E-NEWSLETTER May, 2013

CORPORATE JOURNAL

"TO FACILITATE OVERALL PROFESSIONAL DEVELOPMENT WITH ENLIGHTENED INFORMATION"

"PERFECTION IS NOT FULLY ACHIEVED BY ANYONE IN THE WORLD, BUT IF YOU KEEP CHASING PERFECTION, SOMEWHERE ON THE WAY, YOU MAY CATCH THE EXCELLENCE."

⇒ INSIDE

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Articles / other materials and suggestions are invited from the Members for publication in forthcoming Issues. All articles submitted will be subjected to review and published only after accepted for publication.

Kindly send the articles and other relevant material for publication along with your photograph at ankursrivastavacs5985@gmail.com. We assure that we empower you with the knowledge you seek.

============================ FROM THE EDITOR ============================

CS Ankur Srivastava
Editor

Dear Professional Colleagues & Friends,

We are the part of the prestigious profession like CA, CS or CMA. Being the part of such a reputed body it is enormously desired to work harder and always create a higher standard. What we have achieved so far is the result of our persistent hard work and passion for excellence.

We are the professionals and being professional it is necessary to continue to work hard as it is the vital nutrient to nourish our talent. The day we have obtained our membership, we are supposed to be an expert in our field and it has become our major responsibility to prove ourself as an expert. As the quote cited on the cover *"Perfection is not fully achieved by anyone in the World, but if you keep chasing perfection, somewhere on the way, you may catch the Excellence."*

We should regularly strive towards perfection and try to cover more and more areas in our bucket. As it is rightly said *"Knowledge is never ending"*. We must have zeal to learn more in this ever changing corporate world as it will be very beneficial for our development as a professional.

I would like to render my best wishes to all those students who are appearing in their CA-May, 2013 attempt as well as to those who would be appearing in CS- June, 2013 attempt.

All the Best and keep contributing towards the betterment of our profession.

Happy Reading.

CS Ankur Srivastava
Editor

================================ ARTICLE ==================================

Loss on Reduction of Share Capital – A Landmark Judgment

<u>Landmark Judgment on allowability of loss on reduction of share capital as LOSS FROM CAPITAL GAIN</u>

Date of Hearing: 16-08-2011

Date of Pronouncement: 30-09-2011

Deciding Authority- ITAT Mumbai, Special Bench

Bennett Coleman & Co. Ltd., Times of India Bldg., Dr. D. N. Road, Mumbai 400 001. PAN: AAACB 4373 Q	**Vs.**	**The Addl. Commissioner of I.T., Range- 1(1), Mumbai.**
(Appellant)		**(Respondent)**

Question to be decided:

This Special Bench has been constituted by the Hon'ble President to consider the following question:

"Whether on the facts and in the circumstances of the case, the CIT(A) was justified in disallowing long term capital loss of ` 22,21,85,693/- on account of reduction in paid up equity share capital? "

Facts of the case –

During the course of assessment proceedings, the Assessing Officer noticed that assessee had claimed long term capital loss amounting to ` 22,21,85,693/-. It is not in dispute that assessee (Bennett Coleman &Co.) made an investment of `2484.02 lacs in equity shares of a group company viz., Times Guarantee Limited [TGL]. *Under sec. 100 of the Companies Act, 1956 TGL applied for reduction of* ***equity share capital*** *and approached the Hon'ble Bombay High Court for approval of the same. The Hon'ble High Court approved the petition of TGL and allowed reduction in its share capital by 50% by reducing the face value of each equity share from ` 10/- to ` 5/-* . **Consequently, assessee's investment in TGL got reduced from ` 2484.02 Lacs to ` 1242.01 Lacs. After applying the indexation a sum of ` 22,21,85,693/-was claimed as long term capital loss.**

Cont…

Contention of the Assessing Officer –

Argument No.-1

The assessee in support of his claim placed reliance on the case of Kartikeya V. Sarabhai (Supreme Court). The Assessing Officer, after considering the same, was of the opinion that in the case of Kartikeya V. Sarabhai the court was concerned with **the reduction of preference shares capital**. Therefore, according to the Assessing Officer, that was merely a case involving reduction in face value of preference shares and accordingly same should not be applied here because the voting rights were also reduced proportionately on the resolution which effected the rights of preference shareholders whereas, **in case of equity shares, there is no reduction in the rights of such equity shareholders, therefore AO concluded that the facts of this case and the other one as relied on by assessee are not same, so assessee cannot claim benefit of that judgment in the present case.**

Argument No. 2

He further observed that in the present case **assessee has not received any consideration for reduction in the value of shares**, nor any part of the shares have been passed to anyone else. **This means, that there was no change in the rights of the assessee vis-à-vis other shareholders and, therefore, no transfer had taken place** and, thus, assessee was not entitled to the claim of long term capital loss.

Argument No. 3

The revenue contended that the reduction in face value of shares is not a 'transfer' on account of the following:

1. The assessee's percentage of shareholding, immediately before reduction of share capital and immediately after the reduction, remained the same (i.e. 74.9 percent).
2. As distribution of surplus profit to shareholders as bonus is not taxable, in the same way, losses of the company which have been adjusted by reducing the capital cannot be allowed.

Appeal to CIT (Appeals) against the order of Assessing officer:

Assessee did not get any relief on appeal to CIT(A) , Ld. CIT (A) upheld the action of the Assessing Officer on similar reasoning.

Cont…

Contention of the assessee

In view of the decision of the Hon'ble Supreme Court in the case of Kartikeya V. Sarabhai [228 ITR 163]- wherein it was held that reduction in face value of preference shares would amount to transfer, similarly reduction in equity share capital is also transfer and loss on account of such reduction is allowable.

In terms of sec.100 of the Companies Act, 1956 which has been approved by the Hon'ble High Court. The company was accordingly allotted 67, 37,399 new shares in place of old shares at 1,34,74,799.

He pointed out that **even ISIN No. has changed from INE 289C01025 to INE 289C01017**, which basically **means that new shares are different shares because different ISIN INE No. has been allotted**.

ISIN [International Securities Identification Number] is a unique identification number allotted for a security [E.g –INE 383C01018].

The assessee contended that the expression 'transfer' as defined in section 2(47) of the Act is an inclusive definition and, inter alia, provides that relinquishment of an asset or extinguishment of any right therein, would also amount to transfer of a capital asset. **Thus, even extinguishment of right in a capital asset would amount to transfer and in the instant case as assessee's right got extinguished proportionately, to the reduction of capital, it would amount to transfer. The assessee further contended that to invoke the provisions of section 45 read with section 2(47) of the Act, sale of a capital asset is not a necessary condition.**

Thus, Learned counsel contended that old shares have been replaced with new shares which is a reduced number and this should be treated as exchange of shares which is clearly covered by the definition of 'transfer' and once the shares have been transferred it is a basic condition for attracting sec.45, then the loss incurred on the same should be treated as capital loss.

The assessee argued that since, in the present case, there is zero consideration, it can be construed that the consideration was ascertainable, and therefore, same should be taken as zero and capital loss should be allowed.

Tribunal Ruling:

The contention of the ld. Deptt's Representative (D.R.), in simple words, is that there is reduction of capital, but no loss has resulted due **to simultaneous equal increase in the book value of the remaining shares.**

Cont…

View of Tribunal-If increase in the book value of the remaining shares is considered as a relevant factor to deny the loss on transfer due to reduction of capital, **then every increase or decrease in the book value of the shares should also be considered as resulting into income or loss under the head `Capital gains'**

Here is a case in which the share-holding of the assessee has come down by fifty per cent. If it had earlier 100 shares at its disposal for sale at any time, now it is left with only 50 shares. Its right over the 50 shares, which have been cancelled by the company, has come to 'a nothing' and it has resulted into transfer**.** Now after the reduction, it cannot go to market to sell 100 shares but has only 50 shares at its disposal**. The transaction of reduction into capital has come to an end, making the assessee poorer by 50 shares without any corresponding inflow of consideration.**

It would be **altogether different transaction** when remaining shares become subject matter of transfer. At that point of time the question of capital gain would arise by considering the market price of such shares *vis-à-vis* the cost of acquisition of the remaining shares. If the market price further goes up at the time of transfer of the remaining shares, there will result still higher income. But if unfortunately, say TGL's future has more adverse time and that the market price of its shares further goes down, the assessee will stand to lose at the time of the transfer of the remaining shares as well.

In that case, the fact "that on reduction of capital there was some increase in the book value of the remaining shares" **will not come to mitigate the loss to the assessee subsequently at the time of second transaction of transferring remaining shares.** It is thus clear that the **increased or reduced or static book value of the shares of a company has no relation either with its market price or computation of capital gain, either at the time of transfer on reduction of capital or when the remaining shares in possession are transferred**. This contention raised on behalf of the Revenue is thus **not tenable.**

Final Judgment

Once a capital asset is transferred, the natural consequence which follows is that there is either gain or loss unless full value of consideration equals the cost of acquisition. **As the reduction of capital has been held to result into `transfer', the excess of cost of acquisition of such shares over the full value of consideration will lead to loss.**

Cont…

Thus it is held that the reduction of capital by TGL has caused loss to the assessee in terms of sec. 45. The question before the Special Bench is, therefore, answered in favour of the assessee

IS ASSESSEE DERIVING DOUBLE ADVANTAGE?

It is natural that when on the transfer of such shares, the proportionate cost has been taken into consideration for computing capital gain on their transfer , that cost shall cease to be available with the assessee for the remaining shares.

I, therefore, hold that the assessee cannot derive double advantage by firstly claiming deduction of ` 12.42 crores at the stage of reduction of share capital and again assuming the cost of acquisition of the remaining shares at the full value of ` 24.84 crores. The cost of acquisition of the remaining consolidated shares in TGL shall stand reduced **u/s55 (2)(b)(v)** to ` 12.42 crores.

Note- The above judgment has become final because the I.T Department did not prefer an appeal before High court.

Your feedback on the Article is most welcomed.

Regards,
Saurabh Maheshwari
CA (Final)
Email-saurabhchokhra92@gmail.com
Reference-ITAT Mumbai Judgment

SERVICE TAX ON FOODING BILL

W.e.f. 1st April, 2013 you have to pay more towards your fooding bills of the restaurants. As such, Ministry of Finance has modified the Service Tax rules and accordingly all restaurants who serve food and beverages to customers in their restaurants have come in the ambit of Service Tax.

Prior to April 1, service tax was levied on food and beverages including liquor which were served in restaurants having facility of air-conditioning or central heating system and a license to serve liquor. The condition to have a bar permit or license has been done away w.e.f. 1st April, 2013 which implies that all such places having air-conditioning shall be liable to service tax and shall, charge service tax to their customers in food/ drink bills.

What is illogical is that even if only a part of such restaurant is air -conditioned or even when it provides air-conditioning for a part of the year, it would be subjected to service tax. However, restaurants which are in open air or garden or on terrace where no air-conditioning is available should not be charging service tax. Customers should aware of this condition or else they end up paying more.

There could be an argument that food is a sale and not a service. Yes, that may be true but what Government has stipulated that it is not the whole of food bill which will be taxed to service tax but only service portion of food sale. For this purpose, service tax will be levied only 40 percent of the total bill assuming that 60 percent goes in the cost of food sold. Thus, effectively service tax will be levied @ 12.36 percent only on the 40 percent of the food bill, i.e., effective tax rate of service tax will be 4.94% of the total bill. Customers should note this and question any illegal levy of service tax.

In some case, service tax is charged at full rate (12.36%) on 100 percent of food bill which should be objected to. Some restaurants charge a ‘service charge’ which is not a service tax but a charge for services provided to customers. What is taxable is serving of food in a restaurant. As such any sale of food at MRP (say a water bottle or soft drink) will be considered as a sale and not a service. Similarly ‘free home delivery’ and ‘take away’ billings are not leviable to service tax. Also, service tax cannot be charged on the amount of VAT.

Cont…

Certain eating joints and air-conditioned canteens which are operated in air-conditioned malls will also be covered in service tax.

Thus, while eating out in restaurant at one side it would cost more and another side it leads to a typical case of double taxation as one ends up paying VAT on full food bill and service tax on 40 percent of the bill which goes against the tax policy.

With *Warm Regards :*
Team TAX INDIA SERVICES

================================ **ARTICLE** ==================================

INSIGHT INTO CLOUD COMPUTING – AN INTERNAL AUDIT PERSPECTIVE

CMA Shriram Varadan

CLOUD COMPUTING – STEP AHEAD IN TECHNOLOGY:

With use of Computer Hardware & Software, Cloud Computing is a savvy for delivering information technology services in which resources are retrieved from the internet through web-based tools and applications, rather than a direct connection to a server. It allows the user to work remotely and doesn't require user to be in specific place to gain access to it.

Fig 1.1 – 'Working of Cloud computing technology'

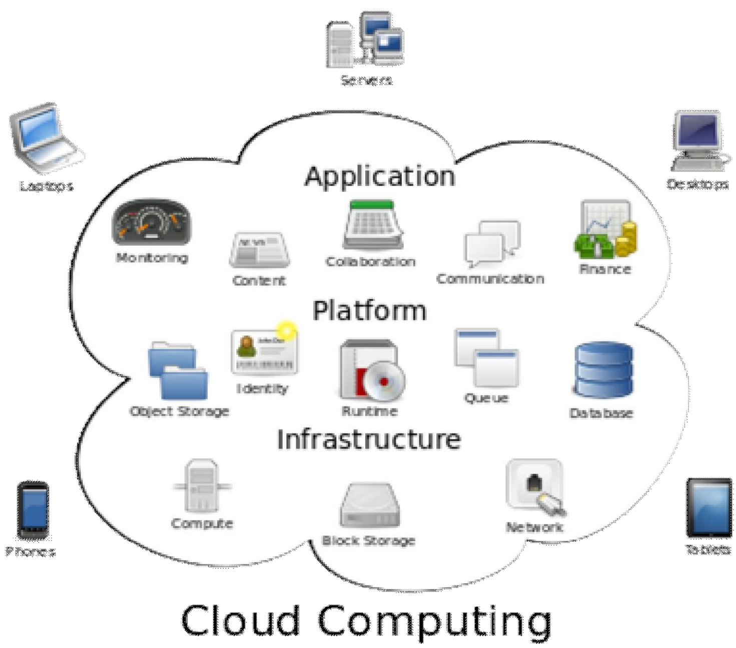
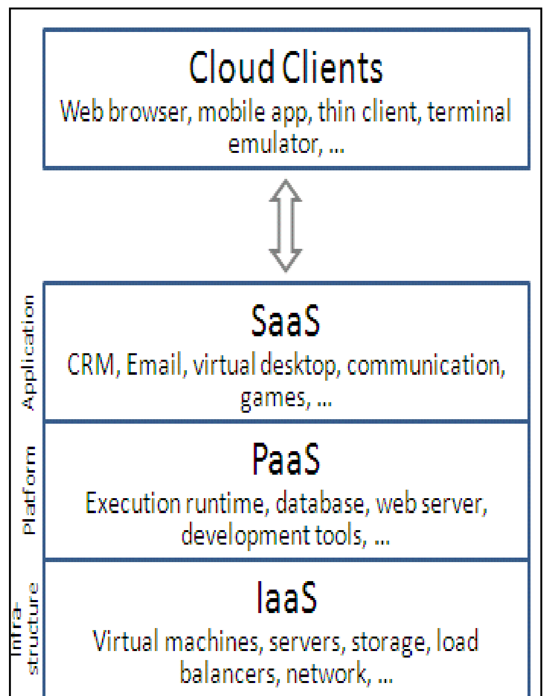


Image Source: Wikipedia – (Fig 1.1)



(Fig 1.2)

*Fig 1.2 ~ working fundamentals of cloud - INFRASTRUCTURE AS A SERVICE **(IaaS)**, PLATFORM AS A SERVICE **(PaaS)**, and SOFTWARE AS A SERVICE **(SaaS)***

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NETWORK AS A SERVICE (NaaS) and **COMMUNICATION AS A SERVICE (CaaS)** were officially included by ITU (International Telecommunication Union) as part of the basic cloud computing models

Clouds operate on the following models based on user specification & requirement:

PRIVATE CLOUD - Operated for specific organization**,**

COMMUNITUY CLOUD - shared by several organizations,

HYBRID CLOUD - combination of above

❖ **WHAT MAKES CLOUD POPULAR?**

- Cost Reduction due to operational inefficiencies
- Flexibility in cost allocation
- Elasticity to allocate measurable resources
- Reduction in owning and operating systems & networks
- Need not invest in information technology infrastructure, purchase hardware, or buy software licenses.
- Unlimited Processing & Storage capacity
- Encourage open standards since clouds are used widespread that will establish data security features
- Operational risk reduction
- Transform the way organizations manage IT

Cloud computing may also allow for better audit trails.

❖ **HOW IT WORKS:**

ICLOUD (from Apple INC)

SERVICE NAME	ICLOUD
DESCRIPTION	SYNCHRONISATION MECHANISM BETWEEN ITUNES, MAC COMPUTERS, IPADS AND IPHONES. ENSURES THE AVAILABILITY ‘ANYWHERE’ OF SELECTED FILE TYPES, INCLUDING MUSIC FILES, MAIL MESSAGES, AND DOCUMENTS.

Cont…

APPROPRIATE USAGE	PERSONAL DATA: NOT PERMITTED RESTRICTED: NOT RECOMMENDED CONFIDENTIAL: PERMITTED ORDINARY: PERMITTED *[NOTE: CAUTION IS RECOMMENDED IN THE USE OF ICLOUD FOR ANY DATA, AS IT IS NOT ALWAYS CLEAR WHEN THE SERVICE IS BEING USED. FOR EXAMPLE, OPENING AN ATTACHMENT TO A PIECE OF MAIL WITHIN 'PAGES' WILL IMPLICITLY MOVE IT TO ICLOUD IF PAGES SYNCHRONISATION IS ACTIVATED]*

The aforesaid are generally applicable irrespective whether an organization is thinking about moving to the cloud or in the process of implementing cloud. Regardless, Internal Audit as an assurance function helps the management and board to identify and consider risky areas of leveraging cloud technology.

❖ **CLOUD COMPUTING CHALLENGES**

The Implementation of Cloud requires a dedicated attention from business perspective with a projected long range forecast of visions & missions but doesn't spare of any challenges being imposed on implementation. The possible implementation challenges, which users might come across, are:

- Loss of Physical Control
- Models of cloud are still emerging & standards are subject to change
- Availability concerns
- Privacy Implications i.e. Geographic location on storage of data
- Fixing responsibilities in case of security breach
- Exposure to global arena

CLOUD COMPUTING – INTERNAL AUDIT PERSPECTIVE

Internal Audit can provide business insight by identifying and communicating internal changes, external dependencies, and overall progress on objectives. Assessing the impact of the cloud starts with understanding the model - private, public, or hybrid—that your company plans to adopt is the preliminary step of IA function.

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❖ FOCUS OF INTERNAL AUDIT ON CLOUD:

The IA function should determine whether it has defined & communicated its strategy by addressing:

a) **Business Criteria** for moving to cloud –

Applicability: Need true understanding before transit

Requisite: Complex Application Infra Structure

Plan Go: When Business looks scaleable and efficient

b) Opting to **cloud should align with** needs of **Business** –

Applicability: Cloud should align with their business objectives & strategy

Requisite: If IT assets are age old & are at an end life & are costly to operate

Plan Go: Decrease Operational or labour costs, can realize cost benefits

c) Understanding **Current** State of **systems & data** to be transformed to cloud -

Applicability: Defining the scope (sensitive or critical data)

Requisite: Data retention requirements

Plan Go: When transaction volumes about to exceed the current structure

d) Other Significant Considerations :

- Managing **Vendor Relationships** - Defining Liaison between company & vendor
- Protecting company **valuable assets** & understanding **security** – [Going global might have a force on applicability of globally accepted Information & Technology standards] Understanding Internal Data security controls
- Delegation & Division of **Responsibility** including monitoring activities
- Reviewing **DRP** (Disaster recovery Plan) on moving to cloud
- **Controls** in place over cloud provided by the vendor, since vendor manages multiple clients on server alongside ours.

Cont…

- Physical **storage** of data
- Certainty in Service & Operational level agreements
- Compliance responsibilities (Legal, Regulatory & Contractual)
- Protocols to be adopted in case of Data Breach
- Adaptability & Training of users
- Forecast of Organization progress - 'Visionary'

❖ CLOUD OBSTACLES TO BE CONSIDERED IN INTERNAL AUDIT FUNCTION

- Integration of cloud and internal systems.
- Government regulations & legal issues
- International data privacy
- Data ownership and custodian responsibilities.
- Longevity & Credibility
- Testing and assurance
- Recovery
- Reliance on Security
- Data's in cloud aren't encrypted
- Criticality of the application
- Revisit of Present Security Model
- Availability of user Specified Reports

❖ PRE IMPLEMENTATION EXERCISES

- Conducting a proper risk assessment (RA)
- Conducting Risk Based Audit (RBA)
- Deciding the nature of data allowed to be stored on cloud
- Specifying user restrictions on access and fixing responsibilities
- Choosing Secure network connections for administering cloud
- Administering Logging activities

Cont…

CONCLUSION

To sum up, SWOT on Cloud's to be applied to prioritize business requirements over cloud. It offers immense benefits for business provided the organization entrusts on cloud completely & allocate its resources accordingly. The shift in paradigm is however another significant improvement in IT field, yet there are privacy and security concerns which might be vulnerable. Cautious step to be taken while implementing cloud lies in reviewing the terms of service provider's contract and to challenge him the business requirements and needs

[Disclaimer: The technology related interpretations are extracted from internet source (wiki, iasca), & the internal audit perspectives on cloud alone are authors own interpretation and solely binds on him]

Thanks and Regards:

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============================ **MOTIVATIONAL**================================

POWER OF SELFLESSNESS

We have often heard the term selflessness. But in today's world, being selfless sounds like a preaching. In this competitive world, every individual is striving to reach their goals, earn name, fame, wealth and success. Either intentionally or unintentionally, this competition drives us away from act of co-operation, kindness and help. We may feel that by extending help, the other individual will overtake us, will go ahead and we will be laid back. Isn't it??

CS Sneha Binani

Before going ahead with power of selflessness, let us know the meaning of the term in a correct way. Selflessness is not only an act which we do for people without expecting a reward for it or help provided to others who can never benefit us but also includes not expecting recognition or sense of superiority. Now the instant question which arise is that how come this act have great powers which is not giving us anything in return.

Here is the description how this act has great powers. The law of accountancy always holds good. "For every debit there is equal credit." When we do good for others, it always comes back to us at the appropriate time in a proper way. It may not come from the same person or it may not be in the same form, we may not even know that the help we received was actually because of the good that was done earlier by us. But it always comes. This is actually the circle of life.

"Life is like an echo, reflecting what you do. Keep helping others and help will come back to you."

Let us take an example. A small act of kindness like when we are going to give our exam we gave our seat to an old person in bus/metro. We did an act of genuine kindness. It stands as an asset in our account. Now in the examination hall, we get stuck in a question. Only 10 minutes left. Suddenly we get the hint of the answer. We may feel its our good luck to get the hint not knowing that this good luck was due to our act of genuine kindness. Selflessness has immense power when taken in a right way. Law of Karma always holds good. This provides us with the explanation that an act of kindness in day to day life comes back to us.

Cont…

But when it comes to profession, colleagues or our friends we may feel that helping them will make them equally efficient. We have core competence in some work or we possess more knowledge in particular field and if we share it then our importance will not be there. The other person may use that and become more efficient than us. At this point, always remember that source of information will always be at a better place than the one who receives it.

Moreover we are successful in building cordial relationship with that person, which will be fruitful in the long run. We may even get some information from the same person when we require it.

I want to share my own experience with you all. I and one of my closest friend were called for an interview in a Company for management training. We prepared together for the interview. Next morning I reached earlier than her for the interview. After my interview was over, I met her in the passage. As she is my close friend I told her some questions. Then she gave the interview. After an hour we came to knew that I was selected. When I asked my employer why I was selected and not her. She told me that although our answers were similar but conceptually I delivered more than her.

An act of selflessness will never let us laid back. Instead it will not only help us to be in the front but also keep us in good terms with everyone around us. Knowledge is like water. The nature of water is to flow. If we accumulate it for long it pollutes the environment around. Instead it is stored in ponds or dams so that it can be used by others when they need it. If knowledge is kept with self then the scope of growth diminishes. The growth of profession is only possible with growth of professionals.

Lastly, just want to conclude with the saying, Be good, do good and get good. “Sow as you want to reap.”

With Courtesy:
Sneha Binani
Company Secretary

=============================== **UPDATES** ===============================

Ministry of Corporate Affairs
Government of India

Ministry of Corporate Affairs has not yet completely implemented and resorted the queries of the stakeholders regarding relaxation of additional fees. In this regard, in continuation of the General Circular no. 3/2013 dated 08/02/2013 and 07/2013 dated 20/03/2013, Ministry of Corporate affairs has further issued General Circular no. 08/2013 dated 10/04/013 and further extended the last date for filing and relaxation of additional fee upto 15/04/2013.

Other terms and conditions of circular no. 3/2013 and 7/2013 will remain the same.

CIRCULARS/ NOTIFICATIONS ISSUED DURING THE MONTH OF APRIL, 2013

Ref No.	Date	Description
General Circular No. 08/2013	10.04.2013	Relaxation of additional fees and extension of last date in filing of various forms with the Ministry of Corporate Affairs-reg.

================================ **UPDATES** ================================

REDRESSAL OF INVESTOR GRIEVANCES THROUGH SEBI COMPLAINT REDRESS SYSTEM (SCORES)

All Listed Companies are required to redress the grievances of investor and inform them within 30 days of the receipt of the Complaint through SCORES. To regulate the same SEBI has further issued a Circular no. CIR/OIAE/1/2013 dated 17th April, 2013 which provides that:

1. The companies which are yet to obtain their user name and password, are required to send their details to SEBI (hard Copy) and by email at scores@sebi.gov.in and obtain the SCORES user id and password. Failure to obtain the SCORES user id and password within 30 days of issue of this circular would not only be deemed as non Redressal of investor grievance but also considered as willful avoidance of the same.

2. Failure by Companies to file Action Taken Report(ATR) under SCORES within 30 days of date of receipt of complaint may also attract the provisions of Section 15A(a) of the SEBI Act, 1992.

INPUTS / SUGGESTIONS ON THE SEBI (PROHIBITION OF INSIDER TRADING) REGULATIONS, 1992

Securities and Exchange Board of India ("**SEBI**") has constituted a High Level Committee to review the SEBI (Prohibition of Insider Trading) Regulations, 1992 ("**PIT Regulations**") and to suggest suitable recommendations for amendments as it considers necessary.

Two decades have passed since the PIT Regulations were notified. Since then there have been several amendments to the Regulations and judicial paradigm through case laws have also evolved in India. There have been various prominent judgments by Hon'ble Supreme Court, various Hon'ble High Courts and the Hon'ble Securities Appellate Tribunal that have further clarified and redefined the scope and applicability of the PIT Regulations. A need has thus arisen to review and realign the PIT Regulations with these developments and to ensure that they reflect the best practices adopted globally.

As part of a consultative process in the exercise of reviewing this significant piece of legislation, the High Level Committee has decided to seek inputs and suggestions from the public at the outset on any aspect of the PIT Regulations, about which sections of the public may believe that intervention in the form of a review is required. In order to receive such inputs and suggestions in a structured manner, the High Level Committee to review PIT Regulations hereby invites suggestions from members of the public in the following format:-

Sr. No	Issue	Suggestion	Rationale
1.	Table the issue here: For example: – Definition of Insider	Place your suggestion on proposed intervention on the specific issue here	Provide your reasons as to why you propose such intervention

Suggestions and inputs may be sent in the aforesaid format as word attachments to comments_pit@sebi.gov.in by May 16, 2013

================================ UPDATES ================================

NOTIFICATION

Mumbai, the 17th April, 2013

SECURITIES AND EXCHANGE BOARD OF INDIA

NOTIFICATION REGARDING ESTABLISHMENT OF LOCAL OFFICE OF THE BOARD AT LUCKNOW

In exercise of the powers conferred by sub-section (4) of section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board has established its Local Office at Lucknow under the administrative control of its Northern Regional Office at New Delhi.

The Local Office so established shall look after the regulatory aspects of investor protection, facilitating redressal of investor grievances, financial and investor education and such other functions as may be assigned from time to time, and its role and responsibility shall extend to the areas falling under the territorial jurisdiction of the State of Uttar Pradesh.

================================ UPDATES ================================

भारतीय रिज़र्व बैंक

RESERVE BANK OF INDIA

www.rbi.org.in

STANDARDIZATION AND ENHANCEMENT OF SECURITY FEATURES IN CHEQUE FORMS/MIGRATING TO CTS 2010 STANDARDS

Reserve Bank of India has issued a Circular no. RBI/2012-13/444 dated 18/03/2013 and further extended the time limit for use of non CTS cheques. Accordingly, all residual non-CTS-2010 cheques with customers will continue to be valid and accepted in all clearing houses [including the Cheque Truncation System (CTS) centers] for another four months up to **July 31, 2013**, subject to a review in June 2013.

Cheque issuing banks shall make all efforts to withdraw the non-CTS-2010 Standard cheques in circulation before the extended timeline of July 31, 2013 by creating awareness among customers through SMS alerts, letters, display boards in branches/ATMs, log-on message in internet banking, notification on the web-site etc.

Banks shall not charge their savings bank account customers for issuance of CTS-2010 standard cheques when they are issued for the first time. However, banks may continue to follow their existing policy regarding cheque book issuance for additional issuance of cheques, in adherence to their accepted Fair Practices Code.

No fresh Post Dated Cheques (PDC)/Equated Monthly Installment (EMI) cheques (either in old format or new CTS-2010 format) shall be accepted by lending banks in locations where the facility of ECS/RECS (Debit) is available. Lending banks shall make all efforts to convert existing PDCs in such locations into ECS/RECS (Debit) by obtaining fresh mandates from the borrowers.

भारतीय रिज़र्व बैंक

RESERVE BANK OF INDIA

www.rbi.org.in

Core Investment Companies (CIC) – Guidelines on Investment in Insurance

At present NBFCs venturing into insurance are guided by the circular DNBS(PD).CC.No.13/02.01/99-2000 dated June 30, 2000 on amendment to NBFC Regulations which contains the 'Guidelines for entry of NBFCs into Insurance'. In view of the unique business model of Core Investment Companies (CICs), it has been decided to issue a separate set of guidelines for their entry into insurance business.

Accordingly, RBI has issued a Circular no. RBI/2012-13/466 dated 1st April, 2013 and issued separate guidelines for the entry of the Core Investment Companies into Insurance.

While the eligibility criteria, in general, are similar to that for other NBFCs, no ceiling is being stipulated for CICs in their investment in an insurance joint venture. Further it is clarified that CICs cannot undertake insurance agency business. The Guidelines are enclosed for meticulous compliance.

CICs exempted from registration with RBI do not require prior approval provided they fulfill all the necessary conditions of exemption as provided under/ in CC No.206 dated January 05, 2011. Their investment in insurance joint venture would be guided by IRDA norms.

Guidelines for Entry of CICs into Insurance

1. Any Core Investment Company (CIC) registered with RBI which satisfies the eligibility criteria given below will be permitted to set up a joint venture company for undertaking insurance business with risk participation, subject to safeguards. The maximum equity contribution such a CIC can hold in the joint venture company will be as per IRDA approval.
2. The eligibility criteria for joint venture participant will be as under, as per the latest available audited balance sheet:
   - The owned funds of the CIC shall not be less than Rs. 500 crore;

Cont…

- The level of net non-performing assets shall be not more than 1% of the total advances;
- The CIC should have registered net profit continuously for three consecutive years;
- The track record of the performance of the subsidiaries, if any, of the concerned CIC should be satisfactory;
- The CIC shall comply with all applicable regulations including CIC Directions, 2011. Thus CICs-ND-SI are required to maintain adjusted net worth which shall be not less than 30% of aggregate risk weighted assets on balance sheet and risk adjusted value of off-balance sheet items.

3. No CIC would be allowed to conduct such business departmentally. Further, an NBFC (in its group / outside the group) would normally not be allowed to join an insurance company on risk participation basis and hence should not provide direct or indirect financial support to the insurance venture.
4. Within the group, CICs may be permitted to invest up to 100% of the equity of the insurance company either on a solo basis or in joint venture with other non-financial entities in the group. This would ensure that only the CIC either on a solo basis or in a joint venture with the group company is exposed to insurance risk and the NBFC within the group is ring-fenced from such risk.
5. In case where a foreign partner contributes 26 per cent of the equity with the approval of insurance Regulatory and Development Authority/Foreign Investment Promotion Board, more than one CIC may be allowed to participate in the equity of the insurance joint venture. As such participants will also assume insurance risk, only those CICs which satisfy the criteria given in paragraph 2 above, would be eligible.
6. CICs cannot enter into insurance business as agents. CICs that wish to participate in insurance business as investors or on risk participation basis will be required to obtain prior approval of the Reserve Bank. The Reserve Bank will give permission on case to case basis keeping in view all relevant factors. It should be ensured that risks involved in insurance business do not get transferred to the CIC.

Notes:

Holding of equity by a promoter CIC in an insurance company or investment in insurance business will be subject to compliance with any rules and regulations laid down by the IRDA/Central Government.

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This will include compliance with Section 6AA of the Insurance Act as amended by the IRDA Act, 1999, for divestment of equity in excess of 26 per cent of the paid up capital within a prescribed period of time.

CICs exempted from registration with RBI in terms of the Core Investment Companies (Reserve Bank) Directions, 2011 do not require prior approval provided they fulfill all the necessary conditions of exemption.

Introduction of Periodic Call Auction for illiquid scrips w.e.f. April 1, 2013. Stock exchanges identify illiquid scrips at the beginning of every quarter and move such scrips to periodic call auction mechanism.

As per SEBI circular no. CIR/MRD/DP/6/2013 dated February 14, 2013, a scrip is shortlisted as illiquid if all the following conditions are met:

- The average daily trading volume of a scrip in a quarter is less than 10000;
- The average daily number of trades is less than 50 in a quarter;
- The scrip is classified as illiquid at all exchanges where it is traded.

Trading in Illiquid Scrips in the equity market shall be conducted only through periodic call auction sessions.

Periodic call auction sessions of one hour each shall be conducted daily throughout the trading hours with the first session starting at 9:30 am and last session ending at 3.30 pm as per the details given below:

PCAS Session No.	**Start Time**	**End Time**
PCAS Session 1	9:30 am	10:30 am
PCAS Session 2	10:30 am	11:30 am
PCAS Session 3	11:30 am	12:30 pm
PCAS Session 4	12:30 pm	1:30 pm
PCAS Session 5	1:30 pm	2:30 pm
PCAS Session 6	2:30 pm	3:30 pm

Each Periodic Call Auction Session will be divided into following periods:

» Order Entry

» Order Matching

» Buffer Period

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============================== **UPDATES** ================================

Following is the duration of each period in Periodic Call Auction Session:

Order Entry Period	45 minutes	**Order Entry/Modification/Cancellation Allowed** *Random stoppage between 44th and 45th minute (System Driven)* Dissemination of Indicative Price, Cumulative Buy & Sell quantity
Order matching and Trade Confirmation Period including Buffer period (upto 7 minutes)	15 minutes	**Order matching, trade confirmation** *Order Entry/Modification/Cancellation NOT Allowed* **Buffer Period -** To facilitate transition between two call auction sessions

Scrip will be moved out from periodic call auction mechanism to normal trading session if the following criteria are met

- The scrip has remained in periodic call auction for at least two quarters
- It is not classified as per illiquid criteria mentioned above.

A list of illiquid securities for which periodic call auction will be conducted with effect from April 8, 2013 is enclosed as Annexure. The list of illiquid securities is based on trading activity during the quarter January-March 2013.

Trading members are advised to exercise additional due diligence while trading in these securities either on own account or on behalf of their clients.

Trading Members are requested to note the penalty criteria for certain trades:

In the event where maximum of buy price entered by a client (on PAN basis) is equal to or higher than the minimum sell price entered by that client and if the same results into trades, a penalty shall be imposed on such trades. The penalty shall be calculated and charged by the exchange and collected from trading members on a daily basis. Trading members may recover such penalty from clients. The penalty so collected shall be deposited to Investor Protection Fund.

Penalty for each such instance per session will be higher of the following:

- 0.50% of the trade value for sale and 0.50% of trade value for the buy, resulting in 1% penalty for the client on PAN basis.
- 2500 /- for the buy trade and 2500 /- for the sell trade, resulting in penalty of 5000/- for the client on PAN Basis.

General DOs and DON'Ts regarding submission of quarterly / yearly Financial Results under clause 41 of the Listing Agreement.:

Do's :

1. Seven (7) clear calendar days notice of the Board meeting is required to be given to the Exchange. Hence, the date of notice to the Exchange and date of the meeting should be excluded while calculating the notice period. For eg. The notice to the Exchange given on November 1 shall be for the Board meeting to be held on November 9 or thereafter

2. Financial Results are to be sent in the Format specified under clause 41 of listing Agreement i.e. Annexure I or II or III and IV appended thereto; along with the Limited Review i.e. Annexure V / VI , Audit Report i.e. Annexure VII / VIII.

3. Statement of Assets and Liabilities to be sent in the Format specified under clause 41(I)(ea) of listing Agreement i.e. Annexure IX appended thereto.

4. Denomination in which items in financial statement are expressed is to be clearly stated i.e. Rupees in Lacs. If company changes the stated denomination in any subsequent quarter, then it shall state the items of previous quarter / year in the new denomination provided it mentions in notes to account that it has changed its denomination.

5. Financial Results are to be sent within 15 minutes from conclusion of Board Meeting through Fax / email followed by Hard copy.

6. A clear Black & White print out of the Financial Results should be faxed at the Designated Fax Numbers without any shading or highlighted in colours that render the Financial Results illegible.

7. If the Company is sending REVISED Financial Results, the covering letter should mention specifically the items / figures that have been revised alongwith the reasons for the same.

8. Companies should Check on BSE website: www.bseindia.com under heading Corporate Announcements, as to whether Financial Results of company have been disseminated, if Financial Results uploaded on BSE website are not clear/visible then company should email .pdf file and excel sheet of Financial Results on the Exchange designated email id.: corp.relations@bseindia.com or contact BSE officials.

9. Financial Results are to be published within 48 hours, if there is a holiday, then the same may be published on the immediate preceding working day.

10.The company should specify in the Title of the Financial Results and in relevant column, whether the Financial Results and items stated therein are Audited or Unaudited.

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11.Notes should specify any deviation from format or reason for non submission of previous quarter / year comparable figures.

12.The Company should email an excel sheet alongwith .pdf file of the Financial Results. This will enable early and speedy updation of Financial Results on BSE website and any chance of figure mismatch would be reduced.

13.In case of change in accounting year, the company should clearly specify the quarter / year end in the relevant columns. The notes of the Financial Results should specify that company has changed its accounting year and reason for non – comparable Financial Results.

14.It is mandatory for companies to provide Pledge details in the format specified under clause 41 for submission of Financial Results.

15.Where there are qualifications in the limited review report or the audit report, the company shall by way of note state how the same has been resolved, and if not resolved reasons therefore and the steps that they intend to take in the matter.

16.Financial Results will be treated as incomplete if Company does not provide details such as EPS, public shareholding, face value, pledge shares/percentage and / or there is Totalling Mismatch i.e. the Internal Totals like Expenditure Total, Taxes Total are not tallying. Also if the
same is not accompanied with the limited review report or the audit report as required, it will be considered as incomplete.

17.Where segment reporting is applicable, the company shall submit the segment report alongwith the financial results.

18.Financial Results should be authenticated / signed as specified in clause 41 (II) and sent vide a signed covering letter. Details of persons signing i.e. name and designation should be mentioned.

19.The date of Board meeting in which the Financial Results have been approved should be mentioned at the beginning of the notes to the Financial Results.

20.The company has to submit Audited Quarterly and Yearly Financial Results for the last quarter within 60 days from the end of the financial year. However, Audit Report need not be submitted in respect of audited final quarter and year end financial results.

21.The company should indicate in the first quarter of the financial year - whether it intends to publish standalone results or consolidated results and the same shall not be changed.

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22.Submission of standalone results is mandatory. Where the company also submits the consolidated results, it is mandatory to publish the consolidated results.

23.The company also has to publish its Statement of Assets & Liabilities.

24.The company re-submitting Financial Results due to amalgamation / scheme of arrangement should clearly specify in notes details regarding amalgamation, non comparable Financial Results, deviations etc.

25.Where dividend is also proposed while considering the financial results, the company should, if possible, also intimate the book closure/ record date alongwith the said Dividend, financial results.

Dont's :

1. The Columns/Cells should not be dark shaded or colored. Figures will not be visible when the Company sends such Financial Results by FAX.

2. Check EPS figure : The Company incurs (Loss) and still the EPS is shown as a Positive figure. A Suitable note should be appended in such cases

3. Do not send unsigned Financial Results. As a good corporate governance practice, the name alongwith designation of Directors/ Officers signing the financial results should be mentioned.

4. Avoid using cut – paste method of giving Financial Results. Mistakes are made when previous quarter formats are used to prepare current quarter Financial Results. A thorough check of columns / rows and items should be done so as to avoid sending incorrect data.

5. Do not re-fax/email Financial Results after correcting clerical / typographical / totallying errors / omissions without mentioning in covering letter that Financial Results are being rectified and resent. Specify the items revised and reasons for revising Financial Results.

6. Hand Delivery of Financial Results should not be adopted as the only mode of submitting Financial Results.

7. Companies should not hold Board Meeting for financial results after the limitation period provided for in clause 41 (i.e. 45 days from end of each quarter/60 days from end of last quarter). Condonation of delay cannot be permitted by BSE under any circumstances.

Source: BSE