

RNM ALERT

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Thinking of the Bottom Line – Think of Us

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U.N. Marwah

Dear Readers,

We would like to begin by wishing all our readers a very happy 2009.

The government unveiled a second Stimulus Package in a coordinated effort with the RBI to give the economy traction through measures aimed at specific sectors including auto, realty and small and medium enterprise. The Reserve Bank of India cut its main lending rate by 1 percentage point, the fourth cut in four months, to 5.5 per cent. It also reduced the proportion of deposits that banks keep with the central bank by 50 basis points to 5 per cent – a measure that, when it comes into effect on January 17, would release Rs200bn (\$4bn) into the banking system. The government offered to recapitalise state banks with Rs200bn during the next two years. The "all-in-cost" ceiling on external commercial borrowing (ECBs) to be scrapped, under the approval route of the RBI and to facilitate access to funds for the housing sector, the "development of integrated townships" would be permitted as an eligible end-use of the ECB, under the approval route of the RBI. It also raised the cap on foreign investment in the corporate bond market. For the auto sector, accelerated depreciation of 50 percent to be provided for commercial vehicles to be purchased on or after Jan. 1, 2009 up to March 31, 2009. Exporters, too, will benefit with an extension of the duty-entitlement passbook (DEPB) scheme until Dec. 31, 2009 and enhanced duty drawback benefits on items like knitted fabrics, bicycles, farm hand tools and some categories of yarn.

The entire Satyam Computers scam has led to the scanner being put on the role of not only the independent directors, bankers and the level of oversight by the regulatory agencies but also of the Auditors. While many would agree that any audit process has an inherent weakness in so far as it is not a 100% check and that the auditor has the responsibility to only draw on opinion based upon reasonable audit procedures carried out, obtaining in the process sufficient and appropriate audit evidence, other would say that a systemic failure of such magnitude of fudging financial statements over a considerable period of time would have the connivance of several persons in the Accounts & Finance Department leaving an audit trail or loose string which should have led to doubts and been red flagged during the course of audits. What must be emphasized here is that inspite of various checks and balances put in place as a result of the applicability of the Sarbanese-Oxley Act on Satyam, which was introduced post- Enron to strengthen internal controls, such a glaring hole in the financial statements remained undetected. To overcome the innovative tools being adopted by greedy entrepreneurs the accounting community as a whole must take steps to instill confidence in the various users of financial statements thru more rigorous disclosures and at the same time the regulator must make the various managers, independent directors more accountable so that a strong deterrent is provided.

We would also like to wish our readers the best for India's 60th Republic Day which incidentally this year coincides with the Chinese New year also. The year of the Ox would hopefully bring some recovery in the real estate and metals sectors which were beaten down during 2008.

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On behalf of the **RNM Alert** Editorial Team

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DIRECT TAX



➤ Case Law

Business Expenditure

Expenditure for technical information is not capital expense

Where the assessee-company had only acquired “access” to technical information under the agreement i.e. know-how which related to the process of

manufacture, which was not, related to any secret process or patent rights or even the right to use a trademark or trade name under the agreement, the payments, can only be categorized as one made on revenue account.- *CIT v J. K. Synthetics Ltd. [ITR NO. 139/1988 and ITR No. 202/1989]*

Survey

IT authority not allowed to enter premises of CA for Survey u/s 133A

The precondition for conducting survey U/s 133A in the premises of a Chartered Accountant, lawyer, Tax Practitioner in connection with survey of the business place of their client is that the client in course of survey must state that his books of account/documents and records are kept in the office of his Chartered Accountant /Lawyer/Tax practitioner.

Hence, survey conducted in the premises of the petitioner-Chartered Accountant u/s 133A is without authority of law. *U. K. Mahapatra & Co. v. ITO (Orissa)*

Deductions

Benefit available u/s 80IA(4) on transformation of firm into company

One of the pre-condition to availing the benefit u/s 80IA (4) available for enterprises carrying on the business of infrastructure is that an agreement is to be entered into between the enterprise and the Govt./ local authority. The revenue disallowed the claim on the ground that no such agreement existed between the Company and the government, pursuant to the conversion of the assessee firm into a Company. As per the Conversion of the partnership firm into a company limited by shares is a statutory transformation as per law, obviously the rights and liabilities of the company, and the assets, go to the company. Hence even in case of transfer, the transferee will become entitled to deduction of course with effect from the date of transfer. *CIT v Chetak Enterprises (P.) Ltd. [ITA No. 118 of 2005]*

Trading activities not eligible for deduction under section 80-IA

An industrial undertaking is established to carry out manufacturing, production or processing activities and not for carrying out trading activities, hence, trading activities are to be treated as carried by assessee company and not by the industrial undertaking. Hence, trading activities carried on by an industrial undertaking cannot be considered as eligible for deduction under section 80-IA. *Emerson Network Power India (P.) Ltd. v ACIT [ITA No. 1139 to 1140/Mum/2003]*

Capital & Revenue Receipt

Compensatory Payment

When the question arises as to whether the payment of compensation for the termination of an agency is a capital or a revenue receipt, it would have to be considered as to whether the agency was in the nature of a capital asset in the hands of the agent, or as to whether it was only part of his stock-in-trade. Generally, payments made in settlement of rights under a trading

contract are trading receipts and are assessable to revenue. But where a person who is carrying on business is prevented from doing so by external authority in exercise of a paramount power and is awarded compensation therefore, whether the receipt is a capital receipt or a revenue receipt would depend upon the question as to whether it is compensation for injury inflicted upon capital asset or on stock-in-trade.

Once a contract is entered into in ordinary course of business, any compensation received for its termination would be a revenue receipt. *Ansal Properties & Industries Ltd. v. Deputy Commissioner of Income-tax, Central Circle-20, New Delhi - [2008] 115 ITD 443 (DELHI).*

International Taxation

Applicability of transfer pricing provisions

The transfer pricing provisions are always applicable when the transactions are entered into with the associated enterprises and one holds larger voting power in the other; consequently, if there is a receipt of dividend by one enterprise from the other associated enterprise, which is

chargeable to tax in India, then the application of the transfer pricing provisions should not be ruled out - *Essar Shipping Ltd. v. DCIT [ITA NO. 4624/Mum/2006]*

AAR on taxability of a foreign company for making purchases from India through its liaison office in India

When the applicant does not earn any income in India because its activities are confined to the purchase of goods which are exported by the Indian vendors to the applicant or its nominees, no income can be attributed to the purchase operations in India by resorting to the deeming fiction under section 9(1)(1) of the Income-tax Act because the Explanation thereto excludes such attribution *Ikea Trading (Hong Kong) Ltd., In re [AAR No. 771 of 2008]*

AAR on applicable rate of tax on income derived by an NRI from his NRO account after his return to India

The income of the NRI-applicant arising from the existing NRO deposits with SBI shall be taxed

@ 20 per cent plus applicable surcharge and cess; after his return to India, the applicant can invoke the provisions of section 115H of the Income-tax Act until conversion of his NRO account into rupee account as per the extant RBI regulation/instruction; until conversion, income from NRO account shall be segregated from other income of the applicant and subjected to tax @ 20 per cent plus applicable surcharge and cess.

➤ Latest Notification/ News

Amendment of Charitable Trust definition-Implication

Section 2(15) of the Income Tax Act, 1961 which defines charitable purpose was amended by the Finance Act 2008 by introducing a Proviso which restricts the definition. A circular has now been issued to elaborate on the implications of the amendment. Charitable purpose was earlier defined as to include the following:-

- (i) Relief of the poor
- (ii) Education
- (iii) Medical relief, and
- (iv) the advancement of any other object of general public utility.

The proviso to section 2(15) states that the advancement of any other object of general public utility shall not be a charitable purpose if it involves the carrying on of :

- (a) any activity in the nature of trade, commerce or business; or
- (b) any activity of rendering any service in relation to any trade, commerce or business;

for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention of the income from such activity.

Newly inserted proviso to section 2(15) will apply only to entities whose purpose is advancement of any other object of general public utility.

Where industry or trade associations claim both to be charitable institutions as well as mutual organizations and their activities are restricted to contributions from and

participation of only their members, these **would not fall** under the purview of the proviso to section 2(15) owing to the principle of mutuality.

If assessee is engaged in any activity in the nature of trade, commerce or business or renders any service in relation to trade, commerce or business, it would not be entitled to claim that its object is charitable purpose.

So assessee, who claim that their object is charitable purpose within the meaning of Section 2(15), would be well advised to eschew any activity which is in the nature of trade, commerce or business or the rendering of any service in relation to any trade, commerce or business.- *Circular No. 11/2008, dt. 19.12.2008 issued by CBDT*



INDIRECT TAX

➤ Central Excise & Service Tax



➤ Case Laws

Time- Barred Demand

Demand is partly time-barred and the Revenue cannot invoke larger period as the facts were disclosed by the assessee in their balance-sheets and annual statements

In this matter the service tax of Rs.1,11,800/- stands confirmed against the appellant along with imposition of penalty on the ground that during the period 16.10.98 to December 2001, they have provided the technical management service to their client without payment of tax.

The Tribunal found force in the appellant's contention that the

demand of tax for the period 16.10.98 to December 2001 having been raised on 07.11.02, was barred by limitation for the major period. The income received from such services was being collected by raising invoices and the same was also being reflected in the annual balance-sheets being prepared by the appellant. As such, it cannot be held that there was any suppression or any mis-statement on the part of the appellant, with an intent to evade payment of duty. The appellant having reflected entire income in their balance-sheets, reflects upon their bonafide and not on their attempt to suppress or hide the fact from the Revenue. The Tribunal held that there is no justification for invocation for longer period of limitation. *M/s STEELCAST LTD Vs CE, BHAVNAGAR, 2009-TIOL-25-CESTAT-AHM*

Cenvat Credit Of Outdoor Caterer Is Admissible

Employment of outdoor caterer providing catering services is an input service and credit of the same is admissible

In this case the service tax paid on the outdoor catering services by the canteen located in the appellant's manufacturing

premises stands denied to them on the ground that such services cannot be held to be involved in or in relation to manufacture of their final product.

But the Tribunal found that the same issue stands decided by the Larger Bench of the Tribunal in the case of *CCE Mumbai Vs. GTC Industries Ltd. [2008 (12) STR 468 (Tri.-LB)] = (2008-TIOL-1634-CESTAT-MUM-LB)* It has been held that employment of outdoor caterer for providing catering services has to be considered as an input service relating to business and cenvat credit in respect of the same will be admissible. The Tribunal in this instant case followed the above decision. *M/s FERROMATIK MILACRON INDIA LTD Vs CCE, AHMEDABAD, 2009-TIOL-01-CESTAT-AHM*



No Service Tax on Royalty

Assessee pays royalty to non-resident company for transfer of technology. No service tax payable as settled by the Larger Bench in the case of Hindustan Zinc Ltd

The issue involved in the present appeal is levy of service tax under the category of Consulting Engineer on royalty remitted by the respondent on technology received from M/s Allied Signal Technologies, USA. The amount was remitted over a period of time ending with 2.09.02.

The Tribunal found that the lower appellate Authority has relied upon the Tribunal's order in *Navinon Ltd Vs. CCE – 2004 (172) ELT 400, (Mum CESTAT),= (2004-TIOL-710-CESTAT-MUM) Bajaj Auto Ltd Vs. CCE & C, Aurangabad – 2006 (3) STR 411 (Mum. CESTAT) = (2004-TIOL-970-CESTAT-MUM)* and other decisions to hold that service tax is not leviable under the category of consulting engineer on royalty prior to 16.12.02. Further, the Tribunal found that the decisions of the Tribunal in *Navinon Limited, Bajaj Auto Limited* and the larger bench in *Hindustan Zinc Ltd 2008-TIOL-1149-*

CESTAT-DEL-LB directly cover the issue and no service tax is payable. **COMMISSIONER OF CENTRAL EXCISE, BHOPAL Vs M/s CROMPTON GREAVES LTD, 2009-TIOL-26-CESTAT-DEL**

Wet Cleaning Is Not Subject of Service Tax

Words 'wet cleaning' not mentioned in duplicate copy of invoice. Appellants were clearly putting stamp of 'wet cleaning' on customer's copy of invoices, therefore, charge for wet cleaning cannot be added while assessing the value of dry cleaning service.



In this matter it had been alleged that the respondent was carrying out the dry cleaning services, a taxable service and also providing wet cleaning non taxable service. The adjudicating authority confirmed the demand of tax of Rs.36.901/- and

imposed penalties. Commissioner (Appeals) set aside the adjudication order. Hence the Revenue filed this appeal.

The main contention of the Appellant was that the respondent did not mention the words "wet cleaning" in duplicate copy of the bills. In this connection, the learned counsel placed the original copy of the bills, which were returned by the customer while taking delivery of the goods. On perusal of the said bills, the Tribunal found that the words 'wet cleaning' were mentioned in the bills. This shows that the appellants were clearly putting stamp of wet cleaning on customer's copy of invoices, therefore, charge for wet cleaning cannot be added while assessing the value of dry cleaning service. **COMMISSIONER OF CENTRAL EXCISE, BHOPAL Vs M/s NEW NAGPUR DRYCLEANERS**

Cenvat Credit of Outward Transportation

The service tax incurred on freight for "SUCH" transportation would be available to the manufacturer as input service credit

The issue in dispute in the instant case is the admissibility to



service tax paid for outward transportation of final products by the appellants from the place of removal to their buyers' premises as input service credit.

The Tribunal found obvious from the Circular No. 97/8/07 dated 23.8.07 of the CBEC that where the excisable goods remain the property of the manufacturer and are transported on his own risk upto the premises of the buyer where the goods are delivered, the service tax incurred on freight for such transportation would be available to the manufacturer as input service credit. In the light of the above clarification of the Board, there is no ambiguity whatsoever, that the credit taken by the appellants in the instant case, recovery of which has been

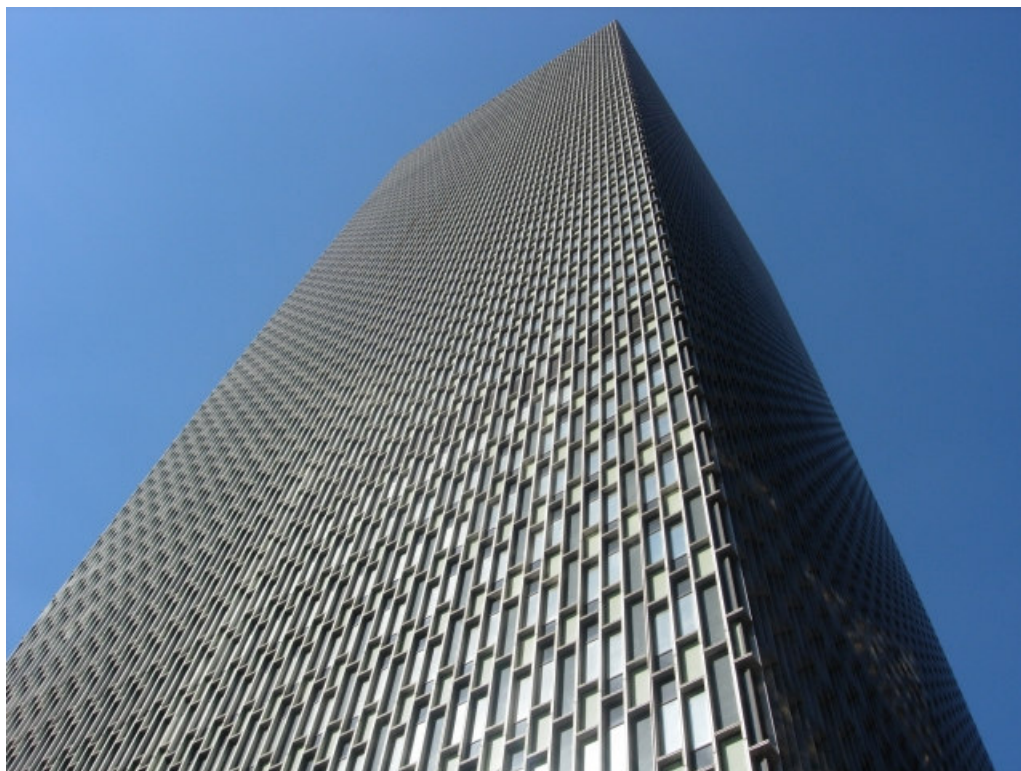
ordered in the impugned order was legitimately due to them and that the impugned order is not sustainable. In the result, the impugned order is set aside and this appeal allowed ***DATAFIELD INDIA PVT LTD Vs CCE, COIMBATORE, 2009-TIOL-33-CESTAT-MAD***

➤ ***Latest Notification***

Service Tax Exemption for GTA Service Providers

In bid to douse the agitation of Transport Agencies the Central Government of India vide ***Notification No.1/2009 – Service Tax***, dated. 5th January, 2009 has suppressed the notification

No.29/2008- Service Tax, dated the 29th June, 2008, except as things done or omitted to be done before such supercession, and, hereby exempts the taxable services namely 1. Clearing and Forwarding Agents Services, 2. Manpower Recruitment or Supply Agency Services, 3. Cargo Handling Agency Services 4. Storage or Warehouse Service, 5. Business Auxiliary Services, 6. Packing Services, 7. Business Support Services, 8. Supply of Tangible Goods specified in sub-clauses (j), (k), (zr), (zza), (zzb), (zzzf), (zzzq) and (zzzzj) of clause (105) of section 65 of the Finance Act respectively, provided by any person to a goods transport agency for use by the said goods transport agency to provide any service, to a customer in relation to transport of goods by road, from the whole of the service tax leviable thereon under section 66 of the Finance Act subject to the **condition** that 1) the invoice issued by such service provider, providing services should mention the name and address of the goods transport agency and also 2) the name and date of the consignment note, by whatever name called, issued in his behalf.



COMPANY LAW

➤ Latest News

The Companies Bill, 2008

On 23rd October, 2008 in the Lok Sabha a new Companies Bill was introduced to replace the existing Companies Act, 1956. The new bill contains only 426 sections as compared to 658 sections in existing statute. The major highlights of new proposed

Companies Bill are given as under:

1) **New Formats of Business**

Introduction of new formats of business *namely* One Person Company (OPC), Small companies, and large size partnership firms with simple compliance requirements in order to encourage entrepreneurship.

2) **De-Linking of Procedural matters with Substantive Laws**

De-linking of procedural aspect with substantive laws. The procedural matters being

left to be prescribed by Central Government in form of rules.

3) **E-Governance**

Greater use of E-Governance systems to make corporate process efficient and faster. e.g. maintenance of accounts & records electronically, holding board meeting through video conferencing and voting through electronic means etc.

4) **Self Regulation**

Greater emphasis on Self regulation and minimization of regulatory approval to be sought by a Company in managing its affairs. Approval of Central Government is done away with in cases like specific transactions with parties in which directors are interested, managerial remuneration in excess of prescribed limit and payment of profit related commission to non-Whole-time Directors etc. However counter checks such as greater transparency and more powers to shareholders have been introduced.

5) Corporate Governance

Introduction of the concept of Independent Directors in listed as well as unlisted public companies apart from recognition to various Committees of Board like Audit, Remuneration and a new concept of Stakeholders Relationship Committee along with categorization of the CEO, CFO and CS as Key Managerial Personnel (KMP).

6) Consolidation of Financial Statements is mandatory

Consolidation of financial statements of subsidiaries made mandatory and requirement to append subsidiary company's annual reports has been dispensed with.

7) Cash Flow Statements compulsory

Under the new bill, financial statements include cash flow statements. Now every company will have to prepare a Cash flow Statement in addition to B/s and P&L.

8) Uniform Financial Year

All companies would need to follow March 31 as the year-end and for adopting a different accounting year, the

approval of the NCLT would be necessary.

9) Auditing Standards

The scope of National Advisory Committee sought to be enlarged to cover auditing standards in addition to accounting standards.

10) Signing and approval of Financial Statements

Financial Statements can now be signed by chairman of the Board, similar to the Directors' report, if so authorized by the Board, similar to Director's Report, if so authorized by the Board. Alternatively, they shall be signed by two directors out of which one shall be Managing Director or CEO. A Single director can sign in case of OPC. The financial statements shall be approved by Board at a Board Meeting

11) Board Report content modified

In Board Report there are new additions like extracts of annual return, declaration by independent directors, committee report on director's remuneration, inter corporate loan/ guarantee/ investment particulars, related party contract particulars,

disagreement with audit committee recommendations and reasons therefore.

However there are some missing like commentary on the state of affairs of the company, industry and business discussions, dividend proposed and transfer to reserves, material changes if any, reasons for failure to comply with share buy-back.

The requirement of providing particulars of employees drawing remuneration beyond a specified monthly or annual sum & requirement with respect to conservation of energy, technology absorption and foreign exchange inflows and outflows, has been dispensed with in Directors' Report.

12) Additional coverage in Auditor's report

- Financial statements complying with both accounting and auditing standards,
- Observations and comments having adverse effect on company functioning,
- Qualification, reservation and adverse remark on

accounts maintenance and connected matters and

- Compliance with internal financial controls and directions issued by board in case of listed companies

13) Auditor's Services

Auditors, now in normal course extend a range of services like taxation and advisory matters over and above regular audit to a company with the approval of Board or Audit committee. However, a **negative list of services** also introduced by new bill.

14) Single Window clearance for Merger & Acquisitions

Creation of single forum for approval of mergers and acquisitions alongside shorter merger process of holding and wholly owned subsidiaries or between two small companies or between holding company and its Wholly owned subsidiary. The bill also seeks to facilitates cross border mergers i.e. merger of Indian company into foreign company and vice-versa.

15) Registered Valuers

Appointment and recognition of registered valuers for fair valuations for various purposes. This has been done with an eye on IFRS where valuation experts are required.

16) Establishment of the National Company Law Tribunal

Establishment of the National Company Law Tribunal with appeal to National Company Law Appellate Tribunal to deal with rehabilitation of sick companies, winding up and liquidation etc. apart from establishment of **Special Courts** to deal with offences under the Act.

17) Faster Incorporation Process

Application of E-governance initiative of MCA across all processes of compliance and speedy incorporation process with detailed declarations and disclosures of promoters etc. at the time of incorporation itself. Provisions relating to minimum paid up capital of private & public companies are proposed to be omitted. Requirement of statutory meeting & statutory report has omitted & certificate of commencement of business is no longer required.

18) Removal of names of companies by the ROC

The bill prescribes conditions upon which an application to



ROC for removal of name of a company from the register of companies could be made.

19) Harsher penal provisions

Stringent penalties have also been proposed for defaulting offence of the companies. Harsher penal provisions with longer imprisonment and higher quantum of fines being proposed by bill.

20) Vacation, resignation and disqualification

It is proposed that office of a director would become vacant if he remains absent for all meetings of the Board for a period of 12 months, even where the leave of absence has been obtained.

A director may resign his office by given a notice in writing. The Company has no discretion in accepting resignation of a director.

A director shall not be eligible for appointment if he has been convicted of an offence relating to related party transactions at any time during the last 5 years.

Limited Liability Partnership Act, 2008

The LLP Act, 2008 has been passed after much delay by the Parliament and has come into force from January 07, 2009. The salient features of the LLP Act, 2008 are as under:-

- i) Benefits of limited liability but would allow its members the flexibility of organizing their internal structure as a partnership based on an agreement.
- ii) The Act does not restrict the benefit of LLP structure to certain classes of professionals only and would be available for use by any enterprise which fulfills the requirements of the Act,
- iii) While the LLP will be a separate legal entity, liable to the full extent of its assets, the liability of the partners would be limited to their agreed contribution in the LLP. Further, no partner would be liable on account of the independent or unauthorized actions of other partners, thus allowing individual partners to be shielded from joint liability created by another partner's wrongful business decisions or misconduct.

- iv) LLP shall be a body corporate and a legal entity separate from its partners. It will have perpetual succession. Indian Partnership Act, 1932 shall not be applicable to LLPs and there shall not be any upper limit on number of partners in an LLP unlike an ordinary partnership firm where the maximum number of partners cannot exceed 20.
- v) An LLP shall be under obligation to maintain annual accounts reflecting true and fair view of its state of affairs and statement of Accounts and Solvency. This statement and Annual Return is required to be filed with Registrar of Companies. LLP having Turnover beyond prescribed limits would have to get their accounts audited by Chartered Accountants.
- vi) Provisions have been made in the Bill for corporate actions like mergers, amalgamations etc and the Ministry of Corporate Affairs, GOI would be the administering ministry.
- vii) While enabling provisions in respect of winding up and dissolutions of LLPs have been made in the Act.

FOREIGN EXCHANGE MANAGEMENT ACT

➤ Latest Circular



External Commercial Borrowing Liberalisation

The RBI has decided to modify some aspects of the ECB policy as indicated below :

i) As per extant ECB policy, the all-in-cost ceilings for ECBs, in respect of both Automatic as well as Approval routes were as under:

Average Maturity Period	All-in-Cost ceilings over 6 Months LIBOR*
Three years and up to five years	300 bps
More than five years	500 bps

It has now been decided to dispense with the requirement of all-in-cost ceilings on ECB until June 30, 2009. Accordingly, eligible borrowers, proposing to avail of ECB beyond the permissible all-in-cost ceilings specified above may approach the Reserve Bank under the Approval Route. This relaxation in all-in-cost ceiling will be reviewed in June 2009.

ii) The Reserve Bank had earlier not permitted the 'development of integrated township' as a permissible end-use of ECB. It has now been decided to permit corporates, engaged in the development of integrated township, as defined in Press Note 3 (2002 Series) dated January 04, 2002, issued by

DIPP, Ministry of Commerce & Industry, Government of India to avail of ECB under the Approval Route. The minimum area to be developed should be 100 acres for which norms and standards are to be followed as per local bye-laws / rules. In the absence of such bye-laws/rules, a minimum of two thousand dwelling units for about ten thousand population will need to be developed.

iii) As per the extant ECB policy, Non-Banking Financial Companies (NBFCs) are permitted to avail of ECB for a minimum average maturity period of five years to finance import of infrastructure equipments for leasing to infrastructure projects in India. It has now been decided to allow NBFCs, which are exclusively involved in financing of the infrastructure sector, to avail of ECBs from multilateral / regional financial institutions and Government owned development financial institutions for on-lending to the borrowers in the infrastructure sector under the Approval route.

iv) The corporates in the Hotels, Hospitals and Software sectors are now permitted to avail of ECB up to USD 100 million per financial year, under the Automatic Route, for foreign currency and / or Rupee capital expenditure for permissible end-use. The proceeds of the ECBs should not be used for acquisition of land.

[A.P. (DIR Series) Circular No. 46 dated 02.01.2009]

Buyback/Prepayment of Foreign Currency Convertible Bonds (FCCBs)

The RBI has decided to relax the procedures for buyback/ prepayment of FCCBs by Indian Companies through Approval Route and Automatic Route.

The following terms and conditions are to be complied with in this regard:-

(1) Automatic Route –

a) the buyback value of the FCCB shall be at a minimum discount of 15 per cent on the book value

b) the funds used for the buyback shall be out of existing foreign currency funds held either in

India or abroad and / or out of fresh ECB raised in conformity with the current ECB norms; and
c) where the fresh ECB is co-terminus with the outstanding maturity of the original FCCB and is for less than three years, the all-in-cost ceiling should not exceed 6 months Libor plus 200 bps, as applicable to short term borrowings.

(2) Approval Route-

a) The buyback value of the FCCB shall be at minimum discount of 25 per cent on the book value;

b) The funds used for the buyback shall be out of internal accruals, to be evidenced by Statutory Auditor and designated AD Category – I bank's certificate; and

c) The total amount of buyback shall not exceed USD 50 million of the redemption value, per company.

Other than the above mentioned conditions some other general conditions also needed to be complied with.

[A.P. (DIR Series) Circular No. 39 dated 08.12.2008]





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