DNS Consulting Pvt. Ltd

The Articled....

U'r Altitude is determined by u'r Attitude

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The Budget this year has been hailed as a "Santa Claus Budget" - a budget that would please the people. To even the most ignorant it would be obvious that this was an election year budget. From the expected giant debt waiver for agricultural loans to be increased allocation for National Rural Employment Guarantee Programme to the rather generous increase in the minimum tax slab for individuals, the FM has tried to please all kinds of vote constituencies. He is perhaps also hoping that strong economic growth would keep revenue buoyancy stable to help him pay for all that he has dished out.

Also announced are absolute increases for programmes for women, children, and minorities; the FM's goodies bag kept producing gifts for everyone. Even though he stressed in the initial part of his speech on delivery systems, apart from the pilot smart card scheme for food grain distribution and a proposal to initiate the setting up of a monitoring mechanism for government schemes, he failed to announce any substantial steps to improve delivery systems. The Economic Survey also noted in several places the importance of delivery mechanisms.

The markets slipped even as the FM read out his speech and announced the giant waiver of farm loans. A recovery from the bottom ensued when he announced excise cuts on buses, small cars and two wheelers. But, the markets slipped once more as chose to keep dividend distribution tax constant and more crucially raised the rate on short term capital gains. This is something the FM's alliance partners the Left Front will love to see.

Editorial

Trouble arrives in measures, and we stack it up real high. Until we're convinced, we have no reason to try. If you feel defeated, you're absolutely wrong, for if you follow your dreams, you could never lose for long. Ignore the minor set backs that pile up and trouble you, or you will build a mountain out of the stones hurled at you. The future holds great promise, your destiny unknown, but god is always helping, and you are never alone. Soar bravely toward your goal let nothing darken the way. You can change your tomorrow, if you seek your dreams today.

Inside.......

VALUATION OF SHARES

--Tanuja, Deepthi, Priya, Vinay J & Shashank.

Whenever we speak about any kind of investments, we would have come across the word *Valuation* like corporate valuation, Business Valuation or share valuation. What is share valuation after all? It is a process & a set of procedures used to determine the economic value of an owner's interest in business. It helps the investor to weigh his profit or loss and sets a background to his investment. We would have also heard of the value of reliance shares popping up and gradually reducing. This is possible by valuing of shares in different currencies along with other factors like demand, supply & other economic factors.

In simple Words, a **share or stock** is a document issued by a company, which entitles its holder to be one of the owners of the company. A share is issued by a company or can be purchased from the stock market.

A person holding share of a particular company holds the ownership of that part of the company. The ownership of a person in a particular company depends upon the percentage of holdings in that company.

How many kinds of valuation are there? On what basis is it valued? Let's have a look.

Methods of valuation of Equity Shares are:

(a) Net Asset Basis Method or Asset Backing Method:

This is the most commonly used method of valuation. The Net Asset Value is calculated by dividing the Net Worth of the company (All Assets – Liabilities) by it total number of outstanding shares. NAV = Net Asset available to Equity Shareholders/ No. of Equity Shares. The value arrived at under this approach is based on the audited financial statements of the Company.

While calculating for Net Asset available to Equity Shareholders, following points are to be kept in mind:

- Tangible Assets should be taken at their current costs.
- Intangible Assets like goodwill, patents, and know-how should also be taken at their current costs. If purchased goodwill appears in the books of account it should be eliminated and new valuation should be taken into consideration.
- The fictitious assets appearing under this head should not be taken into consideration.
- The balance sheet values are adjusted for any contingent liabilities that are likely to materialize.

(b) Yield Method: This method of valuation based on rate of dividend or rate of earning or capitalization of earning.

Valuation based on rate of dividend :

This method of valuation is suitable for small Block of shares because small shareholders are usually interested in dividends. The value of shares according to this method is determined as:
Value of shares= (Possible Dividend per share*Paid up value of shares) / Normal Dividend per share.

Dividend per share = Total dividend declared / No. of shares.
Value per share = Dividend per share/ Average Dividend per share.
Value of business = Value per share * Total No. of shares.
Total value of business = Total Dividend / Average dividend per share.

Example:

From the following information we can determine the value of an equity share:

(a) The paid up share capital of a company consists of 1000, 15% Preference Shares of Rs. 100 each & 20,000 Equity Shares of Rs.10 each

(b) The average annual profit after tax amounted to Rs.75,000. It is considered necessary to transfer Rs. 10,000 to General Reserve before declaring any dividend.

(c) The normal return expected by the investors of Equity shares from the type of business carried on by the company is 10%.

Solution:

Particulars	Amount (Rs.)
> Average PAT	75,000
> Less: Preference Dividend	(15,000)
> Earning Available to Equity Shareholders	60,000
> Less: Transfer to Reserve	(10,000)
> Amount available for dividend	50,000

Valuation of Small Block of Shares:

Possible Dividend per share
= Rs.50,000 / 20,000 = Rs.2.50
Normal Dividend per share = Rs.10*10% = Re.1
Value of one Equity Share ={2.5/1}*10 = Rs.25

Valuation for Large Block of shares:

Possible Earnings per share (EPS)
= Rs. 60,000/20,000=Rs.3
Normal Earnings per share = Rs.10*10% = Re.1
Value of one Equity share -{3/1}*10 = Rs.30

Valuation based on rate of earning:

This method of valuation is particularly suitable in case of big investors because they are more interested in company's earnings rather than what the company distributes as dividend. The value of share is determined as:
Value of Shares = (Possible Earning per share* Paid up value of Shares) / Normal Earning per share.

Valuation based on capitalization of earning:

Under this procedure, earning available to Equity Share holders are capitalized on the basis of normal rate of return and capitalized value of earning is divided by the number of Equity shares to arrive at the value of an equity share.

Value of Shares = (Capitalized Earning per share* Paid up value of Shares) / Normal Earning per share.

(c) Fair value Method :

Some authorities are of view that neither the intrinsic value nor the yield value is correct. The proper method of valuation is to take a mean between the Intrinsic and Yield values. This is referred to as the fair value. The formula is: Fair value= (Intrinsic Value+ Yield Value)/2

(d) Earning based model :

The market value of equity is the product of two components.

i. Earnings per Share = Net Income - Dividend on preferred Stock/Average Outstanding Shares
ii. Price Earning Ratio = Market Value Per Share/Earnings Per Share

According to this approach the value of prospective acquisition is considered to be function of the impact of the merger on the EPS.

The analysis could focus on whether the acquisition will have positive impact on the EPS after merger or it will have the effect of diluting it.

The future EPS will affect the firms value which is the function of PE Ratio and EPS.

In a take over bid, the target company can be an unlisted company, and the deal inevitably involves negotiations. A third party valuer could be involved. PE Ratios will also be thought of. The general economy and financial conditions, type of industries and prospects for the target company will needless be kept in view.

(e) Dividend based model

Quite often, the amount of dividend paid is taken as the base for deriving the value of a share. The value of the firm is thereafter is computed from this base. There can be alternate assumptions as to dividend policies of an entity, namely,

i. No growth in dividends
ii. Constant growth in dividends
iii. Abnormal growth for a short period followed by no growth, or
iv. Abnormal followed by constant growth

The familiar constant-dividend growth valuation is given by following equation.
Current Share Price (S_0) = $D_0(1+g)/(K_e-g)$ = $D_1/(K_e-g)$.
D_0 = Current Dividend at the beginning of the year
G = Growth Rate
D_1 = Dividend received at the end of the year
K_e = Cost of Equity
Where the growth rate is Zero, K_e-g will remain at only K_e. Hence, if the dividends were to be constant, the current price is computed as:
Current share price (S_0) = D_1/ (K_e)

(f) Capital Asset Pricing Model based valuation

It is a useful method, when we need to estimate a price, for initial listing of shares in the stock exchange. This method is also used in estimating a market price of an unlisted firm, when acquisition of target companies' shares for control is contemplated.

Judicial Pronouncements in Valuation of shares in different situations:

- Where the shares in a public limited company are quoted on the stock exchange & there are dealings in them, the price prevailing on the valuation date is value of shares.
- Where the shares are of a public limited company which are not quoted on a stock exchange or of a private limited company, then value is determined by reference to the dividends, if any, reflecting the profit earning capacity on a reasonable commercial basis. But, where they do not, then the amount of yield on that basis will determine the value of shares. In other words, the profits which the company has been making & should be marking will ordinarily determine the value

- In the case of a private limited company also where the expenses are incurred out of all proportion to the commercial venture, they will be added back to the profits of the company in computing the yield. In such companies the restriction on share transfers will also be taken into consideration as earlier indicated in arriving at a valuation.

- Where the dividend yield & earning method break down by reason of company's inability to earn profits & declare dividends, if the set back is temporary, then it is perhaps possible to take the estimate of the value of the shares before set back & discount it by a percentage corresponding to the proportionate fall in the price of quoted shares of companies which have suffered similar reverses.

- Where the company is ripe for winding up, then the break-up value method determines what would be realized by that process.

In setting out the above principles, the pronouncements have not tried to lay down any hard and fast rule because ultimately the facts and circumstances of each case, the nature of the business, the prospects of profitability and such other considerations will have to be taken into account as will be applicable to the facts of each case.

Non-Banking Financial Company (NBFC)

Introduction:-

A Non-Banking Financial Company (NBFC) is a company registered under the Companies Act, 1956 and is engaged in the business of loans and advances, acquisition of shares/stock/bonds/debentures/securities issued by Government or local authority or other securities of like marketable nature, leasing, hire-purchase, insurance business, chit business but does not include any enterprise whose principal business is that of agriculture activity, industrial activity, sale/purchase/construction of immovable property. A non-banking institution which is a company and which has its main business of receiving deposits under any scheme or arrangement or any other manner, or lending in any manner is also a non-banking financial company (Residuary non-banking company).

"Residuary Non-Banking Company is a class of NBFC which is a company and has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner and not being Investment, Asset Financing, Loan Company"

Significant of the NBFC:-

NBFCs are forming an important sector because despite being into the high financial growth area, this sector has not been captured much in the market capitalization. This sector is giving a tough competition to most of the banks, particularly in the rural segment and non-metro segment and the growth they are doing is phenomenal, but despite this they have been deprived of much needed attention.

The most pertinent and differentiating factors are the service and cost which is a one sided where they cannot compete with banks. But they are competing very clearly on the service aspects by coming out with new products which offer larger flexibility to the client. Some of them have a strong 'last mile' approach like regional structures, and as far as assets and liabilities are concerned they are primarily into all segments which banks are operating into except cheque issuance and clearing settlements.

Functions of NBFCs

Functions are similar to that of banks; however there are a few differences:

(i) A NBFC cannot accept demand deposits; "Demand deposit are deposits that are to be returned or paid back on demand". Theses deposits are not time bound, which mature or are to be repaid on completion of a stipulated period. For e.g. Savings bank account, current accounts held with nationalized banks.

(ii) It is not a part of the payment and settlement system and as such cannot issue cheque to its customers. NBFCs unlike the nationalized banks are not privileged to issue instruments under the Negotiable Instrument Act, for execution of transacting in funds.

Deposit insurance facility of DICGC (Deposit Insurance. and Credit Guarantee Corporation)

(iii) is not available for NBFC depositors unlike in case of banks.

Registration of NBFCs:

In terms of Section 45-IA of the RBI Act, 1934, it is mandatory that every NBFC should be registered with RBI to commence or carry on any business of non-banking financial institution as defined in clause (a) of Section 45 I of the RBI Act, 1934.

However, to prevent dual regulation, certain category of NBFCs which are regulated by other regulators are exempted from the requirement of registration with RBI viz. Venture Capital Fund/Merchant Banking companies/Stock broking companies registered with SEBI, Insurance Company holding a valid Certificate of Registration issued by IRDA, Nidhi companies as notified under Section 620A of the Companies Act, 1956, Chit companies as defined in clause (b) of Section 2 of the Chit Funds Act, 1982 or Housing Finance Companies regulated by National Housing Bank.

Classification of the NBFC:-

With effect from December 6, 2006 the above NBFCs registered with RBI have been reclassified as

a) Asset Finance Company (AFC)
b) Investment Company (IC)
c) Loan Company (LC)

A company incorporated under the Companies Act, 1956 and desirous of commencing business of non-banking financial institution as defined under Section 45 I(a) of the RBI Act, 1934 should have a minimum net owned fund of Rs 25 lakh (raised to Rs 200 lakh w.e.f April 21, 1999). The company is required to submit its application for registration in the prescribed format along with necessary documents for Bank's consideration. The Bank issues Certificate of Registration after satisfying itself that the conditions as enumerated in Section 45-IA of the RBI Act, 1934 are satisfied.

However there are certain sectors that are exempted from registration such as Housing Finance Companies, Merchant Banking Companies, Stock Exchanges, Companies engaged in the business of stock-broking/sub-broking, Venture Capital Fund Companies, Nidhi Companies, Insurance companies and Chit Fund Companies are NBFCs but they have been exempted from the requirement of registration under Section nnnnnnnf the RBI Act, 1934 subject to certain conditions.

"Owned Fund' means aggregate of the paid-up equity capital and free reserves as disclosed in the latest balance sheet of the company after deducting there from accumulated balance of loss, deferred revenue expenditure and other intangible assets"

Acceptance of Deposits:

All NBFCs are not entitled to accept public deposits. Only those NBFCs holding a valid Certificate of Registration with authorization to accept Public Deposits can accept/hold public deposits. The NBFCs accepting public deposits should have minimum stipulated Net Owned Fund and comply with the Directions issued by the Bank.

i) The NBFCs are allowed to accept/renew public deposits for a minimum period of 12 months and maximum period of 60 months. They cannot accept deposits repayable on demand.

ii) NBFCs cannot offer interest rates higher than the ceiling rate prescribed by RBI from time to time. The present ceiling is 11 per cent per annum. The interest may be paid or compounded at rests not shorter than monthly rests.

iii) NBFCs cannot offer gifts/incentives or any other additional benefit to the depositors.

iv) NBFCs (except certain AFCs) should have minimum investment grade credit rating.

v) The deposits with NBFCs are not insured.

vi) The repayment of deposits by NBFCs is not guaranteed by RBI.

vii) There are certain mandatory disclosures about the company in the Application Form issued by the company soliciting deposits.

"Deposit' is defined under Section 45 I(bb) of the RBI Act, 1934. 'Deposit' includes and shall be deemed always to have included any receipt of money by way of deposit or loan or in any other form but does not include:

- amount raised by way of share capital, or contributed as capital by partners of a firm;
- amount received from scheduled bank, co-operative bank, a banking company, State Financial Corporation, IDBI or any other institution specified by RBI;
- amount received in ordinary course of business by way of security deposit, dealership deposit, earnest money, advance against orders for goods, properties or services;
- amount received by a registered money lender other than a body corporate;
- amount received by way of subscriptions in respect of a 'Chit'.

Paragraph 2(1)(xii) of the Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998 defines a ' public deposit' as a 'deposit' as defined under Section 45 I(bb) of the RBI Act, 1934 and further excludes the following:

- amount received from the Central/State Government or any other source where repayment is guaranteed by Central/State Government or any amount received from local authority or foreign government or any foreign citizen/authority/person;
- any amount received from financial institutions;
- any amount received from other company as inter-corporate deposit;
- amount received by way of subscriptions to shares, stock, bonds or debentures pending allotment or by way of calls in advance if such amount is not repayable to the members under the articles of association of the company;
- amount received from shareholders by private company;
- amount received from directors or relative of the director of a NBFC;
- amount raised by issue of bonds or debentures secured by mortgage of any immovable property or other asset of the company subject to conditions;
- the amount brought in by the promoters by way of unsecured loan;
- amount received from a mutual fund;
- any amount received as hybrid debt or subordinated debt;
- any amount received by issuance of Commercial Paper.

Conclusion:-

The role of NBFCs has become increasingly important from both the macro economic perspective and the structure of the Indian financial system. Over a period of time, one has to accept; that it is only those which are big enough and serious about being in the finance business will and must grow. Scamsters must get exemplary punishment. To survive and constantly grow, NBFCs have to focus on their core strengths while improving on weaknesses. They have to constantly search for new products and services in order to remain competitive. The coming years will be testing ground for the NBFCs and only those who will face the challenge and prove themselves will survive in the long run.

--Abhishek, Amarnath, Pavithra, Sourabh

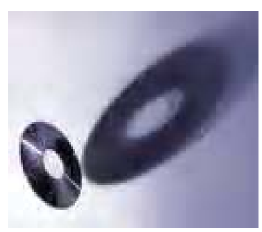
Hard on Software ???

The Indian Information Technology Sector is growing in leaps & bounds. The industry is enjoying several tax exemptions. This encourages the industry to generate more revenue and contribute to the Nation's Gross Domestic Product.

Software can be categorized as packaged software & customized software.

1. Packaged Software is ready made software which is available readily in the market. Eg: Tally 9
2. Customised Software is tailor made software, customized to the needs of the purchaser / end user. Eg: Billing software for garment manufacturer with special features.

Packaged software is treated as goods and is excisable, again it attracts State VAT. With respect to Customized software, there are litigations as to the applicability of VAT or Service Tax.



The dispute whether Software is goods or service is resolved in the case of Tata Consultancy Service Vs. State of Andhra Pradesh. It is decided in this case that the test to ascertain whether a property is "goods" for the purposes of sales tax is not whether the property is tangible or intangible or incorporeal.

The test is whether the concerned item is capable of abstraction, consumption and use and whether it can be transmitted, transferred, delivered, stored, possessed, etc. This judgement make it clear that Software is goods and liable to VAT.

The Finance Bill 2008-09 has proposed the levy of Service tax on Information Technology Software by making the following amendments:

1. Business auxiliary service [Sec 65(19)]: The service in relation to information technology was specifically excluded from the definition of 'business auxiliary service'.

The 2008 bill has proposed to **omit** the above exclusions.

1. Technical Testing & Analysis service [Sec 65(106) and Technical Inspection & Certification Service [Sec 65(108)] did not have specific levy for services in relation to information technology.

The 2008 bill has proposed to **include** testing or analysis of IT software and Inspection, examination and certification of IT software under the respective heads above.

The Information Technology software as laid down under Service Tax means any representation of instructions, data, sound or image including source code and object code, recorded in a machine readable form, and capable of being manipulated or providing interactivity to a user by means of a computer or an data processing machine or any other device or equipment.

The definition of taxable Information Technology Software Services given under Service tax might cause unwanted dispute. Taxable service as defined under section 65(105) zzzze in relation to information technology software service reads as service "to any person, by any person in relation to information technology software for use in the course, or furtherance, of business or commerce, including :-

(i) **Development** of information technology software,

(ii) Study, analysis, **design and programming** of information technology software,

(iii) Adaptation, **upgradation, enhancement**, implementation and other similar services related to information technology software,

(iv) Providing advice, consultancy and assistance on matters related to information technology software, including conducting feasibility studies on implementation of a system, specifications for a database design, guidance and assistance during the start-up phase of a new system, specifications to secure a database, advice on proprietary information technology software,

(v) **Acquiring** the right to use information technology software for commercial exploitation including right to reproduce, distribute and sell information technology software and right to use software components for the creation of and inclusion in other information technology software products,

(vi) **Acquiring** the right to use information technology software supplied electronically.

The Big Question:

The definition of taxable service includes terms which by itself cover all activities of Software industry. The question arises to what extent there will be liability of VAT and Service tax?

1. The areas covered in clause (iv) are the only areas where it can be said there is a complete service element involved.
2. Development, design and programming of Software unlike manufacture don't have tangible inputs involved. The programs are written by software developers. In this light, it is difficult to bifurcate the material and labour element involved in software to be taxable under VAT and Service tax respectively. Again adaptation, upgradation and enhancement cannot be said is purely service or purely goods, but when the upgraded or enhanced software is sold it attracts VAT and not service tax.
3. Further the definition includes the phrase "Acquiring" the right to use IT software and its products. The term acquiring means purchase of software and the same will be taxed under VAT and not Service Tax. This ambiguity has to be resolved; if not, there are chances of disputes and appearance of cases like the TCS before the courts.

Moving on to the effect of levy of Service tax on the Costing of users and providers of Software service, we the authors of the article are of the opinion that the levy is beneficial to those who can avail the CENVAT credit and drawback to those who cannot avail the CENVAT credit.

Pros:

1. Service Providers who are already registered under Service tax and are paying Service tax on output service can get the Credit of the Service tax paid on Software purchased.
2. The Software Service providers who are providing Packaged software, Customised software or both can set-off the excise duty and service tax payable against the CENVAT credit of input services. There might be a upward or downward variation from the Service tax paid before this amendment.
3. Customized Software exporters have added advantage. In case the service provided fulfills the conditions laid down under the head Export of Service they will be eligible to get refund/rebate of CENVAT credit paid on input services which was not available earlier because the service was not under the purview of Service tax.

Cons:

In case of individuals or businesses not registered under Service Tax, the cost of software will be a burden.

At the first instance it appears as though there is an *additional burden on Software* developers and on the end-users. But after a thorough analysis in the background of CENVAT credit, there seems to be a minute effect on the customers and service providers and an encouragement to Software exporters.

-- Bharath, Monica, Sumana, Supriya

Make Earth Hour Happen In Your Town

On 31 March 2007, more than 2 million Sydney businesses and households turned off their lights for one hour - Earth Hour - sending a powerful national and global message that it's possible to take action on global warming.

At 8pm on 29 March 2008, **Earth Hour** goes Global, with cities and towns around the world taking stand on the greatest threat our planet has ever faced, and millions of people uniting to turn the tide on Global Warming.

If you want to turn out the lights for Earth Hour in your town or city on 29 March 2008, this will help you get started !!!

1) Building your Team

A good team is one of the biggest success factors for making Earth Hour happen around the world. Put together a small team of committed people and organisations to help plan how you can turn out the lights for one hour in your area.

Members of your Earth Hour Team could include your friends or schoolmates, members of your family or your neighbourhood, the local mayor or business leader, or your local school principal. Pull together a team of people and organisations willing to put the time and effort into making Earth Hour happen and you'll be ready to get started.

2) Spread the Word about Earth Hour

To inspire yourself and those you speak to about Earth Hour, check out www.earthhour.org to watch the video of the first Earth Hour in Sydney in 2007. This video will go a long way to inspiring you and those you speak to, to get involved in Earth Hour and to help take a stand against global warming.

Think about how you could spread the word about Earth Hour in your area, how can you encourage the most people and businesses to turn their lights of for one hour at 8pm on Saturday 29 March 2008? Thinking small can be big thinking !!!!

We've created a website to help you spread the word about Earth Hour. Register at www.earthhour.org and recruit your friends to the Earth Hour cause. Getting your friends and neighbourhood involved is the easiest way to be a part of Earth Hour and help make a difference to our planet.

3) Who in your town uses lots of Power?

First, stop the city. The city is one of the largest users of power in your area. Write to your mayor or present the Earth Hour idea at your local council. If you can get the city involved in turning off their non-essential lighting for Earth Hour (in Sydney, we left our street lights on for safety), your town can make a huge difference.

Office buildings and big retail stores also use a lot of power.

Write to the businesses and stores in your area and ask them to darken their buildings, neon signs, stores and restaurants for one hour for Earth Hour.

Ask your favourite restaurant to have a candle-lit dinner hour (using beeswax candles of course) and feature fresh "cold" dishes in the menu. Write to your local newspaper or television channel and tell them what you're doing - try and get some news coverage of what your town wants to do for Earth Hour and the planet…think big!!!

4) Be creative!

As well as asking as many people and businesses as possible to turn off their lights in your city or town at 8pm on 29 March 2008, think creatively about how to bring your friends and family together for the night.

Organise a "block party" in your neighbourhood with "in the dark" games and activities, organise a movie or music night at someone's house, look up at the stars, use the hour to talk about what you can do every day to save energy. Think about the different ways to have fun with Earth Hour.

5) What to do everyday ???

Turning off your lights for one hour at 8pm on 29 March 2008 is the first part of getting involved in Earth Hour. Making a difference to the future of our planet by making energy savings every day is the second part.

When spreading the Earth Hour message, don't forget to encourage your friends, family and workmates to turn off unused lights and appliances every day of the year.

6) Make It Happen

Every town and city is unique and can bring its own special touch, identity and passion of its communities to create its own Earth Hour on 29 March 2008. But making Earth Hour happen is up to you!

Whatever you can organise to help turn out the lights on 29 March - whether is a backyard barbeque or asking your local mayor to turn off the city's non essential lighting - will be a success.

You can make Earth Hour happen if you work together.

7) Other questions you might have !

If you're thinking about Earth Hour in your town or city at 8pm on 29 March, you'll probably have some other questions about how we did it in Sydney in 2007.

Bhoomi Pooja – Sri Sai Vaishnavi

DNS has proved its excellence in various fields opted till date. With the perception of dynamic growth, it has initiated with new project "Sri Sai Vaishnavi" a residential apartment. With this project DNS has stepped into the real estate bandwagon .It has taken its first step towards the project by organizing 'Bhoomi Pooja' on 08th Day of February 2008 at Uttarahalli Main Road.

The whole DNS family conveyed their best wishes being present on this occasion and made this event a grand success.

Section 54F – An Avenue for Tax Planning

Mr.Lokhandwala has just sold his big plot of land, cashing in on the real estate boom. He is sitting on a huge chunk of cash & the tax liability on long term capital gains is his worst nightmare. Being aware that he will have to shed a considerable portion of the amount received in discharging the long term capital gains tax, he is exploring avenues for tax planning. He is more inclined towards further investment in real estate but, the capital asset transferred in this situation is not a residential house property & hence Section 54 will not come to his rescue. So, will his nightmare turn into reality? Is he running short on alternatives? If the answers are in the affirmative then, enter Section 54F.

Section 54F possesses the possible remedy to his situation & opens up an avenue for tax planning. This section throws an exemption to an assesse having long term gains from the transfer of a capital asset other than a residential house property on investment in a residential house property. The modus operandi of this provision is as follows:-

- The exemption under this section is available to an individual or an HUF only.
- The asset transferred should be a long term capital asset not being a residential house property.
- The assesse should purchase a residential house property within 1 year before or 2 years after the date of transfer or construct a residential house property within a period of 3 years from the date of transfer.
- The quantum of exemption:
    - If the amount invested is equal to or more than the net consideration then, the whole of the capital gains is exempted.
    - If the amount invested is less than the net consideration then the exemption will be computed in the ratio of Capital Gains to Net Consideration

The net consideration is the difference between the full value of consideration & the expenses incurred wholly & exclusively in connection of transfer. The assessee can invest in a residential house in the mode prescribed above & avail an exemption under this section There may be situations where the assessee has not been able to utilize the whole amount set aside by him for the said purpose, before the filing of return of income. In such cases the assessee can take shelter under section sub section (4) of this section which deals with 'Capital Gains Account Scheme'. Under this scheme, an assessee can deposit the gains in a special bank account under the said scheme before furnishing the return of income under Section 139 pending its utilization. He can submit the proof of such deposit along with the return & claim the exemption.

However this section comes with a catch, the assessee can avail the exemption subject to certain conditions.

- The assessee should not own more than one residential house as on the date of transfer apart from the new house,
- The assessee should not purchase any residential house other than the new house within two years from the date of transfer of the original asset,
- He should not construct any residential house other than the new house within a period of three years from the date of transfer of the original asset,
- The assessee should not transfer the new house within a period of three years from the date of its purchase or construction
- The income from the new residential house should be chargeable under the head Income from House Property.

If any one of the above mentioned conditions are violated then, the capital gains exempted under this section will be withdrawn. The amount of exemption granted earlier will be deemed to be the income of the previous year in which the condition is violated & will be sought to tax.

The complexity involved in the operation of this section & the conditions attached to it have made it a fertile ground for litigation. Time & again assesses have got into a tussle with the Tax Department regarding the viability of this section. Umpteen number of cases have sprung up since the introduction of this provision in the Act. It would be imperative to take a note of some of the judgments which have thrown light over the darker portions of this sections:-

ITO vs. Rasiklal N Satra [2006] 98 ITD 335 (Mum)

The assessee in question had declared capital gains of certain amount on sale of shares & claimed exemption under Section 54F by investing the same in the purchase of a residential flat at Vashi. The Assessing Officer [AO] noticed that the assessee was also a co-owner of a house in Sion. The AO took the view that the assessee was already the owner of house in Sion & hence not entitled for Sectioon 54F benefit.

The Tribunal held that where the property is owned by more than one person it can not be said that any one of them is the owner of the property &

in such case no individual person can sell the property. Joint ownership is different from absolute ownership. The legislature has amended section 32 by using the expression ‘owned wholly or partly’ whereas no such amendment has been to this section. Section 54F continues to be governed by the word ‘own’ & therefore it would include only a residential house which is fully owned by the assessee & hence the assessee can not be denied the exemption.

CIT vs. Ajitsingh Khajanchi [2008] 297 ITR 95 (MP)

In this case the issue before the MP High Court ws whether the benefit of Section 54F can be allowed even if the transfer is not evidenced by a registered deed. In this case the assessee had sold a plot of land & claimed exemption under this section in respect of purchase of residential flat. On assessment the AO denied the claim of the assessee observing that title was not vested in the asssessee because the flat was not registered in his name. On appeal, the Commissioner Appeals allowed the order of the assessee. The order of the commissioner was upheld by the Tribunal & it ruled that there was an effective transfer in the favour of the assessee the same having been actually possessed by him. Therefore , merely on account of absence of registered sale deed the assessee was not disentitled to Section 54F benefit. The revenue filed an appeal in the High Court . The High Court upheld the order of the Tribunal & said that in order to claim exemption under this section it is not necessary that the new house should be registered in the name of the assessee.

DCIT vs Uday S Kotak 278 ITR AT 171 (Mum)

The assessee sold shares and earned long-term capital gains of Rs 5,87,48,102 during the assessment year (AY) 1995-96. He invested the sale consideration for acquisition of a residential house, comprising ground plus two floors. He purchased half of the undivided share of the second floor on `as is where is' basis from his brother, who owned the legal title, for Rs 6 lakh.

After purchase, the assessee paid Rs 1.60 crore and Rs 2.85 crore to the tenants on the ground and first floors, respectively, in lieu of the tenancy rights owned by them. He claimed exemption under Section 54F in respect of the purchase consideration of Rs 6 lakh and for the amounts paid to the erstwhile tenants against the said long-term capital gain.

The assessee's claim was that the payment made to the tenants was purchase price for the residential house and, therefore, it qualified for exemption under Section 54F. The assessing officer (AO) did not accept this claim. According to him, the claims were to be restricted only to the Rs 6 lakh and the payments made to the tenants were only after the assessee became the legal owner of the house, which could not be said to be acquisition or improvement cost and the tenancy right was a separate asset in itself.

Accordingly, he allowed the assessee's claim under Section 54F only to the extent of Rs 6 lakh. The Commissioner (Appeals) held that the payments made to the tenants were also cost of acquisition of residential house and qualified for exemption under Section 54F. The Department precipitated the issue to the Tribunal.

Tribunal decision

On the payments made to vacate the tenants, aggregating Rs 4.45 crore, the Tribunal reasoned that "the terms `cost of acquisition' and `cost of improvement' were not mentioned in Section 54F; therefore, Section 54F could not confer the benefit sought for by the assessee. Even by a liberal interpretation, the benefit sought for by the assessee could not be conferred upon him.

Admittedly, the legal title vested in the brother of the assessee who sold his half share in the residential house to the assessee on `as is where is' basis.

"The erstwhile tenants of the residential house did not have ownership rights in the residential house. Thus, any payment made to them after the completion of sale did not amount to purchase money paid for `purchase' of residential house. Such payment may be cost of acquisition within the meaning of Section 48, which was relevant only for computing capital gain." The Tribunal accordingly allowed the Department's appeal.

CIT vs. v Pradeep Kumar [2006] 153 Taxman 138 (Mad)

In this case the assesses instead of constructing a new house, had carried out some construction work in the ground & the first floor & claimed an exemption under section 54F. The High Court ruled that mere construction by way of an extension of an existing house would not mean constructing a residential house as contemplated by Section 54F. Mere extension of an existing building would not entitle the assessee to the benefit of this section since it does not amount to construction a new residential house.

Section 54F clears out the block caused by Section 54, which requires a residential house to be transferred in order to claim exemption on account of investment in a new residential house. Since in 54F the asset transferred can be any long term asset (other than house property) like land, jewellery etc it proves to be a boon for the assesse & opens up an avenue for tax planning. However there are still grey areas involved in the section which have made it a repetitive ground for appeals. Its time for the law makers to take a note of the wrinkles present in the section & iron them out.

-- Soumitra, Udaya, Haris, Puneeth

Fair Practice Code

Do you know what Fair Practice Code (FPC) is ?? Those who are availing financial services from Non Banking Financial Companies (NBFC) are required to know about this before initiating transactions. FPC is a code which sets standards for fair business and corporate practices while dealing with their customers. This code has to be framed and approved by the board of directors of the NBFC and the same should be submitted to RBI for their approval. RBI issued these guidelines by issuing circular DNBS.PD/CCNo.80/3.10.042/2005-06 dated 28th September 2006.

The basic intent of Fair Practice Code is:

- Non-Discrimination of Customers;
- Uniform Treatment.

The company's board of directors and the management team shall be accountable for implementing the FPC.

KEY COMMITMENTS

The company's key commitments to borrowers shall be:

a. Act fairly and reasonably.
b. Deal quickly and sympathetically with things that go wrong.
c. Publicize the FPC, put it on the company's website and have copies available for customer on request.

Now we will discuss on various activities of NBFC where it has frame FPC & act fairly.

APPLICATION FOR LOANS

a. The loan application forms of the company shall include all the necessary information which is likely to affect the interest of the prospective borrowers.

b. The loan application form issued to the applicant in the form of booklet which contains the following:

   i. Proposal form which contains the documents to be submitteds
   ii. Agreement
   iii. Power of Attorney
   iv. Promissory Note
   v. Set of Forms
   vi. Surrender letter in case the borrower is unable to pay the installments.

c. The company shall provide to the prospective borrowers an acknowledgement for receipt of all loan applications mentioning an indicative time frame within which loan applications shall be disposed of.

LOAN APPRAISAL AND THEIR PROCESSING

a. Loan applications shall be assessed in accordance with the company's credit appraisal process.

b. The company shall conduct contact point verification through its employees or through an agency appointed by it, by contacting the customer at their residence/business telephone numbers or physically visit residence/business address mentioned on the loan application.

c. The company shall convey in writing to the prospective borrowers:

   i. The status of the loan application, with in a specified period.

   ii. A sanction letter has to be communicated on the approval of loan.

   iii. Such sanction letter shall contain
      a. Annualized rate of interest
      b. Method of application of rate of interest
      c. Other terms and conditions

   iv. The acceptance of terms & conditions communicated by the borrower shall be preserved by the company in its records.

DISBURSEMENT OF LOANS INCLUDING CHANGES IN TERMS AND CONDITIONS

a. On the request of the customer the company shall provide the terms and conditions in respect of services provided.

b. Prior intimation to be given to the borrower in case of any amended made in regards to:

   i. Terms and conditions
   ii. Disbursement schedule,
   iii. Interest rates,
   iv. Service charges,
   v. Pre-payment charges etc

   The website shall be updated accordingly.

c. The company shall ensure that changes in interest rates and charges are effected only prospectively.

POST DISBURSEMENT SUPERVISION

a. Post disbursement supervision should be constructive and the genuine difficulties which the borrower may face, should be given due consideration.

b. Due to market fluctuations if the security given by the borrower is fall short, he may required to give additional security or due to any other reason if the loan has to be recalled or payment shall be accelerated earlier than the schedule, the same shall be communicated to customer and sufficient notice as per the agreement shall be given to him.

c. The company shall release securities, on repayment of all dues or on realization of outstanding amount of loan subject to any pending unsettled claims of the company and/or its group companies.

d. The securities may be withheld only after informing the client the full particulars about the pending claims and the conditions under which the company is entitled to retain the securities.

COLLECTION OF INSTALMENTS

a. The company shall explain to the customer the repayment process by mentioning in the sanction letter about amount, tenure and periodicity of installments.

b. Recovery of dues for non payment of loan in specified period shall be as per the law.

c. Under no circumstances, the company shall resort to any illegal means or undue harassment for recovery of the dues.

NON- INTERFERENCE IN THE AFFAIRS OF THE BORROWER

The company shall not interfere in the affairs of the borrower unless the terms and conditions of the agreement allows. However, it may interfere in the significant matters which are not disclosed by the borrower at the time of agreement.

GENERAL

a. Unless authorised by the borrower, the company shall treat all the personal information as private and confidential.

b. Other than the statutory and regulatory authorities the company shall not reveal transaction details to others.

c. In case of receipt of request for transfer of borrower account, either from the borrower or from a lender which proposes to take over the account, the consent or otherwise would be conveyed within 21days from the date of receipt of request. Such transfer would be as per transparent contractual terms in consonance with law.

GRIEVANCE REDRESSAL MECHANISM

a. The company has to make it known to its customers the place, person & mode of registering complaint/grievance.

b. If complaint is received in writing or through phone, a complaint number shall be given for future reference.

c. After examining the matter, the company shall give a response as soon as possible. The company shall also guide a customer on how to take the compliant further if the customer is not satisfied.

d. The company shall form a grievance redressal committee.

CONCLUSION

"Mere preaching a word is not enough unless it is practiced"

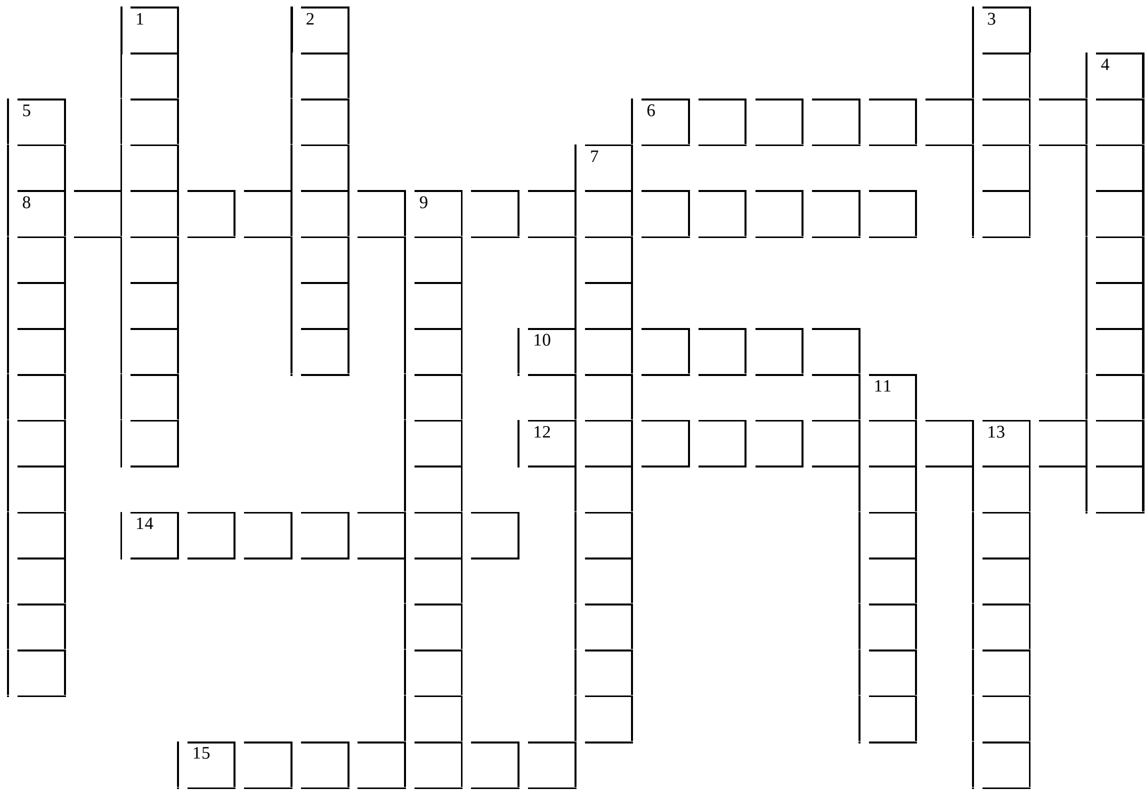
The company can give much significance to its FPC by strictly following the principles of the codes, by regulating unfair practice and checking the function of the grievances redressal mechanism at various levels of management.

IT'S PARTY TIME FOLKS!!!!!!!!!!!!!!!

After the hectic schedule of the KVAT audit DNS family had another reason to smile and rejoice as we celebrated the success of Sumana and Supriya on 1st of March for clearing their CA finals with flying colors..☺ ☺ ☺ It was a visual treat to watch every member dressed in stunning ethnic attires to keep up the party theme. The party was held at the Bangalore Turf Club. It was indeed a night to remember as we all were enthralled to the tunes of the musicians of DNS family Mr. Mukesh and Mr.Rahul and there were lots more to come as Mrs.Yashodha Sheshachar sang some beautiful melodies . Then we savored the delicacies of both North and South Indian. We hope that the DNS articles success stories continues and make DNS proud.

Keep the good work going team!!!!!!!

CROSSWORD 10



ACROSS

6 A goal.(9)
8 Delivery of a thing in token of a transfer of something.(8,8)
10 A warning or caution.(6)
12 Discontinuation of the jural relation existing between all the partners of the firm.(11)
14 Conditions presumed by law to be present in the contract.(7)
15 Identify and classify items for further study.(7)

DOWN

1 Period during which securities prices in a particular market are generally falling.(4,6)
2 A preformatted document to which the user can add text of his own.(8)
3 Monetary consideration for sale of goods.(5)
4 A group of different mutual funds, each with its own investment objective and policies that is structured as a single corporation or business trust.(6,4)
5 Disposal of public sector units in equity in the market.(13)
7 Integrating domestic economy with world economy.(13)
9 Goods which are consumed simultaneously.(13)
11 Someone who has a regular business relationship with a company.(8)
13 Payments made by a borrower to an investor for the use of his or her money.(8)

Answers: <u>Crossword-9</u>

Across: 1- Goodwill, 5- Depth, 9- Noting, 11- Surtax, 12- Misrepresentation, 14- Correlation, 15- Bailment.

Down: 2- Option, 3- Propriety, 4- Allotment, 6- Beneficiary, 7- Ombudsperson, 8- Qualifying, 10- Inventory, 13- Payroll.

-Shilpa & Pavithra

The Winners to Crossword 9 are Haris Parmar & Mitesh D Porwal
We Congratulate the winners.

THE INFORMATION HOTPAN

YELLOW METAL.... GLITTERING HIGH...

The yellow metal has gained more than 16% since the beginning of this year and looks firm enough to scale even more heights!!

Thanks to the recession or say the panic that has gripped the US stock market, gold prices are soaring towards the $1000 an Ounce mark! The major factors for such increase in the prices of the gold are the raging prices of the crude, the weakening dollar and poor economic data coming from the US markets.

In India, the waiver of the farmers' bank loans and the raising of income tax limits would surely increase the purchasing power of people. And also, with the marriage season round the corner, the demand for the yellow metal is not likely to cease. But, how many would have the courage to spend 12500 per 10 grams is the major question to be asked.

From investment point of view, with the precious metal yielding higher returns than those from the stock markets more is the reason for the prices of gold to take an upward climb.

The Comex gold futures are also showing an increasing trend and investing in it for the near future would likely yield high returns for the prospective investors.

The conclusion is that, the yellow metal will continue to maintain its glittering shine.

THE RISING STARS

Indian colts followed the footsteps of their seniors in Kuala Lampur with their dramatic 12 run victory over Proteas only few hours after India's emphatic win over Australia in the first final of tri-series.

The South Africans bowled out India for a modest total of 159 and look set for their first title. But the Indian bowlers had something else for their counterparts; Indian bowlers came out firing with great guns leaving the Proteas shattered at 17 for 3 before the rain interrupted the play.

Soon after the rain stopped, the match went underway and the Proteas were set a revised target of 116 runs in 25 overs under Duckworth Lewis Method.

The South Africans were soon reduced to 22 for 4 when left arm spinner Jadeja got Jonathan Vandiar edged past to wicket keeper in his second over. Hendricks and South African captain Parnell put on 50 for the fifth wicket before losing their way to the fired up Indians who picked up wickets at regular intervals.

Earlier Indian colts were left devastated by the South African bowlers before Srivatsava giving some much needed shield in the middle order with his brilliant knock of 46 which pushed Indian total to 159.

Democracy Wins....., Dictatorship Loses.

Pakistan President Pervez Musharraf's opponents won a big election victory in Pakistan Parliamentary polls as voters rejected his former ruling party, raising doubts about whether the US ally who has ruled since 1999 can hold on to power.

Slain Benazir Bhutto's Pakistan People Party emerged as saingle largest party with 87 of 268 national assembly seats. Pakistan Muslim League-N headed by Nawaz Sharif got 66 seats forming a hung assembly.

Musharraf backed ruling party Pakistan Muslim league-Q trailed a distance third with 38 seats in its kitty.

A few seats weren't contested, while 70 seats reserved for women and religious minorities will be divided up proportionately among parties according to the number of votes they won.

With a hung assembly the PPP and PML-N are expected to form a coalition government with PPP leading the government.

The parties however are considering their option as who is to lead from front, the PPP vice-president Makhdoom Amin Fahim, who had unsuccessfully contested the October presidential election against President Pervez Musharraf, appears to be the frontrunner.

-- Harish Parmar & Rajesh Kumar

THE BUDGET 2008-2009.

"Mr. Speaker Sir
I rise to present the Budget for 2008-09", were the words of our honorable Finance Minister Mr. P. Chidambaram when he presented the Union Budget at which the nation raised its eyebrows as to what the budget is going to unfold. "This house and the UPA Govt. have bestowed upon me the honour of presenting all five budgets on behalf of a govt. – which is a rare honour that I have the privilege to share with only one of my distinguished predecessors, Dr. Manmohan Singh". The Budget is the most important policy pronouncement which affects the economy as a whole. The budget this year came as a boon for the most.

Budget Estimates

The Budget estimates for 2008-2009 are briefly mentioned below.

- The estimate of Plan Expenditure is placed at Rs.243,386 crore. As a proportion of total expenditure, it will be 32.4 per cent.
- Non-Plan Expenditure is estimated at Rs.507,498 crore.
- The Revenue Deficit for the current year will be 1.4% and the Fiscal Deficit at 3.1%.
- The Revenue Receipts of the Central Govt are projected at Rs. 602,935 Crore and the Revenue expenditure at Rs. 658,119 Crore.

The big bunny in the magical bottomless hat which P Chidambaram fished with great flourish was the undoubtedly the waiver of agricultural loans. Amidst a huge uproar in parliament, the FM proposed to set aside **Rs. 60,000 crore** for this purpose. The waiver amounts to **4%** of total bank loans – a huge figure on all counts. Even rescheduled loans have been made eligible for the loan waiver under this scheme. The exercise of loan waiver is very conveniently supposed to end by **June 30, 2008**; Banks will be compensated out of the provision made in the general budget.

He also allowed these farmers to borrow afresh, perhaps to set the stage for the next government to waive off these loans too. PC also disregarded protests from the BJP to earmark special schemes for minorities. He announced several schemes for minority areas.

The middle class would be suitably pleased with the generous and not just a token increase in the minimum tax slabs for individuals. Perhaps, the finance minister was waiting for an election year budget to give out the big dole in one go.

He increased the minimum tax slab from Rs 1, 10,000 to Rs 1, 50,000; an increase most salaried tax payers would be thrilled with. Also, benefiting individuals is the increase in the limit for medical insurance premium by Rs 15,000 in those cases where individuals pay medical premium for their parents. He also included the Senior Citizen Scheme and the Post Office *** Scheme in the list for eligible investments under Section 80C. He, however, failed to increase the limit for investment under this section (Watch).

There were no great steps for exporters but he promised to take into account any steps required at any point of time. 'Total Financial Inclusion' also found its way into the lexicon as he pressed retired bank officers and other personnel and set minimum account creation targets for Regional Rural Banks.

On the financial and capital markets side, he extended the requirement of PAN for all financial transactions subject to minimum threshold limits. He modified the provisions relating to double taxation of dividends where parent companies give out dividends to subsidiaries. He also announced the withdrawal of the much criticized banking Cash Transaction Tax but said that this will happen only from April 2009 onwards. Why does the FM think that the utility of the tax he thinks is so useful to nail black money players will be gone after 2009???

The most critical measure undoubtedly on this count was the increase in the short term capital gains tax to 10% from 15%. Mercifully for the markets, there was no increase in the Securities Transaction Tax but he sought to get more revenue by imposing a Commodities Transaction Tax-another thing that is likely to please the Left.. He also loosened the stranglehold of the Fringe Benefit Tax a bit by taking crèche facilities, sports events for employees and guest houses for employees from the FBT list. Unfortunately for industry, there was no change in the corporate tax rate. Somebody's got to pay for the goodies.

On the sixth pay commission he chose to wait for the recommendations of the sixth pay commission.

There was not too much tinkering on the indirect taxes front. The most critical provisions related to the reduction in excise duties on buses, small cars and two wheelers. The customs duties on critical medicines has been reduced.

Climate change and Tigers also found their way into the FM's speech. The FM suggested the setting up of an institutional mechanism to address issues relating to climate change. 1411 really scared tigers got Rs 50 crore; the money will be used to arm and deploy a special tiger protection force.

On the overall government accounting, the FM said that the Revenue Deficit for the year would be at 1.4% as compared to the target of 1.5% for the year 2007-08. Similarly, the fiscal deficit for the year is expected to settle at 3.1% as compared to the budgeted target of 3.3%. For the next year, he has budgeted a Revenue Deficit of 1% and a Fiscal Deficit of 2.5%. He expects the direct taxes proposals to be revenue neutral and indirect taxes proposals to cost the government Rs 5900 crore.

It is clear that he is banking on the economy to continue to grow at a fast pace. Tax buoyancy on account of high economic growth is what will help the FM find money for all the grand give-away that he has announced in the budget today.

Major Changes in INCOME TAX

Income Tax

	Tax Slabs	Rate of Tax
New Income Tax Slabs for individual and HUF	Up to 150000	NIL
	FROM 150001 TO 300000	10%
	FROM 300001 TO 500000	20%
	500001 AND ABOVE	30%
For Women , basic exemption Limit is raised to 1,80000/-		
For S. Citizens basic exemption Limit is raised to 2,25000/-		

SECTIONWISE MAJOR CHANGES

Section	Subject	Effective Date	Changes
2 (1A)	Agriculture Income Definition	01-04-2009	Now any income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income
2(15)	Charitable purpose	01-04-2009	advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or 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
10 (26AA)	Income not included in Total Income.	01-04-1990	Relating to exemption In case of an individual, being a Sikkimese.
10 (29A)	Income not included in Total Income	01-04-2009	the Coir Board included in the list of exempted institutions
10(43)	Income not included in Total Income	01-04-2008	Any amount received by an individual as a loan, either in lump sum or in instalment, in a transaction of reverse mortgage shall not be taken as income
35 (1) (a)(iii)	Expenditure on Scientific Research	01-04-2009	Deduction of an amount equal to one and one-fourth times of any sum paid to a company to be used by it for scientific research

Congratulations:

The Spellathon Award is jointly bagged by Miss. Pavithra, Monica & Priya Ranjani. Whereas the Text Twister Award is won jointly by Miss. Pavithra & Miss. Monica. We congratulate all the winners.

40(a)(ib)	Amounts not Deductible	01-04-2009	Consequent to amendment to section 36
40A(3) 40A(3A)	Expenses not deductible	01-04-2009	Whole of the expenditure in excess of Rs. 20000/- made disallowable if paid otherwise than Draft or A/c Payee Cheque except in such cases and under such circumstances as may be prescribed
43	Cost of the capital asset	01-04-2003	Explanation Where an assessee was not required to compute his total income for the purposes of this Act
47	Tranzactions not regarded as Transfer	01-04-2008	Conversion of specified bonds into shares or debentures of any company Transfer of a capital asset in a transaction of reverse mortgage
49 (2A)	Cost with reference to certain mode of acquisition	01-04-2008	Where share or debenture of a company, became the property of the assessee in conversion, its cost shall be deemed to be that part of the cost of the original asset.
80C	Chapter VIA Deductions	01-04-2008	The following are included : An account under the Senior Citizens Savings Scheme Rules, 2004. Five year time deposit in an account under the Post Office Time Deposit Rules, 1981
80D	Deduction in respect of health insurance premia.	01-04-2009	Insurance on the health of the parent or parents of the assessee included.
80IB	Deduction for I U	01-04-2008	No deduction under this sub-section shall be allowed to an undertaking engaged in refining of mineral oil, if it begins refining on or after the 1st day of April, 2009. IU operating and maintaining a hospital included.
80ID	Deductions	01-04-2009	Business of hotel located in the specified district having a World Heritage Site included
111A	TAX Rate on STCG from equity shares	01-04-2009	Rate increased to 15% from 10%
115O	Tax on Distributed dividends	01-04-2008	Set off provided for subsidiary company
115WB	FBT	01-04-2008 01-04-2009 01-04-2009 01-04-2009	Securities offered under stock option plan or scheme included Any expenditure on or payment through non-transferable pre-paid electronic meal card included Following have been taken out of employee welfare definition: Crèche facility for the children of the employee Sponsoring a sportsman, being an employee Sports events for employees Maintenance of any accommodation in the nature of guest house taken out of FBT

115WE	Assessment of Return of FBT	01-04-2008	Manner in which return shall be processed redefined.
115WKB	Recovery of fringe benefit tax by the employer from the employee	01-04-2008	New section 115WKB inserted
139	Due Date for ITRs	01-04-2008	Due Date for ITRs by Company, Tax Audit cases changed to 30th day of September
143	Assessment	01-04-2008	Manner in which return shall be processed redefined.
147	Income Escaping Assessment	01-04-2008	New Proviso that Assessing Officer may assess or reassess such income, other than the income involving matters which are the subject matter of any appeal, reference or revision, which is chargeable to tax and has escaped assessment
151	Sanction for Issue of Notice	01-10-1998	Joint Commissioner, the Commissioner or the Chief Commissioner, as the case may be, being satisfied on the reasons recorded by the Assessing Officer about fitness of a case for the issue of notice under section 148, need not issue such notice himself
153	Time Limit for assessment	01-06-2003 01-06-2007	New sub section 4: ‘‘(4) Notwithstanding anything contained in the foregoing provisions of this section, sub-section (2) of section 153A and sub-section (1) of section 153B, the order of assessment or reassessment, relating to any assessment year, which stands revived under sub-section (2) of section 153A, shall be made within one year from the end of the month of such revival or within the period specified in this section or sub-section (1) of section 153B, whichever is later.”; in Explanation 1, after the proviso, the following proviso shall be inserted: ‘‘Provided further that where a proceeding before the Settlement Commission abates under section 245HA, the period of limitation available under this section to the Assessing Officer for making an order of assessment, reassessment or re-computation, as the case may be, shall, after the exclusion of the period under sub-section (4) of section 245HA, be not less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year; and for the purposes of determining the period of limitation under sections 149, 153B, 154, 155, 158BE and 231 and for the purposes of payment of interest under section 243 or section 244 or, as the case may be, section 244A, this proviso shall also apply accordingly.’’.

153A	Assessment I Search and Requisition	01-06-2003	New Explanation: ‘‘ If any proceeding initiated or any order of assessment or reassessment made under subsection (1) has been annulled in appeal or any other legal proceeding, then, otwithstanding anything contained in sub-section (1) or section 153, the assessment or reassessment relating to any assessment year which has abated under the second proviso to sub-section (1), shall stand revived with effect from the date of receipt of the order of such annulment by the Commissioner: Provided that such revival shall cease to have effect, if such order of annulment is set aside.”.
156	Demand	01-04-2008	The intimation under 143(1) shall be deemed to be a notice of demand for the purposes of this section.”.
191	Direct Payment	01-06-2003	if any person, including the principal officer of a company, who is required to deduct any sum in accordance with the provisions of this Act; or referred to in sub-section (1A) of section 192, being an employer does not deduct, or after so deducting fails to pay, or does not pay, the whole or any part of the tax, as required by or under this Act, and where the assessee has also failed to pay such tax directly, then, such person shall, without prejudice to any other onsequences which he may incur, be deemed to be an assessee in default within the meaning of sub-section (1) of section 201, in respect of such tax.
193	TDS on Interest on securities	01-06-2008	Following is made exempt from TDS: Any interest payable on any security issued by a company, where such security is in dematerialised form and is listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 and the rules made thereunder
194C	TDS on Contractors	01-06-2008	Contracts with any association of persons or body of individuals, whether incorporated or not covered now
195	TDS on other Sums	01-04-2008	The person referred to in sub-section (1) shall furnish the information relating to payment of any sum in such form and manner as may be prescribed by the Board.

199	Credit for Tax Deducted	01-04-2008	Whole New Section Substituted: (1) Any deduction made in accordance with the foregoing provisions of this Chapter and paid to the Central Government shall be treated as a payment of tax on behalf of the person from whose income the deduction was made, or of the owner of the security, or of the depositor or of the owner of property or of the unit-holder, or of the shareholder, as the case may be. (2) Any sum referred to in sub-section (1A) of section 192 and paid to the Central Government shall be treated as the tax paid on behalf of the person in respect of whose income such payment of tax has been made. (3) The Board may, for the purposes of giving credit in respect of tax deducted or tax paid in terms of the provisions of this Chapter, make such rules as may be necessary, including the rules for the purposes of giving credit to a person other than those referred to in sub-section (1) and sub-section (2) and also the assessment year for which such credit may be given.”.
201	Failure to Deduct or Pay	01-06-2002	New Sub Section 1: Where any person, including the principal officer of a company,— (a) who is required to deduct any sum in accordance with the provisions of this Act; or (b) referred to in sub-section (1A) of section 192, being an employer, does not deduct, or does not pay, or after so deducting fails to pay, the whole or any part of the tax, as required by or under this Act, then, such person, shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of such tax: Provided that no penalty shall be charged under section 221 from such person, unless the Assessing Officer is satisfied that such person, without good and sufficient reasons, has failed to deduct and pay such tax.”
203/206C	Certificate of TDS/TCS	01-04-2008	Requirement of TDS Certificate extended till 31.03.2010
254	Order of Appellate tribunal	01-10-2008	New third proviso: ‘‘Provided also that if such appeal is not so disposed of within the period allowed under the first proviso or the period or periods extended or allowed under the second proviso, which shall not, in any case, exceed three hundred and sixty-five days, the order of stay shall stand vacated after the expiry of such period or periods, even if the delay in disposing of the

Deadlines to be met!!

Direct Tax		Indirect Tax	
DATE	**EVENT**	**DATE**	**EVENT**
15th March	Last date for payment of Advance Tax and FBT for the quarter (January to March).	15th March & 15th April	Last date for payment & filing of monthly sales tax returns under Composition scheme.
31st March	Last date for filing of Income Tax Returns for the Assessment Year 2007 -08 without attracting penalty.	20th March & 20th April	Last date for filing of monthly returns for VAT.
		31st March	Last date for filing Monthly Excise & Service tax returns.
		25th April	Last date to file half yearly (September 2007 to March 2008) service tax returns.

General Insights

Key Fiscal Indicators

(% of GDP)

Year	Primary Deficit	Revenue Deficit	Gross Fiscal Deficit	Outstanding Liabilities*
2002-03	3.1	6.7	9.5	80.2
2003-04	2.0	5.8	8.4	81.1
2004-05	1.4	3.8	7.5	81.9
2005-06	1.0	2.8	6.7	80.7
2006-07 RE	0.9	2.1	6.4	77.5
2007-08 BE	0.2	1.3	5.5	74.8

RE: Revised Estimates.
BE: Budget Estimates.
*: Includes external liabilities at historical exchange rates.

Write to The Editor

"Continuous learning process" is the essence of our profession. To keep ourselves in pace with the emerging concepts is what we have endeavor through this "The Articled". We also intend to build this into a common knowledge-sharing platform and welcome any contributions to strengthen this common pool. Your views will help us fortify the forthcoming issues. You can mail us at newsletter@dnsconsulting.net/ soumitra@dnsconsulting.net or write to: The Editor, #10, South Park Road, Nehru Nagar, Sheshadripuram, Bangalore – 20.

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Tel/Fax: 23310591/ 233445851/ 23367564