FINANCE BULLETIN

Knowledge multiplies through sharing

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INDEX

QUOTES FOR THE MONTH

. Management is managing other people's lives

- **H. IGOR ANSORR**

2. Lines of communication should be as short and direct as possible

- **CHESTER BARNARD**

Disclaimer:

2010-11 vide notification No.R-11018/1/2010-0-SS/II dated 17th March,2011

- **Monthly PF statement**: Faced with high defaults in provident fund contributions by employers, the Employees Provident Fund Organization , or EPFO, has decided to give monthly updates of contributions instead of an annual statement vide dated 29th March,2011.
- **1% interest may be taxed on PF Interest:** Central Board of Direct Taxes, ,had notified a tax-free interest ceiling of 8.5% on PF savings for 2010-11.The Board has not yet revised this ceiling to 9.5%,failing which the 1% extra income would be fully taxable vide date 30th March,2011

RESERVE BANK OF INDIA

- **Voting rights in banks- bill given government nod:** The government gave green signal to the Banking Laws Amendment Bill that seeks to align the voting rights in banks in proportion with the equity holding. Presently, the voting rights of a shareholder are limited to 1 per cent in state-owned banks and 10 per cent in private banks irrespective of the equity holding. The Bill seeks to liberalize norms for raising capital through preference shares, according to government officials vide The Times of India dated 4th March,2011
- **RBI panel to study revamp of NBFC Rules**: The central bank has formed a 15-member committee under former deputy governor Usha Thorat to address issues and complexities relating to finance companies and suggest changes to the legislative framework. vide The Economic Times dated 8th March,2011
- **Annual return on Foreign liabilities & Assets:** RBI introduced Annual return on Foreign Liabilities and Assets reporting by Indian Companies and discontinuation of the Part B of form FC-GPR vide RBI/2010-11/427 A.P. (DIR Series) Circular No. 45 dated 15th March,2011
- **Interest rate futures:** RBI has decided to introduce Interest Rate Futures of 91-Day Treasury Bills issued by Government of India vide RBI/2010-11/433 BD.BPD.PCB).Cir.No. 40/13.01.000/2010-11 dated 17th March, 2011.
- **Standing Liquidity facility for banks and PDs**::RBI notified that the Standing Liquidity Facilities provided to banks (export credit refinance) and Primary Dealers (PDs) (collateralised liquidity support) from the Reserve Bank would be available at the revised repo rate, *i.e.,* at 6.75 per cent with effect from March 17, 2011.
- **Relaxation in Bank licensing policy:** RRBs eligible to open branches in Tier 3 to Tier 6 centres may do so without prior approval of RBI and approach the Regional Office of RBI for, post-facto automatic, issue of the licenses RPCD.CO.RRB.BC No. 56/ 03.05.90-A/2010-11 dated 29th March,2011
- **NFBCs cannot be partners in Partnership firms:** RBI has decided to prohibit NBFCs from contributing capital to any partnership firm or to be partners in partnership firms. In cases of existing partnerships, NBFCs may seek early retirement from the partnership firms vide RBI/2010-11/453DNBS.PD/CC.NO. 14/03.02.002/2010-11 datedm30th March,2011.
- **Consolidated FDI Policy:** RBI issued master circular consolidating all the earlier circulars on FDI policy which are effective from 1.4.201. Further, as per the revision made in the FDI policy, promoters can no longer backforeing allys India reentry vide TOI dated 1st April.2011.

ACCOUNTS & AUDIT

- **CAS 13 mandatory wef 1.4.2011**: The Council of ICWAI has approved the release of Cost Accounting Standard -13 (CAS-13) on Cost of Service Cost Center. This Standard shall be mandatory with effect from 1st April 2011 for being applied for the preparation and certification of General Purpose Cost Accounting Statements vide www.icwai.org
- **AICPA and CMA JV would offer MA designation**: The AICPA and the London-based Chartered Institute of Management Accountants (CIMA) are proposing a joint venture to develop and promote a new global

management accounting designation and advance the U.S. CPA credential as a worldwide standard of professional excellence in accounting.

- **MOU between Department of Posts and ICWAI- MARF**: Ms. Radhika Doraiswamy, Secretary- Department of Posts and Ms. Annie Moraes, Joint Secretary- Department of Posts and other officials of the Department, discussied the salient features of the MOU, with Mr.A.N.Raman, CCM and President SAFA and other officials of the Institute vide www.icwai.org.
- **MOU between ICSI and United Stock Exchange of India:** The ICSI entered into an MOU with United Stock Exchange of India Ltd. on March 07, 2011 for conducting joint programs and certifications etc. United Stock Exchange of India Limited (USE) is India's newest stock exchange and has been promoted by 21 Indian public sector banks, private banks and corporate houses. Membership of United Stock Exchange of India is available free of cost to all ICSI Members for the first three months from the signing of this MOU.
- **ICWAI signs MOU with NIA Australia:** National Institute of Accountants, Melbourne, Australia and The Institute of Cost and Works Accountants of India (ICWAI), have signed a Memorandum of Understanding (MoU) on 9th March, 2011.. It will develop the profession of accounting for the benefit of their members and students in the pursuit of excellence in education and training and continuing professional development in accounting including cost and management accountancy vide www.icwai.org
- **ICAI committee to help corporate to identify CSR projects:** Accounting regulator ICAI has formed an advisory committee of chartered accountants to help corporate identify social sector projects on which they would be required to spend 2% of their net profit vide Business Standard dated 8th March, 2011.
- **eLearing course on IFRS.**: President-ICWAI signed MOU with C&K Management Ltd. for Certificate Course of IFRS through e-learning modules for members, students and others vide www.icwai.org
- **Revised Schedule VI of Companies Act 1956**: Ministry of Corporate Affairs of GOI notified on 3rd March,2011 revised Schedule VI to the companies Act 1956 which deals with the form of Balance sheet, P&L Account and disclosures to be made there under and the said notification shall come into force for the Balance Sheet and Profit and Loss Account to be prepared for the financial year commencing on or after 1.4.2011 for details refer to http:.//www.mca.gov.in
- **Exposure draft on Depreciated replacement cost for valuation**: ICWAI is an Institutional Member of the INTERNATIONAL VALUATION STANDARDS COUNCIL (IVSC). The IVSC has released the exposure draft on The Depreciated Replacement Cost Method of Valuation vide www.icwai.org
- **Cobranded credit card**: MoU has been signed by ICWAI with Punjab National Bank for Co-Branded Credit Card (ICWAI - PNB) for the Members of the Institute at Kolkata Office of ICWAI`vide icwai.org
- **SEC adopts 2011 US GAAP Taxonomy**: Recent developments on the public company financial reporting, auditing and regulatory front include the March 1 announcement by the Financial Accounting Foundation that the U.S. Securities and Exchange Commission's has adopted the 2011 U.S. GAAP Taxonomy developed by the FAF. The GAAP taxonomy refers to the interactive tags used for purposes of submitting certain required financial information to the SEC (or for other purposes) as interactive data by using extensible Business Reporting Language or XBRL. vide AccountingWeb.com dated 4th March,2011.
- **Exposure draft on DCF method for valuation of property:** ICWAI is an Institutional Member of the INTERNATIONAL VALUATION STANDARDS COUNCIL (IVSC). The IVSC has released the exposure draft on The Discounted Cash Flow (DCF) Method – Real Property and Business Valuations vide www.icwai.prg.
- **Reconciliation of ATM transactions time limit:** RBI now prescribed a time limit of one month for submitting a quarterly review duly approved by Boards of banks. The review report should reach RBI within a month of the completion of each quarter through email in the specified format vide RBI/2010-11/440 DPSS.CO. OSD No.

2161/06.07.002/2010-2011 dated 22nd March,2011.

- **Revaluation Reserve**: Recently, the Mumbai bench of the Income-tax Appellate Tribunal in the case of ITO v. Galaxy Saws P. Ltd. (ITA No.3747/M/2010) (Judgment Date: 11 March 2011, Assessment Year: 2005-06) held that revaluation reserve not routed through Profit & Loss Account but directly transferred to balance sheet could not be added to net profit while computing the book profit for the purpose of Minimum Alternate Tax (MAT)
- . **Balance sheet in XBRL from 1st July,2011**: The government said it is planning to make it mandatory for corporates to file balance sheets with it in data form, using XBRL extensible business reporting language) technology, from next fiscal. The first set of companies will be required to file their balance sheets for the financial year 2010-11 using XBRL
- **Book on Cost Accounting Standards**: ICWAI has published a book on CAS 1 to 13 which are mandatory for compliance and the the standards can be downloaded from www.icwai.org

INCOME TAX

- **COD approval no longer required**: PSUs would no longer be required to obtain COD approval in case of any appeals on litigation with the Central Government vide the decision of the Supreme court in the case of Electronics Corporation of India Ltd. V. UOI & Ors (Civil appeal no. 1883 of 2011 arising out of SLP 2538 of 2009) (SC).
- **TP documentation**: Transfer pricing Alert on a recent ruling of the Delhi Tribunal where in it has held that transfer pricing documentation is required to be maintained contemporaneously on an annual basis vide Airtech Pvt.Ltd Vs DCIT ITA No.3591/(DEL)/2010.
- **Internal benchmarking analysis**: Internal comparison of profit margin earned from international transactions with AEs and profit earned from transaction with unrelated parties is justified under TNMM even when the segmental profitability so computed by allocation are rational and scientific vide Delhi ITAT decision Birla soft (India) Ltd. Vs DCIT ITA NO.3839/DB/2010.
- **Govt. raises tax litigation bar for officials:** Litigation in the revenue department is set to fall by about 25 per cent, as the finance ministry has raised the monetary limits for tax officials to approach courts for dispute resolution. The new limits for filing appeals by the Income Tax department before the Income Tax Appellate Tribunal (ITAT), high courts and the Supreme Court have been revised to Rs 3 lakh, Rs 10 lakh and Rs 25 lakh, respectively, from Rs 2 lakh, Rs 4 lakh and Rs 10 lakh. The limits for the Central Board of Excise and Customs (CBEC) have been set at Rs 1 lakh for the Customs, Excise and Service Tax Appellate Tribunal (CESTAT), Rs 2 lakh for high courts and Rs 5 lakh for the Supreme Court vide Business Standard dated 8th March, 2011.
- **Web site development expenditure and defaulted advances paid:** Web site development expenditure is revenue expenditure and the amount advanced if becomes unrecoverable it would be allowed as “bad debt” as per the decision of the Bombay High court in the case of DCIT Vs M/s Edelweiss Capital Ltd vide ITA No. I T A No: 3971/Mum/2009
- **Transfer of undertaking against slump exchange:** The Mumbai Tribunal holds that Transfer of undertaking against issue of bonds / shares is not a “slump sale” and not taxable as capital gains vide the decision given in the case of Bharat Bijlee Limited v. ACIT (ITA NO.6410/MUM/2008) (Judgment Date: 11 March 2011,
- **Transfer pricing TNMM: Delhi Tribunal Ruling:** Interest income is to be excluded from operating revenue for computing the net profit from operating activity unless such interest income has nexus with the international transaction. The option of +/- 5 % is available only to the taxpayer when he is computing the ALP and not when the AO/TPO is computing the ALP vide Marubeni India Pvt. Ltd. v ACIT (I.T.A. No.919/Del/2009)- ITAT Delhi.

- **Prior year data for ALP:** Prior year data cannot be relied for justification of ALP of the year for which dispute has arisen. For arriving at the net margin of operating income, only operating income and operating expenses for the relevant business activity of the assessee are to be taken into consideration. vide ITAT Bangalore in the case of TNT India Pvt Ltd Vs ACIT ITA No. 1442(BNG)/08
- **Direct stay application to ITAT:** Direct stay Application filed before the Tribunal is maintainable and it is not the requirement of the law that assessee should necessarily approach the CIT before approaching the Tribunal for grant of stay vide decision of the ITAT Pune in the case of Honeywell Automation India Ltd vs DCIT Stay Application No. 08/PN/2011(Arising out of ITA No.18/PN/2011
- **Deduction or collection of tax at lower rate:** Government had revised Form 13 relating to Application by a person for a certificate under sections 197 and/or 206C(9) of the Income-tax Act, 1961, for no *deduction/collection of tax or *deduction/collection of tax at a lower rate vide NOTIFICATION NO. 16/2011 [F.NO. 133/11/2011-SO(TDL)/S.O. NO. 647(E) dated 29th March, 2011
- **Transfer pricing profit level indicators:** Mumbai ITAT held that segmental accounts should be considered for the computation of price level indicator(PLI) vide the decision given in the case of Associated Enterprises ITA No.7098/Mum/2010
- **Foreign taxes paid get credit:** Mumbai Tribunal has held that payment of State income taxes in the USA and Canada are eligible for foreign tax credit under section 91 of the Income-tax Act, 1961 vide TATA sons Vs DCIT ITA4976/04
- **Not slump sale**: A recent ruling of the Mumbai Tribunal has held that transfer of undertaking in exchange for issue of preference shares and bonds not a 'slump sale' and not taxable as capital gains vide decision given in the case of Bharat Bijlee Ltd Vs ACIT(Mumbai) ITA No.6410/2008.

CENTRAL EXCISE

- **Branded garment Branded garments are to get cenvat:** In a relief to the branded garments industry, which has been slapped a 10% excise levy in the budget, the government has decided that the sector will be eligible for taxes paid on inputs. The finance ministry will issue a clarification soon. "They can avail cenvat credit", said a finance ministry official indicating that the government is in no mood to relent on the tax vide The Economic Times dated 9th Mar 2011.
- **IT Return, Refund status**: In Centralized Processing Centre (CPC) Bangalore, to assist taxpayers a call center with 20 agents provides customer service and support for resolution of taxpayers queries. This service is available on working days and call 1800-425-2229 (Toll free) and phone No. 080-43456700
- **Stay of recovery extension not required**: There is no requirement to pass any order extending the stay of recovery already ordered and the stay of recovery shall remain valid till the final disposal of the appeal vide Commissioner of C. Ex., Mangalore versus Indian Oil Corporation
- **Cenvat credit wrongly taken and reversed**: Liability of interest where CENVAT credit was wrongly taken but reversed by assessee before utilization commences from the date of wrong utilization and not from the date of wrong availment of credit vide CBEC Circular No. 942/03/2011-CX dated 14th March,2011.
- **Job worker-Cenvat credit**: Job worker entitled to Cenvat credit under CBEC notification No.214/86 vide the decision of the Punjab &Haryana High court in the case of M/s Happy Forgings Ltd Vs Commissioner of Central Excise (2011)-TIOL-34-HC-P&H-CX.
- **Reversal of Cenvat Credit on sale of Capital Goods:** When capital goods are sold, the entire CENVAT credit taken on receipt of such capital goods need not be reversed and the excise duty is payable only on the value arrived at after providing the depreciation in terms of the provision to Rule 3(5) of CENVAT Credit Rules, 2004.
- **Cost of production not as per audit report:** Valuation under Rule 8 of valuation Rules for cost of production should be as per CAS-4 and not cost of production as per Audit Report under

companies act 1956 vide CESTAT Bangalore decision in the case of Precot Mills ltd Vs CCE Calicut (2011) –TIOL-CESTAT.

- **Exemption from filing ER4,ER5 and ER6**:CBEC issued clarifications regarding exemption from filing ER4,ER5 and ER6 vide F.NO.209/03/11-CX-6], DATED 15-2-2011
- **COD approval:** In view of the recent decision of the Supreme court on the subject, there is no requirement of obtaining approval of the Committee on Disputes for pursuing litigations as was being done. Field formations may now pursue their appeals in the respective Tribunals/ Courts without obtaining clearance from the Committee on Disputes. vide CBEC instructions F.No.390/R/262/09-JC- dated 24th March,2011.

SERVICE TAX

- **Service tax on environmental services:** Cenvat credit of service tax paid for Consultancy Services for environmental evaluation is allowable vide CABOT SANMAR LTD. Versus COMMISSIONER OFCENTRALEXCISE, SALEM
- **Service tax on health care and excise duty on Readymade garments:** Finance Minister Pranab Mukhejree announced on 22nd March,2011 the withdrawal of service tax on healthcare in the Lok Shabha. He also declared that the abatement of tax on readymade garments to go up from 40 to 55 per cent.
- **Refund:** Export Refund cannot be denied for procedural irregularities which has to be dealt with separately vide CESTAT Ahmadabad decision in the case of CCE Ahmedabad-II Vs Dishman Pharmaceuticals & Chemicals Ltd (2010)-TIOL-1639
- **CENVAT:** ISO Certification, insurance for laptop computer, annual maintenance contract for computer/printer are input services and credit is admissible vide CESTAT Delhi in the case of Commissioner of Service Tax Vs Hospitality Consultant India (P) Ltd (2011)-TIOL-41

CUSTOMS

- **Project imports –BG:** In view of the reduction in import duty and the inordinate delay associated with finalization of the said project imports, it has been decided to do away with the practice of taking cash security. Henceforth, subject to a maximum of Rs. 1 Crore, only a bank guarantee, equivalent to 2% of the CIF value of goods sought to be imported, would be taken at the time of registration of the Project Contract under Project Import Regulations, 1986 vide CBEC circular No.12/2011-Customs dated 1st March,2011.
- **Settlement commission can deal duty drawback claims:** Duty drawback or claim for duty drawback is nothing but a claim for refund of and Settlement Commission had jurisdiction to deal with the question relating to the recovery of drawback erroneously paid by the Revenue vide UNION OF INDIA Versus CUS. & C. EX. SETTLEMENT COMMISSION, MUMBAI.
- **Penalty on confiscated goods:** In case of confiscation of goods the penalty of amount will be equal to evaded duty under Section 114A vide UNIVERSAL ABRASIVES & MINERALS (P) LTD. Versus COMMR. OF CUS., CHENNAI
- **Duty on packaged software:** Government notified that all packaged/ canned software imported in shrink wrapped packages, will attract Excise duty/CVD on such retail sale price declared being the combined value of the software and the licenses (right to use). Such software will, however, be exempt from payment of service tax under the category ITSS (as provided in Notification No. 53/2010-ST dated 21st December 2010). On the other hand, such packaged/ canned software, on which affixation of retail sale price is not required under the relevant provisions for the packaged commodities, and the assessment is based therefore, on the value determined under section 4 of the central excise act, 1944, the excise duty/ CVD will be charged only on the value, excluding the value representing consideration for transfer of right to use such packaged/ canned software. However, service tax under the category ITSS would be levied on such portion subsequently vide CBEC Circular No. 15 /2011-Customs, New Delhi the 18th March 2011

- **No drawback on exports to Nepal**: No drawback on the goods exported to Nepal which were imported into India from third countries vide CBEC Circular No. 14 / 2011-Customs dated 15th March,2011.

SALES TAX / GST

- **GST bill introduced in the Loksabha:** The government introduced on 16th March, 2011 a Constitution Amendment Bill in the Lok Sabha with a view to create a common market for goods and services and replace the existing indirect taxation regime with a uniform Goods and Services Tax (GST) system.

COMPANY LAW

- **Companies Bill 2009**: The Companies Bill introduced in Parliament in 2009 has been received by the Parliamentary Standing committee. The proposed Bill will be introduced in Lok Sabha in current session, Finance Minister Mukherjee said, while unveiling his Budget proposals for 2011-12 vide The Economic Times dated 28th Feb,2011.
- **Simplified procedure for DIN allotment:** Government has issued circular prescribing simplified procedure of allotting DIN on line, on the date of application vide GOI Ministry of Corporate Affairs General Circular No.5/2011 dated 4th March,2011
- **Filing with ROC in XBRL:** The ministry of corporate affairs (MCA) has decided to make it mandatory for companies to file their returns with the Registrar of Companies using XBRL (eXtensible Business Reporting Language) Wef 1st July,2011, Publicly traded companies and companies above a certain size, in terms of net worth, will be asked to file their returns using XBRL in the first phase vide www.livemint.com
- **Commission to non-whole time Directors of the company:** Companies shall not require the approval of the CG for payment of remuneration by way of commission to non-whole time Directors in addition to sitting fees if the total commission paid to all the non-whole time directors does not exceed 1% of the Net Profit if the company has as whole time director or 3% of the Net profits if the company has a MD or whoel time director(s) vide the Ministry of Corporate Affaoirs General Circular No.4/2011 dated 4th March,2011.
- **Competition commission to approve big M&A:** The Competition Commission of India will now be able to vet and approve big mergers and acquisitions in the country, with the government notifying the key provisions of the Competition Act.. The provisions, Sections 5 and 6, would grant the competition watchdog the powers to scrutinize amalgamation proposals of companies with a threshold of 1,500 crore. The CCI would take a maximum of 180 days to vet mergers. Corporate affairs secretary DK Mittal, however, clarified that this would not cover mergers in the banking sector vide The Economic Times dated 5th March,2011.
- **Women to get reserved seat on Board**: All companies will have to reserve at least one seat in a board of directors for women candidates if the board comprises five or more independent directors. vide Business Standard dated 8th March, 2011.
- **Process of incorporation simplified:** The Process of incorporation of Companies (Form-1) and establishment of principal place of business in India by Foreign Companies (Form-44) – Procedure simplified. Only Form-1 shall be approved by the ROC Office. Form 18 and 32 shall be processed by the system online. Average time taken for incorporation of company should be reduced to one (1) day only vide Ministry of Corporate Affairs GOI General Circular No.6/2011 dated 8th March, 2011.
- **Payment of MCA fees through electronic mode**: In the interest of stakeholders, with a view to improving service delivery time, Ministry of Corporate Affairs, GOI has decided to accept payments of value upto Rs. 50,000, for MCA 21 services, only in electronic mode w.e.f 27th March, 2011. For the payments of value above Rs. 50,000, stakeholders would have the option to either make the payment in electronic mode,

- **Delay in filing FIR:** Delay in filing first information report (FIR) of an accident is no ground to deny compensation under the Motor Vehicles Act, the Supreme Court stated in the case, Ravi vs Badrinarayan vde Business Standard dated 7th March,2011.
- **Insurers may get to trade in futures and options:** Insurance Regulatory and Development Authority, or IIRDA, plans to permit insurers to trade in equity futures and options contracts , which will help the companies protect returns from equity-linked products against sharp stock market declines vide The Economic Times dated 8th March,2011
- **No service tax on cashless insurance policies:** There will be no service tax on cashless health insurance transactions, reports CNBC-TV18 quoting sources from Central Board of Excise and Customs (CBEC).

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