

MINISTRY OF CORPORATE AFFAIRS

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**From The Secretary's Desk**



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Secretary**

As per the latest figures the Index of Industrial Production (IIP) has shown strong recovery in the month of October, 2012 with a year-on-year growth of 8.2%. Driven by strong manufacturing sector growth with a significant positive growth in the Capital goods industry, growth in industrial production reached a 15-month high. This is expected to give a boost to the recovery of the GDP growth in the second half of this fiscal year.

Capital market continues to be buoyant with the BSE Sensex reaching its nineteen months' high in November, 2012 crossing the 19,000 mark. Foreign Institutional Investors (FIIs) have continued their positive bias towards Indian equities with net FII inflows rising to \$19.05 billion (Rs 1.03 lakh crore) by end-November, 2012. I am happy to note that this is the second highest net inflow in a single calendar year, next only to the peak at \$ 29 billion realised in 2010.

Asset creation has also shown positive signs, with improvement in the level of Gross Fixed Capital Formation (GFCF). In the second quarter of the current fiscal, GFCF as a percentage of GDP is estimated at 33.8% in real terms, compared to 32.8% in the first quarter and 33.4% in the corresponding quarter of the previous year.

WPI inflation is still a cause of concern. It has remained stubborn at over 7% through the year, with the latest monthly figure at the level of 7.2% in November, 2012. The inflation-growth trade-off does pose a difficulty in the way of the much-awaited policy rate cut.

Government is alive to the ground reality and has taken several major decisions for inducing further reforms. A Cabinet Committee on Investment has been constituted for ensuring speedy clearances for major projects in a time bound manner. The Direct Tax Code and the Goods and Services Tax Bills are high on Government's priority. The Land Acquisition Bill, which has recently obtained the Cabinet nod, aims at providing a fair and transparent regime for land acquisition.

The passage of the Companies Bill, 2011 and the Banking Laws (Amendment) Bill, 2011 in the Lok Sabha are definite steps towards rising of the Indian Corporate Sector to global standards. The Companies Bill, 2011 aims at meeting the changing global environment with industry-friendly provisions, while ensuring investor democracy. It is not only progressive but also futuristic duly taking into account the emerging technological and legal developments. The provisions relating to Corporate Social Responsibility (CSR) in the Bill, asking profit making companies to spend on social priorities, have received wide acclaim.

The economy is promising, a promise which is bolstered by bright Rabi prospects despite a sluggish monsoon and the consequent Kharif shortfalls. I am sure the Indian Corporate sector would take the cue and sustain their efforts in contributing to take India back to the high growth trajectory.

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**Delegation of powers to the RBI:** The Central Government has decided to delegate its powers of moving the Company Law Board for removal of Directors and Managerial persons in respect of Banking Companies on complaints of misconduct to the Reserve Bank of India (See Sections 388B and 388E of the Companies Act, 1956).

**Successful peak filing:** Every company is required to file their Annual Report, Balance Sheet, Profit and Loss Account etc. online within one month of holding their AGM. Accordingly, months of October and November see peak filing in MCA-21 every year. MCA-21 successfully handled 17.40 lakh statutory filings by the companies, smoothly and without any server breakdown, in the months of October—November, 2012 against a figure of about 15 lakh filings in the corresponding period last year.

**Exemption of Sick Banks from the purview of CCI:** Government has approved a proposal of the Ministry of Finance to permit merger of sick banks with other Banks without the necessity of ex-ante clearance of combination from the Competition Commission of India under Section 6 of the Competition Act.

**Protecting the Interests of Small Investors:** Complaints on the scheme of doing business of money circulation with the promise of giving high returns have been received against 87 companies up to the end of November, 2012. In view of the fact that such transactions are legally prohibited, the Ministry has ordered a probe by Serious Fraud Investigation Office (SFIO) in respect of 12 such companies. In respect of the other 75 companies, the Ministry has ordered that the balance sheets and Books of Accounts and other records be scrutinised.

**Investigations by SFIO :** The Serious Fraud Investigation Office (SFIO) has investigated into the affairs of 133 cases since inception in the year 2003 up till end

of November 2012. Investigation reports have been submitted in 99 cases, while five cases have been either withdrawn by the ministry or **stayed**/ quashed by the Courts. These cases involve economic offences such as breach of trust, cheating, falsifications etc. and violations of provisions of the Companies Act, 1956.

**Disclosure of Unclaimed/Unpaid Amount of Investors:** A new website (<http://www.iepf.gov.in>) has been set up for the companies to file details of unpaid and unclaimed amounts of investors for up to seven years and not yet transferred to the Investor Education and Protection Fund. This website would enable the investors to search and locate the relevant information of such amounts. As on 29.11.2012, a total of 5199 companies has uploaded their data on the website.

**Investor Awareness Programmes:** Investor Awareness Programmes are being conducted in partnership with the three professional Institutes. During the month of November, 2012, 155 such programmes were conducted.

**Notifications and Circulars on Simplification in Administrative Procedures continues:** The Ministry of Corporate Affairs has issued a series of Notifications and Circulars concerning administration of the Companies Act, 1956 (for further details, visit our website: <http://mca.gov.in>). These Notifications and Circulars broadly relate to —

## **I. Notifications**

The Central Government has amended the Companies (Filing of Documents and Forms in Extensible Business Reporting Language) Rules, 2011 to make it mandatory to file the Balance Sheet, Profit and Loss Account and related documents using the Extensible Business Reporting Language (XBRL) Taxonomy for the financial years commencing on or after 01.04.2011, through e-form No. 23AC-XBRL and 23ACA-XBRL

for all listed companies and their subsidiaries, all companies with paid up capital of rupees five crore and above, all companies having turnover of rupees one hundred crore and above; and all companies that have filed their Annual Returns in XBRL mode earlier. However, Banking, Insurance, Power Sectors and Non-Banking Financial companies are exempted from filing in XBRL mode.

All Cost Audit Reports and Compliance Reports and related documents have to be filed in XBRL mode, for all financial years commencing on or after 01.04.2011. Any overdue report relating to any previous years should also be filed under XBRL mode. Form I-XBRL under the Companies (Cost Audit Report) Rules, 2011 is to be used for the purpose of Cost Audit Reports, and for compliance reports, Form A-XBRL specified under the Companies (Cost Accounting Records) Rules, 2011, Cost Accounting Records (Telecommunication Industry) Rules, 2011, Cost Accounting Records (Petroleum Industry) Rules, 2011, Cost Accounting Records (Electricity Industry) Rules, 2011, Cost Accounting Records (Sugar Industry) Rules, 2011, Cost Accounting Records (Fertilizer Industry) Rules, 2011, and Cost Accounting Records (Pharmaceutical Industry) Rules, 2011, have to be used.

[See G.S.R. 869(E) dated 30.11.2012, with effect from 02.12.2012].

The Central Government has also substituted the Forms to be used under the Companies (Cost Audit Report) Rules, 2011, Companies (Cost Accounting Records) Rules, 2011, Cost Accounting Records (Telecommunication Industry) Rules, 2011, Cost Accounting Records (Petroleum Industry) Rules, 2011, Cost Accounting Records (Electricity Industry) Rules, 2011, Cost Accounting Records (Sugar Industry) Rules, 2011, Cost Accounting Records (Fertilizer Industry) Rules, 2011, and Cost Accounting Records (Pharmaceutical Industry) Rules, 2011, for enabling the filing of reports and other information in electronic mode. The amended rules have been notified on 30.11.2012, and will be effective from 02.12.2012. The particulars are as given in the table :

| Notification | Rule | Forms | Content of Form |
|--------------|------|-------|-----------------|
|--------------|------|-------|-----------------|

| <b>No.</b>        | <b>amended</b>             | <b>Substituted</b> |                                                         |
|-------------------|----------------------------|--------------------|---------------------------------------------------------|
| G.S.R. 861<br>(E) | Cost Audit Report          | Form I-XBRL        | Cost Audit Report and other documents                   |
|                   |                            | Form II            | Cost Auditor's Report, and Annexure and other documents |
| G.S.R. 862<br>(E) | Cost Accounting Records    | Form A-XBRL        | Compliance Report and other documents                   |
|                   |                            | Form B             | Compliance Report, Annexure, other data and information |
| G.S.R. 863<br>(E) | Pharmaceutical Industry    | Form A-XBRL        | Compliance Report and other documents                   |
|                   |                            | Form B             | Compliance Report, Annexure, other data and information |
| G.S.R. 864<br>(E) | Fertilizer Industry        | Form A-XBRL        | Compliance Report and other documents                   |
|                   |                            | Form B             | Compliance Report, Annexure, other data and information |
| G.S.R. 865<br>(E) | Sugar Industry             | Form A-XBRL        | Compliance Report and other documents                   |
|                   |                            | Form B             | Compliance Report, Annexure, other data and information |
| G.S.R. 866<br>(E) | Electricity Industry       | Form A-XBRL        | Compliance Report and other documents                   |
|                   |                            | Form B             | Compliance Report, Annexure, other data and information |
| G.S.R. 867<br>(E) | Petroleum Industry         | Form A-XBRL        | Compliance Report and other documents                   |
|                   |                            | Form B             | Compliance Report, Annexure, other data and information |
| G.S.R. 868<br>(E) | Telecommunication Industry | Form A-XBRL        | Compliance Report and other documents                   |
|                   |                            | Form B             | Compliance Report, Annexure, other data and information |

## **II. General Circulars:**

i) In view of default by a large number of cost auditors in filing Form 23D within stipulated time, an opportunity has been given to the cost auditors to make good the default by 16.12.2012. Companies that have not issued formal letter of appointment after approval of Form 23C are required to do so within 15 days, so as to enable the auditors to file Form 23D within the extended time (General Circular No. 35/2012 dated 05.11.2012).

ii) Change of Cost Auditors for reasons of death, resignation, rotational policy and other reasons need to be properly intimated in the MCA21 System by enclosing requisite documents, within prescribed time limits. It has also been made clear that typographical or clerical errors have to be corrected before Form 23 C is finally approved, and after an approval, any change can happen only through a fresh Form 23C. Form 23C is being amended to capture the dates, number of appointments, submission of reports etc., Contravention of these provisions would invite penal action (See General Circular No. 36/2012 dated 06.11.2012).

iii) In view of the fact that the Ministry of Corporate Affairs has to deal with about 8 lakh companies, which are required to file their balance sheets, the Ministry has adopted a policy of scrutinising the returns only on a random basis. The Balance Sheets have been made available to general scrutiny under the View Public Document facility in MCA21 system as a measure of ensuring transparency. Scrutiny is a routine process only in the following cases :

- (a) receipt of complaint against a company;
- (b) raising of equity/ debt through public issue of share/ debenture;
- (c) audit report is qualified with remarks;
- (d) default in repayment of matured deposits and debentures; and
- (e) receipt of references from other regulatory authorities, calling for action.

(See General Circular No. 37/2012 dated 06.11.2012)

iv) In view of the adoption of new schedule VI (applicable for the accounting year commencing on or after 01.04.2011), the Ministry has extended the due date for filling of e-forms 23AC (Non-XBRL) up to 24.11.2012 for companies holding AGM or whose due date for holding AGM is on or after 21.09.2012. Such companies are allowed to file their returns up to 24.11.2012 or the due date of filing, whichever is later.

(See General Circular No. 38/2012 dated 23.11.2012)

### **International Cooperation:**

1. A delegation led by Shri Sachin Pilot, Hon'ble Minister of State (Independent Charge) for Corporate Affairs participated in the 24th Annual International Seminar/1st GCC Conference 2012 at Abu Dhabi, UAE organized by the Abu Dhabi chapter of the Institute of Chartered Accounts of India (ICAI) during 7-8<sup>th</sup> of November. Theme of the Conference was "Waves of Change: Oceans of Opportunity". The Indian delegate consist of Shri Manoj Kumar, Joint Secretary and Shri Koteshwara Rao, Director, MCA.
2. Shri Manmohan Juneja, Registrar of Companies (ROC), Delhi, Ministry of Corporate Affairs attended in the 3rd Indo-Japan Forum 2012 at Tokyo on 19.11.2012.

### **Events at Competition Commission of India:**

1. Dr. Geeta Gouri, Member participated in Exim Bank's commemorative lecture on "*The Global Financial Crises : Causes and Consequences*" at India Habitat Centre, New Delhi on 19.11.2012.

2. Hon'ble Mr. Justice S.B. Dhingra, Member, CCI delivered a lecture on "*Collection of Evidence and Recording of Statement*" in the office of DG, CCI on 27.11.2012.
3. Shri Ajay Kumar Chauhan, DG, CCI delivered a talk on "*Competition Law Enforcement & Compliance in India*" to the Members of Vidarbha Industries Association and other prominent Associations at Nagpur on 23.11.2012.
4. Shri Pravin Purwar, Advisor (FA) and Shri Sachin Goyal, Dy. Director (FA) attended the ICN Merger Working Group 2012 Workshop at Bogota, Columbia from November 7-9, 2012.
5. Ms. Payal Malik, Advisor gave a talk on "*Platform Markets & Enforcement of Competition Act, 2002*" in a Seminar on '**Competition Enforcement and Business Strategy**' held on 29.11.2012 at PHD Chamber of Commerce & Industry, New Delhi.
6. Communal Harmony Week was celebrated by Competition Commission of India during November 19-25, 2012.
7. Dr. Sanjay Kumar Pandey, Jt. Director (Law) conducted Competition Advocacy Workshop, organized by CCI with Amity Law School, Delhi on 07.11.2012.

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