

cases, refund shall be granted within one month, on the basis of the certification, without any pre-audit.

- (iv) Certification [referred to in point (iii) above] is to be done in respect of the relevant documents to the effect that:
- (a) the eligible services have been received by the exporter;
 - (b) the service tax payable thereon has been reimbursed; and
 - (c) such services have been used for the export.

6. Notification No. 21/2009-ST dated 07.07.2009

The services provided to or from installations, structures and vessels in the entire Continental Shelf of India and Exclusive Economic Zone of India have been brought within the ambit of the provisions relating to service tax.

7. Notification No 22/2009-ST dated 07.07.2009

The Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 (containing the rules regarding the import of services) have been amended to extend the definition of India to include installations, structures and vessels in the entire Continental Shelf of India and Exclusive Economic Zone of India.

(The complete text of the above-mentioned notifications can be downloaded from www.servicetax.gov.in)

(Matter on Indirect Taxes has been contributed by the Indirect Taxes Committee of the ICAI)

FEMA

1. RBI/2008-09/ 516 A.P. (DIR Series) Circular No. 70 dated June 30, 2009

Export of Goods and Software – Realisation and Repatriation of export Proceeds - Liberalisation

(Ref: A.P.(DIR Series) Circular No.50 dated June 5, 2008)

Period of realization & repatriation was enhanced from six months to twelve months from the date of export vide above referred circular which was subject to review after one year.

The provisions in regard to period of realisation and repatriation to India by a unit situated in Special Economic Zone

(SEZ) as well as exports made to warehouses established outside India remains unchanged.

2. RBI/2008-09/ 517 A.P. (DIR Series) Circular No.71 dated June 30, 2009

External Commercial Borrowings (ECB) Policy

(Ref: A.P. (DIR Series) Circular No. 46 dated January 2, 2009)

This Circular is in respect of modification of some aspects of the ECB policy as indicated below:

(i) ECB for Integrated Township

As per the extant policy, corporates, engaged in the development of integrated township, as defined in Press Note 3 (2002 Series) dated January 04, 2002, issued by DIPP, Ministry of Commerce & Industry, Government of India are permitted to avail of ECB, under the Approval route, until June 2009. On a review of the prevailing conditions, it has been decided to extend the permission up to December 31, 2009, under the Approval route. All other terms and conditions, stipulated in the A.P. (DIR Series) circular referred to above, remain unchanged.

(ii) ECB for NBFC sector

As per the current ECB norms, Non-Banking Finance Companies (NBFCs), which are exclusively involved in financing of the infrastructure sector, are permitted to avail of ECBs from multilateral / regional financial institutions and Government owned development financial institutions for on-lending to the borrowers in the infrastructure sector under the Approval route, subject, *inter-alia*, to the condition that the direct lending portfolio of these lenders *vis-à-vis* their total ECB lending to NBFCs, at any point of time, should not be less than 3:1. It has now been decided to dispense with this condition with effect from July 1, 2009. The proposals will, however, continue to be examined by the Reserve Bank under the Approval route, as hitherto.

(iii) ECB for Development of Special Economic Zone

As per the extant guidelines, ECB is permissible for the Infrastructure sector, which is defined as (i) power, (ii) telecommunication, (iii) railways, (iv) road including bridges, (v) sea port and airport, (vi) industrial parks, (vii) urban infrastructure (water supply, sanitation and sewage projects)

and (viii) mining, refining and exploration. Further, units in the Special Economic Zone (SEZ) are also permitted to access ECBs for their own requirements. However, ECB is not permissible for the development of SEZ. It has now been decided to allow SEZ developers also to avail of ECB under the Approval route for providing infrastructure facilities, as defined in the ECB policy, within the SEZ. However, ECB shall not be permissible for development of integrated township and commercial real estate within the SEZ.

(iv) Corporates under Investigation

Currently, the ECB policy is not explicit about accessing of ECB by the corporates, which have violated the extant ECB policy and are under investigation by the Reserve Bank and/or Directorate of Enforcement. It is clarified that corporates, which have violated the extant ECB policy and are under investigation by Reserve Bank and/or by Directorate of Enforcement, will not be allowed to access the Automatic route for ECB. Any request by such corporates for ECB will be examined under the Approval route.

The modifications to the ECB guidelines will come into force with immediate effect. All other aspects of the ECB policy, such as USD 500 million limit per company per financial year under the Automatic route, eligible borrower, recognised lender, end-use, all-in-cost ceiling, average maturity period, prepayment, refinancing of existing ECB and reporting arrangements remain unchanged.

(The complete text of the above-mentioned notifications can be downloaded from www.rbi.org.in)

(Matter on FEMA has been contributed by CA. Manoj Shah and CA. Hinesh Doshi)

CORPORATE LAWS

1. SEBI Disclosure & Investor Protection guidelines amendment

www.sebi.gov.in

The SEBI has issued Circular No. SEBI/ CFD/DIL /DIP/36/2009/09/07 dated 09.07.2009 amending the SEBI (Disclosure and Investor Protection) Guidelines, 2000 providing for in detailed explanatory manner,

- a) Compulsory listing of IPO on at least

