HOUSE MAY CLEAR LLP MODEL IN MONSOON SESSION

The much-awaited **Limited Liability Partnership (LLP)** model is set to become a reality with the ministry of corporate affairs (MCA) being hopeful that the LLP Bill introduced in Parliament in 2006 would be cleared in the upcoming monsoon session.

The LLP will make the exit route from a company simpler. LLP bill is one of the major areas we are working upon and once the LLP bill is passed, it will certainly help. The structure of LLPs is likely to be flexible and there may be no limit on the number of partners.

While there may be some amendments introduced to the original 2006 Bill, the, ministry of finance is expected to decide on the taxation aspects of LLP. LLPs would also help venture capital funds joining hands with entrepreneurs of the start-ups that they invest in.

It is expected that LLP will have an advantage of giving the ownership of assets to the partners. In such a case, the partner can use his asset anytime and if he exits from the LLP, he will be in a position to easily take his money out without the LLP being dissolved. In the case of companies and partnerships, this flexibility does not exist.

LLP, which is an alternative corporate business form having benefits of limited liability of a company and the flexibility of the partnership, could prove to be more convenient and sustainable for many particularly for micro, small and medium enterprises (MSMEs), professionals such as chartered accountants, company secretaries, advocates and also for others in scientific, technical and artistic services.

The regime of limited liability partnership will provide professionals a platform to conduct their profession efficiently that would in turn increase their capability to compete with global firms apart from allowing them to make their presence felt in international market for professional services.

The introduction of LLP form of business would also promote entrepreneurship, particularly in relation to service sector and the knowledge-based industries such as the information technology and biotechnology sectors.

RBI TO COME OUT WITH IFRS GUIDELINES SOON

The Reserve Bank of India expects to come out with guidelines for banks to draw up their accounts as per the norms of the International Financial Reporting Standards (IFRS) in less than three months.

The IFRS is an international effort to harmonize financial reporting globally. In India, the Institute of Chartered Accountants of India (ICAI) has said that all companies and banks should draw up their accounts under IFRS from 2011. To make this mandatory, of course, legislation (or regulation) would need to be suitably amended, but this is expected to be duly done.

SBI Initiative

State Bank of India recently floated a Request for Proposal, calling consultants to help it migrate to IFRS. Federal Bank has already started drawing up accounts according to IFRS. From the current year, we will be drawing up accounts as per IFRS quarter on quarter, but only for internal consumption.

Yet to make move

However, most of the banks in India do not appear to have begun any work. For instance, the Chairmen of Indian Bank, Indian Overseas Bank, Karur Vysya Bank and City Union Bank, who happened to be among those invited to have lunch with the Governor of RBI here on Thursday, said that their banks had yet to begin work for migration to IFRS. They said they would wait for the RBI to come out with its guidelines.

eGoM WEIGHS PUTTING SEZS UNDER MINIMUM ALTERNATE TAX

The finance ministry's proposal to impose a minimum alternate tax (MAT) on special economic zones (SEZs) will be taken up by the empowered group of ministers on SEZs in its meeting next week.

The eGoM, which is meeting on July 10 after a gap of more than six months, will also decide on the fate of the Essar's steel SEZ and Adani Group's multi-product SEZ at Mundra in Gujarat.

Other issues including imposing export obligation on SEZ units, the possibility of increasing the ceiling of 5,000 hectares imposed on SEZs, exempting SEZ units from payment of service tax and interpretation of **Section 10AA of Income-Tax Act**, will also be taken up by the eGoM.

The finance ministry is keen that units in SEZs should also be brought under the tax net by imposing MAT at the rate of 12.5% on them. Last year, the government imposed MAT on 100% export-oriented units (EOUs). The commerce department, however, is opposing the move on the ground that it would amount to a breach of promise made to investors in SEZs.

The imposition of MAT on SEZs would call for an amendment to the SEZ Act by Parliament. As per the existing Act, SEZ units that start manufacturing or producing articles or providing services on or after April 1, 2005, will be eligible for a deduction of 100% of export profits for the first five years and 50% of export profits for the next five years.

Further, for the next five years a deduction shall be allowed of up to 50% of the reinvested profits. The Act also specifically exempts SEZ units from MAT on income from any business carried on, or services rendered by SEZ units under Section 115JB.

The board of approved under the commerce ministry has so far given formal approval to 467 SEZs, of which 225 have been notified and are directly employing 97,993 people. Physical exports from the SEZs almost doubled to Rs 66,638 crore in the last fiscal from Rs 34,615 crore in 2006-07.

FLUNKED IN CA EXAM? DON'T LOSE HEART

Those Who Have Cleared Inter Exam Can Be A/C Technicians

The Institute of Chartered Accountants of India (ICAI) has opened new career option for unsuccessful candidates aspiring to become chartered accountants. At least lakh candidates who have cleared the CA inter examination can now become accounting technicians without attending the mandatory one-year course.

The accounting technician course proposed for launch by ICAI will now cover candidates who could not clear their final examinations for CA. The technicians will be absorbed in the accounting and finance departments, directly assisting the chartered accountants.

ICAI has already proposed to the Union ministry of corporate affairs to go ahead with the launch of the new course. It is expecting the Centre to give the necessary clearances in the next couple of months.

According to the proposal, a student will be required to register for the entrance examination after passing his 10th grade examination. The eligible candidates will be required to attend classes and undergo IT training. After successful completion of the studies and IT training, students can appear for the examination, any time after nine months of registration.

"Candidates who could not clear CA finals will just have to appear for 100 hour computer training to get the accounting technician certificate. They will not have to follow the procedures like other students. We are expecting that about one lakh students who could not clear examinations beyond CA inter will now have even better opportunities in the job market," said ICAI vice president Uttam Agarwal.

He added that the institute is expecting to create one lakh accounting technicians as a second rung of skilled manpower to the core accounting professionals in next couple of years. It may be mentioned here that 1.45 lakh CA professionals and 3.5 students are associated with ICAI.

SAARC COUNTRIES MAY OPEN DOORS FOR CAS

Indian chartered accountants may be seen practicing in Pakistan as well as other SAARC countries and vice-versa in two to three years. A proposal to give mutual recognition to CAs in one another's nation was mooted by South Asian Federation of Accountants (SAFA), a body of SAARC.

The SAARC body has already developed a common course for the purpose called minimum common sallybus.

All the SAARC countries, which include Sri Lanka, Pakistan, Bangladesh, Nepal, Bhutan, Maldives and India, would then be asked to adopt the minimum common syllabus. The basic framework of the course will be same and the countries can then shape it as per their regional need.

With the growing cross-border trade, the demand for chartered accountants has increased. With SAARC countries having same culture and ethos, it would help CAs to grow professionally.

AUDITING FIRMS FACE EU HEAT

Auditing firms in the country could soon run out of business if they do not get themselves verified according to the guidelines mentioned in the Eighth Directive issued by the European Union (EU). **EU will recognize balance-sheets of companies audited by firms that fit their specified standards.**

With increasing interest in overseas operations, most domestic companies would shy away from appointing firms that are not recognised by the EU, said Rahul Roy, director, Ernst & Young India. They look at raising funds from Europe and it is important that their balance sheets are acceptable to the firms there, he explained while talking on the sidelines of the seminar on International Financial Reporting Standards (IFRS) organized by the Bengal Chamber of Commerce and Industry.

EU has released three lists in the directive and India comes under the second list that includes countries that do not have an EU equivalent auditing system yet but have the potential to do so within the next two years. Around 160 countries have not been recognised in the Directive.

According to the Eighth Directive that came into effect from June 1, a firm needs to be verified by a public oversight system in their own country. Around 50 per cent people in that evaluating body will have to be people who are not practising chartered accountants (CAs) for the last 15 years, explained Roy who was also the ex-president of the Institute of Chartered Accountants of India (ICAI).

These rules out ICAI as the body that will evaluate firms. The Quality Review Board, formed by the government of India (GoI) last year to ensure that the accounting profession in the country delivered quality, could possibly take up the role of reviewing auditing firms, Roy told reporters here.

The Board comprises five government nominees, five members of ICAI and one chairman nominated by the GoI.

Each firm would also have to publish a transparency report that will include details like the list of clients, income from fees, percentage of income from audit as well as the principle for determining the remuneration of its partners.

"There are roughly 150 auditing firms in the country right now and around 70 per cent of them are small and medium firms," Roy said. The directive has given a concession period to List 2 countries till December 2010, beyond which it will not recognize balance-sheets audited by such firms. **A recent survey done by the EU showed that while it relied on balance sheets audited by firms from 70 countries, India perhaps had the largest share at 80 firms compared to the US that had 47 firms that were recognised by companies in the EU, Roy explained.**

FINANCIAL STATEMENTS OF NBFCS — MORE RESPONSIBILITIES FOR THE AUDITOR

The Diamond Jubilee Celebrations of the Institute of Chartered Accountants of India (ICAI) have begun in right earnest with an eclectic variety of programmes being conducted all over the country. The ICAI's achievement in creating an elite tier of accountants is noteworthy. However, this is only the beginning, with a lot more to be done in terms of transitioning to IFRS, creating a second-tier of accountants for those not-so-lucky ones and keeping members interested in the profession.

One of the highlights of the profession over the last 50 years has been the fact that other Acts have always provided work for chartered accountants. **Commencing with the Companies Act and its MAOCARO/CARO reports, the Income Tax Act with its Tax Audit report, Clause 49 of the Listing Agreement with its emphasis on governance or the Reserve Bank of India with its bank audits, action has never been lacking on this front.**

Non-banking financial companies (NBFCs) are governed by a separate Act and overseen by the RBI. There is a general impression that there are more black sheep than white among NBFCs; the RBI has, thus, decided to cast additional responsibilities on auditors who audit financial statements of NBFCs.

<u>Additional Norms</u>

Henceforth, auditors of NBFCs would have to report whether the company has applied for registration as provided in Section 45IA of the Reserve Bank of India Act, 1934 (2 of 1934), if it is a company incorporated before January 9, 1997 and whether it has received any communication from the RBI about the grant of or refusal of certificate of registration to it, and whether the company has obtained a certificate of registration from the RBI if it is a company incorporated on or after January 9, 1997.

In the case of a non-banking financial company accepting/holding public deposit, the auditors would additionally have to report:

(i) Whether the public deposits accepted by the company together with other borrowings are within the limits admissible to the company as per the provisions of the Non-Banking Financial Companies (Reserve Bank) Directions, 1998;

(ii) whether the credit rating for fixed deposits assigned by the Credit Rating Agency is in force and the aggregate amount of deposits outstanding as at any point during the year has exceeded the limit specified by the Rating Agency;

(iii) Whether the company has defaulted in paying to its depositors the interest and/or principal amount of the deposits after such interest and/or principal became due;

(iv) whether the company has complied with the prudential norms on income recognition, accounting standards, asset classification, provisioning for bad and doubtful debts, and concentration of credit/investments as specified in the directions issued by the Reserve Bank of India in terms of the Non-Banking Financial Companies Prudential Norms (Reserve Bank) Directions, 1998;

(v) whether the capital adequacy ratio as disclosed in the return submitted to the Reserve Bank of India in terms of the Non-Banking Financial Companies Prudential Norms (Reserve Bank) Directions, 1998 has been correctly determined and whether such ratio is in compliance with the minimum Capital to Risk Asset Ratio prescribed by Reserve Bank of India;

(vi) Whether the company has complied with the prescribed liquidity requirement and kept the approved securities with a designated bank;

(vii) whether the company has furnished to the RBI within the stipulated period the half-yearly return on prudential norms as specified in the Non-Banking Financial Companies Prudential Norms (Reserve Bank) Directions, 1998; and

(viii) Whether the company has furnished to the Reserve Bank of India within the stipulated period the return on deposits as specified in the First Schedule to the Non-Banking Financial Companies (Reserve Bank) Directions, 1998.

In the case of NBFCs not accepting public deposits or investment companies that have invested not less than 90 per cent of their assets in the securities of group companies, resolutions from the Board would have to reported along with the fact whether the NBFC has accepted public deposits or the 90 per cent barrier has been breached at any time during the year.

Finally….

The new requirements have cast a responsibility on the auditor to report on any minor deviation from the stringent norms prescribed by the RBI for NBFCs. Considering the new norms and audit times shrinking, it is only to be expected that auditors would need to be ever more careful. Else, they could end up as scapegoats.

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Thank you