needs to be considered for multiple grossing up. Citing this reason, the AO added back the US hypothetical tax as perquisite. Aggrieved by the addition, the tax payer appealed to the Commissioner of Income-tax Appeals [CIT (A)].

The CIT (A) deleted the addition relying on the decision of Mumbai Tribunal in the case of Jaydev H. Raja and directed the AO to consider only the additional liability as perquisite.

Against the order of the CIT (A), the Revenue was on appeal before the Mumbai Tribunal.

Issue before the Mumbai Tribunal

Whether the CIT (A) is right in holding that the tax perquisite should be restricted only to the additional tax liability?

Decision of the Mumbai Tribunal

The Hon'ble Bombay High Court in Jaydev H. Raja [211 Taxmann 188] had held that the amount paid by an individual towards tax could not be added back to his income.

Such decision was based on the finding that the individual had never received hypothetical tax from the company and was entitled to a reimbursement only to the extent of incremental tax.

In the absence of distinguishing facts, the decision of the jurisdictional High Court in Jaydev H. Raja is followed and the grounds taken by the Revenue are rejected.

Comments

Indian High Courts and Tribunals have been consistently upholding deduction for hypothetical tax and endorsing the position generally adopted by the companies. In addition to the Bombay High Court, the Delhi High Court in the case of Dr. Percy Batlivala [ITA No. 1308/2008] had also held that hypothetical tax can be allowed as a deduction from the salary.

INDIRECT TAX

SERVICE TAX

➤ Synopsis of Notifications, Circulars & Letters



CBEC vide Circular No. 166/1/2013-ST dated 1st January, 2013 has clarified that issuance of reminder letters/notices by life insurance companies to policy holders to pay renewal premiums would not invite levy of service tax since under the Point of Taxation Rules, 2011, the point of taxation generally is the date of issuance of invoice or receipt of payment, whichever is earlier. No tax point arises on account of issuance of such reminders letters/notice since the same not being issuance of invoice as per Rule 4A of the Service Tax Rules, 1994.

CBEC vide Circular No.167/2/2013-ST dated 1st January, 2013 has clarified that services of transportation of milk by rail or a vessel from one place in India to another are exempted from levy of service tax since "milk" is covered under the expression "foodstuff" appearing at Sr. No. 20(i) of the Mega Exemption Notification No. 25/2012-ST dated 20th June, 2012.

➤ **Recovery proceedings not to be initiated where a stay application is pending for reasons beyond the control of Assessee**

In a recent case before the Mumbai High Court, the petitioners challenged a circular issued by the Central Board of Excise & Customs (*Circular No. 967/1/2013-CX dated 1st January, 2013*). The circular directed the field formations to initiate the recovery of outstanding demands even if an appeal had been filed with the Appellate authorities.

The Mumbai High Court held that the circular cannot be applied to an assessee with a stay application that is pending for reasons beyond the assessee's control, but the court clarified that recovery proceedings are valid where a stay application is pending because of the default or improper conduct of the assessee. The court also held that recovery cannot be commenced under an order before the time for challenging the decision before the appropriate Appellate Authority has expired. Many other state high courts in India also have upheld the challenge to this circular.

➤ **VAT applies to royalties received for use of trademark and sharing business Know-how**

A recent case before the Kerala High Court concerned the receipt of royalties from Franchisees for the use of a trademark and a share of business know-how on which Service tax had been paid, under the category of franchise services. The tax authorities sought to levy VAT on the consideration received, treating the transaction as a transfer of the right to use goods (a deemed sale) under Kerala's VAT law.

The single member bench of the Kerala High Court held that the trademark constituted "goods" and, based on the nature of the arrangement, the transaction represented a transfer of the right to use goods. The court distinguished the attributes set out by the Apex Court in another case (BSNL) involving the transfer of the right to use goods by observing that the case before the Apex Court did not involve the transfer of intellectual property, such as a trademark. The court also observed that the legality

of levying service tax on the transaction was not an issue before the court, and it was up to the petitioner to challenge the same in appropriate proceedings.

CENTRAL EXCISE

Tariff Notifications

➤ **Duty on gold bars increased by 2%**

Duty on Gold bars, other than tola bars, bearing manufacturer's engraved serial number and weight expressed in metric units manufactured in a factory starting from the stage of:-

- Gold ore or concentrate or,
- Gold ore bar.

Has been increased from existing 3% to 5% with effect from January 21st, 2013. The increase in the duty rates are also applicable to the above products manufactured during the process of zinc smelting. (Notification No. 1/2013 CE dated January 21st, 2013).

➤ **Recovery of Demands**

The Board (CBEC) has issued instructions in supersession of all the previous circulars issued by it, to make the recovery process faster. As per the same, where there is no stay application filed along with appeal, or when Commissioner (Appeals) has confirmed demands raised by the adjudication authority in the original order, Department has to begin recovery proceedings immediately. In other cases where the stay application are filed, the recovery proceedings to begin within 30 days of making stay application if no stay has been granted by Commissioner (Appeals)/CESTAT. In cases, where there are no appeals preferred before Commissioner (Appeals)/CESTAT, recovery proceedings to start after expiry of statutory period of 90 days for filing appeal from the date of communication of order. (*Circular No. 967/01/2013 – CX dated January 1st, 2013*). (N.B. Interim stay has been granted with respect to the above circular by Andhra Pradesh High Court and Bombay High Court

on January 9th, 2013 and January 17th, 2013 respectively).

CORPORATE LAWS

➤ **Clarification on Clause 36 of the Equity Listing Agreement**

The SEBI has issued Circular No. CIR /CFD /DIL /2/2013 dated January 3rd, 2013 stating that certain listed companies are providing monthly disclosure of their turnover/production figures to their respective trade bodies/industry associations and the same is not disclosed to the stock exchanges. The SEBI has reiterated that the listed companies are guided by Clause 36 of the Listing Agreement of the stock exchanges which, inter alia, states that, “The Issuer will intimate to the Stock Exchanges, where the company is listed immediately of events such as strikes, lock-outs, closure on account of power cuts, etc. and all events which will have a bearing on the performance/operations of the company as well as price sensitive information both at the time of occurrence of the event and subsequently after the cessation of the event in order to enable the security holders and the public to appraise the position of the Issuer and to avoid the establishment of a false market in its securities. In addition, the Issuer will furnish to Exchange on request such information concerning the Issuer as the Exchange may reasonably require”.

SEBI has therefore reiterated that all the events or material information which will have a bearing on the performance/operations of the company as well as price sensitive information shall be first disseminated to the stock exchanges as required under Clause 36 of the Listing Agreement. One may refer to the above citation for further details.

➤ **Rationalisation Process for obtaining PAN by Investors**

The SEBI has issued Circular No. CIR/MIRSD/01 /2013 dated January 4th, 2013 so as to bring about operational flexibility and in order to ease the PAN

verification process, the intermediaries may verify the PAN of their clients online at the Income Tax website without insisting on the original PAN card, provided that the client has presented a document for Proof of Identity other than the PAN card. One may refer to the above citation for further details.

➤ **ECB norms for infrastructure finance companies relaxed**

The RBI has issued Circular No. RBI/2012-13/367 A.P. (DIR Series) Circular No. 69 dated January 7th, 2013 stating that currently NBFCs categorised as Infrastructure Finance Companies (IFCs) by the RBI are permitted to avail of ECBs, including the outstanding ECBs, up to 50 per cent of their owned funds under the automatic route. ECBs by IFCs above 50 per cent of their owned funds are considered under the approval route. The permitted end-use should be for on-lending to the infrastructure sector, as defined under the extant ECB policy. IFCs should also hedge their currency risk in full. The RBI has now decided to enhance the ECB limit for NBFC-IFCs under the automatic route from 50 per cent of their owned funds to 75 per cent of their owned funds, including the outstanding ECBs. NBFC-IFCs desirous of availing ECBs beyond 75 per cent of their owned funds would require the approval of the Reserve Bank and will, therefore, be considered under the approval route. It has also been decided to reduce the hedging requirement for currency risk from 100 per cent of their exposure to 75 per cent of their exposure. One may refer to the above citation for further details.

➤ **Filing of balance sheet and profit & loss account in XBRL format – date Extended**



The MCA has issued General Circular No. 01/2013 on January 15th, 2013 stating that the time limit to file financial statements in the XBRL mode without any additional fee/penalty has been extended up to February 15th, 2013 or within 30 days from the due date of Annual General Meeting of the company whichever is later. One may refer to the above citation for further details.

➤ **Amendment to SEBI (Certification of Associated Persons in the Securities markets) Regulations**

The SEBI has issued Notification No. LAD-NRO/GN/2012-13/30/5474 dated January 11st, 2013 stating that presently in terms of regulation 3(1) of the Securities and Exchange Board of India (Certification of Associated Persons in the Securities Markets) Regulations, 2007 (the Regulations), SEBI may require any category of associated persons to obtain requisite certification(s). It is now notified that the associated persons functioning as approved users and sales personnel of the trading members of an equity derivative exchange or equity derivative segment of a recognised stock exchange shall obtain certification for the purpose of regulation 16C(2) of the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 from the National Institute of Securities Market (hereafter referred to as "NISM") by passing the "NISM-Series-VIII: Equity Derivative Certification Examination" (EDCE).

The trading members shall ensure that all such associated persons who are approved users or sales personnel obtain certification by passing EDCE within two years from the date of this notification. A trading member, who engages or employs any such associated person who is an approved user or sales personnel, shall ensure that such person obtains certification by passing EDCE within one year from the date of his employment. Also, an associated person shall be exempted from the requirement passing EDCE till the validity of the said certification and who is an approved user or sales personnel, if it has obtained any of the following certifications as on the date of this notification :-

- **BSE's-** Certificate on Derivatives Exchange of Bombay Stock Exchange Ltd.
- **NCFM-** Derivative Market (Dealers) Module of National Stock Exchange of India Ltd.

➤ **SEBI (Investment Advisers) Regulations, 2013**

The SEBI has issued Notification No. LAD-NRO/GN/2012-13/31/1778 dated January 21st, 2013 issuing the SEBI (Investment Advisers) Regulations, 2013 whereby the SEBI has detailed the registration, general obligations and responsibilities, inspection and procedure for action in case of default by an investment adviser. Also, investment advisers like banks, non-banking financial companies (NBFCs) and corporates will have to segregate investment advisory services from other activities. SEBI has also prescribed a minimum net worth of 25 lakh for investment advisers that are corporate bodies and 1 lakh for individuals and existing investment advisers will have one year to comply with the capital adequacy requirements. One may refer to the above citation for further details.

➤ **Amendments to SEBI ESOP guidelines**

The SEBI has issued Circular No. CIR/CFD/DIL/3/2013 dated January 17th, 2013 noting that some listed entities have been framing their own employees benefit schemes wherein Trusts have been set up to deal in their own securities in the secondary market, which was not envisaged within the purview of **SEBI (ESOS and ESOS) Guidelines 1999** leading to the possibility of some entities framing schemes with the purpose of dealing in own securities for inflating, depressing, maintaining or causing fluctuation in the price of the securities by engaging in fraudulent and unfair trade practices.

Hence, SEBI has now decided to prohibit listed entities from framing any employee benefit schemes involving acquisition of own securities from the secondary market. For this purpose, certain listing conditions are specified by way of inserting clause 35C in the equity Listing Agreement. In relation to companies which have already framed and

implemented any employee benefit schemes involving dealing in the securities of the company, which are not in accordance with SEBI (ESOS and ESPS) guidelines, such companies will be required to inform the details of their schemes to the stock exchanges within 30 days from date of this circular. Such companies shall align any existing employee benefit schemes with SEBI (ESOS and ESPS) guidelines on or before June 30th, 2013. The amendments made to the SEBI (ESOS and ESPS) Guidelines are provided in Annexure III to the circular. One may refer to the above citation for further details.

➤ **Guidelines on Identification of Beneficial Ownership**

The SEBI has issued **Circular No. CIR/ MRD/ DP/ 02/2013 dated January 24th, 2013** referring to its earlier circular relating to KYC and client due diligence to be done by registered intermediaries and thereby obtain as part of their client due diligence policy, sufficient information from their clients in order to identify and verify the identity of persons who beneficially own or control the securities account. The beneficial owner was defined as the natural person or persons, who ultimately own, control or influence a client and/or persons on whose behalf a transaction is being conducted, and includes a person who exercises ultimate effective control over a legal person or arrangement. It is now decided to have a uniform approach to be followed towards determination of beneficial ownership to be observed by intermediaries. Specific guidelines are provided in relation to clients other than individuals or trusts, exemption to listed companies, applicability to foreign investors and implementation. One may refer to the above citation for further details.

➤ **Guidelines for providing Dedicated Debt Segment on Stock Exchanges**

The SEBI has issued **Circular No. CIR /MRD /DP /03 /2013 dated January 24th, 2013** providing enabling guidelines for dedicated debt segment on the stock exchanges which would offer separate trading, clearing, settlement, reporting facilities and

membership to deal in "debt securities" Government Securities, Treasury Bills, State Government loans, SLR and Non-SLR Bonds, municipal bonds, single bond repos, basket repos and CBLO kind of products subject to RBI approval, where required, Securitized debt instruments and any other specified debt instruments. It is provided that an existing/new stock exchange desirous of setting up debt segment may make an application to SEBI, providing operational, regulatory and any other necessary details. The broad framework/features for debt segment would permit listing of debt securities, trading, clearing and settlement, risk management framework, trade repository, market making, etc.

FEMA

➤ **Export of Goods and Services – simplification and revision of Softex procedure at Special Economic Zones (SEZs) A.P. (DIR Series) Circular No. 66 dated January 1st, 2013**

RBI had vide A.P. (DIR Series) Circular No. 80 dated February 15th, 2012 simplified and revised the Softex procedure and subsequently extended to all Software Technology Parks of India (STPIs) in India vide A.P. (DIR Series) Circular No. 47 dated October 23rd, 2012. It has now been decided to implement the revised Softex procedure at all SEZs / EPZs / 100% EOU / DTA also with immediate effect. As per the revised procedure, a software exporter either under STPIs or SEZs/EPZs/100%EOU/DTA, whose annual turnover is at least ` 1000 crore or who files at least 600 softex forms annually on all India basis, will be eligible to submit a statement in revised excel format as prescribed.

➤ **External Commercial Borrowings (ECB) Policy for Non-Banking Financial Company – Infrastructure Finance Companies (NBFC-IFCs) A.P. (DIR Series) Circular No. 69 dated January 7, 2013**

As per existing guidelines, NBFCs categorized as IFCs by the RBI are permitted to avail of ECBs, including the outstanding ECBs, up to 50% of their

owned funds under the automatic route and beyond 50% are being considered under the approval route. RBI has now decided to enhance the ECB limit for NBFC-IFCs under the automatic route from 50% of their owned funds to 75% of their owned funds, including the outstanding ECBs. NBFC-IFCs desirous of availing ECBs beyond 75% of their owned funds shall require RBI approval and will, therefore, be considered under the approval route. Further, it has also been decided to reduce the hedging requirement for currency risk from 100% of their exposure to 75% of their exposure.

➤ **Guidelines for providing Dedicated Debt Segment on Stock Exchanges**

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It is provided that an existing/new stock exchange desirous of setting up debt segment may make an application to SEBI, providing operational, regulatory and any other necessary details. The broad

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The SEBI has issued Circular No. CIR/ MRD/ DP / 02 /2013 dated January 24th, 2013 referring to its earlier circular relating to KYC and client due diligence to be done by registered intermediaries and thereby obtain as part of their client due diligence policy, sufficient information from their clients in order to identify and verify the identity of persons who beneficially own or control the securities account. The beneficial owner was defined as the natural person or persons, who ultimately own, control or influence a client and/or persons on whose behalf a transaction is being conducted, and includes a person who exercises ultimate effective control over a legal person or arrangement. It is now decided to have a uniform approach to be followed towards determination of beneficial ownership to be observed by intermediaries. Specific guidelines are provided in relation to clients other than individuals or trusts, exemption to listed companies, applicability to foreign investors and implementation. One may refer to the above citation for further details.

➤ **Comprehensive guidelines on offer for sale (OFS) of shares by promoters through the stock exchange mechanism**

The SEBI has issued Circular No. CIR/ MRD/ DP /04/2013 dated January 25th, 2013 referring to its earlier issued comprehensive guidelines on sale of shares through OFS mechanism. Based on past experience of sale of shares through OFS, the mechanism of OFS has been found to be useful by market participants and popular for offloading shares of promoters in listed companies in order to achieve minimum public shareholding. With the deadline of June 2013 to achieve minimum public shareholding approaching, to encourage promoters to offload their shares through OFS route and based on market



feedback, it has been decided to modify the OFS framework to make it more economical, efficient and transparent as under:-

- All promoters/promoter group entities of top 100 companies by market capitalisation in any of the last four completed quarters, market capitalisation being calculated as average market capitalisation in a quarter.
- Indicative Price is the volume weighted average price of all the valid bids.
- Clearing Corporation shall collect 100% margin in cash from non-institutional investors.
- In case of order/bid modification or cancellation, such funds shall be released/collected on a real time basis by clearing corporation.
- In case of default in pay-in by any investor, 10% of the order value shall be charged as penalty from the investor and collected from the broker. This amount shall be credited to the Investor Protection Fund of the stock exchange.
- Settlement shall take place on trade for trade basis. For non-institutional orders/bids and for institutional orders with 100% margin, settlement shall take place on T+1 day.

Orders shall be placed during trading hours. A separate window for the purpose of sale of shares through OFS shall be created and the orders that shall be valid in the OFS window are, (a) orders with 100% of margin paid (b) orders without paying upfront margin.

INDIAN ECONOMY AT A GLANCE

INDIAN ECONOMY

GDP growth for the current fiscal year was estimated to have been only around 5%. This is the lowest level for a decade and is the result of sluggish activity in mining, farming and manufacturing.

Meanwhile, RBI cut country's benchmarks interest rates by 25 bps to give relief to congress led government struggling towards growth of economy. It is also expected that RBI would cut its cash reserve ratio by 25 bps to enhance liquidity of banks.

The interest rate cut which was anticipated in the financial markets was the first in nine months. It could mark a turning point for the Indian economy, which has suffered from a sharp fall in growth from more than 8% to around 5% and is now afflicted with high twin deficits in the budget and the current account. Independent economists agree that Indian growth is likely to pick up in the months ahead, although they express concern about the deficits and doubt whether the government will be able to curb spending ahead of a general election due in 2014.

Budget Expectation For FPO's

The forthcoming Budget may give tax exemptions to

The forthcoming Budget may give tax exemptions to Farmer Producer Organizations (FPOs) and also give them more scope to access funds.

PROMOTING FARMER PRODUCER ORGANISATIONS

- | | |
|---|--|
| • Rs.50 crore allocated for providing matching equity grant to FPOs | • Producers Organisation Development Fund to offer three types of credit support |
| • By forming FPOs, farmers can procure commodities and sell them to leading companies | • 2014 observed as "Year of Farmer Producer Organisations" to promote and strengthen these organisations |

At present, cooperatives enjoy income tax relief under clause 80P, which could be extended to farmer producer organizations as well, since the functioning and nature of both is similar," the official explained. A farmer producer organization is typically a company consisting only farmers and producers, but formed under the Indian Companies Act 1956.

However, they are different from a cooperative society, though in most places they are named as

cooperatives. In a farmer's producer's organization, only a producer can become a member, while in a cooperative society even others could become members.

POLICY WATCH

➤ **RBI revises rates in monetary policy**

The Reserve Bank of India (RBI) in its third quarter monetary policy review has cut the repo rate by 25 basis points to 7.75%. It has also announced a cut in Cash Reserve Ratio (CRR) by 25 bps to 4%, effective February 9, 2013. It is the first reduction since April 2012 and is based on RBI's perception about the economy & growth. This reduction gives scope for banks to lower the cost of loans for a range of customers, from automobile makers to automobile buyers. The central bank has also lowered the growth projection of the economy for this fiscal year to 5.5%, and also reduced the year end inflation estimated to 6.8%.

➤ **CST compensation deal clears path for GST**



The passing of the proposed Goods and Services Tax (GST) has overcome a major hurdle with the state Governments agreeing to a compensation formula in lieu of the phased reduction of the Central Sales Tax (CST). The agreement on the compensation package have cleared its way for the proposed GST roll-out possibly by 2014-15. The Centre has also agreed to partly offset states' revenue loss arising from a reduction a few years ago in central sales tax from

4% to 2%. The centre will also have to spend Rs 340 billion as CST arrears over the next few years.

➤ **Amendments to RRB act approved**

The Union cabinet has given approval to the proposed amendments in the Regional Rural Banks (RRBs) Act, 1976 to enhance the authorized and issued capital to strengthen their capital base. The proposed amendments will ensure financial stability of RRBs, which will enable them to play a greater role in financial inclusion and will meet the credit requirements of rural areas. The RRBs are jointly owned by the Government of India, the concerned State government and sponsor banks, with the issued capital shared in the proportion of 50%, 15%, and 35%, respectively.

➤ **Government expects Rs 270 billion from disinvestment**

The Finance Ministry anticipates over Rs 270 billion from stake sale in Public Sector Undertaking (PSUs). A roadmap has been outlined by the Department of Disinvestment (DoD) for PSU stake sale in the ongoing fiscal year. The government also fixed the minimum offer price for Oil Indian Ltd (OIL) stake sale at Rs 510 a share. This issue will fetch Rs 30.65 billion to the exchequer. The DoD revealed its plans to divest stake in various blue-chip PSUs in the ongoing fiscal year - SAIL, NALCO and MMTC, to name a few.

➤ **AP receives over 180 bids for solar PV projects**

Andhra Pradesh (AP) government has received more than 180 bids for setting up solar photovoltaic power plants. With these plans, AP joins some select state governments who have sought to attract private sector participation in tapping solar power. States like Gujarat and Rajasthan have already made big strides and Tamil Nadu just recently jointly the fray in promoting solar PV projects. These state initiatives are strengthening the country's Jawaharlal Nehru National Solar Mission in setting up solar PV projects.

➤ **BSE ties up with S&P Dow Jones Indices**

Bombay Stock Exchange (BSE) and the S&P Dow Jones indices have joined hands. Every index on the BSE, including the BSE Sensex, BSE 200, and BSE 100 will be co-branded 'S&P'. S&P Dow Jones Indices is a global leader in providing investable and benchmark indices to the financial markets. With this, S&P can now calculate, disseminate and license the whole suite of BSE's indices. India now becomes S&P Dow Jones Indices' fourth major operational hub to support clients globally, after Hong Kong, London, and New York.

INDUSTRY WATCH & CORPORATE HIGHLIGHT

➤ **Barcodes to track vegetables & fruits exports**

The Commerce ministry has planned to put an end-to-end system called Horti Net for monitoring Fruits & vegetables exports by bar-coding them. The exported cartons will have barcodes and numbers that will allow traceability back to the farmers. These internet-based residue traceability software systems are used for monitoring the fresh produce exported from India to the European Union and other countries. It will also help in monitoring pesticide residue, achieve product standardization, and facilitate tracing back from retail shelves to the farm of the Indian growers, through the various stages of sampling, testing, certification, and packing.

➤ **NHPC plans to set up 3 thermal projects**

NHPC plans to take up three thermal projects, one in Madhya Pradesh and two in Bihar. These three thermal projects include a 1,320-MW Rewa Thermal Project in Madhya Pradesh and two projects of 1,320 MW each at Lakhi Sarai and Pirpainthi in Bihar. Nearly 26 other projects of the public sector entity are at various stages of development. Of these, eight projects with 4,227 MW are under construction. In addition, 10 projects with 8,801 MW are awaiting clearances; four projects with 1,700 MW and three foreign assigned projects of 2,850 MW are in the pipeline for preparation of feasibility report.

➤ **Thapar University tie-up with French institute**

The Thapar University in Patiala, a technical university has signed a Memorandum of Understanding (MoU) with Groupe, Institute of Life Sciences (ISA) France. The deal envisages exchange of academic, research information, and joint educational programmes. The MoU will focus on topics related to food and environmental biotechnology. Groupe ISA caters to agriculture, environment, food technology and management, and has partnerships with more than 200 companies in Europe.

➤ **HCL Tech signs engineering service agreement with UK's Cobham**

HCL Technologies has entered into a multi-year, multi-million dollar engineering services agreement with UK-based Cobham, a technology company serving the aerospace and defense industry. As part of the engagement, HCL will support multiple Cobham sites across the globe with a range of services as hardware, software, embedded, mechanical, and testing. HCL will be a key partner in helping to invest in strategic programmes which allows them to stay ahead of the competition. The engagement will allow Cobham's dedicated team of engineers to develop cutting edge solutions to help meet customer needs in a number of fields.

➤ **Kerala industrial body sets up container freight station at Kalamassery**

Kerala State Industrial Enterprises (KSIE), a state government enterprise, has set up a container freight station at Kalamassery. The Rs 250 million ventures, established at 8.5 acres owned by the company, would cater to the emerging needs of the International Container Transshipment Terminal at Vallarpadam. KSIE has also arranged facilities for container stuffing and de-stuffing and for the smooth movement of cargo. The project would be helpful in providing time-bound services to the Exim trade after the Customs clearance proceedings.

➤ **Pakistan's exports to India grow 66% during Apr.-Dec.**

Exports from Pakistan to India grew by 66% to \$460 million during April-December 2012 against \$277 million in the corresponding period last fiscal. This was also higher than \$401 million, which was Pakistan's total export to India in the entire fiscal 2011-2012. Share of Pakistan's exports in India's total trade has almost doubled since 2009-2010. Last year, both countries had also signed three agreements in areas of customs cooperation, mutual recognition of standards and redressal of trade grievances. Also, a number of trade organizations in both countries have promoted, especially in 2012, greater exchange of trade and business delegations between India and Pakistan.

➤ **Weaving to get more TUFs funds in 12th Plan.**

The Ministry of Textiles is to give more emphasis to the weaving sector under the Technology Upgradation Fund Scheme (TUFs). The scheme will come in a new format in the 12th Five Year Plan and will include more incentives for weaving sector. The initial allocation proposed by the Textile Ministry for this scheme is Rs 120.44 billion.

➤ **CCEA clears OVL's Azerbaijan field acquisition**

The Cabinet Committee on Economic Affairs has approved ONGC Videsh Ltd's (OVL)'s acquisition of participating interests owned by Hess Corporation's wholly-owned subsidiaries in upstream and midstream oil and gas assets in Azerbaijan. In September 2012, OVL had announced its definitive agreements for acquisition of Hess Corporation's 2.72% participating interest in oil fields (Azeri, Chirag and Guneshli) in the Azerbaijan part of the Caspian Sea and 2.36% interest in the Baku-Tbilisi-Ceyhan Pipeline (BTC) for \$1 billion. The acquisition would



mark OVL's entry into oil-rich Azerbaijan. OVL is expecting to close the deal by the first quarter of 2013.

➤ **Government to focus on air connectivity to remote areas**





Government will now focus on developing low cost airports to provide air connectivity to remote and interior areas of the country and encourage the growth of regional airlines. The AAI is upgrading and modernizing 35 non-Metro airports in the country. The government has approved 15 more airports under the green-field policy, with majority of them under Public-Private-Partnership (PPP) mode. The passenger handling capacity in Indian airports has more than trebled in the past five years, from 72 million to 233 million.

➤ **Nestle to buy 26% stake in Indocon Agro**

Nestle had entered into an agreement to pick up a 26% stake in a dairy company Indocon Agro and Allied Activities Pvt Ltd. Nestle India currently has its own manufacturing facilities at Moga in Punjab and Samalkha in Haryana. It also has contract supply arrangements for the West and South markets with Baramati (Maharashtra)-based Schreiber Dynamix Dairies Ltd and the Hyderabad-based Heritage Foods for its curd and Ultra High Temperature (UHT) milk. Besides, it sources milk powder from domestic players such as Sterling Agro and VRS Foods. Indocon is engaged in milk collection business in western India.

➤ **NTPC sign \$250-m loan agreement with SBI, Japanese bank**

NTPC has signed a loan agreement worth \$250 million with State Bank of India (SBI) and Japan-based Mizuho Corporate Bank for financing its expansion plans. The proceeds of the loan shall be utilized towards capital expenditure for procurement of goods and services for the ongoing and new projects and renovation of stations of the company. The loan carries a floating rate of interest linked to London Interbank Offered Rate (LIBOR) and has a maturity of seven years.

Statutory compliance calendar for the month of February 2013			
Due date	Statutory compliance under Act	particulars	Governing Authority
			
06/02/2013	Service Tax	Payment of monthly service tax for the month of January by all tax payers electronically	Central Board of Excise and Custom
	Central Excise	Payment of monthly central excise duty for the month of January on goods by assesses other than SSI units electronically	Central Board of Excise and Custom
07/02/2013	Income Tax	Deposit of Income Tax TCS and TDS deducted in January	Central Board of Direct Tax.
	NBFC-D	Monthly return of exposure to capital markets in form NBS-6 by NBFC having total assets of 100 crore and above	Reserve Bank of India.
	NBFC-ND-SI	Monthly return of source and application of funds, profit and loss account, asset classification	Reserve Bank of India.
10/02/2013	Central Excise	Monthly central excise return in form ER-1/ER-2 by other than SSI	Central Board of Excise and Custom
	Central Excise	Monthly return of receipts and consumption of Principal Inputs by specified manufacturers of excisable goods in form ER-6	Central Board of Excise and Custom
	NBFC-ND-SI	Monthly statement of short term dynamic liquidity in form NBS-ALM1	Reserve Bank of India.
15/02/2013	Provident Fund	(a) Payment of monthly dues of Provident Fund for the month of January (b) Monthly return in form 5 for employees joining Provident Fund during January along with declaration in form 2 furnished by the employees (c) Monthly return of Provident Fund in form 10 of employees leaving the service during January	The Central Board of Trustees , The Employees' Provident Fund Scheme, 1952
21/02/2013	ESIC	Payment of ESIC contribution for the month of January	The employees' state insurance Act-1948. Ministry of labour and employment.
25/02/2013	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

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

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