

# RNM ALERT

Thinking Of The BottomLine- Think of Us

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U.N. Marwah

Dear Readers,

The month of October was one of the most tumultuous and historic of months- with the financial meltdown impacting the stock markets to their two year lows in India and ending with the euphoria in US of electing the first African-American President.

The sentiment of 'gloom and doom' has led to a hope for change in the face of US President elect, Mr. Obama and even back home many in the political circles are feeling the winds of change with the Indian General Elections slated for 2009.

With the liquidity crisis, interest rates around the world have increased and the one year LIBOR as on 31<sup>st</sup> October for USD stood at 3.17%. The RBI, ECB and Bank of England have reduced their benchmark rates to pull their economies out of the recessionary pressures. Oil prices fell and the dollar weakened on increasing fears of a protracted downturn of the US economy. The Iranian Oil Bourse has recently opened with trading of oil in Euro in place of the US\$ challenging the *numero uno* position of US\$ as the reserve currency of the world. The Indian economy GDP growth target for FY 2008-09 has been reduced by 2% to 6.9% by IMF, with our trade deficit for the first six months of FY 2008-09 reaching US\$ 59.7 billion as per official figures. 'Right Sizing' of workforce has begun especially in the banking and real estate sectors which have been worst hit, with most companies in India Inc. putting a hold on their expansion plans.

The GGI World Conference 2008 was held in Rio De Janeiro, Brazil from October 30 to November 2, 2008 and various areas of co-operation with Indian businessmen, especially in the area of renewable energy (bio fuels) and infrastructure were discussed.

With great sadness we wish to inform you of the demise of Shri R.N. Marwah, the founding Partner on November 02, 2008. His larger than life presence will be missed by all, more so by the RNM family where his vision and emphasis on ethics has become our credo. In his successful professional life he had been a Director in various public listed companies, President/ Treasurer of various Clubs, including Rotary Club, Panchshila Club, Chemsford Club and Delhi Flying Club.

U.N. Marwah

Managing Partner

On behalf of the RNM Alert Editorial Team

## DIRECT TAXES



### Case Law

#### Business Expenditure

##### Allowability of deduction for Unexplained expenditure

Assessment years 1993-94 to 1996-97 and 1998-99 - Assessee who was engaged in business of construction of apartments and sale thereof had constructed a shopping complex during relevant assessment years. Said complex constructed by assessee was referred by Assessing Officer to valuation cell for purpose of valuation of cost of construction. Assessing Officer after obtaining value of said construction from DVO, found difference in cost of construction as shown by assessee and as determined by DVO, and, therefore, sought to make addition of differential

amount. Assessee submitted that expenditure incurred by assessee on construction of complex was his business expenditure and same being of revenue nature, he was entitled to deduction in respect of same under section 37(1) even to extent it was to be treated as unexplained. Assessing Officer, however, rejected said submission and added differential amount by treating same as unexplained. Whether construction cost being revenue expenditure of assessee's business, same would be allowable as deduction as claimed by assessee - *Held, yes ITO v. Jagdish Chandra Virmani (Delhi) (URO)*

##### Allowability of Expenditure on issue of FCDs

Assessment year 1994-95 - Assessee-company had raised funds by way of issue of fully convertible debentures (FCDs) and claimed deduction of expenditure incurred on issue of

said FCDs - Whether in view of judgment of Special Bench of Ahmedabad Tribunal in case of *Ashima Syntex Ltd. v. Asstt. CIT [2006] 100 ITD 247*, expenditure incurred on issue of fully convertible debentures would not be allowable as revenue expenditure - *Held, yes Indian Rayon & Industries Ltd. v. Dy. CIT*

(Mum.)

##### Depreciation Allowance in case of Restructuring

Where assessee-company was incorporated through conversion of a partnership firm, depreciation as allowable in terms of relevant provisions of Act, should be allowed in hands of both predecessor-firm and successor- assessee-company, purpose of assessment being determination of correct liability under Act and fair assessment in terms of extant law which would require allowance of depreciation at correct amount(s) in hands of both, including adjudication of correct amount of WDV in assessee hands; however, carry forward of depreciation under section 32(2) could only be in hands of partnership firm.

*Amin Machinery (P.) Ltd. v. Deputy Commissioner of Income-tax - [2008] 114 ITD 413 (AHD.) [IT Appeal No. 774 (AHD.) of 2002]*

### Carry forward Unabsorbed Capex on Scientific Research in Amalgamation

Unabsorbed capital expenditure on scientific research under section 35(1)(iv) is not different from unabsorbed depreciation for purposes of section 72A(7) and, therefore, an assessee is entitled to carry forward unabsorbed scientific research expenditure –

*Income-tax Officer 1(2)-3, Mumbai v. Mahyco Vegetable Seeds Ltd.*

### Expenditure incurred in relation to income not includible in total income

Assessment year 2001-02- Assessee-company was engaged in business of trading, investment and finance. It earned trading income; dividend income and badala income. It claimed deduction of interest which was paid to loan creditors. Assessing Officer found that interest pertained to amount borrowed for purpose of investment in shares. As dividend income derived from investment in shares was exempt under section 10(33), Assessing Officer invoking section 14A disallowed interest expenses. On instant appeal, assessee contended that Assessing Officer could not disallow interest expenditure in excess of dividend income earned by it under section 14A. Whether there is nothing in provisions of section 14A to effect that expenditure disallowed should not exceed

income which is not chargeable to tax, and, therefore, as long as there is identification of income which does not form part of total income, amount so identified has to be disallowed - *Held*, yes - Whether, moreover, since Assessing Officer had made disallowance under section 14A after making proper appropriation between total income and dividend income, impugned disallowance was to be upheld - *Held*, yes *Sanchayita Mercantile (P.) Ltd. v. Asstt. CIT (Mum.)*

### Cash payment exceeding prescribed limits

Assessment year 2001-02 - Assessee had taken on lease a theatre and entered into an agreement with distributors for screening of pictures on share basis. She had made payment to distributors on account of sale of tickets for screening of pictures, and claimed deduction of amount paid to distributors as their share. Assessing Officer noticed that certain payment had been made to distributors on various dates by cheques which were not crossed and, therefore, treated same as an expenditure disallowable under section 40A(3). Whether only an expenditure can be disallowed under section 40A(3) - *Held*, yes. Whether since payment in question was distributor's share paid as per agreement, it could not be treated as an expenditure and, therefore, provisions of section 40A(3) could not be

applied for disallowing same - *Held*, yes –

*ITO v. Smt. N. Padma (Chennai) (URO)*

## Chargeability of Income

### Write back of Unclaimed Balance, Taxable

Assessment year 1996-97 - One 'N' Ltd. imported machinery in 1990-91. Purchase consideration of said machinery was to be paid in form of shares of 'N' Ltd. Since said machinery was not of requisite quality and had started to give trouble 'N' Ltd. stopped further allotment of shares to suppliers and credited application money of Rs. 1,15,00,000 to sundry creditor's account. Said credit was taken over by assessee-company in financial year 1993-94 when 'N' Ltd. was amalgamated with assessee. Assessee-company, after taking over amalgamating company unilaterally wrote back amount shown as trading liability on an accrual basis by amalgamating company in its profit and loss account as unclaimed balance and claimed deduction of said amount by contending that same was not covered under section 41(1). Assessing Officer held that said amount represented an amount due by erstwhile 'N' Ltd. for purchase of machinery and, though it was not chargeable to tax under section 41(1), yet it was taxable as income under



section 28(iv). Whether AO was justified - *Held, yes*

*Jindal Iron & Steel Company v. Jt. CIT (Mum.)*

### **Interest Chargeable as Business Income**

Assessment year 2001-02 - Assessee was engaged in business of export of garments and other articles - Assessee availed of various credit facilities and guarantees given by bank for purpose of carrying of business - For obtaining these facilities, assessee placed fixed deposit receipts with bank as margin money - Assessee derived interest from said fixed deposit receipts - Whether once fixed deposit receipts were utilized by assessee for purpose of its business by placing them with bank as margin money for purpose of availing of various credit facilities, fixed deposit ceased to be a mere investment and became a commercial asset and, therefore, interest income

would be taxable as 'business income' - *Held, yes*

*Mrs. Saroj Dassani v. Asstt. CIT (Delhi) (URO).*

## **Search Matter**

### **Unexplained expenditure**

Assessment years 1997-98 to 2003-04 - Competent authority carried out a search under section 132(1) upon assessee and recorded his statement that a sum of Rs. 73,800 was incurred on his marriage. He also recorded statement of assessee grandmother, who admitted that an expenditure of Rs. 6 to 7 lakhs was incurred on marriage of assessee, which was contributed by one 'P', maternal uncle of assessee, who had adopted him. Assessing Officer on basis of statement of assessee grandmother estimated assessee marriage expenses at Rs. 7 lakhs and, accordingly, made certain addition to income of assessee

as undisclosed income. Whether since except for statement of assessee grandmother there was no reference to any material found during course of search divulging incurring of any unexplained expenditure by assessee on his marriage, impugned addition made to income of assessee was not justified and liable to be deleted - *Held, yes*

*Prabal Lakhotia v. Asstt. CIT (Jodh.) (URO).*

## **Deductions**

### **80HHC Deduction on DEPB**

Assessment year 2001-02 - Assessee was engaged in business of export of garments. Assessee claimed deduction under section 80HHC on amounts received in respect of DEPB (Duty Entitlement Pass Book Scheme) and DFRC (Duty Free Replenishment Certificate). Whether since DEPB and DFRC incentives were provided to assessee only because of exports, in such circumstances, assessee would be entitled to deduction under section 80HHC - *Held, yes* -

*Mrs. Saroj Dassani v. Asstt. CIT (Delhi) (URO)*



## International Taxation

### Interest on foreign borrowings via convertible bonds under TDS net

The Authority for Advance Rulings (AAR) on Income Tax has held that TDS provisioning has to be made in respect of interest paid by Indian companies towards borrowings made by issuing convertible bonds under the foreign investment schemes. Convertible bonds give the lender the option to exchange the bond for a predetermined number of shares in the issuing company. Till converted into shares, they are like regular corporate bonds, but with a slightly lower interest rate.

According to the AAR, this interest would be subject to TDS. The ruling came in the case of a domestic NBFC arm which had issued fully convertible bonds to a US-based company under foreign direct investment (FDI) norms to raise funds for its securities business. According to the agreement entered between the two entities, the bonds are convertible into equity shares after 5 years of their issue. Interest on the bonds is payable in rupee on a half-yearly basis. The matter under consideration was if the domestic firm was liable to deduct TDS for its interest payments on those bonds. The AAR has held that the domestic company was liable to provision for TDS only to the extent of the interest in the hands of the foreign company. On the taxability of the foreign

company, the ruling held that payments received was an interest paid on the money advanced by it, and was hence liable to be taxed as per the dual provisions of the I-T Act and the Indo-US double taxation avoidance agreement (DTAA). Even as the judgment is case specific, it is likely to have a persuasive effect on tribunals and authorities deciding similar matters. Payment of interest presupposes the borrowal of money and incurring of a debt, the AAR observed. It said that convertible bonds constituted debenture bonds which its holder could convert into some other security, adding that issuance of debentures is a mode of borrowing money which creates a debt. Raising of funds by means of fully convertible debentures is a well-known business practice, which creates and recognises the existence of a debt till repaid, the ruling said.

*IMN India Limited (Name changed at the request of the applicant) AAR/769/2007 dated 10.10.2008*

## Latest Notifications/ News

### Amendment in Indo-Japanese DTAA

As per notification No. 96/2008 [F.NO. 506/69/81-FTD], dated 08-10-2008 the DTAA between India and Japan dated 29<sup>th</sup> day of December 1989 has been amended. Article 11 of the said DTAA dealing with taxability of Interest, defines in paragraph 4. thereof the terms 'the Central Bank' and 'financial institutions wholly owned by the Government', whom are exempt from tax on interest arising in a Contracting State. In the case of Japan, as per sub-clause (ii) of clause (a) of para 4, the 'Japan Bank for International cooperation' (JBIC) had been stated, which has now been replaced by 'International business unit of Japan Finance Corporation'. The said Japan Finance Corporation (JFC) has been incorporated on October 1, 2008 in a restructuring exercise in place of former JBIC.

### Income tax (Seventh Amendment) Rules, 2008

The CBDT has vide notification No. 97/2008 [F.NO. 142/10/2008-TPL], dated 10-10-2008 replaced the old Rule 6DD dealing with circumstances where payments exceeding Rs. 20,000/- shall not be disallowed u/s 40A of the Income Tax Act, 1961. As per the said new Rule the following payments are permitted to be made in cash:-

- (a) where the payment is made to
  - (i) the RBI or any banking company;
  - (ii) the SBI or any subsidiary bank;
  - (iii) any co-operative bank or land mortgage bank;
  - (iv) any primary agricultural credit society or any primary credit society;
  - (v) the Life Insurance Corporation of India;
- (b) where the payment is made to the Government and, under the rules framed by it, such payment is required to be made in legal tender;
- (c) where the payment is made by

- (i) any letter of credit arrangements through a bank,
  - (ii) a mail or telegraphic transfer through a bank;
  - (iii) a book adjustment from any account in a bank to any other account in that or any other bank;
  - (iv) a bill of exchange made payable only to a bank;
  - (v) the use of ECS through a bank account;
  - (vi) a credit card;
  - (vii) a debit card.
- (d) where the payment is made by way of adjustment against the amount of any liability incurred by the payee for any goods supplied or services rendered by the assessee to such payee;
  - (e) where the payment is made for the purchase of
    - (i) agricultural or forest produce; or
    - (ii) the produce of animal husbandry or dairy or poultry farming; or
    - (iii) fish or fish products; or
    - (iv) the products of horticulture or apiculture, to the cultivator, grower or producer of such articles, produce or products;

- (f) where the payment is made for the purchase of the products manufactured or processed without the aid of power in a cottage industry, to the producer of such products;
- (g) where the payment is made in a village or town, which on the date of such payment is not served by any bank, to any person who ordinarily resides, or is carrying on any business, profession or vocation, in any such village or town;
- (h) where any payment is made to an employee of the assessee, on or in connection with the retirement, retrenchment, resignation, discharge or death of such employee, on account of gratuity, retrenchment compensation or similar terminal benefit and the aggregate of such sums payable to the employee or his heir does not exceed Rs. 50,000/-;
- (i) where the payment is made by an assessee by way of salary to his employee after deducting TDS from salary u/s 192 of the Act, and when such employee
- (i) is temporarily posted for a continuous period of fifteen days or more in a place other than his
- normal place of duty or on a ship and
- (ii) does not maintain any account in any bank at such place or ship;
- (j) where the payment was required to be made on a day on which the banks were closed either on account of holiday or strike;
- (k) where the payment is made by any person to his agent who is required to make payment in cash for goods or services on behalf of such person;
- (l) where the payment is made by an authorised dealer or a money changer against purchase of foreign currency or travellers cheques in the normal course of his business.

A department committee, set up to look at ways to expand the TDS net, is scheduled to meet in Hyderabad to discuss the proposal. After deliberations, the panel is likely to suggest legislative changes to cover all 108 service categories which are under the service tax net. Companies and firms deduct TDS mandatorily while making payments towards salaries, advertisements and contracts, among others. TDS rate varies from 1 per cent to 30 per cent.

## Government looks at widening TDS ambit

With the growth in advance tax collections moderating this financial year, the revenue department is looking at widening the ambit of tax deducted at source (TDS) to cover more services like credit rating agencies, market research firms and beauty treatment clinics in order to increase income-tax revenues.

# INDIRECT TAXES

## CENTRAL EXCISE & SERVICE TAX

### **Case Law**

#### **Utilization of Cenvat Credit by Deemed Service Provider Upheld**

The Himachal Pradesh High Court Bench has admitted in Departmental appeal on the question of law- Whether a person who is not a actual service provider, but discharges the Service tax liability on the notified taxable service under Section 68(2) of the Finance Act, 1994 read with Notification No. 36/2004 dated 31-12-2004, as Rule 2(1)(d) of Service Tax Rules, 1994, as a deemed service provider, is entitled, by virtue of the legal fiction to utilize the CENVAT Credit availed on inputs/input service/capital goods for payment of Service tax on Goods Transport Agency/ Business Auxiliary Service, even though such inputs/input services/capital goods were not used for providing such taxable services.

The Appellate Tribunal had earlier, in its impugned order, held after relying on its own decision on similar cases that the

respondent was eligible to utilize Cenvat credit for payment of Service tax on Goods Transport Agency service and upheld the impugned order in this regard. *Commissioner v. Auro Spinning Mills, 2008 (Himachal)- Order Pending*

#### **Agreement Between the Parties is the Basic Documents to Consider the Rival Submissions**

In this case the Respondent was in contract with the Appellants to provide clearing and forwarding **agent** services. At the time of making contract in 1993 this service was not taxable and there was no specific mention of this tax liability. This service became taxable in 1997 and the recipient of the services (the Appellants) was treated as assessee in case of services rendered by clearing and forwarding agents (the Respondent). To discharge its liability the Appellants got registration, made payment and filed return according to the statute of service tax. Later on, the Appellants deducted the service tax from the amount payable by the Appellants to the Respondents pursuant to the contract in question. The Respondent (DEWAN CHAND RAM SARAN) objected to the deduction on the ground that the

terms of the contract do not permit this.

The Hon'ble High Court found that there was a specific agreement with regard to the payment of Service tax in question by the Respondents to the extent that the Appellants (RASTRIYA ISPAT NIGAM LTD) were entitled to deduct the amount so paid or payable under the service tax, though the Respondents are not assessee and are not liable to pay the service tax under the law. The agreement between the parties, therefore, is the basic documents to consider the rival submissions made by the parties with regard to such fight of deduction from the amount payable to the Respondents.

*[RASTRIYA ISPAT NIGAM LTD. V DEWAN CHAND RAM SARAN, 2008(11)STR 453 (Bom.)]*

#### **Registering in Different Category of Service without Giving An Opportunity to be Heard Is Against of Natural Justice**

The argument on the point as to whether without an appropriate order of adjudication the petitioner can be registered in a different category from the one for which application was made by the Service Tax Authorities after twenty-two months in an unilateral exercise. The Hon'ble High Court



held that registering in different



category of service without giving an opportunity to be heard is against principle of natural justice.

*[KARAMCHAND THAPAR & BROS. (COAL SALES) LTD. V UNION OF INDIA, 2008(11)STR 459 (Cal.)]*

### Service Tax is Not Applicable to Inter-Connectivity Usage for the Period Prior to the Dates When the Definition was Amended

The issue involved in this case as to whether Service tax is leviable on Inter-connectivity Usage Charges for the period 16-7-2001 to 31-3-2004. The Tribunal held

that the Board vide Circular No. 91/2/2007-ST dated 12-3-2007 has clarified that Service tax is not applicable to IUC for the period prior to the dates when the amended definition of 'telecommunication service' comes with effect vide Finance Act, 2007.

*[BHARAT SANCHAR NIGAM LTD. V. COMMISSIONER OF C. EX., MEERUT, 2008(11)STR 460 (Tri-Del.)]*

## Latest Notification

### New Category of Non-Assessee Registrants

The RBI noticed that approximate 45% of G.A.R.-7 challans (Service tax payment Challan) do not bear any assessee code. Banks are, therefore, advised that no payment of Central Excise and Service Tax should be accepted by their branches unless the assessee code of the tax-payer is quoted on the G.A.R.-7 challan at the time of acceptance of the challans. The authorised bank branches should, therefore, ensure that the 15 digit/character valid assessee code is quoted by the tax-payer in the challan. The RBI vide Circular RBI/2007-08/225 DGBA.GAD. No. H-7633/41.07.006/2007-08 dated January 15, 2008, issued certain guidelines to the relevant bank branches to make sure that G.A.R.-7 challan carry correct assessee code and location before

accepting Service Tax Payment. Mention of assessee and location code in G.A.R. -7 challan by the tax payer has since been mandatory.

Now that the Central Excise and Customs has created a new category of registrants (Non-Assessee) in Central Excise and Service Tax. The registration numbers/codes of these persons will be generated by the CBEC system and NDSL will be transmitting the same to the Link Cells of the Banks. This new category of assessee will form a part of the Assessee Directory that is being transmitted to the banks by NDSL presently. The Structure of registration codes of the new Non-Assessee will be as follows:

**Central Excise (with PAN):** PAN (10 character alphanumeric)+ CE (2 characters) + NNN(3 numeric)

Illustration:

XYZAB0000DCENNN (15 character alphanumeric)

**Central Excise (without PAN):** NAC(constant) + 7 alphabets + CE (2characters) + NNN (3 numeric)

Illustration:

NACXXXXXXXXCENNN (15 character alphanumeric)  
(11<sup>th</sup> and 12<sup>th</sup> character of Excise Assessee Code (PAN based) can be XM/XD/CE)

**Service Tax (with PAN):** PAN (10 characters alphanumeric) + SE (2 character)+ NNN (3 numeric)

Illustration:

XYZAB0000DSENNN (15  
character alphanumeric)

**Service Tax (without PAN):**

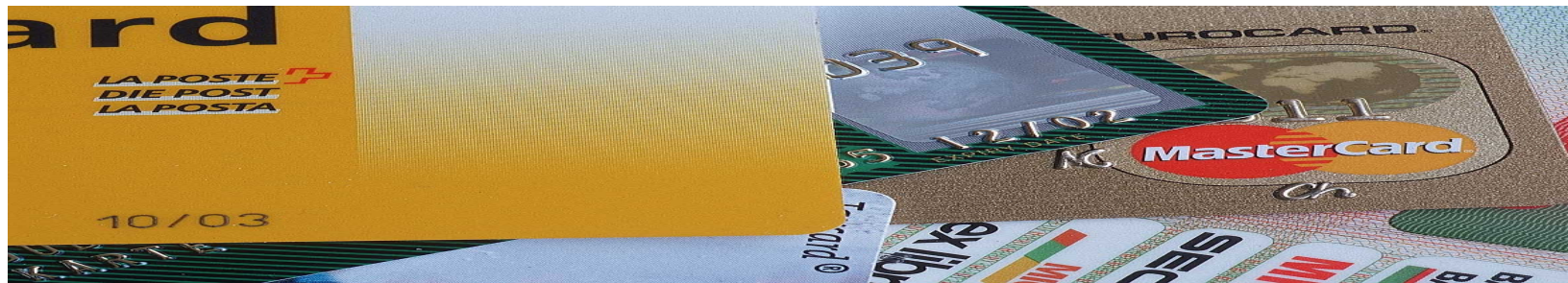
NAC (constant) + 7 alphabets+SE  
(2 character)+ NNN (3 numeric)

Illustration:

NACXXXXXXXXSENNN (15  
character alphanumeric)

Hence at the time of acceptance of Central Excise and Service Tax challans, if the assessee does not have an assessee code, he should be advised to get an assessee code from the concerned commissionerate.

## COMPANIES LAW



### Companies Bill, 2008

The Union Cabinet gave its approval on August 29, 2008 for introducing the Companies Bill, 2008 in the Parliament to replace the existing Companies Act, 1956. The Bill will now be introduced in the upcoming session of Parliament in October 2008. Some of the important provisions of the Bill are as follows:

- Removal of shares with the differential voting rights;
- Introduction of one person company (OPC);
- Maximum no. of partners in partnership and banking firms to be increased to 100
- Every Company to have at least one resident director;
- 33% of the total directors to be independent, providing attributes of independence;
- In order to reduce the regulatory rigor of merger of small companies or holding with subsidiary a separate process is

envisaged which does not require the approval of the Tribunal.

- A single forum for approval of mergers and acquisitions and concept of deemed approval in certain cases;
- Criminal liability on insider trading by directors / key managerial personnel (KMP);
- Application of e-Governance to all processes;
- Claim of investors over dividend and security unclaimed for more than 7 years not being extinguished;
- Introduced the framework of 'Registered Valuers' for all valuations (in respect of any property, stocks, shares, debentures, securities, goodwill, or net worth of the Company or its assets) required to be done under any provisions of this Act. Valuers are registered under the Act with the Central Government.

However, the existing restriction on outward merger of Indian company into a foreign company continues.

Press Release dated September 16, 2008

### CA as Arbitrators

Accounting regulator Institute of Chartered Accountants of India (ICAI) is setting up an Expert Panel of arbitrators from within the chartered accountants to resolve commercial disputes through the alternate dispute settlement mechanism. At a time when many corporate in India are skipping arduous litigation process by resorting to means like arbitration and mediation, ICAI plans to use its wide reach within business houses to convince them to hire services of chartered accountants for out-of-court settlement of disputes. Even as alternative dispute resolution is guided by Arbitration and Conciliation Act, the law is easy to understand and does not involve the nitty-gritties of procedural law.

# FOREIGN EXCHANGE MANAGEMENT ACT

## Latest Circulars

### ECB Liberalisation

On a review of the ECB policy and to promote the development of the mining, exploration and refinery sectors in the country, it has been decided to expand the definition of Infrastructure sector for the purpose of availing of ECB. Accordingly, the Infrastructure sector would henceforth be defined as (i) power, (ii) telecommunication, (iii) railways, (iv) road including bridges, (v) sea port and airport (vi) industrial parks (vii) urban infrastructure (water supply, sanitation and sewage projects) and (viii) mining, exploration and refining.

*A.P. (DIR Series) Circular No. 20 dated October 08, 2008*

The Reserve Bank of India has permitted ECB up to USD 500 million per borrower per financial year for Rupee expenditure and / or foreign currency expenditure for permissible end-uses under the Automatic Route.

Accordingly, the requirement of minimum average maturity period of seven years for ECB more than USD 100 million for Rupee capital expenditure by the borrowers in the infrastructure sector has been dispensed with.

In order to further develop the telecom sector in the country, payment for obtaining license/permit for 3G Spectrum will be considered an eligible end-use for the purpose of ECB.

At present, ECB proceeds are required to be parked overseas until actual requirement in India and such proceeds can be invested in certain stipulated liquid assets. It has now been decided that henceforth the borrowers will be extended the flexibility to either keep these funds off-shore as above or keep it with the overseas branches / subsidiaries of Indian banks abroad or to remit these funds to India for credit to their Rupee accounts with AD Category I banks in India, pending utilisation for permissible end-uses.

However, as hitherto, the rupee funds will not be permitted to be used for investment in capital markets, real estate or for inter-corporate lending.

It has been decided to rationalize and enhance the all-in-cost ceilings as under:

Average Maturity Period	All-in-Cost ceilings over 6 Months LIBOR	
	Existing	Revised
Three years and up to five years	200 bps	300 bps
More than five years and up to seven years	350 bps	500 bps
More than seven years	450 bps	500 bps

*A.P. (DIR Series) Circular No. 26 dated October 22, 2008*

### Overseas Investment Rationalisation

In terms of Notification No.FEMA120/RB-2004 dated 7th July, 2004 [Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004] (the Notification), as amended from time to time, an Indian party which has acquired

foreign security shall receive share certificates or any other document as an evidence of investment in the foreign entity to the satisfaction of the Reserve Bank within six months, from the date of effecting remittance. The documentary evidence of investment is required to be submitted to the Regional Office concerned of Reserve Bank.

With a view to further simplifying the procedure, it has been decided that, henceforth, such share certificates or any other document as an evidence of investment in the foreign entity should not to be submitted to the Reserve Bank. The share certificates or any other document as evidence of investment where share certificates are not issued shall, henceforth, be submitted to and retained by the designated AD Category – I bank, who would be required to monitor the receipt of such documents and satisfy themselves about the bonafides of the documents so received. A certificate to this effect should be submitted by the designated AD Category – I bank to the Reserve Bank along with the APR (Part III of Form ODI).

*A. P. (DIR SERIES) CIRCULAR NO. 14, DATED 5-9-2008*

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