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Important News of the Week

- **Govt. extends DEPB scheme for three more months till September 2011:**

  The government today said it had extended the popular exports scheme – DEPB – for three more months till September. The DEPB scheme was due to end on June 30, 2011. "We have extended Duty Entitlement Pass Book (DEPB) till September," Finance Secretary Sunil Mitra said on the sidelines of a seminar organised by Ministry of Finance and OECD. However, he said scheme would be phased out and replaced by duty drawback. "It [DEPB] will be phased out [and] duty drawback will take its place. We have appointed a committee which we think will take a couple of months to decide all India drawback rates for items currently under DEPB," Mitra said.

  Exporters can also ask for brand rate fixation, he added. The Indian government spends about Rs 8,000 crore annually, reimbursing exporters on the taxes paid on import content of export products. Under the scheme, exporters are given refunds of tax incidence on the import content of their export products. The 14-year old scheme is the most popular among exporters, especially in the engineering including automobiles sector. India's exports went up by 37.55% year-on-year to $245.86 billion during 2010-11.

- **FM aims for 9.5% GDP growth during 12th five year plan period:**

  UNION Finance Minister, Mr Pranab Mukherjee has stressed on the need to sustain and pursue the efforts currently underway to reform the international and national policy regimes for better managing the forces of globalization, in serving the collective well-being of people. He was speaking after inaugurating the National Banking Conclave organized by ASSOCHAM on the theme "Challenges and opportunities in a Trillion Dollar Economy", here today.

  The Finance Minister, Mr Mukherjee said that India has been more fortunate in surviving the global crisis and the economic slowdown of 2008 without major disruptions. Our major challenge in the short-term is inflation, which has implications of sustaining our growth momentum, he said. Mr Mukherjee stated that in the past few weeks we have taken measures to address inflation concerns. The monetary policy has been gradually tightened and at the same time new initiatives were announced in the Union Budget to address some of the bottlenecks in the food supply chain that were behind the inflationary spikes in

2010-11. He expressed hope that we should be able to repeat the growth performance of 2010-11 in 2011-12 as well.

The Finance Minister, Mr Mukherjee said that the medium term growth prospects of the economy remain buoyant. He stated that we need to aim at a GDP growth of 9 to 9.5 per cent for the Twelfth Five Year Plan period. Mr Mukherjee said that we are in the process of deepening policy reforms in the financial sector and addressing gaps in the overall economic regulatory architecture. In the Budget proposals for 2011-12, a significant legislative agenda for the financial sector has been outlined. The Finance Minister said that a Financial Sector Legislative Reforms Commission has been set up. The RBI is in the process of issuing additional banking licences to private sector players and discussions are underway to further liberalise the FDI policy. He stated that major steps are being taken to simplify and place the administrative procedures concerning taxation, trade and traffic and social transfers on electronic interface, free of discretion and bureaucratic delays.

In so far as the banking sector is concerned, the Finance Minister, Mr Mukherjee said that our banks are doing quite well. He, however, expressed concern over the issue of asset quality and said that it is important for banks to constantly monitor and bring down the Non Performing Assets (NPA) to the previous level. He said that it is important for the Indian banks to also adopt the best risk management practices to keep themselves abreast with global developments. He stated that consolidation of banking services, consistently meeting the capital adequacy requirements, leveraging advanced technology, and effectively managing human resources with a focus on pro-active leadership and skilling and re-skilling of human resources are emerging as major areas of concern for Indian banks that need to be addressed in right earnest. Mr Mukherjee said that technological innovation enhances the capacity for continued and inclusive growth and that newer perspective and strategies towards financial inclusion are needed to reach the un-banked and the under-banked sections of our country.

In his concluding remarks, the Finance Minister expressed confidence that India is in a position to sustain high economic growth in the coming decades and to create a more inclusive outcome for the society.

- **Advocates can practice in all courts:**

Now, lawyers can practise, as a matter of right, in all courts and forums, including tribunals or any quasi-judicial authority. Fifty years after the Advocates Act, 1961, came into force, the Centre has notified Section 30 of the Act — with effect from June 15 2011 — to enable advocates to practice anywhere. This provision was not notified when the Act was added to the statute book. As a result, in certain courts and tribunals, lawyers could appear only if they were permitted by the presiding officer. For some strange reason, this Section 30 was not notified for the last fifty years. The Government has issued a notification last week appointing June 15 2011 as the date from which this section will come into force.

The long-pending demand of lawyers for notifying this Section was fulfilled, thanks to Union Law Minister Veerappa Moily's initiative. Section 30 says: "Subject to the provisions of this Act, every advocate shall be entitled as of right to practise throughout the territories to which this Act extends; in all courts including the Supreme Court; before any tribunal or person legally authorised to take evidence; and before any other authority or person before whom such advocate is by or under any law for the time being in force entitled to practise."

In an interaction earlier this month with The Hindu, Mr. Moily said he would take immediate steps to get Section 30 notified. The government issued the Gazette Notification on June 9. It said: "The Central government hereby appoints June 15, 2011 as the date on which Section of the Advocates Act shall come into force."

- **Merge CBDT and CBEC:**

Amid the growing chorus against black money and the government's efforts to pull the plug, Union Law Minster M Veerappa Moily has suggested Finance Minister Pranab Mukherjee to completely overhaul the tax administration. In a letter to Mukherjee, Moily said the two wings for tax collections in the country — Central Board of Direct Taxes (CBDT) and Central Board of Excise and Customs (CBEC) — should be merged for tackling black money effectively.

Moily says such a merger of the direct and indirect tax departments would lead to better information dissemination, co-ordinate effort and a professional approach in handling tax evasion, which leads to creation of unaccounted income and black money.

"For tackling black money, this is a very important measure," Moily told Business Standard, adding, "Why should you create bureaucracy unnecessarily when you have to do it professionally".

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The law minister's prescription for major revamp of the tax administration for curbing black money is based on the United Kingdom (UK) experience.

The consolidation of tax departments happened in the UK in 2006, where direct and indirect tax departments were merged into Her Majesty's Revenue and Customs (HMRC). Many of the European Union (EU), Latin American and Asian countries have also merged their departments.

Although the law minister is yet to get a response from the finance minister, the proposal has already started creating ripples in the finance ministry.

A senior finance ministry official said that merger of CBEC and CBDT might lead to abolition of the revenue secretary's post as his job was to co-ordinate between the two wings.

In his letter Moily has highlighted that the advantages of consolidation of tax department into one entity would be manifold. It has been stressed that a unified department to cover both direct and indirect taxes would provide enormous information advantages on a single business across various taxes that they pay. This would make tax administration more information based as cross-information is not available when two departments are separate.

Another enumerated benefit of the step would be knowledge across taxes in the department, ensuring that it spoke in one voice with the stakeholders (Industry) and customers (Income Tax Payers).

Another recommendation is to remove the word 'tax payer' from the tax terminology and replace it by 'stakeholder' in case of businesses and 'customer' for the individual to bring it closer to the international context. This would impart a reality that the tax department should be transparent and needs full co-operation from a taxpayer so that he is enabled to pay due tax rather than having to be pursued to pay tax.

The merger of the departments into one is expected to lead to efficient methods to reduce tax evasion because of the available cross-information. Moily has prescribed that it was no longer essential to have revenue maximization as a goal for the tax administration department — what needed to be maximized was minimization of the tax gap – potential minus actual tax collection.

In the UK, this has been termed a Departmental Strategic Objective (DSO), which is reported to Parliament on a regular basis. The tax department is asked how much is the tax gap or leakage, why it has gone up or down, and Parliament regularly reviews those results.

In case of individual tax payers, the law minster has suggested that all taxpayers need not be asked to file tax returns as in the UK model. If the income sources are only wages and salaries and interest, then tax could simply be deducted by employers and banks. If the tax payer wants a refund, he/she can file for refund.

This would leave the tax administration to focus on more complex individuals who have higher source of income. In order to have full information on them, tax administration needs to build up a profile of income sources of such individuals by developing a software. A third-party information system could be useful in this. The Annual Information Return (AIR) having details of high-value transactions in India is still in the nascent stage and has not kept pace with the global practices or advances.

- **Interest on Post Office savings account taxable from current fiscal:**

The government has decided to levy tax on the interest obtained on Post Office savings schemes from the current financial year. The Central Board of Direct Taxes (CBDT) has brought out a notification in this regard recently, which stipulates that any interest earned beyond Rs 3,500 (in case of individual accounts) and Rs 7,000 (in case of joint accounts) will be taxable from the running fiscal. The CBDT– which is the administrative authority of the Income Tax Department– has issued the notification to all the tax collection ranges across the country for implementation.

Taxpayers will have to reflect this investment on their income tax returns. “Taxpayers who now invest in the post office saving accounts schemes will now have to show the interest earned on this scheme while filing their income tax returns. Interest upto Rs 3,500, in case of single accounts and and Rs 7,000 in case of joint accounts, is exempted,” a senior I-T official said.

The Assessing Officer (AO) will compute the tax on the interest earned, beyond the exemption limit, accordingly, he said. The current interest rates for Post Office savings deposits are 3.5 per cent per annum. The minimum investment limit in this scheme is Rs. 50 while the maximum limit is Rs one Lakh for an individual account and Rs 2 Lakh in case of a joint account.

- **RBI permission must for NBFCs to open subsidiaries abroad:**

With an aim to regulate the credit system to the advantage of the country, the Reserve Bank today said NBFCs cannot open subsidiaries or enter into joint ventures abroad without its permission.

"No NBFC shall open subsidiaries/joint ventures/ representative office abroad or shall make investment in any foreign entities without obtaining prior approval in writing from the Reserve Bank of India," the central bank said in a notification.
It said investments will be permitted only in those entities having their core activity regulated by a financial sector regulator in the host jurisdiction or country. Besides, the aggregate overseas investment by non-banking financial companies (NBFCs) should not exceed 100% of their Net Owned Fund (NOF).

"The overseas investment in a single entity, including its step down subsidiaries, by way of equity or fund based commitment shall not be more than 15% of the NBFC's owned funds," RBI said.

However, NBFCs will not be allowed to make investment in non financial service sectors overseas. Besides as a general policy, NBFCs would not be allowed to open a branch abroad.

For opening of a subsidiary abroad by the NBFC or entering into JV overseas, the parent NBFC would not be permitted to extend implicit or explicit guarantee to or on behalf of such subsidiaries.

The central bank said the directions, which have come into effect from today, to NBFCs is necessary for the purpose of enabling it to regulate the credit system to the advantage of the country.

- **Govt. seeks public views online on black money issue:**

The government today created an email id for public to send their ideas and inputs to tackle issues arising out of black money.

The email — bm-feedback@nic.in — has been created on the server of the National Informatics Centre and the public can send their responses on the subject with immediate effect, a senior Finance Ministry officer said.
"General public can send in their responses and inputs like imposing penalties and making penal provisions to tackle with the issue," the officer said.

The government has already constituted a committee headed by Central Board of Direct Taxes Chairman Prakash Chandra to devise new strategies to deal with the issue. The committee is expected to submit its recommendations in the next six months.

RBI raised the repo rate by 25bps. Repo rate has been increased from 7.25% to 7.50%. Reverse repo rate will automatically be adjusted to 6.50%. However, stickiness in the domestic inflation vis-à-vis high international commodity prices coupled with wage rate revisions have generalized the inflationary expectations and dampened the growth prospects.

- **Hike in policy rates since Sep 2009:**

Components	Sep '2009	Sep '2010	Mar'2011	May 3 '2011	June 16'2011
CRR	5.00%	6.00%	6.00%	6.00%	6.00%
Repo Rate	4.75%	5.75%	6.75%	7.25%	7.50%
Reverse Repo Rate	3.25%	4.50%	5.75%	6.25%	6.50%
WPI Inflation	1.08%	8.90%	9.02%	9.06%	-
IIP growth	6.00%	13.00%	8.84%	6.30%*	-
Real GDP growth*	8.60%	8.90%	7.80%	7.80%**	-

Source: PHD Research Bureau, compiled from RBI
*Note: *Data pertains to April2011, **Data pertains to CSO’s 4QFY2011 QE*

Notwithstanding the moderation in economic growth -- lead indicators such as IIP performing significantly below expectations, inflationary risks remain high.

The global economy weakened in Q2 of 2011 as growth moderated in both advanced economies and emerging market economies. Uncertainty about the resolution of the sovereign debt problem in the euro area has increased. These developments increase downside risks to global growth prospects, going forward.

In a nutshell, investment sentiment has dipped significantly in the domestic economy as tight monetary conditions hit financial markets and credit conditions. These trends threaten to derail growth and require a model that revives investments to ease supply constraints and to control inflation.

- **Consultative Meeting of IT Vendors and Accounting Consultancy Firms on XBRL:**

  E-Governance cell has decided to hold a meeting with IT vendors and Accounting Consultancy firms on 20.06.2011 at 3.00 pm at Conference Hall, MCA, 5th Floor, Shastri Bhawan, New Delhi. The agenda of the meeting is to comprehend and accommodate the experiences, issues, etc of the accounting consultancy and accounting software development firms for strengthening of the XBRL initiative of the Ministry. Firms interested to participate in the said meeting are requested to contact Dr Pankaj Srivastava, Joint Director on 011-23063067/ pankaj.srivastava@nic.in.

Important Judicial Pronouncements of the Week

- **M/s Tata Motors Ltd Vs CCE, Pune (2011-TIOL-721-CESTAT-MUM)**

  - **Issue:** Whether Interest is payable on differential duty payable on finalization of provisional assessment?

  - **Held:** Rule 7(4) of CER, 2002 - In the case of provisional assessment no interest is payable on finalization of the assessment if the differential duty has been paid before the finalization of assessment.

- **M/s Surat Tennis Club & Other Vs CCE, Surat (2011-TIOL-742-CESTAT-AHM)**

  - **Issue:** Whether Tennis club providing services such as health club, organizing tennis matches by renting the ground, renting the place for party purpose, organizing tournaments etc. can absolve them of Service Tax liability?

  - **Held:** Tennis club providing services such as health club, organizing tennis matches by renting the ground, renting the place for party purpose, organizing tournaments etc. - merely because they are a registered as a Charitable Trust cannot absolve them of Service Tax liability - No prima facie case in favour - Pre-deposit ordered.

- **CCE, Aurangabad Vs Yeshwant Industries (2011-TIOL-744-CESTAT-MUM)**

  - **Issue:** Whether allegation of suppression can be made when audit team has taken cognizance of the fact?

- **Held:** When the audit party has not taken any objection for non-inclusion of the amortized cost of the moulds and dies in the assessable value by the respondents, allegation of suppression does not survive - Revenue appeal rejected.

- **Finolex Cables Ltd Vs CCE, Pune (2011-TIOL-736-CESTAT-MUM)**

  - **Issue:** Whether refund claim be allowed on Subsequent change in prices effected by the appellant at the depot when the assessable value already determined and on which duty liability has been discharged at the time of removal from Factory?

  - **Held:** Subsequent change in prices effected by the appellant at the depot does not affect the assessable value already determined and on which duty liability has been discharged - If that is allowed, the very object and purpose of Rule 7 of the Central Excise Valuation Rules will be totally defeated - rejection of refund claim proper.

- **Automotive Metal Stampings Pvt Ltd Vs CCE, Pune (2011-TIOL-731-CESTAT-MUM)**

  - **Issue:** Whether suo motu Cenvat credit can be taken when Appellant reversing CENVAT credit under protest on instruction by C. Ex officers?

  - **Held:** Appellant reversing CENVAT credit under protest on instruction by C.Ex officers - SCN not issued even after five years - appellant taking re-credit - Demand confirmed along with equivalent penalty and interest on ground that such suo motu credit is not permissible and correct course is to file a refund claim - Duty demand upheld along with interest - penalty set aside - appellant to reverse credit with interest and file refund claim and department to honor the same within one month.

Important Digests of the Week

- **Transport of Goods by Rail - Exemption Extended - Following Notifications are amended:**

  - Notification No 07/2010-Service Tax, dated the 27th February 2010: Rescinds Notification No. 33/2009-S.T dated 01.09.2009 [which actually exempts transport of goods by rail and if this exemption is withdrawn, the service becomes taxable]. This notification was to be effective from 01.04.2010 and then extended to 01.07.2010, further extended to 01.01.2011, then to 01.04.2011 and then to 01.07.2011 and now further extended to 01.01.2012. - Notification No. 38/2011-Service Tax, Dated: June 14, 2011

- Notification No 08/2010-Service Tax, dated the 27th February 2010: exempts certain goods like Postal Mail Bags, from Service Tax. This notification was originally effective from 01.04.2010, then extended to 01.07.2010, 01.01.2011, 01.04.2011 and then to 01.07.2011 and now further extended to 01.01.2012. - Notification No. 39/2011-Service Tax, Dated: June 14, 2011

- Notification No 09/2010-Service Tax, dated the 27th February 2010: provides abatement to transport of goods by rail. This notification was effective from 01.04.2010 and similar amendments were made and in the previous round, it was made effective from 1 st July 2011. Now it is effective from 01.01.2012 - Notification No. 40/2011-Service Tax, Dated: June 14, 2011

• **DEPB Scheme gets an official extension of 3 months; PUBLIC NOTICE NO. 54/(RE-2010) /2009-2014, Dated: June 17, 2011:**

1. In exercise of powers conferred under Paragraph 2.4 of the Foreign Trade Policy 2004-2009, the Director General of Foreign Trade hereby makes an amendment in Paragraph of 1.1 of the Handbook of Procedures, v1 (RE 2010).

2. The concluding phrase of Para 1.1 of HBP v1 reads "……except DEPB Scheme, which shall continue to be operative till 30th June, 2011". Government has now decided that the DEPB Scheme would continue to remain operative for another 3 months, i.e. till 30.9.2011. Accordingly, the words "till 30th June, 2011" would get replaced with the worlds "till 30th September, 2011".

3. The amended para 1.1 of the Handbook of Procedures, v1 would now read as under:

1.1 "In pursuance of the provisions of paragraph 2.4 of FTP, the Director General of Foreign Trade (DGFT) hereby notifies the compilation known as HBP v.1, HBP v.2 and Schedule of DEPB rates. These compilations, as amended from time to time, shall remain in force until 31st March, 2014, except DEPB Scheme which shall continue to be operative till 30th September, 2011."

4. Effect of the Public Notice:

DEPB Scheme gets an extension of 3 months from 30.6.2011 to 30.9.2011.

- **Writing off of arrears of Central Excise duty and Customs duty - Constitution of Committees to advise the authority for writing off of arrears-reg Vides CIRCULAR NO. 946/07/2011 CX., Dated: June 1, 2011**

Directed to invite reference to the instructions contained in Board's Circulars F.No. 290/4/85-CX.9 dated 22.3.85 and F.No. 290/20/90-CX.9 dated 21.9.1990, on the subject of write off of arrears of irrecoverable dues.

2. In the context of revision of the delegated powers to write off irrecoverable tax arrears, most of the Chief Commissioners did not recommend any enhancement of the existing monetary limits prescribed vide Board's Circular dated 21.9.1990. On the other hand, the Chief Commissioners suggested adoption of a Committee system for deciding cases of write off of arrears as followed by the CBDT. It is seen that CBDT, while revising the delegated powers to write off arrears, has prescribed constitution of Committees at different levels for taking a decision to write off arrears in deserving cases.

3. It has, therefore, been decided by the Board to constitute three - member Committees of Chief Commissioners and Commissioners, which will examine the proposals for write – off of irrecoverable arrears and recommend deserving cases to the authority competent to order such write – off in terms of the Board's Circular dated 21.9.1990. While the Committee of Chief Commissioners shall be constituted by the Board, as and when necessary, on the basis of the request of the Zonal Chief Commissioner, the Committee of the Commissioners shall be constituted by the Zonal Chief Commissioner, as and when necessary, on the basis of request of the jurisdictional Commissioner. The Chief Commissioner (TAR) shall be an ex-officio Member of each Committee of Chief Commissioners to ensure uniformity in approach and decision making by such Committees. Similarly, one of the Commissioners (TAR) to be nominated by the Chief Commissioner (TAR), shall be a Member of each Committee of Commissioners. Whenever a proposal for write - off of irrecoverable arrears is submitted by the Deputy/Assistant Commissioner in the prescribed format (Annexure A), the Zonal Chief Commissioner or the jurisdictional Commissioner, depending on the amount of duty/tax proposed to be written off, shall examine the proposal and if prima - facie satisfied, request the Board or the Zonal Chief Commissioner, as the case may be, for constitution of an appropriate Committee. The Committee so constituted shall examine the proposals and on the basis of the recommendation of the Committee, the competent authority shall write – off arrears in deserving cases, in accordance with the powers delegated for the purpose.

4. The constitution of the Committees and the powers to write off, delegated to the competent authorities are as under:-

Sl. No.	Competent Authority	Constitution of the Committee	Powers delegated
1.	Chief Commissioner of Customs & Central Excise/ Central Excise/ Customs	Committee of two Chief Commissioners of Customs & Central Excise/ Central Excise/ Customs and the Chief Commissioner (TAR)	(a) Full powers for abandonment of irrecoverable amounts of fines and penalties imposed under Customs Act, 1962, and Central Excise Act, 1944. (b) To write off irrecoverable amounts of Customs/Central Excise duties upto Rs. 15 lakh subject to a report to the Board.
2.	Commissioner of Customs & Central Excise / Commissioner of Customs / Commissioner of Central Excise	Committee of two Commissioners of Customs & Central Excise/ Central Excise/ Customs and one Commissioner (TAR) nominated by CC(TAR))	(a) Full powers for abandonment of irrecoverable amounts of fines and penalties imposed under Customs Act, 1962, and Central Excise Act, 1944. (b) To write off irrecoverable amounts of Customs/Central Excise duties upto Rs. 10 lakh subject to a report to the Chief Commissioner.

5. As regards write off of interest amount, it is clarified that once duty involved is written off, the interest due thereon would get automatically written off. It is also clarified that the duty/ tax involved in the case would determine the level of authority/Committee competent to write off the amount involved.

6. As for writing off of arrears of service Tax, action is being initiated for suitable amendment of DFPR before proceeding with the writing off.

7. The field formations are, therefore, directed to take action on the above lines. If any difficulty is faced, the same should be brought to the notice of the Board.

- **CBEC Chairman's Speech at Chief Commissioners' Conference – By S Dutt Majumder, CBEC Chairman:**

  HON'BLE Finance Minister, Mr Pranab Mukherjee saheb, Hon'ble Minister of State, Thiru S.S. Palanimanickam, Finance Secretary, Mr Sunil Mitra, my colleagues in the department, Ladies and Gentlemen.

  On behalf of the Central Board of Excise & Customs, I extend a warm welcome to you all at the Annual Conference of Chief Commissioners and Directors General for the year 2011. The annual conference provides us with an opportunity to take stock of our performance in the year gone by, and to analyze the reasons for deficiencies and failures. In a Conference such as this, we capitalize on our strengths; we deliberate on issues that warrant close attention; and with the collective wisdom in hand we set out goals for action, both in the short term and the long term. Even as our core competency continues to be revenue collection, we are aware of our commitment to delivery of services to the taxpayers.

  On the revenue front, we have done rather well in the last fiscal. The total revenue collection has gone well past the Budgetary Estimates as well as the enhanced Revised Estimates. It has actually registered a growth of over 40% which is a record of sorts, at least in the last ten years. We are extremely grateful to the Hon'ble Finance Minister who has conveyed his facilitations to the Apratyakshakar Parivar, Indirect Tax family for such outstanding performance on the revenue front. I have forwarded Finance Minister's letter to each of you. I am sure, you would have in turn forwarded it to our officers at the cutting edge level.

  Sir, we are all aware how hard you work. Your thirst for more and more work has inspired us no end. Our officers cannot but work harder and improve their performance when their leader is almost on 24x7 modes, and the results are for everyone to see. The performance on revenue front is only one of them. I would come to other achievements shortly.

  Sir, for various factors – domestic as well as international – of which you are well aware, the current Financial Year is going to be a challenging one. Besides our dependence on growth in Manufacturing and Service sectors, the impact of increased base effect will make our achieving the target of Rs.3.98 lakh crores a difficult one. Yet, let me tell you Sir, your support and encouragement has spurred the field formations into accomplishing an even better performance during the current fiscal by plugging all revenue leakages. In fact they have already started putting their best foot forward in their efforts to achieve the revenue target which, as I said, is rather a stiff one under the current circumstances. Kindly permit us to review it after a few months to see if any mid course revision in the target is required.

For this year's Conference, we have thoughtfully planned our subjects for deliberations and brainstorming by four breakaway groups. While not losing sight of our core action areas which have a direct bearing on revenue collection, and the much expected introduction of the Goods and Service Tax, some of the breakaway groups would dwell upon certain larger issues like Change Management and the two way communication between the Board and field formations. I sincerely believe that the Board is not the sole repository of knowledge and wisdom. There are thousands of streams flowing down below in the Commissionerates that provide the sustenance to the Board. Therefore, one Breakaway Group has been especially assigned to deal with the subject of strengthening the process of interaction between the Board and field formations, and identifying the impediments in the free exchange of ideas and thoughts. We are confident that the reports of the breakaway groups would present practical suggestions for implementation and help the department in charting its growth trajectory.

Each year during the preparation of the Conference our Hon'ble Minister of State for Finance asks, what new things are you planning in this year's Conference. This year Sir, we have decided to benefit from the address of two of our eminent personalities closely connected with the affairs of Finance Ministry. I am talking of Dr. Kaushik Basu and Dr. Nandan Nilekani, both great visionaries and wonderful speakers. Dr. Kaushik Basu will address on 'India's economic growth in past 20 years and role of fiscal policy in it', while Dr. Nandan Nilekani will speak on 'GST Net – the IT support system for CBEC. I am sure my colleagues will benefit immensely from their talks.

Sir, kindly allow me to seize this opportunity to recapitulate some of the major tasks accomplished by the department in the last year. On the Systems front, the CBEC has made rapid strides in adopting technology in discharge of its core functions and in facilitating the taxpayers as well. Directorate General of Systems has completed implementation of the much awaited IT consolidation project, the most significant IT initiative. The setting up of the National Data Center and Business Continuity Sites located in New Delhi and the Disaster Recovery Sites located in Chennai are now fully functional. Except for a very few locations facing certain specific implementation issues, over three thousand offices under CBEC now work on one e-platform which is connected to the National Data Center through WAN (Wide Area Network) and LAN (Local Area

Network. On the Customs front, upgraded version of Customs EDI System ICES 1.5 has been hosted in a centralized environment and implemented at 119 Customs locations across the country. The applications such as ICES 1.5, ICE GATE, Risk Management System, Data Warehouse, Currency Declaration system and ACES, i.e. Automation of Central Excise & Service Tax have also been hosted in a new centralized environment. You would be happy to know, Sir, that officers, taxpayers and trading partners across the country are now able to access these applications 24x7 from anywhere, anytime. We have also set up over 750 ACES Certified Facilitation Centers run by professionals like Chartered Accountants and Cost Accountants in over 250 cities. Let me mention here Sir, ACES, with appropriate changes, would be capable of handling our GST applications and it would provide the necessary linkages in the GST environment. The IT projects of CBEC have received many awards during the last two years. The ICE GATE project received Gold award for the year 2010-11 at the 14th National E-Governance Conference 2011. It is a matter of pride for the Department that the World Customs Organizations, WCO has circulated a Best Practice Paper on the Indian Automated Recordation & Targeting System (ARTS) of IPR i.e. Intellectual Property Rights.

Sir, in keeping with your announcement in this year's Budget Speech, we have initiated steps for the introduction of Self Assessment in Customs. This will bring in a paradigm shift on the trade facilitation front. It will certainly reduce the dwell time for clearance of cargo and also cut down attendant transaction cost for the assessees.

In order to clear the long pending drawback claims, we have declared the months of May, June and July as Drawback Clearance Months. We are receiving positive reports in this regard. In order to cut down transaction cost in export of goods, we have taken several measures. One particular measure worth mentioning is a procedural simplification because of which an exporter can now avail the facility of a single running bond for all imports made through any port of the country.

On the international Customs front, as you are aware Sir, India was elected to the Policy Commission from Asia Pacific Region for the two year term 2010-2012. The Indian Customs has been playing a pro-active role in evolving the future agenda and strategic direction of the WCO, so as to reflect the aspirations of the developing countries and to ensure that the developments within the WCO do take account of the requirements of Asia Pacific Region. In this context I would particularly like to mention the role that Indian Customs has been playing in realizing the vision of WCO in Globally Networked Customs, popularly known as

GNC. GNC envisages creation of an international E-Customs Network that will ensure seamless real time and paperless flow of information and connectivity. You will be happy to know that India was selected as one of the members of the Adhoc Group set up by WCO to bring the vision of GNC to reality. This apart, Indian Customs has been keenly working towards Customs Mutual Assistance Agreements that provide a basis for exchange of information with other Customs administrations. Indian Customs has also been playing a vital role in the negotiations of FTAs and PTAs and CEPA i.e. Free Trade Agreements, Preferential Trade Agreements and Comprehensive Economic Partnership Agreements. Indian Customs has also been actively contributing to the Customs capacity building and technical assistance initiatives in various developing countries in Asia and Africa. Sir, you will be pleased to know that the WCO has shown keen interest in including the valuation data base as developed by Indian Customs in the 'revenue package' which is a set of tools to assist Customs administrations in Developing Countries and Least Developed Countries so as to safeguard their revenue.

Now, back home, the rationalization of Cenvat Credit Rules and the introduction of Point of Taxation Rules this year will streamline the availment of Cenvat Credit and bring about greater clarity to the incidence of chargeability of Service Tax. These measures will also contribute significantly in reducing areas of disputes with the trade, and would indirectly contribute to reduced litigation which has been your consistent desire. Penal provisions have been simplified and redrafted making them more pragmatic and assessee friendly so that a person committing bonafide lapse is not made to suffer the same rigours as perpetuation of a deliberate fraud.

The Department is also continuously strengthening its enforcement capabilities. The trend of smuggling of high quality Fake Indian Currency Notes (FICN) into India through various routes is continuing. Only two days back the Directorate of Revenue Intelligence has made a record seizure of FICN worth around Rs.1.54 crore in a single case of smuggling from Bangladesh. This week DRI has also seized more than one tone of Ketamine, a party drug, in one single case. On the Central Excise enforcement side, Directorate General of Central Excise Intelligence has been detecting a number of cases of duty evasion through novel modus operandi. The figures show that detection of evasion of Service Tax is much more than that of Central Excise. We need to give more attention on enforcement on the Service Tax side. Just to give an idea about our anti-smuggling and anti-evasion efforts, last year the Department has booked over 14,000 cases involving over Rs.16,000 crores covering Customs, Central Excise and Service Tax. In these cases more than 600 persons were also arrested.

Bimal Jain

FCA, ACS, LLB, B.Com (Hons)

While we extend trade facilitation and taxpayer services to the bonafide trade, we do not hesitate to take action against the delinquent ones.

The year also witnessed the fructification of the Government's initiative of Sevottam, launched in four key offices having a large public interface. The three Commissionerates of Central Excise Delhi-I, Service Tax, Delhi and Customs (Imp & Gen) Delhi in addition to the office of DGI were awarded the prestigious Sevottam certification by the Bureau of Indian Standards. The department has initiated an ambitious programme for the roll out of Sevottam in twenty other formations across the country and we are hopeful that all these formations would be able to seek the required certification before the end of the financial year.

A compendium of some of our best practices, named 'Innovations' was released by Hon'ble Finance Minister during the year for the benefit of field formations and replication thereof in other similarly placed locations. I am happy to state that the measure has been well received and field formations have evinced considerable interest in this attempt at knowledge – sharing and promoting excellence. This Compendium would be regularly updated.

The strength of an organization stems from the able management of its human resource. To provide for an efficient and motivated cadre, the CBEC undertook timely exercise of DPCs at different levels. DPC for 42 posts of Chief Commissioner has also been concluded last month. Similar action was also initiated by the field formations in respect of cadres under their administrative control. Sir, in pursuance of your directions at the conference last year for expeditious conduct of vigilance trials, a series of steps were taken. As a result, the number of final orders grew by over 41% in 2010.

The long overdue cadre-restructuring exercise in the department is currently under active consideration. After getting the proposal cleared from the Department of Expenditure, it is now on way to Department of Personnel. Our Secretary has been supportive of many of our initiatives. I must particularly acknowledge the unstinted support being given by him in getting the Cadre Restructuring proposal through. Sir, we are optimistic that with your kind blessings the Government will accept the proposals and the officers and staff of the department shall stand to gain in the shortest timespan possible.

We revenue officers are by nature publicity–shy. But with changing time we have felt the need to project our performance and promote compliance. The Directorate of Publicity and Public Relations has conducted regular campaigns in

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Print and Electronic media. It has also made a documentary film on "Central Excise - the Engine of Economic growth" – which has already been televised.

Sir, you have taken the initiative to break the stalemate in the negotiations with the States for ushering in GST, by introducing the Constitution Amendment Bill in the Budget Session of 2011. While the Bill has been referred to the Parliamentary Standing Committee on Finance, we in the CBEC have been continuing with our backend preparatory work. The Task Force on GST headed by Mr Gautam Ray, Consultant has submitted its interim report on the business processes relating to GST. This is now being deliberated upon amongst the officers in CBEC. The work on GST Net – the IT initiative for GST is progressing well in collaboration with NSDL. A pilot project for creating a single window portal capable of registration, payment of tax and submission of reports has been finalized in consultation with some of the States. The user testing of the registration module thereof, as well as development of other modules is in progress. Single format for each of three aforesaid functions are being worked out. As mentioned earlier, we propose to deliberate on the implementation challenges of GST in this Conference.

Sir, the post independence organizational focus was revenue centric and its role was primarily regulatory, as it was the requirement of the day. We witnessed economic liberalization, reduction of tariff and gradual dismantling of licence raaj after 1991. Post 1991 the Indian economy started expanding and today it is the 10th largest in the world by nominal GDP and 4th largest by purchasing power parity. Since 2008, India has established itself as word's second fastest growing economy. In this environment, there are indeed quite a few challenges before the CBEC. We have to cope up with the rapidly changing scenario.

Having visited our major achievements, I would also like to point out that we are aware of our weak links in the system as well. There is a large pendency of adjudication cases, number of refunds pending for three months have also grown, arrears of revenue pending realization or liquidation is well past Rs.30,000 crores. These are only illustrative. There are certain more areas of challenges. While continuing with our revenue collection efforts coupled with enforcement measures, we also have to pay equal attention to trade facilitation and taxpayer services. This would be a real tight rope walking. During the two day Conference our officers will deliberate upon each of the challenges before us. I assure you Sir, that during the year special drives will be undertaken to address each of these areas of challenge and we shall strive best to make the life of taxpayer a tad more comfortable and hassle free, than in the past. We would treat our achievements during the year only as 'work in progress' and we shall constantly endeavor to improve upon them. We shall view the challenges as opportunities to redefine ourselves. I assure you Sir, we in the CBEC will do our best to support you in your vision of nation building.

Thank you for your kind attention.

- **Summary of Guidelines for Fast Track Exit mode for defunct companies under section 560 of the Companies Act, 1956:**

Background:- There are a number of companies, which are registered under the Companies Act, 1956 (the Act), but due to various reasons they are inoperative since incorporation or commenced business but became inoperative or defunct later on. Such companies may be desirous of getting their names strike off from the Register of Companies maintained by Registrar of Companies (ROC) without going through elaborate liquidation procedure. As per section 560 of the Act, ROC may strike off the name of companies on satisfying the conditions therein. As per present practice, a company desirous of getting its name struck off has to apply to ROC in e-form 61. All pending statutory returns are required to be filed along with e-form 61.In order to give an opportunity for fast track exit by a defunct company for getting its name struck off from the ROC, the Ministry Corporate Affairs (MCA), Government of India (GOI) has on 7 June 2011 decided vide General Circular No.36/2011 to modify the existing route through e-form – 61 and has prescribed the “Fast Track Exit mode Guidelines” (the FTE Guidelines) for defunct companies under section 560 of the Act, which will be effective from 3 July 2011

Salient Features of FTE Guidelines- FTE Guidelines are applicable to a defunct company. For the purposes of the FTE Guidelines, any company will be called as “defunct company”, which has nil asset and liability and

1. has not commenced any business activity or operation since incorporation; or
2. is not carrying over any business activity or operation for last 1 year before making application under FTE. Any defunct company which has active status or identified as dormant by the MCA may apply for getting its name struck off from the ROC. The application received by the ROC pursuant to the FTE Guidelines will be processed by ROC and some of the key steps of the process are as under:

    - The ROC shall examine the application and if found in order, shall give a notice to the company under section 560(3) of the Act giving time of 30 days stating that unless cause is shown to the contrary, its name be struck off from the Register and the company will be dissolved;

- The name of applicant and date of making the application under the FTE Guidelines shall be displayed on the MCA portal www.mca.gov.in giving time of 30 days for raising objection, if any, by the stakeholders to the concerned ROC;
- In case of company like Non-Banking Financial Company, Collective Investment Management Company which are regulated by other Regulator namely RBI, SEBI, respectively, the ROC, at the end of every week, shall send intimation of such companies availing of the FTE Guidelines during that period to the concerned Regulator and also an intimation in respect of all companies availing of the FTE Guidelines that period to the office of the Income Tax Department giving time of 30 days for their objection, if any.

The FTE Guidelines are not applicable to the following companies:-

I. Listed companies;
II. Companies that have been de-listed due to non-compliance of Listing Agreement or any other statutory Laws;
III. Companies registered under section 25 of the Act;
IV. vanishing companies i.e. a company, registered under the Act and listed with Stock Exchange which, has failed to file its returns with the ROC and Stock Exchange for a consecutive period of 2 years, and is not maintaining its registered office at the address notified with the ROC or Stock Exchange and none of its Directors are traceable;
V. Companies where inspection or investigation is ordered and being carried out or yet to be taken up or where completed prosecutions arising out of such inspection or investigation are pending in the court;
VI. Companies where order under section 234 of the Act has been issued by the Registrar and reply thereto is pending or where prosecution if any, is pending in the court;
VII. Companies against which prosecution for a non-compoundable offence is pending in court;
VIII. Companies accepted public deposits which are either outstanding or the company is in default in repayment of the same;
IX. Company having secured loan;
X. Company having management dispute;

XI. Company in respect of which filing of documents have been stayed by court or Company Law Board (CLB) or Central Government or any other competent authority;

XII. Company having dues towards income tax or sales tax or central excise or banks and financial institutions or any other Central Government or State Government Departments or authorities or any local authorities.

Conclusion – The FTE Guidelines is an improvement over the previous Easy Exit Scheme (EES) and will provide an opportunity to the defunct companies to exit with minimal compliance.

Note: Please do write to us for any clarifications/ suggestion.

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