

Tax & Corporate law Bulletin

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APRIL 2010

From the Editor's Desk...

Dear Reader,

Greetings for the season.

The new fiscal year 2010-11 has just begun, with governments – Central and States, having already presented their respective fiscal statements. By and large, from the budgets presented, at all levels, it seems that Central and State Governments have deemed it fit to maintain status quo when the economy has just begun to stabilise.

Let us update on some important topics of the current month: Some amendment in Income tax Rules 2010, Regulatory Framework for Core Investment Companies, Some important judgments of High courts and Supreme Courts and read many more

We eagerly await your feedback on the bulletin.

Yours truly,

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“Adapting swiftly to the global business environment”



DIRECT TAX



➤ Scientific research expenditure – Approved scientific research associations/institutions

Notification No. 31/2010 [F.NO.203 /147 /2009 / ITA-II], dated 27th April 2010: The organization Baun Foundation Trust (Baun Foundation Medical Research Centre), Mumbai has been approved by the Central government for the purpose of clause (ii) of sub-section (1) of section 35 of the Income-tax Act, (said Act), read with Rules 5C and 5E of the Income-tax Rules, 1962, (said Rules). from Assessment year 2009-10 onwards in the category of 'other Institution', partly engaged in research activities subject to the following conditions, namely:-

- The sums paid to the approved organization shall be utilized for scientific research;
- The approved organization shall carry out scientific research through its faculty members or its enrolled students;
- The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research, get such books audited by an accountant as defined in the explanation to sub section (2) of section 288 of the said Act;
- Furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of section 139 of the said Act;
- The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

➤ Zero Coupon Bond

The Central Government vide Notification 24/2010 SO 793(E) dated 8th April 2010 specifies the bond as Zero Coupon Bond for the purpose of section 2(48) of the Income-tax Act. It specifies the 10 year deep discount Bond (Zero Coupon Bond) of Rural Electrification Corporation Limited (REC), which will be issued on or before 31st March, 2011. The terms regarding discounts, no. of bonds to be issued, maturity amount etc. are as per the notification.

➤ Agreement for Avoidance of Double Taxation and prevention of fiscal evasion with foreign countries or specified territories

The Central Government vide Notification No. 22/2010 dated 8th April 2010: In exercise of the power conferred by explanation 2 to section 90 of the Income-tax Act, the government has notified the following areas outside India as the "Specified Territory" for the purpose of the said section:

S. No.	Area	Territory
1	Bermuda	A British Overseas Territory
2	British Virgin Islands	A British Overseas Territory
3	Cayman Islands	A British Overseas Territory
4	Gibraltar	A British Overseas Territory
5	Guernsey	A British Crown Dependency
6	Isle of Man	A British Crown Dependency
7	Jersey	A British Crown Dependency
8	Netherlands Antilles	an Autonomous Part of the Kingdom of Netherlands
9	Macau	a Special Administrative Region of The People's Republic of China

➤ **Determination of Fair Market Value of the property other than the immovable property for the purpose of section 56 of the Act**

The Notification No. 23/2010 dated 8th April 2010 gives Income-tax (Second Amendment) Rules, 2010. It inserts Rule 11U and Rule 11UA of Income-tax Rules, 1962. The Rules comes into effect from 01/10/2009. The new Rules 11UA provides for the determination of fair market value of the property other than immovable property. It provides the method of determination of the value in respect of jewellery, archaeological collection, drawings, paintings, sculpture or any work of art and shares & securities. The new Rule 11U provides for meaning of the various terms used in Rule 11UA regarding the determination of fair market value. It provides the meaning of Balance Sheet, merchant Banker, quoted shares or securities, recognized stock exchange, registered dealer, registered valuer, securities, unquoted shares and securities and valuation date.

➤ **Finance Minister announces fresh additional relief package in his reply to the debate on Finance Bill, 2010**

PRESS RELEASE NO. BY/KP/GN-151/10, dated 29th April 2010: Finance Minister, Shri PranabMukherjee, in Lok Sabha, announced an additional relief package. The extracts from the Finance Minister's speech are as follows:

“Coffee Debt Relief Package 2010 - The Coffee growers in the country have been facing long standing financial problems ever since the coffee prices fell to very low levels during the period 2000-2004. Relief Packages in the form of Special Coffee Term Loan 2002 and Special Coffee Relief Package 2005 were sanctioned to revive coffee sector, besides other initiatives like PM's Relief Package for Debt Stressed farmers and Debt Waiver and Debt Relief Scheme 2008.

The Government has now decided to approve a fresh Coffee Debt Relief Package, specifically for the small growers. As per this, for pre-2002 loans, 50 per cent of the total liability shall be waived subject to a maximum benefit of Rs. 5 lakh per farmer to be borne by Government of India. An additional 25 per cent shall be waived by banks and balance shall be rescheduled. The Package also envisages 20 per cent waiver of liability under Crop Loans with 10 per cent each being borne by

the Government of India and banks respectively, subject to a maximum benefit of Rs. 1 lakh. For Post-2002 Term Loans, 10 per cent of the total liability shall be waived subject to a maximum benefit of Rs. 1 lakh.

RECENT JUDGEMENT



➤ **Receipts with no nexus to exports have to be excluded for Section 80HHC deduction**

CIT vs. Dresser Rand India (Bombay High Court)

Fact of the case

Explanation (baa) to section 80HHC defines the term “profits of the business” to mean business profits as reduced by 90% of “receipts by way of brokerage, commission, interest, rent, charges or any other receipt of a similar nature“. The Tribunal took the view, on the basis of Bangalore Clothing 260 ITR 371 (Bom) that receipts towards recovery of freight, insurance, packing receipts, sales tax set off/refund and service income were “operational income” and not liable to be excluded under Explanation (baa) to section 80HHC.

Held

It was held that if an item of income is closely linked with business operations and constitutes “operational income”, it cannot be excluded under Explanation (baa) to s. 80HHC. This proposition is inconsistent with the law in Ravindranathan Nair and is no longer good law. The submission that Bangalore Clothing was impliedly approved in Baby Marine Exports 290 ITR 323 (SC) is not acceptable because that judgement turned on the fact that the export house premium was an integral part of the consideration for the sale realized by the assessee, a supporting manufacturer.

➤ **For Section 36(1)(vii) Bad Debt written off of individual debtor's a/c is not necessary**

Vijaya Bank vs. CIT (Supreme Court)

Fact of the case

The assessee made a provision for bad debts by debiting the P & L A/c and crediting the Provision for Baddebts A/c. Thereafter, the provision account was debited and the loans and advances a/c was credited. The AO denied the claim for bad debts u/s 36(1)(vii) on the ground that the individual account of the debtor had not been written off. The CIT (A) and Tribunal allowed the assessee's claim though the High Court reversed it.

Held

A mere provision for bad debt is not entitled to deduction u/s 36(1)(vii). However, in the present case, besides debiting the P&L A/c and creating a provision for bad debts, the assessee had also obliterated the said provision by reducing the corresponding amount from the debtors account in the Balance Sheet. Consequently, the figure in the loans and advances in the Balance Sheet was shown net of the provision for bad debts;

- The AO's insistence that the individual account of the debtor should be written off was not acceptable because it was based on a mere apprehension that the assessee might claim deduction twice over and it was open to the AO to check whether the assessee was claiming double deduction,
- If the individual accounts were closed, the debtor could in the recovery suits rely on the Bank statement and contend that no amount is due and payable to the assessee and
- The AO was empowered by sec. 41(4) to tax the recovery.

➤ **Section 195 (1) TDS obligation does not arise if the payment is not chargeable to tax.**

ITO vs. M/s Prasad Production (ITAT Chennai Special Bench)

Fact of the case

The assessee made a remittance to IMAX Canada towards technology transfer fee without deduction of tax at source. The AO took the view that the consideration was "fees for technical services" u/s 9 (1)(vii) and that tax ought to have been deducted at source as

per Transmission Corporation 239 ITR 587 (SC). He accordingly held the assessee to be an "assessee-in-default" u/s 201 though the CIT(A) reversed the same. On appeal by the revenue, the question as to whether a person responsible for making payment to a non-resident was liable to deduct tax at source u/s 195 (1) if he did not apply to the AO u/s 195 (2) for permission to remit without deduction at source was referred to the Special Bench.

Held

The effect of the judgement of the Supreme Court in Transmission Corporation and Eli Lilly 312 ITR 225 is that section 195 (1) applies only if the payment made to the non-resident is chargeable to tax. If the payer has a bona fide belief that no part of the payment has income character, section 195 (1) will not apply and it is not necessary to apply to the AO u/s 195 (2). This interpretation is supported by the Circulars of the CBDT setting out the alternative procedure for TDS.

➤ **Tests laid down to determine when contract manufacturing will amount to a contract of sale for Section 194C TDS**

CIT vs. Glenmark Pharmaceuticals (Bombay High Court)

Fact of the case

The assessee entered into an agreement with a third party for the manufacture of certain pharmaceutical products under which it provided the formulations and specifications and the manufacturer affixed the trademark of the assessee on the articles produced. The raw materials were purchased by the manufacturer and property in the goods passed to the assessee only on delivery. The agreement was on a principal to principal basis. The AO took the view that the contract was a contract of 'work' and tax was deductible at source u/s 194C though the Tribunal upheld the contention of the assessee that the contract involved a sale and did not represent a 'contract for work' u/s 194C.

Held

A contract for sale has to be distinguished from a contract of work. If a contract involves the sale of movable property as movable property, it would constitute a contract for sale. On the other hand, if the contract primarily involves carrying on of work involving labour and service and the use of materials is incidental to the

execution of the work, the contract would constitute a contract of work and labour.

On facts, as,

- The agreement was on a principal to principal basis,
- The manufacturer had his own establishment where the product was manufactured,
- The materials required in the manufacture of the article or thing was obtained by the manufacturer from a person other than the assessee,

The property in the articles passes only upon the delivery of the product manufactured, the contract was one of “sale” and there was no obligation to deduct tax u/s 194C. The fact that the assessee imposed restrictions on the manufacturer as to quality of the goods, user of trade marks etc. are merely matters of business expediency.

➤ **ITAT should dispose-off stay granted appeals within Section 254(2A) period**

Shri Jethmal Faujimal Soni vs. ITAT (Bombay High Court)

Fact of the case

Section 254 (2A) empowers the Tribunal to grant stay of recovery of demand for a period not exceeding 365 days. The third Proviso to section 254(2A) inserted by the Finance Act 2008 provides that if there is a delay in disposing of the appeal within the said period, the order of stay shall stand vacated even if the delay in disposing of the appeal is not attributable to the assessee.

The assessee’s appeal was adjourned by the Tribunal from time to time for no fault of the assessee and in view of the fact that an identical issue was pending before a Special Bench of the Tribunal. The Tribunal initially granted stay but on the expiry of 365 days dismissed the stay application on the ground that it had no power to extend stay in view of the said 3rd Proviso to s. 254 (2A). The assessee filed a Writ Petition to challenge the constitutional validity of the said 3rd proviso to Sec. 254(2A).

Held

The 3rd Proviso to s. 254 (2A) is a stringent provision as a result of which even if the delay in disposing of the appeal is not attributable to the assessee, the stay has to stand vacated in any event upon the lapse of a period of 365 days. Having regard to the nature of the provision which has been enacted by Parliament, the Tribunal is

under a bounden duty and obligation to ensure that the appeal is disposed off, so as to not result in prejudice to the assessee, particularly in a situation where no fault can be found with the conduct of the assessee.

The fact that an issue was pending before the Special Bench was not a reason for the Tribunal not to dispose of the appeal, particularly since the consequence of the inability of the Tribunal to do so would result in the vacating of the order of stay. It is unfortunate that the Tribunal simply adjourned the appeal merely on the ground of the pendency of an identical issue before the Special Bench. The state of affairs which has come to pass could well have been avoided by the appeal being taken up for final disposal.

The Tribunal was directed to dispose of the pending appeal within four months. The department’s statement was that no coercive steps for enforcing the demand would be taken were recorded. The question of constitutional validity of the third proviso to section 254(2A) was left open.

INDIRECT TAX

SERVICETAX



Synopsis of notifications and circulars on Service Tax

➤ **Regarding exemption to Modular Employable Skill courses**

Notification No. 23/2010 - Service Tax dated 29th April 2010: The Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable service referred to in sub-clause (zzc) of clause (105) of section 65 of the Finance Act, when provided in relation to Modular Employable

Skill courses approved by the National Council of Vocational Training, by a Vocational Training Provider registered under the Skill Development Initiative Scheme with the Directorate General of Employment and Training, Ministry of Labour and Employment, Government of India, from the whole of the service tax leviable thereon under section 66 of the Finance Act.

This notification shall come into force on the date of its publication in the Gazette of India.

➤ **Service tax on re-insurance commission**

Circular No. 120(a)/2/2010-ST dated 16th April 2010:

As per the provision of the Finance Act, 1994, insurance as well as reinsurance are subject to service tax. The Board has received representations that notices have been issued demanding service tax on the amounts deducted by the insurance company (in other words paid by the reinsurance company) on the ground that it is the consideration for the insurance company providing business auxiliary service (BAS) to the re-insuring company. The notices alleged that the insurance companies are promoting the business of re-insurers thereby providing them the BAS.

The issue has been examined. As explained in para 2 above, the arrangement between the insurance company and the reinsurer is only sharing of expenses and there is no service provided by the insurance company to the reinsurer for a consideration. Since the policy holder may not even be aware of the operations of the re-insurer, it cannot be said that the payment made by the re-insurer to the insurance company is for its business promotion or a service on behalf of the re-insuring company (i.e. Business Auxiliary Service). In fact, it is the reinsurer which provides insurance service to the insurance company. As both the insurance company and reinsurer pay service tax on the entire amount of premium charged by them, the question of charging service tax under any other taxable service does not arise.

➤ **Clarification regarding availment of credit on input services.**

Circular No. 122/03/2010 – ST dated 30th April 2010: Credit in respect of input service shall be allowed, on or after the day on which payment is made of the value of input service and the service tax paid or payable as is indicated in invoice, bill or as the case may be, challan referred to in Rule 9".

A doubt raised is as to whether the receiver of input service can take credit only after the full value that is indicated in the invoice, bill or challan raised by the service provider, and also the service tax payable thereon, has been paid. It has been represented that in many cases, after the invoice is issued by the service provider, the service receiver does not make the full payment of the invoiced amount on account of discount agreed upon after issuance of invoice; or deducts certain amount due to unsatisfactory service; or withholds some amount as security to be held during contract period. Due to these reasons the value paid may not tally with the amount indicated in the invoice, bill or challan. In such cases the department has raised objections to the taking of credit as it does not meet the requirement of the said sub-rule (7).

CENTRAL EXCISE



➤ **Specifies Jarda scented Tobacco for levy and collection of excise duty**

Notification No. 17/2010 - Central Excise dated 13th April 2010: Jarda scented Tobacco falling under Tariff item 2403 99 30 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), manufactured with the aid of packing machine and packed in pouches as notified goods, on which there shall be levied and collected duty of excise in accordance with the provisions of the said section 3A.

Explanation for the purposes of this notification, -

- "packing machine" includes all types of Form, Fill and Seal (FFS) machines and Profile Pouch Making Machine, by whatever names called, whether vertical or horizontal, with or without collar, single-track or multi-track and any other type of packing machine used for packing of pouches of notified goods; and

- “brand name” means a brand name, whether registered or not, that is to say, a name or a mark, such as a symbol, monogram, label, signature or invented words or any writing which is used in relation to a product, for the purpose of indicating or so as to indicate, a connection in the course of trade between the product and a person using such name or mark with or without any indication of the identity of that person.

➤ **Amends Notification No. 8/2003-Central Excise, dated the 1st March, 2003**

Notification No. 24/2010-Central Excise dated 29th April 2010: The Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 8/2003-Central Excise, dated the 1st March, 2003, published in the Gazette of India, Extraordinary, vide number G.S.R. 138(E), dated the 1st March, 2003, namely:-

In the said notification, in paragraph 4, for clause (e) and proviso thereto, the following shall be substituted, namely: -

"(e) where the specified goods are in the nature of packing materials and are meant for use as packing material by or on behalf of the person whose brand name they bear."

➤ **Items used in ceramic tiles industry**

Circular No. 920/10/2010-CX, dated 1st April 2010: Representations have been received from field formations and industry seeking clarification as to whether items, namely, alumina balls/ceramic pebbles which are grinding media used in ball mills in the Ceramic Tile Industry should be treated as capital goods or input under the provisions of CENVAT Credit Rules. On the other items too, namely, bolting cloth/screens/silicon cylinders which carry designs and which are fitted on the machines used for printing of design over the surface of the tiles, doubts have arisen as to whether these should be considered as capital goods or inputs. Classification of these items as capital goods or inputs is also relevant because a concessional rate of excise duty is available to a tile manufacturer subject to the condition that no Cenvat credit on inputs used in the manufacture of ceramic tiles is taken.

The issue has been examined. It has been reported that alumina balls/ceramic pebbles are essential to run the ball mill in the ceramic tile factory and the ball mill cannot function without the grinding media. Therefore, alumina balls/ceramic pebbles which are grinding media should be considered as component/part of the machines to be classified as capital goods for Cenvat credit purposes. Similarly, bolting cloth/screens/silicon cylinders which carry designs and which are fitted on the machines used for printing of designs are also essential for operating of the machines. Therefore, these items would also be considered as capital goods for the purpose of CENVAT Credit Rules, being part/component of the machines.

Trade and industry as well as field formations may be suitably informed.

CORPORATE LAWS

➤ **Allotment of Code to United Stock Exchange of India Limited**

Circular No. MRD/DSA-SE/CIR-8/2010 dated 1st April 2010: As you are aware, SEBI has recently granted recognition to United Stock Exchange of India Limited (USEIL). In this regard, USEIL has been allotted Code No. 27.

For the purposes of trading and settlement operations, you are advised to inform the trading/clearing members of your Stock Exchange accordingly.

➤ **Additional Information From FIIs**

Circular No. CIR/IMD/FIIC/1/ 2010 dated 15th April



2010: In order to ascertain the constitution of Foreign Institutional Investors (“FIIs”) and sub-accounts (“SAs”) and hence gather additional information pertaining to their structure whereby all applications submitted for

registration w.e.f. 7th April, 2010 shall be accompanied by specific declarations and undertakings on the letter head of respective FII, duly signed by its authorised signatory on behalf of itself and all its SAs. The declaration/undertaking should specifically state that the applicant is not a Protected Cell Company (PCC) or a Segregated Portfolio Company (SPC) and does not have an equivalent structure by whatever nomenclature.

The applicant should also declare that it is not a Multi Class Share Vehicle (MCV) by constitution and does not have an equivalent structure by whatever nomenclature. It contains only single class of share. In case the applicant is / proposed to be a MCV or an equivalent structure and have more than one class of shares, it shall undertake in specific manner. All the existing FIIs and SAs who are already registered as on 7th April, 2010, shall provide the declarations and undertakings on or before 30th September, 2010.

➤ MASTER CIRCULAR FOR DEPOSITORIES

Circular No. CIR/MRD/DP/11/2010 dated 6th April 2010: Compiling all the circulars issued by SEBI up to 31st March, 2010 and shall come into force from the date of its issue. The master circular is divided broadly in three parts, namely,

- provisions relating to Beneficial Owner Accounts,
- provisions from the perspective of the issuer, and,
- provisions from the perspective of depositories / depository participant.

➤ Master circular on governance of stock exchanges

Circular No. CIR/MRD/DSA/10/2010 dated 6th April 2010: consolidating all the circulars / directions issued by SEBI from time to time up to 31st March, 2010 and shall come into force from the date of its issue. The master circular is divided broadly in three parts, namely,

- Allotment of Codes to Stock Exchanges,
- Subsidiary Management by Stock Exchange,
- Governance of recognised Stock Exchanges,
- Arbitration in recognised Stock Exchanges.

➤ Disclosure of regulatory orders and arbitration awards on stock exchange website

SEBI/MRD/DSA-OIAE/Cir.- 09 /2010 dated 1st April 2010: Based on feedback received from investor associations regarding improving transparency in disclosing the regulatory orders and arbitration awards issued by stock exchanges and hence in the interest of investors, to improve transparency all regulatory orders i.e., orders against listed companies, trading / clearing members and arbitration awards issued by Stock Exchanges need to be made available to investors. Accordingly, the Stock Exchanges shall post all their regulatory orders and arbitration awards issued since 1 April, 2007, on their websites within 30 days of this circular and further, all regulatory orders and arbitration awards as and when issued by Exchanges from the date of this circular shall be posted on their website immediately.

The Stock Exchanges are also required to disseminate the provisions of this circular on the website and to communicate to SEBI, the status of the implementation of the provisions of this circular in the Monthly / Quarterly Development Report.

➤ Amendments to Equity Listing Agreement

Circular No. CIR/CFD/DCR/3/2010 dated. 16th April 2010: By amending the Equity Listing Agreement in relation to discontinuation of the Electronic Data Information Filing and Retrieval (EDIFAR) System with effect from 1st April, 2010 and has advised Stock Exchanges to carry out the consequential amendments in the Equity Listing Agreement by removal of the words, “and also through the EDIFAR website” from Clause 32 and omission of Clause 51 from Equity Listing Agreement. The Stock Exchanges are also advised to inform about discontinuation of EDIFAR to all the listed companies.

➤ Regulatory Framework For Core Investment Companies

Circular No. DNBS (PD) CC. No./ 03.10.001/2009-10 dated 21st April 2010: RBI proposing a Regulatory Framework for Systemically Important Non Deposit Accepting Core Investment Companies (“CICs-ND-SI”) whereby,

- All CICs-ND-SI, irrespective of whether they were specifically exempted in the past from registration

with the RBI or not, should apply to the RBI for obtaining the Certificate of Registration (“CoR”) within a period of six months from the date of the Notification,

- In order to operationalize the above dispensation in a non-disruptive manner, companies which apply for CoR within the stipulated time of six months may continue to carry on the existing business till the disposal of their application by RBI,
- It is further clarified that the companies which fail to apply within the stipulated period of six months will be regarded as contravening the provisions of section 45IA if they are regarded as carrying on the business of Core Investment Companies-ND-SI as described above, and,
- Companies which presently do not meet the above criteria but whose asset size would cross Rs. 100 crore at a later date would be required to apply to RBI for CoR within three months of crossing such limit.

FEMA

➤ Overseas Investments- Liberalization



RBI/2009-10/376 A. P. (DIR Series) Circular No. 45, 1st April 2010: Presently, Indian entities are permitted to invest in overseas unincorporated identities in the oil sector, up to 400 per cent of the net worth of the Indian company, under the automatic route. As a measure of further liberalization, RBI has now decided, in consultation with the Government of India, to allow Indian companies to participate in a consortium with other international operators to construct and maintain submarine cable systems on co-ownership basis under the automatic route.

Indian company needs to obtain license from the Department of Telecommunication, Ministry of Telecommunication & Information Technology, and Government of India to establish, install, operate and maintain International Long Distance Services.

Accordingly, AD Category - I banks would allow remittances by Indian companies for overseas direct investment, after ensuring that the Indian company has obtained necessary license and also obtain a certified copy of the Board Resolution approving such investment.

Reporting Requirements-

Accordingly, these transactions needs to be reported by the Indian entities investing in the consortium to the AD Category - I banks in the format laid down in A.P. (DIR Series) Circular No. 68 dated June 1, 2007 and by the AD Category –I banks to the Reserve Bank in terms of A.P. (DIR Series) Circular No. 36 dated February 24, 2010 for allotment of Unique Identification Number. All such investments would be subject to the reporting requirements as prescribed in Regulation 15 (iii) of Notification No. FEMA 120/RB-2004 dated July 7, 2004 [Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004], as amended from time to time.

➤ **Deferred Payment Protocols dated April 30, 1981 and December 23, 1985 between Government of India and erstwhile USSR**

RBI/2009-10/386 A. P. (DIR Series) Circular No. 46, 8th April 2010: In the above referred circular the Rupee value of the special currency basket was indicated as Rs.65.29 effective from January 11, 2010. Further revision has taken place on March 8, 2010 and accordingly, the Rupee value of the special currency basket has been fixed at Rs. 63.0381 with effect from March 11, 2010.

➤ **Maintenance of Collateral by Foreign Institutional Investors (FIIs) for transactions in the cash segment**

RBI/2009-10/393 A. P. (DIR Series) Circular No. 47 12th April 2010: As per the extant Securities and Exchange Board of India (SEBI) norms, the FIIs are required to post collaterals for their transactions in the cash segment of the market. RBI has decided, in

consultation with the Government of India and the SEBI, to permit the FIIs to offer domestic Government Securities (acquired by the FIIs in accordance with the provisions of Schedule 5 to Notification No. FEMA 20/2000-RB dated May 3, 2000, as amended from time to time and subject to the overall limits specified by the SEBI from time to time; the current limit being US\$ 5 billion), and foreign sovereign securities with AAA rating, as collateral to the recognized Stock Exchanges in India, in addition to cash, for their transactions in the cash segment of the market.

However, cross-margining of Government Securities (placed as margins by the FIIs for their transactions in the cash segment of the market) shall not be allowed between the cash and the derivative segments of the market. The operational guidelines in this regard will be issued separately by the SEBI. The existing guidelines on collateral for the FIIs transactions in the derivative segment shall remain unchanged. Presently, FIIs are permitted to offer cash and foreign sovereign securities with AAA rating as collateral to the recognized Stock



Exchanges in India for their transactions in the derivative segment.

POLICY WATCH

➤ SEBI issues note to 'guide' investors

In an effort to improve financial literacy, market regulator Securities and Exchange Board of India (SEBI) has come out with an 'easy-to-understand guidance' note, asking the investor community how to navigate offer documents and read risk factors before making investment decisions.

SEBI, in its 'Guide to Understanding Offer Document', advises investors to go through the risks factors and look

at 'the promise-vs-performance columns' before investing in a company.

"It is generally advised that investors should go through all the risk factors of the company before making an investment decision," the document says. The regulator also says in case investors find instance of misinformation or lack of information, they may send their complaint to the lead manager of the issue and/or to SEBI.

➤ RBI aims at containing spiralling inflation rate



In order to reign in the spiralling inflation rate, the Reserve Bank of India (RBI) raised its key short-term borrowing and lending rates by 25 basis points to 3.5 and five per cent respectively.

The moves are directed at taming inflation, which rose to 9.89 per cent in February from 8.56 per cent in January. The RBI had projected the inflation rate to be 8.5 per cent by this fiscal end.

According to the RBI, with rising demand-side pressures, there is a risk that the Wholesale Price Index (WPI) based inflation rate may cross double digits in March 2010. The target for inflation will be pegged for the next fiscal at the April 20 policy.

The RBI has unexpectedly raised interest rates from a record low level for the first time since it began cutting them in 2008, citing intensifying inflationary pressures and a steady economic recovery.

In its statement, while increasing the repo and reverse repo rates, the RBI had also talked about rising oil prices and the spread of inflation from food items to non-food products. The rate of increase in the prices of non-food manufactured goods has accelerated quite sharply.

➤ **Govt to pay commission to brokers for selling PSU IPOs**



The government today said it will pay a commission to brokers selling public offers of state-run firms, in an attempt to woo retail investors for its ambitious disinvestment programme.

The government, which till now paid little or no commission to brokers, has fixed a commission of 0.35 per cent for selling shares to retail investors and 0.15 per cent for roping in HNI clients.

"After consulting with brokers we have done the changes and the commission for brokers has been fixed at 0.35 per cent for retail investors and 0.15 per cent for HNIs," Disinvestment Secretary Sumit Bose told. The changes are done to attract more retail demand in the public offers, he said.

Earlier, the commission paid was included in the fees of the book running lead managers (BRLMs). "Now the government will reimburse this commission to the BRLMs for the brokers," he added.

The new provisions will be applicable in all the forthcoming public issue starting with state-run power producer Satluj Jal Vidyut Nigam. SJVNL's public issue opens tomorrow.

➤ **Maharashtra to have separate security force like CISF**

Maharashtra Government would soon have a special state security force on the lines of the CISF following a demand from various organisations after the Mumbai terror attacks.

A Bill in this regard has been passed at the State Legislature recently with opposition members objecting by many provisions in it.

The bill was drafted after the Centre's suggestion to the State Government to consider raising the state's own industrial security force to share the burden of CISF and ensure proper security arrangements for private and public sector industries, Minister of State for Home Ramesh Bagwe said.

The Centre has amended CISF Act 1968, so as to make available security services to private and joint venture industrial undertakings.

INDUSTRY WATCH & CORPORATE HIGHLIGHT

➤ **Maruti Suzuki to hike car prices immediately**

India's largest carmaker Maruti Suzuki has decided to increase prices of its cars with immediate effect. The



price increase on various models (ex-showroom, Delhi) ranges from Rs 1,000 to Rs 9,000.

While small car models A-star and Ritz will be costlier by Rs 1,000, the hike on models like Estilo, Omni and Swift is in the range of Rs 2,500-3,750. Sedans like Dzire and SX4 will be costlier by Rs 7,000 and Rs 9,000, respectively.

"Due to sharp increase in the input costs and also introduction of BSIV norms in some models, the company has decided to pass on part of this cost impact to customers," the carmaker said in a statement. The Japanese automaker has also announced the withdrawal of introductory prices for the Eco. The new prices for the Eco will be steeper by approximately Rs 10,000. Prices have also been revised on the BS-III compliant cars like Maruti 800 and Omni (LPG) by Rs3,000.

Statutory compliance calendar for the month of April 2010

Due date	Statutory Compliance under Act	Particulars	Governing Authority
			
07/04/2011	SEBI	Quarterly report for grievances of beneficial owners related to depository services to depositories	The securities and exchange board of India Act-1992
	NBFC-D	Monthly return of exposure to capital markets in form NBS-6 by NBFC having total assets of 100 crore and above	Reserve Bank of India.
	NBFC-ND-SI	Monthly return of source and application of funds, profit and loss account, asset classification	Reserve Bank of India.
	SEBI	Quarterly certificate on demat/remit shares to depositories	The securities and exchange board of India Act-1992
10/04/2011	Central Excise	(a) Monthly central excise return in form ER-1/ER-2 by other than SSI (b) Quarterly return by SSI in form ER-3 (c) Quarterly return by assesses paying 1%/2% excise duty and not manufacturing any other goods in form ER-8.	Central Board of Excise and Custom
	Central Excise	Monthly return of receipts and consumption of Principal Inputs by specified manufacturers of excisable goods in form ER-6	Central Board of Excise and Custom
	NBFC-ND-SI	Monthly statement of short term dynamic liquidity in form NBS-ALM1	Reserve Bank of India.
	NBFC-D	Quarterly submission of Monetary and Supervisory return in form NBS-5 by NBFC having public deposits of ` 20 crore and above as per last audited balance sheet	Reserve Bank of India.
15/04/2011	Income Tax	(a) Quarterly Income Tax TDS/TCS statement in form 24Q/26Q/27EQ (Other than Government) (b) Quarterly return in form 27Q in respect of TDS from interest, dividend or any other sum payable to non-residents	Central Board of Direct Tax.
	Provident Fund	(a) Payment of monthly dues of Provident Fund for the month of March (b) Monthly return in form 5 for employees joining Provident Fund during March along with declaration in form 2 furnished by the employees (c) Monthly return of Provident Fund in form 10 of employees leaving the service during March	The Central Board of Trustees , The Employees' Provident Fund Scheme, 1952
	SEBI	Quarterly Corporate Governance Compliance Certificate by listed companies to stock exchanges under clause 49(VI) (ii) of Listing Agreement.	The securities and exchange board of India Act-1992
	Central Excise – Dealers	First stage dealer and second stage dealer to submit quarterly return	Central Board of Excise and Custom
	NBFC-D	(a) Quarterly Return of Statutory Liquid Assets in form NBS-3 by NBFC (NBS-3A by RNBFC) only if they are accepting public deposits (b) Quarterly report of frauds involving ` one lakh or more in form FMR-3 and frauds outstanding in form FMR-2.	Reserve Bank of India.
	SEBI	Quarterly return of shareholding pattern to stock exchange as per clause 35 of Listing Agreement	The securities and exchange board of India Act-1992
21/04/2011	ESIC	Payment of ESIC contribution for the month of March	The employees' state insurance Act-1948. Ministry of labour and employment.
	SEBI	Quarterly return of shareholding pattern to stock exchange as per clause 35 of Listing Agreement	The securities and exchange board of India Act-1992
25/04/2011	Provident Fund	Monthly contribution statement (abstract) in form 12A, along with copy of receipted challans regarding payment of contribution.	The Central Board of Trustees , The Employees' Provident Fund Scheme, 1952
	Service Tax	Half Yearly filling of service tax return in Service Tax-3	Central Board of Excise and Custom
30/04/2011	Income Tax	Deposit of Income Tax TCS and TDS deducted in March	Central Board of Direct Tax.

GLOSSARY

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