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The Institute of Cost Accountants of India

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The Institute of Cost Accountants of India

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INDIAN ECONOMY

News

➲ **India's manufacturing growth slows to 22-month low in October**

Growth in India's manufacturing sector cooled to its slowest in 22 months in October as domestic demand softened, a private survey showed, adding pressure on Prime Minister Narendra Modi to usher in long-promised reforms. The Nikkei Manufacturing Purchasing Managers' Index (PMI), compiled by Markit, fell to 50.7 in October from September's 51.2. The 50-mark divides expansion from contraction.

A sub-index covering new orders dropped to a two-year low of 51.2 from 52.5 as the uncertain economic climate deterred clients from committing to new projects, Markit said. New export orders grew slightly faster than September but at a modest pace, and levels were still well below those in late summer.

Read more at: http://www.livemint.com/Industry/TOzIndRA22RmMfps1APVPI/Indias-manufacturing-growth-slows-to-22month-low-in-Octobe.html

➲ **India Industrial Production**

Industrial production in India rose 9.8 percent year-on-year in October of 2015, the fastest pace since October of 2010 when it went up 10 percent. Manufacturing output jumped 10.6 percent, also the strongest in five years, the mining sector increased 4.7 percent and electricity production went up 9 percent. Industrial Production in India averaged 6.50 percent from 1994 until 2015, reaching an all time high of 20 percent in November of 2006 and a record low of -7.20 percent in February of 2009. Industrial Production in India is reported by the Ministry of Statistics and Programme Implementation (MOSPI).

Read more at: http://www.tradingeconomics.com/india/industrial-production

➲ **India Inflation Rate**

Consumer prices in India grew 5.41 percent year-on-year in November of 2015, higher than a 5 percent rise in October and in line with market expectations. The inflation rate accelerated for the 4th straight month to its highest since October last year. Inflation Rate in India averaged 8 percent from 2012 until 2015, reaching an all time high of 11.16 percent in November of 2013 and a record low of 3.69 percent in July of 2015. Inflation Rate in India is reported by the Ministry of Statistics and Programme Implementation (MOSPI), India.

Read more at: http://www.tradingeconomics.com/india/inflation-cpi

➲ **Rising food prices push India's retail inflation to four-month high in October**

Rising prices for some food products and firm demand during the festival season pushed up India's retail inflation to a four-month high in October, making it less likely the central bank will cut interest rates at its policy review next month.

Retail inflation in India has slowed sharply, but a surge in prices of items like lentils threatens the popularity of Prime Minister Narendra Modi, whose party lost elections in India's third-most populous state. Higher demand for consumer durables and food items during the festival season beginning in October also contributed.

India's annual consumer price inflation edged up to 5.0 percent in October, up for the third straight month, compared with 4.41 percent a month ago, government data showed. Industrial production grew at a slower than expected pace of 3.6 percent in September, dampened by a slower expansion in the mining sector, data showed.

Read more at: http://in.reuters.com/article/india-economy-cpi-idINKCN0T02HX20151112

➲ **Services sector growth hits 8-month high in October**

India's services sector activity touched an eight-month high in October driven by a significant rise in new business orders even as growth in manufacturing output eased, a Nikkei survey said. The Nikkei Business Activity index climbed to 53.2 in October, from 51.3 in September, as fresh orders expanded at a solid pace and were most pronounced since February.

Read more at: http://articles.economictimes.indiatimes.com/2015-11-04/news/68017388_1_private-sector-output-markit-growth

➲ **Industrial production grows 3.6 per cent in Sept against 2.6 per cent year ago**

Annual industrial output grew at a slower-than-expected pace of 3.6 percent in September, dampened by a slower expansion in the mining sector, government data showed.

Industrial production growth fell to four-month low of 3.6 per cent in September due to subdued performance by manufacturing and non-durable consumer goods segments. Industrial output growth, measured in terms of the Index of Industrial Production (IIP), was also revised slightly downwards to 6.2 per cent for August from provisional estimate of 6.4 per cent released earlier. The factory

output had grown by 2.6 per cent in September last year.

Read more at: http://www.financialexpress.com/article/economy/industrial-production-grows-3-6-per-cent-in-sept-against-2-6-per-cent-year-ago/164796/

➲ **India Hosts Biggest Africa Summit; Plays Catchup With China**

ndia hosts its biggest-ever Africa summit this week as Prime Minister Narendra Modi seeks to challenge China's dominance on a continent that is blessed with vast natural resources and has the world's fastest-growing population.

New Delhi wants to project its soft power and historical ties to Africa, in contrast to China's focus on resource extraction and capital investment that has sparked a backlash in some countries against Beijing's mercantilist expansion.

India's trading ties with Africa date back to antiquity and both found common cause in the struggle against colonial rule. Yet India's influence faded over the course of the Cold War as it withdrew into non-aligned isolation.

Now Modi, self-styled chief salesman of a "Make in India" export drive, wants to capitalise on an economic slowdown in China to highlight India as an alternative partner for trade and investment.

Read more at: http://www.businessworld.in/article/India-Hosts-Biggest-Africa-Summit-Plays-Catchup-With-China/17-11-2015-87553/

CENTRAL EXCISE

Notifications / Circulars

➲ **Guidelines for launching of Prosecution under the Central Excise Act, 1944 and Finance Act, 1994 regarding Service tax**

Whoever commits any of the offences specified under sub-section (1) of Section 9 of the Central Excise Act, 1944 or sub-section (1) of section 89 of the Finance Act, 1994, can be prosecuted. Section 9AA (1) of Central Excise Act, 1944 provides that where an offence under this Act has been committed by a company, every person who, at the time offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Section 9AA (2) of Central Excise Act, 1944 provides that where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation to Section 9AA provides that (a) Company means anybody corporate and includes a firm or other association of individuals and (b) director in relation to a firm means a partner of the firm. These provisions under Section 9AA of Central Excise Act, 1944 have been made applicable to Service Tax also vide Section 83 of the Finance Act, 1994. Monetary Limit: In order to optimally utilize limited resources of the Department, prosecution should normally not be launched unless evasion of Central Excise duty or Service Tax, or misuse of Cenvat credit in relation to offences specified under sub-section (1) of Section 9 of the Central Excise Act, 1944 or sub-section (1) of section 89 of the Finance Act, 1994 is equal to or more than Rs. One Crore.

Read more at: http://www.cbec.gov.in/htdocs-cbec/excise/cx-circulars/cx-circulars-2015/circ1009A-2015cx

➲ CBEC amended CENVAT Credit Rules, 2004 so as to allow input credit of duty paid on molasses generated from cane crushed in the sugar season 2015-16 i.e. 1st October, 2015 onwards, used for producing ethanol for supply to the public sector oil marketing companies, namely, Indian Oil Corporation Ltd., Hindustan Petroleum Corporation Ltd. or Bharat Petroleum Corporation Ltd., for the purposes of blending with petrol, in terms of the provisions of S. No. 40A of the Table in notification No.12/2012-Central Excise, dated the 17th March, 2012, by including such supplies of exempted ethanol under rule 6(6) of the CENVAT Credit Rules, 2004.

Source: Notification No. 21/2015-CENT dt. 07-10-2015

➲ **Tower/Blades to be deemed as parts of Wind Operated Electricity Generator; eligible for exemption**

Clarification regarding tower and blades constitute an essential component of Wind Operated Electricity Generators (WOEG) vide Circular 1008/15/2015-CX dated: 20-10-2015.

Read more at: http://www.cbec.gov.in/htdocs-cbec/excise/cx-circulars/cx-circulars-2015/circ1008-2015cx

➲ **Revised monetary limits for arrest in Central Excise and Service Tax**

CBEC has decided to revise the limits for arrests in Central Excise and Service tax. Henceforth, arrest of a person in relation to offences specified under clause (a) to (d) of sub-section (1) of Section 9 of the Central Excise Act, 1944 or under clause (i) or (ii)

of sub-section (1) of section 89 of the Finance Act, 1994, may be made in cases where the evasion of Central Excise duty or Service Tax or the misuse of Cenvat Credit is equal to or more than rupees one crore.

Read more at: http://www.cbec.gov.in/htdocs-cbec/excise/cx-circulars/cx-circulars-2015/circ1010-2015cx

➲ **Withdrawal of Order under 37B of Central Excise Act, 1944 on classification of Coconut Oil packed in small containers vide Circular 1007/14/2015-CX dated: 12-10-2015**

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec/excise/cx-circulars/cx-circulars-2015/circ1007-2015cx.pdf

➲ **Revised monetary limits for arrest in Central Excise and Service Tax**

Central Board of Excise & Customs vide its circular Circular No. 1010/17/2015-CX dated 23-10-2015 (F.No. 96/54/2014-CX.1) has clarified that Prosecution can now be launched where evasion of Central Excise duty or Service Tax or misuse of Cenvat Credit in relation to offences specified under sub-section (1) of Section 9 of the Central Excise Act, 1944 or sub-section (1) of section 89 of the Finance Act, 1994 is rupees one crore or more. Consequently, it has been decided to revise the limits for arrests in Central Excise and Service tax. Now Arrest of a person may be made in cases where the evasion of Central Excise duty or Service Tax or the misuse of Cenvat Credit is equal to or more than Rupees One Crore. It may be noted that earlier vide Central Excise circular no. 974/08/2013-CX and Service Tax circular no. 171/6 /2013-ST both dated 17-7-2015 the limit was Rs.50 Lacs.

➲ CBEC amends notification No. 12/2012- Central Excise dated 17.03.2012 so as to exempt central excise duty on RBD Palm Stearin, Methanol and Sodium Methoxide used in the manufacture of specified biodiesel subject to actual user condition vide Notification No. 42/2015-CE, dt. 19-10-2015.

Read more at: http://www.cbec.gov.in/htdocs-cbec/excise/cx-act/notifications/notfns-2015/cx-tarr2015/ce42-2015

Case Laws

➲ **Cenvat refund claim must be filed within 1 year from date of export and not from end of relevant quarter: HC**

As per relevant notifications, read with section 11B, Cenvat refund claim must be filed 'quarterly' but within 1 year from 'date of export'

Rule 5 of the Cenvat Credit Rules, 2004, read with rule 57F of the Central Excise Rules, 1944 and section 11B of the Central Excise Act, 1944 - Cenvat Credit - Refund of - Assessee exported goods on 20-5-1989 and filed refund claim of Cenvat/Modvat credit on 22-11-1989 - Department rejected refund claim as time-barred as it was filed beyond 6 months (now, 1 year) from date of export - Assessee argued that since refund claim is filed quarterly, 6 months should be computed from end of relevant quarter April-June viz. from 30-6-1989 and therefore, present refund claim was within time - HELD : As per relevant notification, read with section 11B, refund claim was to be filed within 6 months from date of export - Since refund claim was not filed within said time-limit, same was to be rejected as time-barred. [In favour of revenue]

Source: Case Law: High Court of Jharkhand, Commissioner of Central Excise, Ranchi v. Gillooram Gaurishankar

➲ **Refund can't be denied for late filing if refund was filed before wrong authority within time allowed**

Section 11B of the Central Excise Act, 1944 - Levy and collection of duty - Claim for refund of duty and interest if any, paid on such duty - Refund claim was filed before wrong authority - After same was returned, refund claim was filed before proper authority, however, beyond normal period of limitation - Whether date of filing of refund claim before wrong authority could be taken as date of filing for purpose of determining limitation, and, therefore, refund was to be allowed to assessee - Held, yes

Source: CESTAT, Bangalore Bench, Commissioner of Central Excise & Service Tax, Tirupati v. Gimpex Ltd.

➲ **Design charges paid by buyer to affiliate to be included in excisable value if goods were produced using such designs**

Central Excise : Where assessee manufactured goods using design prepared by its sister concern and client paid separately to assessee and sister concern, charges for design prepared by sister concern were includible in value of goods manufactured

Section 4 of the Central Excise Act, 1944 - Valuation under Central Excise - Transaction value - Design Charges - Period prior to 1-7-2000 - Assessee manufactured equipments for E for setting up acid plant - IBIC had provided project consultancy including designing services for said plant - E paid sums separately to assessee and IBIC - Department sought to include fees received by IBIC in value of assessee - HELD : Most activities of IBIC related to pre-fabrication, engineering and design stage and on basis of said designing, assessee was fabricating various equipment, instruments, pipings, insulations etc. - Without engineering/drawings, it was not possible for assessee to manufacture equipments - Hence, charges received by IBIC were includible in value of goods manufactured by assessee [In favour of revenue]

Section 4 of the Central Excise Act, 1944 - Valuation under

Central Excise - Transaction value - General - Period prior to 1-7-2000 - Assessee manufactured equipments for T and design thereof was prepared by IBIC - T cancelled orders and both assessee and IBEC forfeited advances received from T - Assessee modified said equipment based on modification design prepared by IBIC and sold same to V - V paid sums to assessee and IBIC - Department sought to include sums received by IBIC from T and V in value of assessee - HELD : Without engineering/drawings of IBIC, assessee could not have manufactured equipments for T - Without modification design prepared by IBIC, assessee could not have modified equipments for V - Hence, charges received by IBIC were includible in value of equipments manufactured by assessee [In favour of revenue]

Section 11A, of the Central Excise Act, 1944, read with section 73, of the Finance Act, 1994 and section 28 of the Customs Act, 1962 - Recovery - Of duty or tax not levied/paid or short-levied/paid or erroneously refunded - Invocation of extended period of limitation - Where material facts relating to valuation were not supplied along with price declarations furnished by assessee, invocation of extended period was valid [In favour of revenue]

Source: Case Law: CESTAT, Mumbai Bench, Indo Berolina Industries (P.) Ltd. v. Commissioner of Central Excise, Mumbai-IV

➲ **Inputs and capital goods used in R&D of testing samples of final products are eligible for credit**

Cenvat Credit : Inputs and capital goods used in Research and Development (R&D) and Quality Control Laboratory for purpose of testing of inputs and testing of samples of final products, etc., are eligible for cenvat credit

Rule 3 , read with rule 2(a) and 2(k) of the Cenvat Credit Rules, 2004 - Cenvat Credit - General - Assessee took Cenvat Credit on inputs and capital goods used in Research and Development (R&D) and Quality Control Laboratory situated in factory premises - Said laboratory was meant for testing inputs and samples and on approval of samples, orders were received from customers - Department argued that goods used in lab cannot be said to be used in or in relation to manufacture - HELD : As per rule 2(a), only requirement in relation to capital goods is that they must be used within factory and there is no requirement as to use for manufacture - Assessee has to meet specifications of customers by suitable tests and norm fixation, before products are manufactured and cleared on payment of duty; hence, such an activity in R&D and Quality Control Laboratory is 'in relation to' and essential for manufacture - Therefore, credit in question was eligible. [In favour of assessee]

Source: Case Law: CESTAT, Ahmedabad Bench, Sabic Innovative Plastics (P.) Ltd. v. Commissioner of Central Excise & Service Tax, Vadodara-I Commissioner of Central Excise & Service

➲ **Central Excise: Assessee was public sector undertaking, manufacturing iron and steel products. It paid excise duty on clearance of goods and differential duty due to price escalation. Department demanded interest on late payment of differential duty. Apex Court observed that when goods were cleared, there was no certainty of price escalation. It was difficult to accept that price was understated on date of removal of goods. Hence, the larger bench should be constituted to decide the impugned issue**

Facts:

(a) Assessee, a public sector undertaking, was manufacturing and selling iron and steel products to Indian Railways at mutually agreed price. It paid excise duty on clearance of goods and differential duty due to price escalation.
(b) Department issued show cause notice and demanded interest on late payment of differential duty.
(c) Assessee argued that interest under Section 11AB of Central Excise Act ('the Act') could be levied only if duty had not been paid or short paid. Further, interest would be levied from the first date of the month in which duty ought to have been paid. Thus, assessee content that duty could not be said to be short levied as it had paid duty immediately after revision of price and within in time limit.

The Supreme Court held as under:

(1) Interest clock for differential duty would start ticking only from due date for payment of differential duty and assessee had paid duty immediately after revision of price and within time limit.
(2) Although as per decisions of Supreme Court in case of SKF India Ltd. and International Auto Ltd, interest would be payable on payment of differential duty but the same bench did not consider the effect of expression 'ought to have been paid' in Section 11AB of the Act. The primary reason for levying interest on differential duty was that there was loss of revenue to the Government.
(3) Section 4 of the Act provides that value of goods shall be price 'actually paid or payable' for the goods. Duty is paid on transaction value at time of clearance of goods. But when goods were cleared, there was no certainty of price escalation.
(4) Therefore, excise duty could not be said to be shortly paid as on date of clearance of goods. It was difficult to accept that price was understated on date of removal of goods. Hence, the larger bench should be constituted to decide the impugned issue of levying interest on differential duty.

Source: Case Law: Supreme Court of India, Steel Authority of India Ltd. v. Commissioner of Central Excise, Raipur

➲ **Central Excise : Since section 3A does not itself provide for levying of interest, rules 96ZO, 96ZP and 96ZQ cannot do so and none of other provisions of Act can come to aid of revenue;**

hence, demand for interest was set aside on merits.

Central Excise : Since penalty provided in rules 96ZO to 96ZQ is always equal to duty and is levied mandatorily even for a delay of single day in payment of duty due to bona fide reason, same is beyond rule-making power under section 37 and is violative of articles 14 and 19 of Constitution and was therefore, struck down to that extent

Section 3A, read with sections 11A, 11AA, 11AC, 37 and 38A of the Central Excise Act, 1944, Rules 96ZO, 96ZP and 96ZQ of the Central Excise Rules, 1944, Rule 3 of the Induction Furnace Annual Capacity Determination Rules, 1997 and articles 14 and 19(1)(g) of the Constitution of India - Charge/levy - Excise duty based on production capacity - Even after omission of compounded levy scheme in 2001, assessee's liability for period during which scheme was in operation is not wiped out - In absence of original invoice to determine capacity of furnace, said capacity may be determined using electrical load capacity based on Chartered Engineer's Certificate - In absence of any time-limit for recovery of interest, demand therefor within a period of 3 years from date of payment of duty is within reasonable time - However, since section 3A does not itself provide for levying of interest, rules 96ZO, 96ZP and 96ZQ cannot do so and none of other provisions of Act can come to aid of revenue; hence, demand for interest was set aside on merits - Since penalty provided in rules 96ZO to 96ZQ is always equal to duty and is levied mandatorily and inflexibly even for a delay of single day in payment of duty due to bona fide reason, same is beyond rule-making power under section 37(3) and 37(5) - Such mandatory penalty is also violative of articles 14 and 19, as it does not distinguish between period(s) of delay and reasons for delay and puts unreasonable restriction on right to carry on business - Therefore, rules 96ZO to 96ZQ were struck down to that extent. [In favour of assessee]

Source: Case Law: Supreme Court of India, Shree Bhagwati Steel Rolling Mills v. Commissioner of Central Excise

➲ **Central Excise : Where, as per exemption notification, DTA clearances by EOU are liable to 'excise duty leviable on clearances by non-EOUs', said DTA clearances are to be valued as per Central Excise Valuation rules**

Section 3, read with sections 4 and section 5A of the Central Excise Act, 1944, section 14 of the Customs Act, 1962 and rule 8 of the Central Excise Valuation (Determination of Price of excisable goods) Rules, 2000 - Charge/levy - Excise Duty on DTA Clearances by 100 per cent EOU - Period from 1-11-2000 to 31-5-2005 - Assessee cleared tea manufactured wholly out of indigenous raw materials, to its sister concerns in EOU - As per Notifications 8/97 and 23/2003, said clearance of tea was liable duty equal to 'excise duty' leviable on clearance by non-EOUs and any excess was exempted - Assessee valued said tea as per rule 8 of excise valuation rules - Department argued that since DTA clearances by EOU are liable to excise duty equal to 'customs duty leviable', tea was to be valued as per customs law - HELD : Though DTA clearances are valued as per customs law, however, in this case, as per exemption notifications, tea was liable to 'excise duty' on clearance by non-EOUs - Hence, valuation of tea was to be done as per excise law - Since tea was not sold but was captively consumed by sister concerns/units in DTA, said tea was to be valued as rule 8 of excise valuation rules - Therefore, demand was set aside. [In favour of assessee]

Circulars and Notifications : Notification No. 8/97-CE dated 1.3.1997, Notification No. 23/2003-CE dated 31.3.2003, Circular No. 268/85-CX.8 dated 29.9.1994

FACTS

- Assessee cleared tea manufactured wholly out of indigenous raw materials, to its sister concerns in EOU.
- Since, as per Notifications 8/97 and 23/2003, said clearance of tea was liable duty equal to 'excise duty' and any excess was exempted, assessee valued said tea as per rule 8 of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000.
- Department argued that since DTA clearances by EOU are liable to excise duty equal to 'customs duty leviable', tea was to be valued as per customs law.

HELD

- The first thing to be noticed is that Section 5A under which the exemption notifications are issued states in the proviso that no exemption shall apply to excisable goods which are produced or manufactured by a 100% Export Oriented Undertaking and brought to any place in India unless specifically provided in such exemption notification. When we turn to the notification dated 1.3.1997, we find that there is specific provision for exemption of certain goods produced in a 100% EOU wholly from raw materials produced or manufactured in India. It is not disputed by the revenue that the instant tea manufactured by the respondent would be covered being a finished product specified in the schedule to the Central Excise Tariff Act. Further, the notification goes on to state that the said tea should be "allowed to be sold" in India in accordance with the relevant EXIM policy. It further goes on to state that the exemption from payment of the duty of excise that is leviable thereunder under Section 3 is what is payable in excess of an amount equal to the duty of excise leviable on like goods produced or manufactured in India produced in an undertaking other than in a 100% Export Oriented Undertaking, if sold in India.
- It is clear that the object of the notification is that so far as the product in question is concerned, so long as it is manufactured by a 100% EOU out of wholly indigenous raw materials and so long as it is allowed to be sold in India, the duty payable should only

be duty of excise that is payable on like goods manufactured or produced and sold in India by undertakings which are not 100% EOUs.

- There is no doubt whatsoever that the duty of excise leviable under Section 3 would be on the basis of the value of like goods produced or manufactured outside India as determinable in accordance with the provisions of the Customs Act, 1962 and the Customs Tariff act, 1975. However, the notification states that duty calculated on the said basis would only be payable to the extent of like goods manufactured in India by persons other than 100% EOUs. This being the case, it is clear that in the absence of actual sales in the wholesale market, when goods are captively consumed and not sold, Rule 8 of the Central Excise Rules would have to be followed to determine what would be the amount equal to the duty of excise leviable on like goods.
- The manner of valuation of such goods would not be relevant for the simple reason that what has to be determined in the facts of the present case is the valuation of the duty of excise leviable under Section 3 of the Central Excise Act on like goods produced or manufactured in India by undertakings other than 100% EOUs. The application of any FOB export price would be wholly irrelevant for the purpose of this case and as has been held above, is only for arriving at the duty of excise leviable under Section 3(1) Proviso (ii) of the Central Excise Act. On the facts of the present case, it is clear that the said duty of excise arrived at based on Section 3(1) Proviso (ii) is more than the duty determinable for like goods produced or manufactured in India in other than 100% EOUs.
- Since the notification exempts anything that is in excess of what is determined as excise duty on such like goods, and considering that for the entire period under question the duty arrived at under Section 3(1) proviso (ii) is in excess of the duty arrived at on like goods manufactured in India by non 100% EOUs, it is clear that the whole basis of the show cause notice is indeed flawed. Further, the show cause notice is based on one solitary circumstance - the fact that goods captively consumed by the two sister units of the unit in question are not "sold".
- The test to be applied under the said notification is whether the goods in question are "allowed to be sold" in India. The aforesaid expression is obviously different from the expression "sold" and does not require any actual sale for the notification to be attracted. In fact revenue's case is also that even though the said notification is attracted, yet because there is no sale somehow the FOB export price of like goods alone is to be looked at. If this were to be so, not only would the object of the notification not be sub-served but even its plain language would be violated. It is clear that the said notification has been framed by the Central Government, in its wisdom, to levy only what is levied by way of excise duty on similar goods manufactured in India, on goods produced and sold by 100% EOUs in the domestic tariff area if they are produced from indigenous raw materials.
- If the revenue were right, logically they ought to have contended that the notification does not apply, in which event the test laid down under Section 3(1) proviso (ii) would then apply. This not being the case, Tribunal's judgment is correct and requires no interference. Appeal is, accordingly, dismissed.

Source: Case Law: Supreme Court of India, Commissioner of Central Excise v. Nestle India Ltd.

CUSTOMS

Notifications / Circulars

➲ **Use of digital signature for submission of documents**

Board Circular No. 10/2015 - Customs dated 31.03.2015 lays guidelines for use of digital signature certificates for submission through remote EDI filing of customs process documents viz. Bill of Entry, Shipping Bill , Import General Manifest (IGM), Export General Manifest (EGM) by importers, exporters, Customs brokers, airlines and their agents, with effect from 01.04.2015. In terms of Board Circular No 10/2015 - Customs, dated 31.03.2015, importers registered under Accredited Client Programme (ACP) are mandatorily required to file Bills of Entry with digital signature with effect from 01.05.2015.Wherever the customs process documents are digitally signed, the Customs will not insist on the user to physically sign the said documents.

In order to increase coverage of digitally signed documents and subsequent phasing out of physical /manual submission of documents, Board has decided that all importers, exporters using services of Customs Brokers for formalities under Customs Act, 1962, shipping lines and air lines shall file customs documents under digital signature certificates mandatorily with effect from 01.01.2016. The importers/ exporters desirous of filing Bill of Entry or Shipping Bill individually may however have the option of filing declarations/ documents without using digital signature. Further, wherever the customs process documents are digitally signed, the Customs will not insist on the user to physically sign the said documents.

Source: Circular No. 26/ 2015- Customs, dated 23.10.2015

➲ **Revised Guidelines for Arrest and Bail in relation to offences punishable under Customs Act, 1962 vide Circular 28/2015 dt 23-10-2015.**

Read more at: http://www.cbec.gov.in/resources//htdocs-cbec customs/cs-circulars/cs-circulars-2015/circ28-2015cs.pdf

➲ **Customs duty increased on ghee, butter and butter oil from the present rate of 30% to 40%**

CBEC further amends notification No. 12/2012-Customs dated 17.03.2012 so as to increase the basic customs duty on ghee, butter

and butter oil from the present rate of 30% to 40% for a period upto and inclusive of the 31st day of March, 2016 vide Notification No. 49/2015-Cus,dt. 05-10-2015.

Read more at: http://www.cbec.gov.in/htdocs-cbec/customs/csact/notifications/notfns-2015/cs-tarr2015/cs49-2015

➲ **Government exempts customs and excise duty on use of bunker fuels**

In order to promote movement of cargo through coastal waters, the government today said it has exempted customs and excise duty on the use of bunker fuels by Indian ships. One of the issues hindering the growth of coastal shipping has been the levy of customs and central excise duty on bunker fuels which raises cost of transportation, said an official statement. "This issue was resolved by exempting Customs and Excise duty leviable on bunker fuels, namely IFO 180 CST and IFO 380 CST used in Indian flag vessels for transportation of EXIM and empty containers between two ports in India," it said. The exemption has further been extended by Department of Revenue in a notification on September 17 to Indian flagships carrying a mix of EXIM, empty and domestic containers, the Shipping Ministry said. "This tax incentive for transportation along the coast will go a long way in enhancing Indian tonnage as well as in promoting development of transportation hubs in India," it said.

Read more at: http://timesofindia.indiatimes.com/business/india-business/Govt-exempts-customs-and-excise-duty-on-use ofbunker-fuels/articleshow/49255946.cms

SERVICE TAX

Notifications / Circulars

➲ **Service tax levy on services provided by a Goods Transport Agency**

The All India Transport Welfare Association (AITWA) has represented regarding the difficulties being faced by the Goods Transport Agencies (GTAs) in respect of service tax levy on the services of goods transport. Doubts has been raised by the All India Motor Transport Congress (AIMTC) regarding treatment given to various services provided by GTAs in the course of transportation of goods by road. The issue has been examined. Since July 1, 2012, service tax has shifted to a negative list regime, by which all the services except those covered in negative list as mentioned in section 66D of the Finance Act, 1994 or those exempted by notification are chargeable to service tax.

Goods Transport Agency (GTA) has been defined to mean any person who provides service to a person in relation to transport of goods by road and issues consignment note, by whatever name called. The service provided is a composite service which may include various ancillary services such as loading/ unloading, packing/unpacking, transshipment, temporary storage etc., which are provided in the course of transportation of goods by road. These ancillary services may be provided by GTA himself or may be sub-contracted by the GTA. In either case, for the service provided, GTA issues a consignment note and the invoice issued by the GTA for providing the said service includes the value of ancillary services provided in the course of transportation of goods by road. These services are not provided as independent activities but are the means for successful provision of the principal service, namely, the transportation of goods by road.

A single composite service need not be broken into its components and considered as constituting separate services, if it is provided as such in the ordinary course of business. Thus, a composite service, even if it consists of more than one service, should be treated as a single service based on the main or principal service. While taking a view, both the form and substance of the transaction are to be taken into account. The guiding principle is to identify the essential features of the transaction. The interpretation of specified descriptions of services in such cases shall be based on the principle of interpretation enumerated in section 66 F of the Finance Act, 1994. Thus, if ancillary services are provided in the course of transportation of goods by road and the charges for such services are included in the invoice issued by the GTA, and not by any other person, such services would form part of GTA service and, therefore, the abatement of 70%, presently applicable to GTA service, would be available on it. It is also clarified that transportation of goods by road by a GTA, in cases where GTA undertakes to reach/deliver the goods at destination within a stipulated time, should be considered as services of goods transport agency in relation to transportation of goods for the purpose of notification No. 26/2012-ST dated 20.06.2012, serial number 7, so long as (a) the entire transportation of goods is by road; and (b) the GTA issues a consignment note, by whatever name called.

Source: Circular No.186/5/2015-ST dated: 5th October, 2015

➲ **Taxability of services provided in relation to remittance of money to India from overseas**

Central Government being satisfied that in the period commencing on and from the 1st day of July, 2012 and ending with the 13th day of October, 2014 (hereinafter referred to as the said period) according to a practice that was generally prevalent, there was non levy of service tax on the services provided by an Indian Bank or other entity acting as an agent to the Money Transfer Service Operators (hereinafter referred to as MTSO), in relation to remittance of foreign currency from outside India to India (hereinafter referred to as the said practice), and this service was

liable to service tax, which was not being paid according to the said practice.

Now, therefore, as per section 11C of the Central Excise Act, 1944 (1 of 1944) as made applicable to like matters in Service Tax vide section 83 of the Finance Act, 1994 (32 of 1994), the Central Government hereby directs that the service tax payable under section 66B of the Finance Act, 1994, on the service provided by an Indian Bank or other entity acting as an agent to the MTSO in relation to remittance of foreign currency from outside India to India, in the said period, but for the said practice, shall not be required to be paid.

Source: Notification No. 19/2015-Service Tax dated: 14 Oct,2015

➲ CBEC included activities relating to advancement of yoga, in the definition of charitable activities, for the purposes of exemption from Service Tax vide *Notification No. 20/2015-ST dt. 21-10-2015*.

➲ Based on *Notification No. 20/2015-Service Tax dated 21.10.2015*, CBEC further amended notification No. 25/2012-Service Tax dated 20.06.2012 so as to exempt specified services provided by Business Facilitator/Business Correspondent with respect to a Basic Saving Bank Deposit Account covered by Pradhan Mantri Jan Dhan Yojana [PMJDY] in the banking company's rural area branches.

➲ **Arrest Limit for Service Tax or Excise offences increased to one Crore**

CBEC has decided to revise the limits for arrests in Central Excise and Service tax. Henceforth, arrest of a person in relation to offences specified under clause (a) to (d) of sub-section (1) of Section 9 of the Central Excise Act, 1944 or under clause (i) or (ii) of sub-section (1) of section 89 of the Finance Act, 1994, may be made in cases where the evasion of Central Excise duty or Service Tax or the misuse of Cenvat Credit is equal to or more than rupees one crore. Central Excise circular no. 974/08/2013-CX and Service Tax circular no. 171/6 /2013-ST both dated 17-7-2015 stand amended accordingly.

Source: Circular No. 1010/17/2015-CX dated: 23rd October 2015

Read more at: http://www.cbec.gov.in/htdocs-servicetax/st-circulars/st-circulars-2015/st-circ-1009-2015

➲ **Anti-dumping on import of select products from China**

Government slapped anti-dumping duties on import of front axle beam and steering knuckles used in heavy and medium commercial vehicles as also three other products from China for five years. The duties have been imposed pursuant to recommendations of the Directorate General of Anti-dumping and Allied Duties, the Finance Ministry said in a statement, adding, the levies have come into effect. "Definitive anti-dumping duty has been levied on imports of 'Front Axle Beam and Steering Knuckles meant for heavy and medium commercial vehicles'...originating in, or exported from, the Peoples' Republic of China for a period of five years," the statement said. The revenue department has also imposed the import restrictive duty on shipments of 'plain medium density fibre board of thickness 6 mm' from China, Malaysia, Thailand and Sri Lanka.

Read more at: http://economictimes.indiatimes.com/articleshow/49486839. cms?utm_source=contentofinterest&utm_medium=text&utm_ campaign=cppst

Case Laws

➲ **Leasing of factory along with employees under compromise scheme doesn't amount to man power services**

Service Tax : Where assessee had leased its factory under compromise scheme, then, sums received from lessee towards reimbursement of salary payable to employees working in factory, could not be regarded as 'manpower supply services' to lessee and was, therefore, not liable to service tax

Section 65(68) of the Finance Act, 1994, read with rule 2(1)(g) of the Service Tax Rules, 1994 - Taxable services - Manpower Recruitment or Supply Agency's Services - Under a compromise scheme with creditors, assessee leased its factory to FACOR - Employees remained on muster roll of assessee and FACOR paid salary to assessee and assessee repaid same to employees - Department demanded service tax from assessee on amount received from FACOR for salary of employees treating it as 'manpower supply services' - HELD : Service tax would not arise because : (a) assessee had only received sums actually due to employees; (b) compromise scheme was approved by High Court to maintain livelihood of employees; and (c) assessee had not acted as concern supplying manpower - It was akin to deputation of personnel to FACOR and was not liable to service tax.
[In favour of assessee]

Source: Case law: CESTAT, Mumbai Bench, Vidarbha Iron & Steel Co. Ltd. v. Commissioner of Central Excise, Nagpur

➲ **Cutting and conversion of trees into billets isn't liable to service-tax if it amounts to manufacture**

Service Tax : Cutting of trees and converting 'cutwood' into 'billets' for use in 'pulp plant' amounts to 'processing of goods' and if said activity does not amount to manufacture under Central Excise laws, it would be liable to service tax under Business Auxiliary Services

Section 65(19) of the Finance Act, 1994, read with section 2(f) of the Central Excise Act, 1944 - Taxable services - Business Auxiliary Services - Assessee-contractors carried out activity of cutting of trees, debarking, conversion into billets and transportation for Mysore Paper Mills - Department demanded service tax treating it as 'processing of goods' - Assessee argued that it amounted to 'manufacture' and excluded from service tax - HELD : It was not mere cutting and transporting trees; assessees were converting 'cut wood' to 'billets' for use in 'pulp plant'; thus, activity amounted to 'processing' - However, issue of manufacture was not raised before lower authorities, matter was remanded back - If activity is held as not manufacture, it would be liable to service tax after excluding transportation charges on which Mysore has paid service tax under reverse charge under GTA services [Matter remanded]

Section 73 of the Finance Act, 1994 - Recovery - Of duty or tax not levied/paid or short-levied/paid or erroneously refunded - Invocation of Extended Period of Limitation - Extended period can be invoked only when there is a positive evidence indicating any mala fide or suppression on part of assessee with an intent to evade tax - Though in context of dispute involving Mysore, revenue was aware of issuance of tenders by Mysore and placing of work orders upon assessee-contractors - Hence, there was no mala fide on part of assessees and it cannot be presumed that such big number of assessee-contractors colluded together to suppress facts - Further, service tax, if any, was reimbursable by Mysore and therefore, there was no 'intention to evade tax' on part of assessees [In favour of assessee]

Circulars and Notifications : Notification No. 3/2005-CE, dated 24-2-2005, Notification No. 8/2003-CE, dated 1-3-2003

Source: Case Law: CESTAT, Bangalore Bench, Lakshmappa v. Commissioner of Central Excise, Service Tax & Customs, Bangalore-IV

➲ Arrangement/Agency fees paid to foreign banks/Mandated Lead Managers for providing finance (and/or coordinating in providing finance) for international acquisitions is liable to service tax under reverse charge in hands of Indian borrower under 'Banking and Other Financial Services'

FACTS

• For the purpose of financing its international acquisitions and capital expenditures, the assessee took loan from various foreign banks (10 non-resident Banks as Mandated Lead Arrangers and 6 other foreign banks).

• The assessee also hired Standard Chartered Bank as the Agent of the other finance parties.

• The assessee paid loan arrangement fees/agency fees to the lender banks as well as Standard Chartered Bank.

HELD

• The arrangement fees/agency fees is a service in relation to 'lending' and falls under 'Banking and Other Financial Services' is liable to service tax under reverse charge in hands of the assessee-borrower.

• Even if funds are used outside India, the services are consumed/ used in India and are taxable under Section 66A read with section 65(12) for period on or after 18-4-2006.

• The demand was confirmed with interest and penalties, along with extended period.

INCOME TAX

Notifications / Circulars

➲ **Income-tax (17th Amendment) Rules, 2015**

CBDT vide its notification no.84/2015, dt. 20/10/2015 has amended Income Tax Rules, 1962. The above notification has subsituted sub-Rule (1) and (2) of Rule 2F, as follows:-

1. The Infrastructure Debt Fund shall be set up as a Non-Banking Financial Company conforming to and satisfying the conditions provided by the Reserve Bank of India in the Infrastructure• Debt Fund - Non-Banking Financial Companies (Reserve Bank) Directions, 2011, vide notification No, DNBS.233/CGM (US)-2011, dated the 21st November, 2011 as amended vide notification no. DNBR.020/CGM (CDS) -2015, dated the 14th May, 2015;

The funds of the Infrastructure Debt Fund shall be invested only in Post Commencement operation Date Infrastructure Projects which have completed at least one year of satisfactory commercial operations that are:-

a. Public Private Partnership Projects and are a tripartite agreement with the concessionaire and the project authority for ensuring compulsory buy out and termination payment;

b. Non-Public Private Partnership Projects and Pubic Private Partnership Projects without a project authority, in sectors where there is no project authority.

Read Full Notification:- http://www.incometaxindia.gov.in/communications/notification/notification%20no%2084%2of%2 2015%20dated%2020th%20oct%202015.pdf

➲ **Income - tax (15th Amendment) Rules, 2015**

Central Board of Direct Taxes makes the rules further to amend the Income-tax Rules, 1962, namely Income-tax (15th Amendment) Rules, 2015. In the Income-tax Rules, 1962, in rule 11DD, for sub-rules (2) and (3), the following sub-rules shall be substituted, namely:-

(2) The prescription in respect of the diseases or ailments specified in sub-rule (1) shall be issued by the following specialists:-
(a) for diseases or ailments mentioned in clause (i) of sub-rule (1) - a Neurologist having a Doctorate of Medicine (D.M.) degree in Neurology or any equivalent degree, which is recognised by the Medical Council of India;
(b) for diseases or ailments mentioned in clause (ii) of sub-rule(1) - an Oncologist having a Doctorate of Medicine (D.M.) degree in Oncology or any equivalent degree which is recognised by the Medical Council of India;
(c) for diseases or ailments mentioned in clause (iii) of sub-rule (1) - any specialist having a post-graduate degree in General or Internal Medicine, or any equivalent degree which is recognised by the Medical Council of India;
(d) for diseases or ailments mentioned in clause (iv) of sub-rule(1) - a Nephrologist having a Doctorate of Medicine(D.M.) degree in Nephrology or a Urologist having a Master of Chirurgiae(M.Ch.) degree in Urology or any equivalent degree, which is recognised by the Medical Council of India;
(e) for diseases or ailments mentioned in clause (v) of sub-rule (1) – a specialist having a Doctorate of Medicine (D.M.) degree in Hematology or any equivalent degree, which is recognised by the Medical Council of India:
Provided that where in respect of any diseases or ailments specified in sub-rule (1), the patient is receiving the treatment in a Government hospital, the prescription may be issued by any specialist working full-time in that hospital and having a post graduate degree in General or Internal Medicine or any equivalent degree, which is recognised by the Medical Council of India.
(3) The prescription referred to in sub-rule(2) shall contain the name and age of the patient, name of the disease or ailment along with the name, address, registration number and the qualification of the specialist issuing the prescription:
Provided that where the patient is receiving the treatment in a Government hospital, such prescription shall also contain the name and address of the Government hospital.

Read more at: http://www.incometaxindia.gov.in/communications/notification/notification78_2015.pdf

➲ **Clarification regarding Self-sealing and self-Examination of Bulk cargo**

Where the nature of goods is such that the goods cannot be sealed in a package or a container such as coal or ore, etc., exemption from sealing of package or container may be granted by the Principal Chief Commissioner or Chief Commissioner of Central Excise subject to safeguard as may be specified by him in the permission. The safeguards shall, inter-alia, include the following:-
• Method of verification of quantity and quality of goods including testing of goods where necessary at the place of removal or despatch and at the port of export or SEZ, where the goods are received;
• No remission of duty shall be allowed for loss of goods within transit;
• Permission shall be given on case to case basis for a specified period not exceeding one year at a time and may be withdrawn in case of misuse; and
• Any additional safeguards as may be specified.

In this regard, following procedures is prescribed while allowing export without sealing in packages or container:-

• The assessee who desires to avail facility of export of bulk cargo without sealing shall write to the Principal Chief Commissioner/ Chief Commissioner of Central Excise with a copy to jurisdictional Assistant/ Deputy Commissioner of Central Excise, giving details of bulk cargo to be exported with proper justification regarding difficulties faced by him in sealing of the cargo.
• The Jurisdictional Assistant/ Deputy Commissioner after receipt of such application from the exporter shall forward it to the Principal Commissioner/ Commissioner with his comments within fifteen days of receipt of such application with due verification as needed.
• The Jurisdictional Principal Commissioner/ Commissioner of Central Excise forward all such application to the Principal Chief Commissioner/ Chief Commissioner of Central Excise with his recommendation within three weeks of receipt of the application with report from the Assistant/ Deputy Commissioner. The jurisdictional Principal Commissioner/ Commissioner of Central Excise shall also consult the Principal Commissioner/ Commissioner having jurisdiction over the port of export or Development Commissioner of SEZ where then goods are received and incorporate the inputs appropriately in his recommendation.
• Principal Chief Commissioner/ Chief Commissioner of Central Excise shall grant or reject the request for waiver of sealing of bulk cargo with in fifteen days of receipt of the application from the Principal Commissioner/ Commissioner of Central Excise. The final decision taken on the application shall be communicated to the applicant in writing and in cases where the permission is granted, conditions and safeguards prescribed shall be clearly mentioned.

Source: Circular No. 1011/18/2015-CX dated: 30th October, 2015

➲ **Section 92C of the Income-tax Act, 1961 - Transfer pricing - Computation of arm's length price - Notified tolerance limit under third proviso to sub-section (2) of section 92C**

In exercise of the powers conferred by the third proviso to sub-section (2) of section 92C of the Income-tax Act, 1961 (43 of 1961) read with proviso to sub-rule (7) of rule 10CA of the Income-tax Rules, 1962, the Central Government hereby notifies that where the variation between the arm's length price termined under section 92C and the price at which the international transaction or specified domestic transaction has actually been undertaken does

not exceed one percent. of the latter in respect of wholesale trading and three percent. of the latter in all other cases, the price at which the international transaction or specified domestic transaction has actually been undertaken shall be deemed to be the arm's length price for Assessment Year 2015-2016.

Explanation.- For the purposes of this notification, "wholesale trading" means an international transaction or specified domestic transaction of trading in goods, which fulfils the following conditions, namely:-
(i) purchase cost of finished goods is eighty percent. or more of the total cost pertaining to such trading activities; and
(ii) average monthly closing inventory of such goods is ten percent. or less of sales pertaining to such trading activities.

Read more at: http://www.incometaxindia.gov.in/communications/notification/notification_86.pdf

CaseLaws

➲ **For the purposes of Chapter X of the Act, the Transfer Pricing Adjustment envisaged is "price adjustment" (substitution of transaction price of international transaction with ALP) and not a "quantitative adjustment" by first determining whether the AMP spend of the Assessee on application of the bright line test (BLT), is excessive, thereby evidencing the existence of an international transaction involving the Associated Enterprises**

While such quantitative adjustment involved in respect of AMP expenses may be contemplated in the taxing statutes of certain foreign countries like U.S.A., Australia and New Zealand, no provision in Chapter X of the Act contemplates such an adjustment.
• An AMP TP adjustment to which none of the substantive or procedural provisions of Chapter X of the Act apply, cannot be held to be permitted by Chapter X.

• In other words, with neither the substantive nor the machinery provisions of Chapter X of the Act being applicable to an AMP TP adjustment, the inevitable conclusion is that Chapter X as a whole, does not permit such an adjustment.

• The Revenue's song is this: an Indian entity, whose AMP expense is extraordinary (or 'non-routine') ought to be compensated by the foreign AE to whose benefit also such expense enures. The 'non-routine' AMP spend is taken to have 'subsumed' the portion constituting the 'compensation' owed to the Indian entity by the foreign AE. In such a scenario what will be required to be benchmarked is not the AMP expense itself but to what extent the Indian entity must be compensated. That is not within the realm of the provisions of Chapter X.

• Every AMP spend by an Indian entity which happens to use the brand of a foreign AE cant be presumed to involve an international transaction as this is not one of the deemed international transactions listed under the Explanation to Section 92B of the Act.

Source: High Court of Delhi, Maruti Suzuki India Ltd. v. Commissioner of Income-tax, S. Muralidhar and Vibhu Bakhru, JJ., IT Appeal Nos. 110 of 2014 and 710 of 2015

➲ **Where assessee had deducted tax in last month of previous year and deposited same before due date of filing of return under section 139(1), Assessing Officer could not disallow said payment under section 40(a)(ia)**

IT : Assessing Officer could not refuse to consider revised computation wherein deduction was claimed on account of remission by bank under one time settlement taking a view that assessee should have filed revised return for raising such a claim

I. Section 40(a)(ia) of the Income-tax Act, 1961 - Business disallowance - Interest etc., paid to a resident without deduction of tax at source (Deposit of tax) - Assessment year 2007-08 - Whether conditions for allowability of deduction are prescribed under section 40(a)(ia) itself and provisions of Chapter XVII and Chapter XVII-B are relevant only for purposes of ascertaining deductibility of tax on payment - Held, yes - Whether where assessee had deducted tax in last month of previous year and deposited same before due date of filing of return under section 139(1), Assessing Officer could not disallow said payment under section 40(a)(ia) - Held, yes [In favour of assessee]

II. Section 139 of the Income-tax Act, 1961 - Return of income (Revised computation) - Assessment year 2007-08 - Assessee filed its return declaring certain taxable income - Subsequently assessee filed revised computation wherein deduction was claimed on account of remission by bank under one time settlement - Assessee did not raise said claim by filing a revised return because prescribed time for filing return had already elapsed - Assessing Officer refused to consider revised computation submitted by assessee - Whether since mandate of Constitution is to levy and collect due taxes, issue raised by assessee was to be restored to file of Assessing Officer to examine it afresh and decide in accordance with law - Held, yes [In favour of assessee/Matter remanded]

FACTS-I
▪ In course of assessment, the Assessing Officer made disallowance under section 40(a)(ia).

▪ The assessee filed instant appeal challenging said disallowance on ground that amount had been deposited before filing the return of income under section 139(1).

HELD-I
▪ When a proviso in a section is inserted to remedy unintended

consequences and to make the section workable, the proviso which supplies an obvious omission therein is required to be read retrospectively in operation, particularly to give effect to the section as a whole. As per the sub-clause (ia) of clause (a) of section 40 when tax is deductible at source on the payment under Chapter XVII and such tax has not been deducted or after deduction has not been paid then the said deduction is not allowable.

- As per the sub-clause (a) of sub-clause (ia) if the tax is deducted during the last month of previous year and paid on or before the due date of filing of return as per the provisions of section 139(1) then such sum shall be allowed as deduction. In the cases where the tax is deducted during previous year other than the last month of previous year but is deposited before the last day of previous year then it will be allowed as deduction. Therefore, the conditions for allowability of the deduction are prescribed under section 40(a)(ia) itself and provisions of Chapter XVII and Chapter XVII-B are relevant only for the purposes of ascertaining the deductibility of the tax on the payment. Once, the nature of payment is falling under the provisions of Chapter XVII/VIIB then the disallowance under section 40(a)(ia) shall be as per the condition as provided under this section itself.

- The proviso to section 40(a)(ia) makes it further clear that even in the case when the tax has been deductible as per the provisions of Chapter XVII but deducted in the subsequent year or deducted during the last month of previous year but paid after the due date under section 139(1) or deducted during the other month of the previous year except last month but paid after the end of the said previous year then the said sum shall not be allowed as deduction in computing the income of the previous year but allowed in the previous year in which the said tax has been paid. If the conditions of deduction and payment prescribed under Chapter XVII/XVII-B are applicable for disallowance of the deduction under section 40(a)(ia) then the provisions of section 40(a)(ia) will be rendered as meaningless, absurdity and etiose.

- As per the provisions of section 40(a)(ia) the deduction is disallowed only in the case when either no tax was deducted or it was not paid after deduction. But when the tax is deducted may be belatedly and deposited belatedly then deduction is allowable in the previous year in which it was so deposited. Therefore, if the provisions of section 194C with respect to the time of deduction and payments are applied for the disallowance under section 40(a)(ia) then there will be no purpose or object for providing the certain conditions of actual deduction of tax and payment of tax under section 40(a)(ia).

- The provisions of Chapter XVII are relevant only for ascertaining the deductibility of the tax at source and not for the actual deduction and payment for attracting the provisions of section 40(a)(ia). Since in the case in hand when the assessee had deducted the tax in the last month of the previous year and deposited the same before the due date of filing of the return under section 139(1) then it was covered under clause (a) of section 40(a)(ia). Therefore, when the assessee's case covered under the main provisions of existing law then one need not go to the issue of prospective or retrospective effect of the amendment in the provisions by the Finance Act, 2010.

- Since, it was not controverted by the revenue that the tax so deducted was deposited before filing of return, the ground raised by the assessee is allowed.

Source: Case Law: In the ITAT Mumbai BENCH 'F', Furniture Concepts (I) Ltd. v. Assistant Commissioner of Income-tax,Range-9 (1), Mumbai

SEBI

Notifications / Circulars

➲ **Investments by FPIs in Government securities**

RBI in its Fourth Bi-monthly Policy Statement for the year 2015-16, dated September 29, 2015 has announced a Medium Term Framework for FPI limits in Government securities in consultation with the Government of India. It has been decided that the limits for FPI investment in debt securities shall henceforth be announced/fixed in rupee terms. Further, it has been decided to enhance the limit for investment by FPIs in Government Securities as follows:

a. Limit for FPIs in Central Government securities would be increased to INR 129,900 cr and INR 135,400 cr on October 12, 2015 and January 01, 2016 respectively from the existing limit of INR 124,432 cr.

b. Limit for Long Term FPIs (Sovereign Wealth Funds (SWFs), Multilateral Agencies, Endowment Funds, Insurance Funds, Pension Funds and Foreign Central Banks) in Central Government securities would be increased to INR 36,600 cr and INR 44,100 cr on October 12, 2015 and January 01, 2016 respectively from the existing limit of INR 29,137 cr.

c. There will be a separate additional limit for investment by all FPIs in State Development Loans (SDL). Debt limits of INR 3,500 cr each would be released on October 12, 2015 and January 01, 2016 respectively under this category.

Source: Circular CIR/IMD/FPIC/8/2015 dt October 06, 2015

➲ **Guidelines on overseas investments and other issues/ clarifications for AIFs/VCFs vide Circular CIR/IMD/DF/7/2015 dated: October 1, 2015**

SEBI (Alternative Investment Funds) Regulations, 2012 ("AIF Regulations") were notified on May 21, 2012 repealing and replacing the erstwhile SEBI (Venture Capital Funds) Regulations, 1996. As on August 31, 2015, there are 165 Alternative Investments Funds (AIFs) registered with SEBI. In this regard, it is specified as under:

A. Overseas Investment by Venture Capital Funds (VCFs) registered under SEBI (Venture Capital Funds) Regulations, 1996 (now repealed)

a. VCFs registered under erstwhile SEBI (Venture Capital Funds) Regulations, 1996 are permitted to invest in Offshore Venture Capital Undertakings which have an Indian connection upto 10% of the investible funds of a VCF in terms of the SEBI circular no. SEBI/VCF/Cir no.1/98645/2007 dated August 09, 2007.

b. SEBI has received several representations from the industry that there has been, in recent times, an increased interest of Indian entrepreneurs outside India. Many Indian entrepreneurs have been setting up their headquarters outside India with back end operations and/ or research and developments being undertaken in India. Therefore, there is a need to allow higher overseas investment by VCFs beyond the existing 10% limit.

c. The representations also state that such investments would provide opportunities to the funds to generate better returns globally, getting exposure to the international markets practices, etc.

d. As such investments are required to have an Indian connection, It is anticipated that such investments will generate indirect benefits to India through bringing in resources, technology upgradation, skill enhancement, new employment, spill-overs, etc.

B. Overseas Investment by Alternative Investment Funds

a. Under Regulation 15(1)(a) of AIF Regulations, "Alternative Investment Fund may invest in securities of companies incorporated outside India subject to such conditions or guidelines that may be stipulated or issued by the Reserve Bank of India and the Board from time to time."

b. In this regard, Reserve Bank of India (RBI) vide its A.P.(DIR Series) Circular No.48 dated December 09, 2014 has permitted an Alternative Investment Fund (AIF), registered with SEBI, to invest overseas in terms of the provisions issued under the A.P. (DIR Series) Circulars No. 49 and 50 dated April 30, 2007 and May 04, 2007 respectively.

c. In accordance with the aforesaid RBI circular, it is stated as under:

i. AIFs may invest in equity and equity linked instruments only of off-shore venture capital undertakings, subject to overall limit of USD 500 million (combined limit for AIFs and Venture Capital Funds registered under the SEBI (Venture Capital Funds) Regulations, 1996).
ii. AIFs desirous of making investments in offshore venture capital undertakings shall submit their proposal for investment (in the attached format at Annexure) to SEBI for prior approval. It is clarified that no separate permission from RBI is necessary in this regard.
iii. For the purpose of such investment, it is clarified that "Offshore Venture Capital Undertakings" means a foreign company whose shares are not listed on any of the recognized stock exchange in India or abroad.
iv. Investments would be made only in those companies which have an Indian connection (e.g. company which has a front office overseas, while back office operations are in India).
v. Such investments shall not exceed 25% of the investible funds of the scheme of the AIF.
vi. The allocation of investment limits would be done on 'first come- first serve' basis, depending on the availability in the overall limit of USD 500 million.
vii. In case an AIF who is allocated certain investment limit, wishes to apply for allocation of further investment limit, the fresh application shall be dealt with on the basis of the date of its receipt and no preference shall be granted to it in fresh allocation of investment limit.
viii. The AIF shall have a time limit of 6 months from the date of approval from SEBI for making allocated investments in offshore venture capital undertakings. In case the applicant does not utilize the limits allocated within the stipulated period, SEBI may allocate such unutilized limit to other applicants.
ix. These investments would be subject to Notification No. FEMA120/RB-2004 dated July 7, 2004 [Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004] including amendments thereof and related directions issued by RBI from time to time.
x. AIFs shall not invest in Joint venture/Wholly Owned Subsidiary while making overseas investments.
xi. AIFs shall adhere to FEMA Regulations and other guidelines specified by RBI from time to time with respect to any structure which involves Foreign Direct Investment (FDI) under Overseas Direct Investment (ODI) route.
xii. AIFs shall comply with all requirements under RBI guidelines on opening of branches/subsidiaries/Joint Venture /undertaking investment abroad by NBFCs, where more than 50% of the funds of the AIF has been contributed by a single NBFC.

Read more at: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1443691973267.pdf

➲ **Comprehensive Risk Management Framework for National Commodity Derivatives Exchanges**

Pursuant to Section 131 of the Finance Act, 2015 and Central Government notification F.No. 1/9/SM/2015 dated August 28, 2015, all recognized associations under the Forward Contracts (Regulation) Act, 1952 are deemed to be recognized stock exchanges under the Securities Contracts (Regulation) Act, 1956 with effect from September 28, 2015. This circular applies to National Commodity Derivatives Exchanges as defined in the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) (Amendment) Regulations, 2015. This circular is issued with an objective of aligning and streamlining the risk management framework across national commodity derivatives exchanges (hereinafter referred to as exchanges). The comprehensive risk management framework has been finalised after a due consultative process with the exchanges. The provisions of this circular shall be implemented by national commodity derivatives exchanges latest by January 1, 2016 unless specified otherwise in any specific clause of this circular. The norms specified by Forward Markets Commission shall continue to be in force to the extent not modified or repealed by this circular.

Source: Circular No. CIR/CDMRD/DRMP/01/2015 dated: October 01, 2015

Read more at: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1443700933819.pdf

➲ **Risk management for Regional Commodity Derivatives Exchanges**

Pursuant to Section 131 of the Finance Act, 2015 and Central Government notification F.No. 1/9/SM/2015 dated August 28, 2015, all recognized associations under the Forward Contracts (Regulation) Act, 1952 are deemed to be recognized stock exchanges under the Securities Contracts (Regulation) Act, 1956 with effect from September 28, 2015. This circular applies to Regional Commodity Derivatives Exchanges as defined in the Securitiesm Contracts (Regulation) (Stock Exchanges and Clearing Corporations) (Amendment) Regulations, 2015. Exchanges shall comply with the following norms latest by April 01, 2016:

a. Member Deposits: Exchanges shall continue with their practice of keeping exposure free member deposits at the current level.

b. Ordinary margins: Exchanges shall levy minimum ordinary margins of 4% on the open outstanding positions.

c. Other margins (delivery period margins, additional margins etc.): Exchanges may levy appropriate delivery period margins, additional margins etc. based on their evaluation.

d. Additional Ad-hoc Margins: Exchanges have the right to impose additional risk containment measures over and above the risk containment system mandated by SEBI. However, the Exchanges should keep the following three factors in mind while taking such action:

i. Additional risk management measures (like ad-hoc margins) would normally be required only to deal with circumstances that cannot be anticipated or were not anticipated while designing the risk management system. If ad-hoc margins are imposed with any degree of regularity, exchanges should examine whether the circumstances that give rise to such margins can be reasonably anticipated and can therefore be incorporated into the risk management system mandated by SEBI. Exchanges are encouraged to analyse these situations and bring the matter to the attention of SEBI for further action.

ii. Any additional margins that the exchanges may impose shall be based on objective criteria and shall not discriminate between members on the basis of subjective criteria.

iii. Transparency is an important regulatory goal and therefore every effort must be made to make the risk management systems fully transparent by disclosing their details to the public.

e. Margin computation at client level: Exchanges shall levy ordinary margins at the level of each individual client comprising his positions in futures contracts across different maturities. For member level margin computation, margins shall be grossed across various clients. The proprietary positions of the member should also be treated as that of a client for margin computation.

f. Margin Collection and Enforcement: All applicable margins shall be collected by Exchanges before start of trading on the next trading day. If the member's collateral is insufficient to cover the required margin and deposit requirements, member shall not be allowed by Exchanges to further increase his open positions.

g. Collateral type to cover margin/deposit requirements: Exchanges shall collect collateral from their members only in the following form:

- Cash
- Pledging of Bank Fixed Deposits
- Bank Guarantee

h. Mark to market settlement: Daily mark to market settlement of open positions (both gains and losses), based on the Daily Settlement Price (DSP), in cash, before start of trading on the next trading day. DSP shall be reckoned and disseminated by the Exchange at the end of every trading day.

Source: Circular CIR/CDMRD/DRMP/2/2015, October 21, 2015

➲ **Risk management for Regional Commodity Derivatives Exchanges**

Pursuant to Section 131 of the Finance Act, 2015 and Central Government notification F.No. 1/9/SM/2015 dated August 28, 2015, all recognized associations under the Forward Contracts (Regulation) Act, 1952 are deemed to be recognized stock exchanges under the Securities Contracts (Regulation) Act, 1956 with effect from September 28, 2015. This circular applies to Regional Commodity Derivatives Exchanges as defined in the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) (Amendment) Regulations, 2015. Exchanges shall comply with the following norms latest by April 01, 2016:

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Source: Circular CIR/CDMRD/DRMP/2/2015, October 21, 2015

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b. Ordinary margins: Exchanges shall levy minimum ordinary margins of 4% on the open outstanding positions.
c. Other margins (delivery period margins, additional margins etc.): Exchanges may levy appropriate delivery period margins, additional margins etc. based on their evaluation.
d. Additional Adhoc Margins: Exchanges have the right to impose additional risk containment measures over and above the risk containment system mandated by SEBI.
e. Margin computation at client level: Exchanges shall levy ordinary margins at the level of each individual client comprising his positions in futures contracts across different maturities. For member level margin computation, margins shall be grossed across various clients. The proprietary positions of the member should also be treated as that of a client for margin computation.
Read more at: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1445422330733.pdf

BANKING

Notifications / Circulars

➲ **Investment by Foreign Portfolio Investors (FPI) in Government Securities**

Attention of AD Category-I banks is also invited to para 30 of the Fourth Bi-monthly Monetary Policy Statement for the year 2015-16 issued on September 29, 2015, in terms of which a Medium Term Framework (MTF) for FPI limits in Government securities was announced to provide a more predictable regime. The features of the MTF are as under:
• The limits for FPI investment in debt securities will henceforth be announced/ fixed in Rupee terms.
• The limits for FPI investment in the Central Government securities will be increased in phases to reach 5 per cent of the outstanding stock by March 2018. In aggregate terms, this is

expected to open up room for additional investment of ₹ 1,200 billion in the limit for Central Government securities by March 2018 over and above the existing limit of ₹ 1,535 billion for all Government securities.

• Additionally, there will be a separate limit for investment by all FPIs in the State Development Loans (SDLs), to be increased in phases to reach 2 per cent of the outstanding stock by March 2018. This would amount to an additional limit of about ₹ 500 billion by March 2018.

• The effective increase in limits for the following two quarters will be announced every half year in March and September.

• The existing requirement of investments being made in G-sec (including SDLs) with a minimum residual maturity of three years will continue to apply to all categories of FPIs.

• Aggregate FPI investments in any Central Government security would be capped at 20% of the outstanding stock of the security. Investments at existing levels in the securities over this limit may continue but not get replenished through fresh purchases by FPIs till these fall below 20%.

Read more at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10059&Mode=0

➲ **Non Banking Financial Company-Micro Finance Institutions (NBFC-MFIs) – Directions – Modifications**

The National Scheduled Castes Finance & Development Corporation (NSFDC) under the Ministry of Social Justice & Empowerment, Government of India, has proposed to expand its outreach by channelizing funds through select NBFC-MFIs at lower rate of interest. The objective of NSFDC is to work for the economic empowerment of persons belonging to Scheduled Castes living below the Double Poverty Line.

Read more at: https://rbidocs.rbi.org.in/rdocs/Notification/PDFs/NB278786998E9E468489E5802D10F2F58C.PDF

➲ **Now LLPs have to furnish Annual Return of foreign assets and liabilities to RBI**

In order to capture the statistics relating to Foreign Direct Investments (FDI), both inward and outward, by Limited Liabilities Partnerships (LLPs) in India, it has been decided that henceforth, all LLPs that have received FDI and/or made FDI abroad (i.e. overseas investment) in the previous year(s) as well as in the current year, shall submit the FLA return to the Reserve Bank of India by July 15 every year, in the format as prescribed in the A.P (DIR Series) Circular No. 145 dated June 18, 2015.

Read more at: http://rbidocs.rbi.org.in/rdocs/Notification/PDFs/N21087350A25FE6345379E5159E8F83FA6B5.PDF

➲ CBEC further amended notification No. 27/2011-Customs dated 01.03.2011 so as to reduce the export duty on export of Iron Ore by MMTC Limited (only NMDC origin) to Japan and South Korea under the Long Term Agreement (LTA), from 30% to 10%, upto and inclusive of 31.03.2018.

Source: Notification No. 50/2015-Cus,dt. 16-10-2015

➲ **Investments in Market Infrastructure Companies by State Central Cooperative Banks**

RBI has been decided to permit investment in shares of Market Infrastructure Companies (MICs) as under:

• Investments made by StCBs/CCBs in MICs will be reckoned as Non-SLR investments;

• StCBs/CCBs are allowed to exceed the limit for investments in Non-SLR securities, if it becomes necessary to do so for acquiring membership of MICs;

• The MICs eligible for such investments by StCBs/CCBs are Clearing Corporation of India Ltd. (CCIL), National Payments Corporation of India (NPCI) and Society for World Wide Inter-Bank Financial Tele-Communication (SWIFT). The list of eligible MICs will be updated from time to time by the Reserve Bank of India.

Source: Notification No. RBI/2015-16/209 [DCBR.CO.RCBD.BC. No. 5/19.51.026/2015-16] dated: October 21, 2015

➲ **Financial Inclusion Fund (FIF) - Revised Guidelines**

Financial Inclusion Fund (FIF) and Financial Inclusion Technology Fund (FITF) was constituted in the year 2007-08 for a period of five years with a corpus of Rs. 500 crore each to be contributed by Government of India (GOI), RBI and NABARD in the ratio of 40:40:20. The guidelines for these two funds were framed by GOI. In April 2012, RBI decided to fund FIF by transferring the interest differential in excess of 0.5% on RIDF and STCRC deposits on account of shortfall in priority sector lending. Keeping in view the various developments over the years, GOI has merged the FIF and FITF to form a single Financial Inclusion Fund. The Reserve Bank of India has finalized the new scope of activities and guidelines for utilization of the new FIF in consultation with GOI. The new FIF will be administered by the reconstituted Advisory Board constituted by GOI and will be maintained by NABARD vide Notification No. RBI/2015-16/206 [DCBR.RCBD.BPD. No.4/19.51.010/2015-16] dated: October 15, 2015.

Please refer: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10074&Mode=0 for detail Financial Inclusion Fund – Guidelines.

➲ **Memorandum of Procedure for channeling transactions through Asian Clearing Union (ACU)**

RBI decided to permit the use of the Nostro accounts of the commercial banks of the ACU member countries, i.e., the ACU Dollar and ACU Euro accounts, for settling the payments of both exports and imports of goods and services among the ACU countries. Consequently, payments for all eligible:

• export transactions may be made by debit to the ACU Dollar / ACU Euro account in India of a bank of the member country in which the other party to the transaction is resident or by credit to the ACU Dollar / ACU Euro account of the authorized dealer maintained with the correspondent bank in the other member country;

• import transactions may be made by credit to the ACU Dollar / ACU Euro account in India of a bank of the member country in which the other party to the transaction is resident or by debit to the ACU Dollar / ACU Euro account of an authorized dealer with the correspondent bank in the other member country;

It is further reiterated that all eligible export/import transactions with other ACU member countries (except in the case of certain countries where specific exemptions have been provided by the Reserve Bank of India) shall invariably be settled through the ACU mechanism.

Source: Notification No. RBI/2015-16/203 [A. P. (DIR Series) Circular No. 21] dated: October 08, 2015

➲ **Risk Management & Inter-Bank Dealings: Booking of Forward Contracts - Liberalization**

As per Fourth Bi-monthly Monetary Policy Statement (para. no. 39) on September 29, 2015, with a view to further liberalizing the existing hedging facilities, RBI has decided to allow all resident individuals, firms and companies, who have actual or anticipated foreign exchange exposures, to book foreign exchange forward and FCY-INR options contracts up to USD 1,000,000 (USD one million) without any requirement of documentation on the basis of a simple declaration. While the contracts booked under this facility would normally be on a deliverable basis, cancellation and rebooking of contracts are permitted. Based on the track record of the entity, the concerned AD Cat-I bank may, however, call for underlying documents, if considered necessary, at the time of rebooking of cancelled contracts vide Notification No. RBI/2015-16/201 [A. P. (DIR Series) Circular No. 20] dated: October 8, 2015.

Source: https://www.rbi.org.in/Scripts/NotificationUser.aspx-?Id=10064&Mode=0

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RBI has been decided to permit investment in shares of Market Infrastructure Companies (MICs) as under:

• Investments made by StCBs/CCBs in MICs will be reckoned as Non-SLR investments;

• StCBs/CCBs are allowed to exceed the limit for investments in Non-SLR securities, if it becomes necessary to do so for acquiring membership of MICs;

• The MICs eligible for such investments by StCBs/CCBs are Clearing Corporation of India Ltd. (CCIL), National Payments Corporation of India (NPCI) and Society for World Wide Inter-Bank Financial Tele-Communication (SWIFT). The list of eligible MICs will be updated from time to time by the Reserve Bank of India.

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➲ **Financial Inclusion Fund (FIF) - Revised Guidelines**

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RBI decided to permit the use of the Nostro accounts of the commercial banks of the ACU member countries, i.e., the ACU Dollar and ACU Euro accounts, for settling the payments of both exports and imports of goods and services among the ACU countries.

Consequently, payments for all eligible:

• export transactions may be made by debit to the ACU Dollar / ACU Euro account in India of a bank of the member country in which the other party to the transaction is resident or by credit to the ACU Dollar / ACU Euro account of the authorized dealer maintained with the correspondent bank in the other member country;

• import transactions may be made by credit to the ACU Dollar

/ ACU Euro account in India of a bank of the member country in which the other party to the transaction is resident or by debit to the ACU Dollar / ACU Euro account of an authorized dealer with the correspondent bank in the other member country; It is further reiterated that all eligible export/import transactions with other ACU member countries (except in the case of certain countries where specific exemptions have been provided by the Reserve Bank of India) shall invariably be settled through the ACU mechanism.

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Source: https://www.rbi.org.in/Scripts/NotificationUser.aspx-?Id=10064&Mode=0

➲ **Advance against Pledge of Gold ornaments/jewellery**

As per para 3 of the circulars UBD.CO.BPD.PCB.Cir. No.60/13.05.001/2013-14 dated May 09, 2014 and RPCD.RRB. RCB.B.C.No.8/03.05.33/2014-15 dated July 01, 2014 wherein it was stipulated that in order to standardize the valuation and make it more transparent to the borrower, gold jewellery accepted as security/ collateral will have to be valued at the average of closing price of 22 carat gold for the preceding 30 days as quoted by Indian Bullion and Jewellers Association Limited. Now RBI has decided that the cooperative banks may also use the historical spot gold price data of the preceding 30 days publicly disseminated by a Commodity Exchange regulated by the Securities and Exchange Board of India.

Source: Notification No. RBI/2015-16/207 [DCBR.BPD. (PCB/ RCB). Cir. No. 3/13.05.001/2015-16] dated: October 15, 2015

➲ **Secondary Market Transactions in Government Securities – Short Selling**

With a view to facilitate retail participation in Government securities and enhance liquidity in the Government securities market, it was announced in the Fourth Bi-monthly Monetary Policy Statement, 2015-16 to permit short sale by a custodian to its GAH. Accordingly it has been decided as under:

- A custodian may undertake a short sale transaction with its GAH within the permissible short sale limits;
- A custodian may put through a cover transaction with a GAH to square a short sale transaction in the related security undertaken with a market participant other than its GAH/s. The custodians will have to tag the deal as short sale or cover while reporting the same to NDS-OM. Such short sale or cover deals will be reckoned in the computation of the short sale limit utilization.

Read more at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10094&Mode=0

➲ **Sovereign Gold Bonds, 2015-16**

It has been decided by the Government of India, as per their Notification F.No. 4(19)-W&M/2014 dated October 30, 2015, to issue Sovereign Gold Bonds, 2015 ("the Bonds") with effect from November 05, 2015 to November 20, 2015. The Government of India may, with prior notice, close the Scheme before the specified period. The terms and conditions of the issuance of the Bonds shall be as follows:

1. **Eligibility for Investment**:The Bonds under this Scheme may be held by a person resident in India, being an individual, in his capacity as such individual, or on behalf of minor child, or jointly with any other individual. "Person resident in India" is definedm under section 2(v) read with section 2 (u) of the Foreign Exchange Management Act, 1999.

2. **Form of Security** : The Bonds shall be issued in the form of Government of India Stock in accordance with section 3 of the Government Securities Act, 2006. The investors will be issued a Holding Certificate (Form C). The Bonds shall be eligible for conversion into de-mat form.

3. **Date of Issue** : Date of issuance shall be November 26, 2015. The investors can apply for the Bonds in receiving offices from November 05, 2015 to November 20, 2015. The issuance can be closed by Government of India earlier than November 20, 2015 with a prior notice.

4. **Denomination** : The Bonds shall be denominated in units of one gram of gold and multiples thereof. Minimum investment in the Bonds shall be 2 grams with a maximum subscription of 500 grams per person per fiscal year (April – March). In case of joint holding, the limit applies to the first applicant.

5. **Issue Price**: Price of the Bonds shall be fixed in Indian Rupees

on the basis of the previous week's (Monday – Friday) simple average closing price for gold of 999 purity, published by the India Bullion and Jewellers Association Ltd. (IBJA).

6. **Interest**: The Bonds shall bear interest at the rate of 2.75 per cent (fixed rate) per annum on the amount of initial investment. Interest shall be paid in half-yearly rests and the last interest shall be payable on maturity along with the principal.

7. **Payment Options**: Payment shall be accepted in Indian Rupees through Cash or Demand Drafts or Cheque or Electronic banking. Cheque or draft should be drawn in favour of the bank / post office (Receiving Office), specified in paragraph 7 above and payable at the place where the applications are tendered.

8. **Redemption**: The Bonds shall be repayable on the expiration of eight years from the date of issue. Pre-mature redemption of the Bond is allowed from fifth year of the date of issue on the interest payment dates. The redemption price shall be fixed in Indian Rupees on the basis of the previous week's (Monday – Friday) simple average closing price for gold of 999 purity, published by IBJA.

9. **Repayment**: The receiving office shall inform the investor of the date of maturity of the Bonds, one month before its maturity.

10. The investment in the Bonds shall be eligible for SLR.

11. **Loan against Bonds**: The Bonds may be used as collateral for loans. The Loan to Value ratio will be as applicable to ordinary gold loan mandated by the RBI from time to time. The lien on the Bonds shall be marked in the depository by the authorized banks.

12. **Tax Treatment**: Interest on the Bonds shall be taxable as per the provisions of the Income-tax Act, 1961. Capital gains tax treatment will be the same as that for physical gold.

Read more at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10095&Mode=0

➲ **Subscription to National Pension System by Non-Resident Indians (NRIs)**

With a view to enabling NRIs' access to old age income security, it has now been decided, in consultation with the Government of India, to enable National Pension System (NPS) as an investment option for NRIs under FEMA, 1999. Accordingly, NRIs may subscribe to the NPS governed and administered by the Pension Fund Regulatory and Development Authority (PFRDA), provided such subscriptions are made through normal banking channels and the person is eligible to invest as per the provisions of the PFRDA Act. The subscription amounts shall be paid by the NRIs either by inward remittance through normal banking channels or out of funds held in their NRE/FCNR/NRO account. There shall be no restriction on repatriation of the annuity/ accumulated savings.
Read more at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10093&Mode=0

FOREIGN TRADE

➲ **Amendment in import policy of Human Embryo classified under Exim Code 0511 99 99 of Chapter 05 of ITC (HS), 2012 - Schedule - 1 (Import Policy)**

Import policy of the item 'Human Embryo' classified under EXIM Code 05119999 has been changed from " free "subject to a 'No Objection Certificate' from Indian Council of Medical Research (ICMR)" to "Prohibited' except for research purposes based on the guidelines of the Department of Health Research vide Notification No. 25/2015-2020 dated: 26.10.2015.

Read more at: http://dgft.gov.in/Exim/2000/NOT/NOT15/not2515.pdf

➲ **Revised Policy Condition 1 of Chapter 88 of ITC (HS), 2012 – Schedule – 1 (Import Policy)**

Aircraft and Helicopters (including used/second hand aircraft and helicopters) may be imported by the following without the need to obtain an import licence from Directorate General of Foreign Trade.
(a) Air India, (b) Pawan Hans Limited (c) Airport Authority of India, (d) Indira Gandhi Rashtriya Uran Academi (IGRUA) and such other flying clubs/ Academies recognised by the Ministry of Civil Aviation, Government of India (e) Any person who has been granted permission by Director General of Civil Aviation, for operating Scheduled or Non-Scheduled Air Transport Services (including Air Taxi Services) for import of aircraft / helicopter subject to the condition that the import of the aircraft or helicopter and their use is in accordance with that permission.

Read more at: http://dgft.gov.in/Exim/2000/NOT/NOT15/Notification No.24.e.2015.pdf

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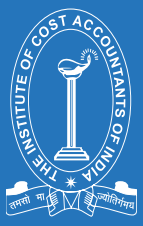

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