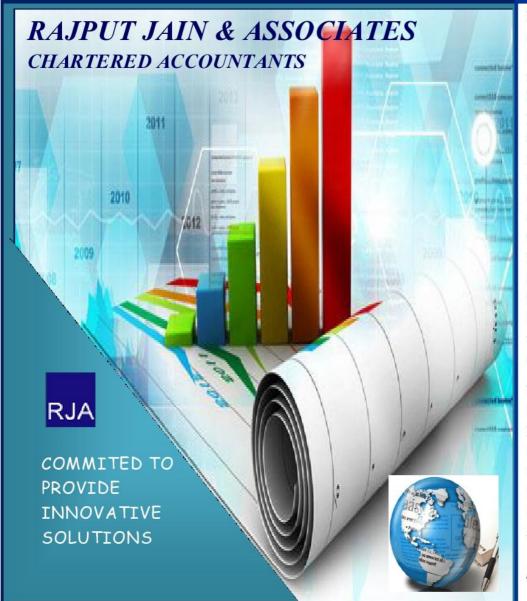
Tax & Corporate law Bulletin



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JUNE 2011

From the Editor's Desk...

Dear Reader,

Greetings for the season.

May the sun of this new month brings success and happiness for all our readers. Wishing you a shiny New Month.

Let's have a look on some of the updates regarding this month: Substitution of income tax return forms, Regulatory and audit compliance for foreign banks, Making a company as having management dispute by ROC Under MCA- 21 systemand read many more...

We eagerly await your feedback on the bulletin.

Yours truly,

Rajput Jain & Associates

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DIRECT TAX

Section 119 of the Income-Tax Act, 1961 – instructions to subordinate authorities – issuance of TDS certificates in form 16A downloaded from tin website and option to authenticate The same by way of digital signature

Circular No.3/2011 [F.NO.275/34/2011-(IT-B), dated 13th May 2011



A common link has now been created between the TDS certificate in FormNo. 16A and Form No. 26AS through a facility in the Tax Information Network website (TIN Website) which will enable a deductor to download TDS certificate in Form No. 16A from the TIN Website based on the figures reported in e-TDS statement filed by him. As both Form No.16A and FormNo.26AS will be generated on the basis of figures reported by the deductor in the e-TDS statement filed, the likelihood of mismatch between Form No.16A and Form No. 26AS will be completely eliminated. In view of the above, for proper administration of the Act, the Board has, in exercise of powersunder sec. 119 of the Act, decided to Issue of TDS Certificate in Form No. 16A:-

- For deduction of tax at source made on or after 1-4-2011:
 - a) The deductor, being a company including a banking company to which the Banking Regulation Act, 1949 applies and any bank or banking institution, referred to in section 51 of that Act or a cooperative society engaged in carrying the business of banking, shall issue

TDS certificate in Form No.16A generated through TIN central system and which is downloaded from the TIN Website with a Unique TDS certificate number in respect of all sums deducted on or after the 1st day of April, 2011 under any of the provisions of Chapter-XVII-B other than section 192.

- b) The deductor, being a person other than the person referred to in item (a) above, may, at his option, issue TDS Certificate in Form No.16A generated through TIN central system and which is downloaded from the TIN Website with a unique TDS certificate number in respect of all sums deducted on or after the 1st day of April, 2011 under any provisions of Chapter-XVII-B other than section 192.
- For deduction of tax at source made during financial year 2010-11:

The deductor, may, at his option, issue the TDS certificate in Form No. 16A generated through TIN central system which is downloaded from the TIN Website with a unique TDS certificate number in respect of all sums deducted during the financial year 2010-11 under any of the provisions of Chapter- XVII-B other than section 192.

> Authentication of TDS certificate in form no. 16A

The deductor, issuing the TDS certificate in Form No.16A by downloading from the TIN Website shall authenticate such TDS certificate by either using digital signature or manual signature. The deductor being a person other than a person referred to in item (i)(a) above and who do not issue the TDS Certificate in Form No.16A by downloading from the TIN Website shall continue to authenticate TDS certificate inform No.16A by manual signature only.

It is further clarified that TDS certificate issued in Form No. 16A by the deductors covered by para (i) (a) in accordance with this circular and procedure,

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format and standards specified by the Director General ofIncome-Tax (Systems) shall only be treated as a valid TDS certificate in Form No. 16A for the purpose of section 203 of the Act read with Rule 31 of the IT Rules, 1962.

Section 260A of the Income-Tax Act – appeal to high court – instructions regarding standard operating procedure on filing of departmental appeals to high court

Notification No.7/2011 [F.NO. 279/MISC/M-42/2011-ITJ], dated 24th May, 2011

A detailed instruction has been issued on the above matter which is available at the aforesaid citation.

> Section 4: Subsidy, treated as capital receipt:-

Subsidy received by assessee from the State Government under a scheme of industrial promotion which was meant to provide financial assistance to specified industries for expansion of capacities, modernization and improving their marketing capabilities is capital receipt though the amount of subsidy is equivalent to 90 per cent of the sales-tax paid by the beneficiary. CIT vs. Rasoi Ltd. (2011)245 CTR (Cal) 667, dated 19th May 2011

RECENT JUDGMENTS

For "Equipment Royalty" u/s 9(1)(vi), control of equipment by payer essential

Yahoo India Pvt Ltd vs. DCIT (ITAT Mumbai) 24th June. 2011

Fact of the case

The assessee, an Indian company, remitted Rs. 34 lakhs to Yahoo Holdings (Hong Kong) Ltd, a Hong Kong company, for placing banner advertisements on the web portal of Yahoo Hong Kong. The AO & CIT (A) took the view that the payment was "for the use or right to use any industrial, commercial or scientific equipment" (i.e. the server) and had the character of "royalty" under clause (iva) of Expl 2 to s. 9(1) (vi).

On appeal by the assessee, HELD allowing the appeal:

Held

- The word "use" in relation to equipment occurring in clause (iva) of Expl to section 9(1) (vi) is not to be understood in the broad sense of availing of the benefit of an equipment. The context and collocation of the two expressions "use" and "right to use" followed by the word "equipment" indicate that there must be some positive act of utilization, application or employment of equipment for the desired purpose. If an advantage was taken from sophisticated equipment installed and provided by another, it could not be said that the recipient/customer "used" the equipment as such. The customer merely made use of the facility, though he did not himself use the equipment.
- On facts, the banner advertisement hosting services did not involve use or right to use by the assessee any industrial, commercial or scientific equipment and no such use was actually granted by Yahoo (Hong Kong) Ltd to the assessee. Uploading and display of banner advertisement on its portal was entirely the responsibility of Yahoo (Hong Kong) and the assessee was only required to provide the banner Ad to Yahoo (Hong Kong) for uploading the same on its portal. The assessee had no right to access the portal of Yahoo (Hong Kong) and there was nothing to show any positive act of utilization or employment of the portal of Yahoo (Hong Kong) by the assessee.
- > Tests to determine whether shares gains assessable as STCG or business profits

CIT vs. Gopal Purohit (Supreme Court) June 21st, 2011

The Supreme Court vide order dated November 15th. 2010 dismissed the Department's Special Leave Petition against the judgment of the Bombay High





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Court in CIT vs. Gopal Purohit 228 CTR 582 (Bom) where it was held that

- (a) It was open to an assessee to maintain two separate portfolios, one relating to investment and another relating to business of dealing in shares,
- (b) that a finding of fact had been arrived at by the Tribunal as regards the two distinct types of transactions namely, those by way of investment and those for the purposes of business,
- (c) that there should be uniformity in treatment and consistency when facts and circumstances are identical particularly in the case of the assessee and (d) that entries in books of account alone are not conclusive in determining the nature of income though they have a bearing

INDIRECT TAX

Service tax

Synopsis of notifications, circulars & letters

> CBEC vide Circular No. 138/7/2011-ST dated 6th May, 2011

CBEC has clarified that the benefit of exemption from levy of service tax available to Works Contract Service (WCS) in respect of construction of Dams, Tunnels, Road, Bridges, etc. cannot be extended to sub-contractors engaged by principal contractor to provide services such as Architect's Service. Consulting Engineer's Service, Construction of Complex Service, Design Services, Commissioning or Installation Service, Management, Maintenance or Repair Service etc. on the ground that as per rules of classification u/s 65A, the services that are being provided by the subcontractors of works contract service providers are distinctly classifiable under the respective sub clauses of Section 65(105) of the Finance Act, 1994 and not under works contract services. Accordingly, it is clarified that services provided by sub-contractors & consultants are chargeable to service tax.

> CBEC vide Circular No.139/8/2011-TRU dated 10th May, 2011

CBEC has clarified various issues in respect of newly introduced services w.e.f. 1st May, 2011. In respect of "Short Term Accommodation Services", it clarified that "Declared tariff' does not include any discount offered on the published charges for such unit. The relevance of 'declared tariff' is in determining the liability to pay service tax. However, the actual tax will be liable to be paid on the amount charged i.e. declared tariff minus any discount offered. Thus if the declared tariff is 1,100/- but actual room rent charged is 800/- tax will be required to be paid@ 5% on 800/-

It is possible to levy separate tariff for the same accommodation in respectof a class of customers which can be recognized as a distinct class on an intelligible criterion. However, it is not applicable for a single or few corporate entities. Service Tax will be charged on the total value of declared tariff where the declared tariff includes the cost of food or beverages. But where separate bill is raised for food or beverages; such amount is not considered as part of declared tariff. When the declared tariff is revised as per the tourist season, the liability to pay Service Tax shall be only on the declared tariff for the accommodation where the published/printed tariff is above Rupees 1,000/-. Luxury Tax imposed by State Governments is to be excluded from the value of taxable services.

In respect of "Services provided by Restaurants", it is clarified that: Service Tax is leviable on the service provide by a restaurant which satisfies two conditions:

- It should have the facility of air conditioning in any part of the establishment and
- It should have license to serve alcoholic beverages. Within the same entity, if there is more than one restaurant, which are clearly demarcated and separately named, the ones which satisfy both the criteria is only liable to service tax.

The taxable services provided by a restaurant in other parts of the hotel e.g. swimming pool, or an open





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area attached to the restaurant are also liable to Service Tax as these areas become extensions of the restaurant.

When the food is served in the room, service tax cannot be charged under the restaurant service as the service is not provided in the premises of the airconditioned restaurant with a license to serve liquor. Also, the same cannot be charged under the Short Term Accommodation head if the bill for the food will be raised separately and it does not form part of the declared tariff. VAT levied by State Governments is to be excluded from the value of taxable services.

> CBEC vide Circular No.140/9/2011-TRU dated 12th May, 2011

CBEC has issued following guidelines to the field formations in respect of prosecution provisions introduced by Finance Act, 2011. CBEC has also fixed up monetary limit of 10 lakhs for launching prosecution. However, monetary limit will not apply in the case of repeat offences. The emphasis in the prosecution provision is on the non-issuance of invoice within the prescribed period under Rule 4A of the Service Tax Rules, 1994 rather than nonmention of the technical details in the invoice that have no bearing on the determination of tax liability. The service receiver, liable to pay tax on reverse charge basis is required to ensure that the invoice is available at the time the payment is made or atleast received within 14 days thereafter and in the case of associated enterprises, invoice should be available with the service receiver at the time of credit in the books of accounts or the date of payment towards the service received.

In order to constitute an offence, the taxpayer must both avail as well as utilize the credit without having actually received the goods or the service. The Section 89(1)(b) is not meant to apply to situations where an invoice has been issued for a service yet to be provided on which due tax has been paid. It is only meant for such invoices that are typically known as "fake" where the tax has not been paid at the so called service provider's end or where the provider stated in the invoice is non-existent.

Offence in relation to maintenance of false books of accounts or failure to supply the required information or supplying of false information, should be in material particulars have a bearing on the tax liability. Mere expression of opinions shall not be covered by the said clause. Supplying false Offence in relation to maintenance of false books of accounts or failure to supply the required information or supplying of false information, should be in material particulars have a bearing on the tax liability. Mere expression of opinions shall not be covered by the said clause. Supplying false

Central Excise

> Circulars Clarifications on availment of CENVAT credit:-

(Circular no. 943/04/2011 -CX dated 29th April, 2011)



The circular provides with certain clarifications based on amended CENVAT Credit Rules, 2004, some of them are listed below:

Goods in respect of which benefit of exemption Notification 1/2011 – CE, dated March 1st, 2011, is availed are considered as exempted goods. Credit of capital goods used exclusively in manufacture of such goods shall not be allowed. Services, whose part of value is exempted on the condition that no credit of inputs or input services should be taken, would be considered as exempted services and therefore, CENVAT credit may not be available on capital goods used exclusively in providing such services.



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The list given in the definition of 'input' and 'input service' is illustrative only and principally CENVAT credit will not be allowed when goods and services are used for personal use or consumption of employees. Credit of goods used in factory but having absolutely no relationship with the manufacture of final product, shall not be allowed. Credit shall be admissible on input services used for repair or renovation of factory or office in view of the express provisions in inclusive part of the new definition of 'input service'.

Credit of services of sale of dutiable goods on commission basis is allowed irrespective of the deletion of the words "activities related to business" from the definition of 'input service'. Credit of input or input services exclusively used in trading cannot be availed since 'trading' is considered as an exempted service as per the new definition. Credit of input and input service used exclusively in trading before 1st April, 2008 cannot be availed. However, credit of common inputs and input services can be availed on proportionate basis subject to utilization of credit upto 20% of total service tax liability which was prevailing upto 1st April, 2008.

For the purpose of valuation of trading goods, generally accepted accounting principles are to be followed. Discounts are to be included and taxes for which set off /credit /refund is available are to be excluded.

The definition of 'input' excludes the expression 'in or in relation to', however, Rule 6 contains phrase 'inputs and input services used in relation to exempted and dutiable goods'. It is clarified that Rule 6 uses the phrase just to segregate the credit towards dutiable and exempted goods and therefore, Rule 2 (k) and Rule6 should be read harmoniously.

In case of Banking & financial institution and life insurance services, if a concern is exclusively rendering other services from an independent registered premises then full credit is admissible. However, if other services are rendered along with Banking & financial institution and life insurance services from the same registered premises then proportionate credit admissible and reversal needs to be followed.

In case of services received before 1st April, 2011 on which credit is not available as per the new definition, credit will be available, if the provision of such services is completed before 1st April, 2011.

Circular No. 944/05/2011 -CX dated 10th May, 2011

Revisions regarding submission of Monthly Technical Reports (MTR) on litigation matters: Internal instructions have been issued by CBEC in relation to monthly technical reports. The procedural aspects have been clarified specifically emphasizing on the following:

The MTR for Central Excise and Service Tax from the month of July 2011 shall include Annexure III A, III B, III C, III D, III E (as revised) and III F and III G and the MTR for Customs shall include Annexure VB (new), VC, VD, VE, VF, VG and VH.The Commissioners will not send any MTR to Legal, Judicial/ review Cell of CBEC or the Directorate of Legal Affairs and instead the Zonal Chief Commissioner will send the MTRs containing the compiled Annexure directly to the Commissioner, Directorate of Legal Affairs. This is to avoid multiplicity of such reports, duplication of work in preparing similar reports for different wings of the Board.

Circular No. 945/06/2011 –CX dated 16th May, 2011

Benefit of Central Excise duty exemption on pipes: Full exemption is provided from excise duty on the following vide Notification No. 6/2001 –CE dated 1st March, 2006 as amended till date.

All items of machinery, including instruments, apparatus and appliances, auxiliary equipment and their components/ parts required for setting up of water treatment plants. Pipes and pipe fittings needed for delivery of water from its source to the plant (including the clear treated water reservoir, if any,





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thereof), and from there to the first storage point. Pipes and pipe fittings of outer diameter exceeding 10 cm when such pipes are integral part of water supply projects.

It is clarified that the exemption was earlier limited to pipes needed for delivery of water from its source to the water treatment plant and from there to the first storage point. Post 1st March, 2007, the exemption has been extended to pipes of outer diameter exceeding 20 cm (10 cm after 4th December, 2009). When such pipes were integral part of water supply evenif they are used in the distribution network beyond the first storage point. However, if the amount is recovered from consumer for connection then the same will not form part of the project and therefore shall not be eligible for exemption.

CORPORATE LAWS

Regulatory and audit compliance for foreign banks

The RBI has issued Circular No. DBS.ARS.BC. No.07/ 08.91.020/2010-11 dated11th May, 2011 observing that Indian operations of foreign banks functioning in India as branches of the parent banks generally do not have a separate audit committee vested with the responsibility of examining and reviewing inspection / audit reports for their compliance. It was noted that in the recent past, there were concerns about the adequacy of regulatory compliance by foreign banks in India and it is felt that this is on account of business heads / units reporting directly and being answerable to their 'functional heads' located overseas and not to the Chief Executive Officer(CEO) of Indian operations. Hence, it has been decided that for all foreign banks operating in India, the Chief Executive Officer would be responsible for effective oversight of regulatory and statutory compliance as also the audit process and the compliance thereof in respect of all operations inIndia.

NBFC, bank, insurance, power companies exempt from using XBRL for filing of financial statements.

The MCA has issued General Circular No. 25/2011 dated May 12th, 2011 and referred to its earlier general circular No. 9/2011 dated March 31st, 2011 whereby it was mandated for certain class of companies to file balance sheets and profit and loss account for the year 2010-11 onwards by using extensible Business Reporting Language (XBRL) taxonomy. It has now clarified, by amending its earlier circular, that all companies listed in India, and their subsidiaries, having paid up capital of 5 crore and above, or a turnover of 100 crore or above, would be covered by the requirements of XBRL taxonomy. It is clarified that banking companies, insurance companies, power companies, non-banking financial companies (NBFCs) and overseas subsidiaries of these companies would not be liable for the XBRL taxonomy.

The implication is that only listed companies in India and their subsidiaries having paid-up capital of 5 crore and above or a turnover of 100 crore or above, excluding banking companies, insurance companies, power companies. NBFCs and overseas subsidiaries of these companies are covered under Phase 1 of the filings under the XBRL taxonomy. The earlier circular included even unlisted companies under Phase 1 of the filings under The XBRL taxonomy.

> Year of applicability for disclosure of particulars of employees salary in board report

The MCA has issued General Circular 23/2011 dated 2nd May, 2011 clarifying that the MCA Notification No. 289(E) dated the 31st, March, .2011 in relation to Companies (Particulars of Employees) Amendment Rules, 2011 whereby the limit of employee's salary to be disclosed in Directors Report was raised. It is clarified that the said notification shall be applicable to all Directors' Reports under section 217 of the Companies Act, 1956 approved by the Board of Directors on or after April 1st, 2011, irrespective of





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the accounting year of theannual account, being approved by the Board.

Revised forms 2/3/18/23c/32 notified by MCA



The MCA has issued Notification No. F.No. 5/18/2005-CL.V dated 25th, April, 2011 revising the forms 2/3/18/23C/32. These new forms will be effective from 1st May, 2011.

Making a company as having management dispute by ROC Under MCA-21 system

The MCA has issued General Circular No. 19/2011 dated 2nd May, 2011 stating that in the present electronic MCA-21 system, there is a facility with the Registrar of Companies (RoC) to mark a company "marked as having management dispute" on the basis of complaints received. This marking creates an alert and the documents are not approved and remain in the registry as work inprocess till it is demarked by the RoC.

In order to bring uniformity of practices by all ROCs it is clarified that the ROC shall use this facility by marking a company as having management dispute in only those cases where the court or Company Law Board has directed to maintain the status quo with reference to any e-forms including state of directors in the company or the Court or the Company Law Board has granted any injunction or stay in taking the document on record and the ROC is a party in such court cases and/or the directions have been issued to the Registrar of Companies. In other matters, where the RoC in not a party and such orders have been passed and has not been served to the RoC, it is for the parties tocomply to such orders and in case of non-compliances, the law shall take its own course.

Appointment of LLP as statutory auditors now permissible – LLP will not be treated as body corporate



The MCA has issued Notification No. F No 2/2/2011-CL.V dated May 23rd, 2011 and General Circular No. 30A/2011 dated May 26th, 2011 clarifying that limited liability partnership ("LLP") of chartered accountants will not be treated as body corporate for the limited purpose of section 226(3) (a) under the Companies Act, 1956. This clarification follows a number of representations received in the MCA from Institute of Chartered Accountants of India which stated that under section 226(3)(a) of the Companies Act, 1956 a body corporate is disqualified from being appointed as auditor by a company. Since LLP is abody corporate as per section 3(1) of the LLP Act, 2008, LLP among chartered accountants will now be qualified for appointment as audit or under section 226(3)(a) under the CompaniesAct, 1956.

Extension of sun set date in transitional provisions in relation to effect of changes in foreign exchange rates

The Ministry of Corporate Affairs (MCA) has issued Notification file No. F.No.17/133/2008-CL.V dated 11th May, 2011 in relation to effects of changes in foreign exchange rates for which it has extended the sunset date of the transitional provisions. On 31st March 2009, a new paragraph was added in the transitional provisions to AS 11 on The Effects of Changes in Foreign Exchange Rates providing that in respect of accounting periods commencing on or after 7th December 2006 and ending on or before 31st March 2011, a company can chose to adopt the treatment as per (a) and (b) hereafter as an alternate



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to the immediate recognition of exchange differences arising on long-term foreign currency monetary items,

- If the long-term foreign currency monetary item related to acquisition of a depreciable capital asset, exchange differences arising should be added to, or deducted from, the cost of the asset and depreciated over the life of the asset, and,
- If the long-term foreign currency monetary item was related to an item other than an acquisition of a depreciable capital asset, exchange differences should be accumulated in the "Foreign Currency Monetary Item Translation Difference Account" and amortized over the life of the monetary item but not beyond 31st March, 2011. With this, the sunset clause was 31st March 2011. The Notification now provides that the sunset clause is now extended to accounting periods ending on or before 31st March 2012.

FEMA

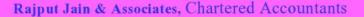
Pledge of shares for business purposes
 Circular No.: A.P. (DIR Series) Circular No.
 57 dated may 2nd, 2011



In order to further liberalize, rationalize and simplify the processes associated with FDI flows to India and reduce the transaction time, RBI has delegated the power to the AD Category – I banks to allow pledge of shares of an Indian company, held by non-resident investor/s in accordance with the FDI policy in the following cases subject to compliance with the

conditions indicated below. Hitherto in all cases given below, RBI prior permission was required.

- a) Shares of an Indian company held by the nonresident investor can be pledged in favour of an Indian bank in India to secure the credit facilities being extended to the resident investee company for bona fide business purposes subject to the following conditions:
 - In case of invocation of pledge, transfer of shares should be inaccordance with the FDI policy in vogue at the time of creation of pledge;
 - Submission of a declaration/ annual certificate from the statutory auditor of the investee company that the loan proceeds will be / have been utilized for the declared purpose;
 - The Indian company has to follow the relevant SEBI disclosure norms; and
 - Pledge of shares in favour of the lender (bank) would be subject to compliance with the Section 19 of the Banking Regulation Act, 1949.
- b) Shares of the Indian company held by the non-resident investor can be pledged in favour of an overseas bank to secure the credit facilities being extended to the non-resident investor / non-resident promoter of the Indian company or its overseas group company, subject to the following conditions:
 - loan is availed of onlyfroman overseas bank;
 - loan is utilized for genuine business purposes overseas and notfor any investments either directly or indirectly in India;
 - overseas investment should not result in any capital inflow into India;
 - in case of invocation of pledge, transfer should be in accordance with the FDI policy in vogue at the time of creation of pledge;





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Import of rough, cut and polished diamonds Circular No.: A.P. (DIR Series) Circular No.59 datedMay6th, 2011



RBI has decided that Suppliers' and Buyers' credit (trade credit) including the since period of Letters of Credit opened for import of rough, cut and polished diamonds should not exceed 90 days from the date of shipment. This direction will come into force with immediate effect.

AD should ensure that due diligence is undertaken and Know-Your-Customer (KYC) norms and Anti-Money Laundering (AML) standards, issued by RBI are adhered to while undertaking the import transactions. Further, any large or abnormal increase in the volume of business should be closely examined to ensure that the transactions are bonafide and are not intended for interest / currency arbitrage. RBI invites comments for review of procedures relating to foreign exchange facilities to individuals – Residents/Non-Resident Indians (NRIs)and Persons of Indian Origin (PIOs).

Press Release: 2010-2011/1641 datedMay10th, 2011

In order to facilitate genuine foreign exchange transactions by individuals —residents / NRIs and PIOs under the current regulatory framework ofForeign Exchange Management Act, 1999 (FEMA), RBI has set up acommittee to identify areas for streamlining and simplifying the procedureso as to remove the operational impediments, and assess the level of efficiency in the functioning of

authorized persons, including theinfrastructure created by them.

Accordingly, RBI has invited comments/suggestions from the member's ofthe public and other stake holders on the foreign exchange related schemes/ facilities available to the individuals - residents / NRIs and PIOs and expatriates employed in India under the provisions of FEMA and administered by the Reserve Bank / Authorized Persons dealing in forex. The comments / suggestions related to deposit account, investment facilities, acquisition / sale of immovable property, remittance / repatriation of funds, remittance facilities for individuals or any other related procedural issue may be sent to the Chief General Manager-in-Charge, Foreign Exchange Department, Reserve Bank of India, Central Office Building, 11th floor, S.B.S. Road, Mumbai – 400001.

POLICY WATCH



Karnataka highway project gets US\$ 350 million from the world bank

The World Bank and the Government of India have signed a US\$ 350 million loan to accelerate the development of road network through the Second Karnataka State Highway Improvement Project (KSHIP II). The government of Karnataka has identified about 25,000 km of the most important traffic corridors and designated them as the state's core road network. Accelerating the development of this network is critical for Karnataka's economic growth and for ensuring a balanced development throughout the state. Improving infrastructure,



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including road transport, is key to sustaining growth and bridging regional disparities. This loan from the World Bank, introduces an important innovation by helping the Government of Karnataka leverage private sector financing through economically viable Public Private Partnerships (PPP) and thereby accelerating the development of state highways.

► Government raises ECB limit to \$30 billion

The government has decided to raise the cumulative External Commercial Borrowing (ECB) limit for companies by \$10 billion, to \$30 billion. The ceiling for Foreign Institutional Investors (FII) in bonds floated by companies as well as the government remains untouched. The move comes after companies have already raised ECBs of \$26 billion, breaching the formal cap. Actual permission for ECB is given by the Reserve Bank of India on a case-to-case basis. There was a lot more demand for ECBs from companies. As mentioned earlier, FII caps for investing in the Indian debt market haven't changed. These are \$10 billion for government securities, \$15 billion for corporate bonds and \$25 billion for long-term corporate bonds (for infrastructure).

Chandigarh launches e-waste project

The Le Corbusier - planned city Chandigarh, which is eyeing a formidable position in the information technology (IT) map, having realized the possible threats that e-waste could pose to the environment in the coming years, has launched the first city e-waste project. The CII-Yi Yi Chandigarh and Noida based Attero Recycling, in the presence of Chandigarh Administration launched the city's first e-waste project, a voluntary initiative. Infosys Technologies Limited term this project as the step in the positive direction considering the city's IT sector's expansion plan in the coming years. The export of software and IT services from Chandigarh ranges from Rs 10-12 billion and the number of IT units in Chandigarh IT parks could double in the next three years from 25 at present.

Japan keen on increasing bilateral trade ties with India

Japan is keen to accelerate bilateral trade with India and will cooperate with India to improve the safety norms in atomic reactors. India is projected ahead of China as a long-term economic prospect, particularly in the area of manufacturing, by the Japanese Bank for International Cooperation. With the signing of the Comprehensive Economic Partnership Agreement (CEPA) between Japan and India, bilateral trade and investment will definitely increase. Two-way trade has grown from \$9.3 billion a year earlier to \$12.9 billion in 2010. In order to increase tourist inflows in Japan, the Minister encouraged the Hindi film industry to look at Japan as a destination for shooting and said that the country will consider incentives in such cases.

> Kerala IT to strengthen ties with Finland

The Information Technology (IT) department of Kerala and the Finnish government are looking at forging a strong partnership and collaboration to foster innovation and entrepreneurship. The aim is to identify various opportunities for Finnish companies to set up shop in Kerala through Finn-partnership. The programme provides advisory services and financial support for projects of Finnish companies in developing countries. The match-making services provide assistance for companies in developing countries like India looking for Finnish business partners to enhance commercial co-operation. The companies in Techno park can also plan their overseas operations in Finland.

➢ Government extends DEPB scheme

The government extended the tax incentive scheme for exporters, Duty Entitlement Pass Book (DEPB) till 30th September 2011, a step which will benefit the exports sector. The DEPB scheme gets an extension of three months from June 30, 2011 to September 30, 2011. Under the 14-year-old DEPB scheme; the government spends annually about Rs 85 billion for reimbursing exporters on the taxes paid on import equivalent content of export products. As the scheme



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was set to close on June 30, exporters were agitated and lobbying hard with both Finance and Commerce ministries for its extension. A lion's share of about 60% of the funds under the DEPB goes to exporters in the chemical and engineering sectors. The government plans to replace the DEPB by an alternate Duty Drawback scheme. During April-May 2011-12, India's exports increased by 45.3% to \$49.8 billion in value terms.

IIFCL identifies power, road projects for pilot credit scheme



State-owned India Infrastructure Finance Company Ltd (IIFCL) has identified three to four projects in the road and power sectors for conducting a feasibility study of its credit-enhancement scheme. The scheme is likely to be launched by July. In the pilot phase, the company will provide guarantee of up to 50 per cent on infrastructure bonds issued by companies such as GMR group and Lanco Infratech Ltd, among others. The guarantee will enhance credit ratings of these bonds to AA or even higher, thereby attracting investments from insurance companies and pension funds. This would, in turn, create a better market for infrastructure bonds in the country. The company is hopeful of receiving the Government nod for its credit scheme by the end of June. The infrastructure-funding institution is working with Asian Development Bank and World Bank for the scheme.

SEBI asks promoters of all listed firms to dematerialise holding

The Securities and Exchange Board of India (SEBI) has made it mandatory for promoters of all listed companies to hold shares in the demat form only. Companies will have to comply with the new norms before the end of September. According to data, promoters of 2,644, or nearly 50 per cent listed companies, still hold shares in physical form. Of these, promoters of around 650 companies hold their entire stake in physical form. The scrip of those companies that fail to comply with the new norms would be put under surveillance in the trade-to-trade segment. Under this, only delivery-based trading can be done and stock will be closely monitored by exchanges. As per the SEBI, the norms were introduced to further promote dematerialization of securities, encourage orderly development of the securities market and to improve transparency in the dealings of shares, including the pledge or use as collateral, by promoters.

INDUSTRY WATCH &CORPORATE HIGHLIGHT



GAZPROM, GSPC MOU for 2.5 MTPA LNG supply

Gujarat government owned Gujarat State Petroleum Corporation (GSPC) and Russian petroleum giants, Gazprom Global LNG (GGLNG) have entered into an agreement for supply of up to 2.5 Million Tonnes Per Annum (MTPA) of Liquefied Natural Gas (LNG). GGLNG, through its Singapore affiliate



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Gazprom Marketing and Trading Singapore (GM&TS) a 100% wholly-owned subsidiary of Gazprom Marketing & Trading signed a memorandum of understanding with GSPC for the supply of LNG amounting to 2.5 MTPA. GGLNG is looking at long term alliance for LNG supplies with GSPC.

> Industrial park being developed near Mysore

The Karnataka Industrial Area Development Board (KIADB) is developing an industrial estate at Kadakola, near the Nanjangud industrial area, on Mysore-Ooty highway. The estate is coming up in different survey number areas of the Kadakola village which is also connected by the Mysore-Chamarajanagar train. It has fixed the land cost at an ad hoc price of Rs 7 million an acre. Plots of 0.25 acre, 0.50 acre and 1 acre are ready to be allotted to small scale units whose investments are not above Rs 30 million. Industrialists interested in these plots should apply to the KIADB Development Officer, Metagalli, Mysore, with the relevant documents. Along with their applications, they should also attach a demand draft for 7.5% of the land value they propose to have.

India's exports rise 34.42% in April 2011

Exporters jumped 34.42% in April 2011 to \$ 23.8 billion continuing the fast paced growth of the previous fiscal. Imports, too, continued to rise although at a slower pace of 13%-14% to \$32 billion. The trade deficit for April 2011 was estimated at \$ 8.98 billion which was lower than the deficit of \$ 11.02 billion during April 2010. Oil imports during April, 2011 were valued at \$ 10.18 billion which was 7.7% higher than oil imports of \$ 9.45 billion in the corresponding period last year. Non-oil imports during April, 2011 were estimated at \$ 22.64 billion which was 17.3% higher than non-oil imports of \$ 19.31 billion in the previous year. India's exports grew a record 37.6% in the 2010-11 fiscal years due to high growth in the engineering sector, gems & jewellery and petroleum products.

India allows duty-free import of goods from Afghanistan

India has extended duty-free market access to Afghanistan as part of its economic package for least developed countries (LDCs). Under the scheme, the import of most products from the neighboring country will be allowed at zero duty. The Finance Ministry has issued a notification in this regard. India's Duty-Free Tariff Preference (DFTP) scheme, launched by Prime Minister in 2008, provides preferential duty access on products comprising 92.5% of global LDC exports. The DFTP scheme grants duty-free access on 85% of India's total tariff lines. The scheme is to be implemented over a period of five years through five equal tariff reductions of 20% each on the current applied rates to bring down the duty rate to zero.

Bosch to invest Rs 25 billion in

German engineering conglomerate Bosch Group announced that they would invest Rs 25 billion in India in the next two years to set up plants and expand capacity. Over the past decade, Bosch has increased capital expenditure in India more than fivefold, from Rs 1 billion in 2001 to Rs 5.7 billion in 2010. With the fresh investment of Rs 25 billion in the next two years, Bosch would create additional capacities to meet the growing and unique Indian market needs. Bosch Group has been present in India since 1953 and operates through six companies. Of the Rs 25 billion, the flagship company of the group in India, Bosch Ltd, would use Rs 13 billion. The group will set up a manufacturing plant at Sanand in Gujarat with an investment of Rs 1.5 billion for making electrical controls and drives. The plant will be operational by 2012.

Electronics industry size to exceed \$150 billion

The Export-Import Bank of India (Exim Bank) has estimated the size of the electronics industry in India to exceed \$150 billion by 2015. Exports of electronic goods are expected to touch \$15 billion by 2013-14, as per an estimate by the Ministry of Commerce and



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Industry. The share of electronics production in India's Gross Domestic Product (GDP) has increased from 1.6% in 2001-02 to 1.95 per cent in 2009-2010. This has been due to the high rate of growth of the Indian economy, increasing disposable income and demand from the youth market. In order to grow, this industry needs to design and manufacture global products to suit both domestic and global markets.

> IRDA releases M&A guidelines for general insurance firms

Insurance Regulatory and Development Authority (IRDA) released regulatory guidelines for Mergers and Acquisitions (M&A) for non-life insurance companies. Insurance companies looking for mergers would now have to take the approval of the relevant high court or tribunal before securing the final nod from the insurance regulator. The solvency margin of the merged entity would also have to meet regulatory requirements. The guidelines ensure the protection of policyholders, rationalization of the branch network, streamlining of products, taxation and valuation issues and projected revenue of the merged entity. Policyholders would continue to enjoy the same terms and conditions as they did under the existing policy, and they would be given an exit option.

Domestic car sales up 7%, bikes 14.33% in May



Domestic passenger car sales grew by 7% to 1, 58,817 units in May, 2011, from 1, 48,425 units in the same month last year. According to Society of Indian Automobile Manufacturers (SIAM) motorcycle sales in the country grew by 14.33% during the month to 8,29,255 units from 7,25,311 units in the corresponding month last year. Total two wheeler sales increased by 14.49% last month to 10,72,287 units from 9,36,555 units in May, 2010.

Sales of commercial vehicles jumped by 16.16% to 56,314 units from 48,479 units in the year-ago period, as per SIAM statistics. Total sales of vehicles across categories registered a growth of 13.40% to 13, 70,786 units in May, as against 12,08,820 units in the same month last year.

> S&T Motors of Korea may set up Joint Venture for superbikes

South Korean major S&T Motors, manufacturer of the Hyosung brand of motorcycles, is likely to set up a Joint Venture (JV) in India in the next couple of years for manufacturing superbikes. The assembly and marketing of the Hyosung bikes was given to its partner Garware Motors Ltd, part of the Rs 18 billion Garware Group, in October 2010. Currently, Garware Motors assembles 8 to 10 superbikes (under 800 cc) in one shift at its Wai facility in the Satara district of Maharashtra. The idea is to gauge, create and encourage the Indian market before S&T finalizes its JV. Within the last 45 days of opening of four dealerships, Garware Motors has received 125 bookings, which demonstrates an increasing interest among youngsters in superbikes.

Jindal Steel & Power to add 1000 MW this fiscal

Jindal Steel and Power Ltd (JSPL) expect to increase its power generation capacity by 1000 MW to 2,700 MW by the end of the current financial year. At present, JSPL has a generation capacity of 755 MW, while its subsidiary Jindal Power Ltd (JPL) produces 1,000 MW. JPL, which accounted for a fourth of JSPL's turnover of Rs 131.11 billion in the year ended March 2011, has in the pipeline an 11-fold expansion plan with a total capacity of 11,480 MW by fiscal 2020. The parent, JSPL, expects to commission 5 units of 135 MW each at Angul and two units of 135 MW each at Chattisgarh by the yearend. JPL is carrying out a brownfield expansion of its Tanmar project in Chattisgarh by setting up a 2400 MW plant at an estimated cost of Rs 134.10 billion. The project is likely to be operational by 2013-14.



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Japan to give Rs 73.61 billion for infra projects in India

Japan International Cooperation Agency (JICA) has agreed to Rs 73.61 billion as a soft loan to India for various infrastructure projects in India. The loan will cover six development projects in the areas of power, transportation, forestation and energy to support India's efforts to improve its infrastructure. The loan amount will also focus on projects that will help accelerate the spread of new and renewable energy and energy conservation projects using Japanese technology.

The projects include two power projects in Andhra Pradesh and Madhya Pradesh respectively, Bangalore metro rail project, a bio diversity project in Rajasthan, an energy saving project for small and medium industries and a renewable energy project. The Japanese



commitment comes at a time when the Indian government was skeptical of Japanese contribution on account of the recent devastation in the country due to earthquake and tsunami.

Air India signs MoU with Slovenia's Adria Airways

AirIndia entered into a memorandum of understanding (mou) with Slovenia's adria airways and aerodrome Ljubljana. Following this both air India and adria airways plan to sign a code share agreement. This mou is expected to usher in a new era in the field of civil aviation between India and Slovenia. It would forge greater co-operation

between air India and adria airways in view of aircraft compatibility, with the fleet of airbus and crj aircraft types, and complementary network. The mou will pave way for adria airways to access air India's network, by generating traffic beyond Delhi, and likewise, provide air India with access to the east European market. It will also provide for better commercial viability, and contribute towards yield improvements.

> IDFC in agreement with Africa Finance Corporation

Infrastructure Development Finance Co (IDFC) has signed an agreement with Africa Finance Corporation (AFC) to help Indian companies enter the continent to expand in infrastructure, logistics, mining, power and telecom. IDFC has a current consolidated net worth of \$2.5 billion, and balance sheet size of \$10.7 billion. AFC, established in 2007 with a capital base of \$1 billion, provides project structuring advice and risk capital to address Africa's infrastructure development needs in power, oil and gas, heavy industry, transport, and telecommunications sectors. The continent's growth, its requirement and its vast reserves of resources will pave the way for increased collaboration between Indian companies and the African continent.

> NTPC goes for joint venture to set up power exchange



NTPC has formed a Joint Venture (JV) company, National Power Exchange Ltd (NPEX), to set up a power exchange. It will be a third exchange after Power Exchange India Ltd (PXIL) and India Energy Exchange and is expected to be operational within a



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year. The JV with NHPC, Power Finance Corporation (PFC) and Tata Consultancy Services (TCS), has already received in-principle approval from the Central Electricity Regulatory Commission (CERC) to begin. NTPC said the implementation time may, however, vary depending on terms of CERC approval and other factors. The exchange will have to compete in a market where there are already two players and the total power purchase from the exchanges account for 4% of the total consumption.

Foreign tourist arrivals jump 11.5% in Jan-May



Foreign tourist arrivals (FTAs) in the country have helped the tourism industry rebound from the recession-hit phase of the last two years. There has been an 11.5 per cent increase in inbound arrivals for the first five months of this year compared with the same period last year, according to data from the Union Tourism Ministry. FTAs during the period January - May 2011 were 2.5 million compared with 2.3 million during January-May 2010. FTAs during May 2011 were 0.37 million compared with 0.35 million during May 2010 and 0.30 million in May 2009. There has been a growth of 7 per cent in May 2011 over May 2010 compared with a growth of 13 per cent registered in May 2010 over May 2009. In terms of outbound travel, last year recorded more than 12.5 million departures. Going by the current trend, the industry expects a 25-30 per cent growth.

➢ BHEL and BEL consortium to invest Rs 20 billion in AP

DILLON IN AP

A consortium of public sector majors Bharat Heavy Electricals (BHEL) and Bharat Electronics (BEL), has decided to invest Rs 20 billion to set up a solar photovoltaic modules production unit near Hyderabad. 90 acres of land has been allotted in Fab city for the proposed project. Besides, Bharat Dynamics Ltd (BDL) has also proposed six units including a missile unit in Ranga Reddy district with a cumulative investment of Rs 30 bn. The new investment through the PSU joint venture is expected to help the state to revive its 1040-acre Fab city project near Hyderabad.

Capitamalls Asia shopping for growth in



India; plans to invest Rs 18 billion

Singapore-based CapitaMalls Asia, which develops, owns and manages malls across Asia, has committed Rs 18 billion to its growth in India for the next three years. Mr. Kevin Chee, CEO and Country Head of CapitaMalls Asia, confirmed that apart from funding the two malls that are operational now, this money would be also used to develop seven more malls in India.

The company has forged two joint ventures in Indiawith Bangalore-based Prestige Estate Projects Ltd for projects in the South and with Advanced India Projects Ltd (AIPL) for projects in the North. The ventures now own the Forum Value Mall in Bangalore (launched in 2009) and The Celebration Mall in Udaipur (launched early this year).



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Due date	Statuary compliance under Act	particulars	Governing Authority
WHEN		Rules	
06/06/2011	Service Tax	Payment of monthly service tax for the month of May by all tax payers electronically	Central Board of Excise and Custom
	Central Excise	Payment of monthly central excise duty for the month of May on goods by assesses other than SSI units electronically	Central Board of Excise and Custom
07/06/2011	Income Tax	Deposit of Income Tax TCS and TDS deducted in May	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.
10/06/2011	Central Excise	Monthly central excise return in form ER-1/ER-2 by other that 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-ALM I	Reserve Bank of India.
15/06/2011	Income Tax	Advance income tax under section 211 of Income Tax Act by corporate (first installment)	Central Board of Direct Tax.
	Provident Fund	 (a) Payment of monthly dues of Provident Fund for the month of May (b) Monthly return in form 5 for employees joining Provident Fund during May 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 May 	The Central Board of Trustees , The Employees' Provident Fund Scheme, 1952
21/06/2011	ESIC	Payment of ESIC contribution for the month of May	The employees' state insurance Act-1948. Ministry of labour and employment.
25/06/2011	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



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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		
ITR	Authority Income tax return	
nticinati		

LCD	Liquid-crystal Display
MP	Madhya Pradesh
MP	-
K O	Market price Mutual fund
MF	
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
ТРО	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
The state of the s	

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- Succession Planning.
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- Strategic Decision
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