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EDITORIAL

INDIAN ECONOMY IS SAFE AND SOUND: CHALLENGES AHEAD

CA VINOD JAIN*

The economic meltdown in the US and Europe has taken a big toll and the economic crisis in the developed world reached a new depth. The US and European governments have become hyper active to arrest the losses and to put back the faith in their respective economies, banking system, investment business and financial services sector.

The business scenarios in India seem to have been impacted by poor sentiments, falling commodity prices and negative news flowing from the western countries. The substantial reduction in market cap in Indian stock exchanges has further impaired the sentiments. The chartered accountants community and its leadership has been trying to diagnose as to whether there are any symptoms of serious financial problem in the Indian economy and more particularly in the financial sector including banks, insurance companies, non banking financial companies and other important constituents of financial markets and Indian economy.

The reflection of global melt down is also appearing on Indian economy. The question is being asked whether Indian economy is safe and sound. The Indian economy is completely resilient and there are no reasons to have pessimism or lack of confidence. The fall in shares prices is partly a natural correction and partly arising out of panic sales and negative sentiments. The banks in India are safe in view of very severe regulatory mechanism of Reserve Bank of India and detailed audit being conducted by chartered accountants who are independently appointed, more importantly in the public sector banking system. But we cannot sit pretty confident that nothing is going to impact Indian economy. We have to review the entire regulatory mechanism and take appropriate steps to build reasonable protection mechanism.

In respect of private sector banks and mutual funds as well as private sector insurance companies, there are neither negative signals nor are there symptoms of any impropriety. How the reporting by the private sector banks, mutual funds and insurance companies can give more confidence about it being true, fair, proper and completely transparent will depend on the independence of audit. Most of the time in these cases the appointing authority and those in charge of management are not independent of each other and therefore there is a great degree of risk in the system.

It is important for the society, Government, RBI, SEBI, IRDA and all other regulatory bodies; and most importantly the political leadership of the country to consider that in certain cases large scale public funds are involved and the funds contributed to a particular business by the owners of the business are fairly insignificant proportion and in some cases even less than 10% of the entire business assets e.g in mutual funds, banks and Insurance companies. Auditors also have a very impartant role to play in all such cases. It may be necessary

contd. ... pg 3

All India Chartered Accountants' Society

(Student Forum)

announces

Student's Workshop

On way to be a Successful Chartered Accountant

India International Centre, Annexe Building,
Lecture Hall, 40 Max Mueller Marg, New Delhi

Date: **Friday 21st November, 2008**

Timing: **9.00 am to 1.00 pm**

For further details, please see page 5.

All India Chartered Accountants' Society

announces

3 Days Intensive Workshop on VAT & Sales Tax

Critical issues and complex situations including CST
to be deliberated upon by prominent professionals
and academicians

Dates: **Saturday 8th ; Friday 21st and Saturday 22nd November, 2008**

Venue: **Lecture Hall, India International Centre, Lodhi Estate, New Delhi**

For further details, please see page 5.

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LATEST IN FINANCE

1.0 EXTERNAL COMMERCIAL BORROWINGS POLICY: LIBERALISATION

ECB up to USD 500 million per borrower per financial year would be permitted for Rupee Expenditure and / or foreign currency expenditure for permissible end - uses under the Automatic Route. Accordingly, the requirement of minimum average maturity period of seven years for ECB more than USD 100million for Rupee capital expenditure by the borrowers in the infrastructure sector has been dispensed.

(i) Parking of Funds: It has now been decided that henceforth the borrowers will be extended the flexibility to either keep these funds off-shore as above or keep it with the overseas branches /subsidiaries of Indian banks abroad or to remit these funds to India for credit to their Rupee accounts with AD Category I banks in India, pending utilization for permissible end-uses. However, the rupee funds will not be permitted to be used for investment in capital markets, real estate or for inter-corporate lending.

(ii) All in cost ceiling revised

Average Maturity Period	All-in-Cost ceilings over 6 Months LIBOR*	
	Existing	Revised
Three years and up to five years	200 bps	300 bps
More than five years and up to seven years	350 bps	500 bps
More than seven years	450 bps	500 bps

** for the respective currency of borrowing or applicable benchmark*

(iii) Hedging: Keeping in view the risks associated with unhedged foreign exchange exposures of SMEs, a system of monitoring such unhedged exposures by the banks on a regular basis is being put in place.

(iv) End-use-Definition of infrastructure sector: It has been decided to expand the definition of Infrastructure sector for the purpose of availing of ECB. Accordingly, the Infrastructure sector would henceforth be defined as (i) power, (ii) telecommunication, (iii) railways, (iv) road including bridges, (v) sea port and airport (vi) industrial parks (vii) urban infrastructure (water supply, sanitation and sewage projects) and (viii) mining, exploration and refining. Payment for obtaining license/permit for 3GSpectrum will be considered an eligible end-use for the purpose of ECB.

(v) Other conditions: All other aspects of ECB policy such as USD 500 million limit per company per financial year under the Automatic Route, eligible borrower, recognized lender, end-use, average maturity period, prepayment, refinancing of existing ECB and reporting arrangements remain unchanged

RBI/2008-09/245, A.P. (DIR Series)
Cir No. 2 dtd. 22/11/08

2.0 RBI ENHANCES THE ALL-IN-COST CEILING FOR TRADE CREDITS

RBI has been decided to enhance the all-in-cost ceiling for trade credits for imports into India as under:

Maturity Period	All-in-Cost ceilings over 6 Months LIBOR*	
	Existing	Revised
Up to one year	75 basis points	200 basis points
More than one year up to three years	125 basis points	200 basis points

** for the respective currency of credit or applicable benchmark*

RBI/2008-09/ 251, A.P. (DIR Series)
Cir. No. 27 dtd. 27/10/08

3.0 EXPORTERS GET MORE TIME FOR CONCESSIONAL RATES

RBI has extended the time period for concessional interest rates for overseas shipments. The rupee export credit interest rate scheme, under which exporters get loan at 250 bps lower than PLR, has been extended till April 30, 2009.

4.0 GOVT. DE-RESERVES 14 ITEMS FROM SSI LIST

The government has de-reserved 14 more items meant to be exclusively manufactured by the small-scale units, in a move to enable them compete globally. With the latest tranche of de-reservation, only 21 items remain exclusive for SSI units.

5.0 RBI RELAXES TIME LIMIT ON LOANS TO MUTUAL FUNDS

RBI extended a facility under which mutual funds could borrow using short-term debt securities as collateral for an unlimited period to help them meet cash requirements. Further, the RBI allowed banks to extend loans to mutual funds against the so-called certificates of deposits or buy back such securities issued by themselves for a period of 15 days. This facility has been extended for an unspecified period now.

6.0 CRR TREND

Year	Cash reserve ratio (per cent)
2003-04	4.50
2004-05	5.00
2005-06	5.00
2006-07	6.50
2007-08	6.50-7.00
Sept.08	9.00
Nov.08	5.50

7.0 BANKS CAN TRADE IN INTEREST RATE FUTURES

The Reserve Bank of India said that the Banks can now take trading positions in interest rate futures (IRFs). These guidelines will also be applicable to overseas branches of Indian Banks. Earlier banks were allowed to transact in IRFs for the purpose of hedging the risk in their underlying investment portfolio. Earlier banks could only buy IRFs, now they can also sell. This may improve volumes in the IRFs market. However, with the requirements of margins in the future market, the impact may not be much. This is just one more instrument for banks for hedging.

8.0 RBI ALLOWS LOAN MOP-UP AGAINST BONDS

The reserve bank of India (RBI) has further relaxed banking norms by allowing holders of certain types of savings bonds to raise fund by pledging the government paper as collateral with cooperative banks. Following the decision, the holders of savings bonds will be able to borrow money for their needs from the urban cooperative banks

9.0 RBI HIKES NRE, FCNR (B) RATES

The Reserve Bank of India (RBI) has issued fresh guidelines in connection with interest rates on non resident (external) rupee (NRE) term deposits and FCNR (B) deposits. As per the guidelines, the interest rates on fresh NRE term deposits for one to three years maturity should not exceed the libor/swap rates plus 100 basis points as on the last working day of the previous month, for US dollar of corresponding maturities as against libor/swap rates plus 50 basis points effective from the close of business.

10.0 BANK A/Cs WITH INADEQUATE CLIENT INFO TO BE CLOSED

Bank customers who have not submitted proper documents for opening an account now face the risk of their accounts being permanently frozen unless they comply with the know-your-customer (KYC) norms at the earliest.

contd. from pg. 1

INDIAN ECONOMY....

that Auditors/special joint auditors are appointed by an independent Regulatory Authority. In such case the scope, coverage and reporting requirements can be foolproof and the auditors' independence is not impacted. Auditors' appointment, remuneration, continuation and removal has to be independent of owners and those directly or indirectly in-charge of management.

In addition to India, even the international community including G20 summit which is happening at the behest of US should consider as to whether the accounting practices, reporting requirements and most importantly the audit process of their financial sector is factually independent and a debate is necessary towards shifting the appointment of auditors through regulatory mechanism so that such auditors are directly answerable to these regulators as well as to the society. Hectic activities are going on in the area of convergence of accounting standards world over. Fair Valuation is being considered as better basis of accounting than historical cost. In the present circumstances, this definitely requires a relook.

The Indian economy, the Indian businesses, Indian banks as well as Indian financial sector is fully safe based on the informal feedback being received by the chartered accountants community from various quarters including most importantly through the informal networking of Chartered Accountants as auditors, tax advisors and management consultants, CFOs and CAs at other managerial positions and working closely with the business community. There appears to be no serious problem in the economic and business framework of the country. However, it is important to ensure that the business sentiments are restored and the government of India needs to –

(i) Significantly reduce indirect taxes in those sectors which may be impacted due to lack of export, international trade and considerable reduction in commodity prices. The tax burden is too high in almost all sectors and need a candid review.

(ii) The compliances burden is to be reduced significantly.

(iii) We suggest that the government should immediately commit at least Rs. 200,000 crore towards infrastructure projects and start inviting contracts and take steps to implement the same. This will boost the economic sentiments very significantly and the multiplier effect will rejuvenate the economy.

(iv) The interest rate for hotel industry, real estate sector and housing below the cost of Rs. 50 lakhs needs to be considerably reduced by at least 500 basis point. The risk factors determined by RBI also require positive reconsideration.

(v) The liquidity in the system has to be further increased by further reduction of SLR and CRR.

(vi) A fresh dose of cut in the REPO rate is very necessary.

(vii) The oil prices need an immediate reduction in view of 60% reduction in international prices.

These are only some suggestions to put back the economy in the right direction. At the same time the **Government needs to reconsider its decision regarding growth of derivative in securities markets, foreign currency markets and commodity markets.** The unnecessary speculations in these markets have given birth to new instruments, new structures, new greed and even a greater risk. **The derivative market need to be restricted only to actual hedging of actual underlying risk. Only simple vanilla options or derivatives should be permitted and complex derivative instruments including securitization instruments full of complex financial structures need not be permitted as these give rise to serious risk similar to the risk which has resulted into fall of Lehman Brothers and severely impacted all the top investment bankers of the world in the international crisis.**

We invite suggestions from chartered accountants, thinkers and all those who are committed to the growth of Indian economy to send their comments, suggestions and views. In the meantime just consider this - Indian Economy is slated to grow at least 6-7% in the current fiscal against global average of 3.6% in 2008. This can by no means be a perpetrator of weaning confidence. It just provides positive and bright light at the end of tunnel, then why lose heart. Just be positive and continue to carry out your work with the same zeal, zest and passion.

LATEST IN FINANCE

11.0 CREDIT GUARANTEE SCHEME FOR MICRO, SMALL ENTERPRISES

State Bank of India has signed a memorandum of understanding with the Credit Guarantee Fund for Micro and Small Enterprises (CGTMSE) under which the risk of providing collateral-free credit facilities to micro and small enterprises will be shared between the two. For all collateral-free loans between Rs. 50 lakh to Rs. 1 crore given by SBI to micro and small enterprises, CGTMSE will provide a 50 per cent guarantee cover and the balance 50 per cent risk will be borne by SBI. The guarantee fee and annual service fee charges under this scheme will be 0.75 per cent and 0.375 per cent respectively.

12.0 LIQUIDITY ADJUSTMENT FACILITY - REPO AND REVERSE REPO RATES

Reserve Bank has decided to reduce the fixed repo rate under the Liquidity Adjustment Facility (LAF) by 50 basis points from 8.0 per cent to 7.5 per cent with effect from November 3, 2008, The reverse repo rate under LAF remains unchanged at 6.00 per cent.

RBI/2008-2009/257,FMD.MOAG. No.28/01.01.01/2008-09 dtd. 3/11/08

13.0 MAINTENANCE OF STATUTORY LIQUIDITY RATIO (SLR)

It has been decided that Statutory Liquidity Ratio for scheduled commercial banks be reduced from 25 per cent to 24 per cent of their Net Demand And Time Liabilities (NDTL) with effect from the fortnight beginning November 8, 2008.

RBI/2008-2009/255 Ref.DBOD No. Ret.BC.73 /12.02.001/2008-09 dtd. 3/11/08

14.0 NEW WINDOW FOR NON - BANKING FINANCIAL COs.

In a bid to help non-banking financial companies (NBFCs) meet their fund requirements and maintain capital adequacy requirements, the Reserve Bank of India has allowed these companies to issue perpetual debt instruments (PDI) in Indian rupee to raise funds. The PDIs will be eligible for inclusion as Tier I Capital to the extent of 15 per cent of total Tier I capital of the company as on March 31 of the previous accounting year. The amount of PDI, which is in excess of the amount allowed as Tier I capital, would qualify as Tier II capital. RBI has stipulated Rs. 5 lakh as the minimum investment in each issue by a single investor. All NBFCs with an asset size of more than Rs. 100 crore can raise funds by issuing PDI as bonds or debentures, but these funds would not be treated as public deposits.

15.0 RBI LETS CLEARING CORPORATION TO GUARANTEE FORWARD CURRENCY DEALS

The Reserve Bank of India (RBI) has allowed Clearing Corporation of India (CCIL) to provide guarantee to inter-bank currency forward transactions. The move will help banks use their capital optimally and bring more safety in the currency forward market. At present, currency forwards are settled on CCIL. The central bank's approval will enable CCIL to start providing guarantee for currency forward deals between banks within a month. Currently, Banks have to provide capital for exposure to the currency forward market as these deals are not guaranteed on gross basis .This results in banks setting aside additional capital for every buy and sell transaction, adding to their trading cost. After CCIL starts providing guarantee for deals struck on its platform between banks, it could save a lot for banks, which can utilize capital optimally.

16.0 MONEY DEPOSIT AS CONDITION TO HEAR SUIT LEGAL

The Supreme Court in its judgment in case of Southern Sales & Services Vs Sauermilch Design & Handels GMBH ruled that in a suit for money decree, a party defending the claim may be asked to deposit part of the admitted amount as a condition to hear his petition. In this case, the foreign company filed a suit against the Indian firm for recovery of Rs. 4 crore. The latter moved the civil judge in Bangalore who imposed a condition to hear the suit. The Indian firm moved the Karnataka High Court against this order. The high court ruled that the firm should deposit 55 per cent of the undisputed amount before hearing it. In the appeal, the Supreme Court confirmed high court order, quoting Order 37 of the Civil Procedure Coe. It explained that earlier, the code granted hearing without any condition, but after an amendment to the code in 1977, a condition to deposit part of the undisputed amount can be imposed by the civil court.

TAXATION

1.0 TAX AID UNLIKELY FOR FOREX LOSERS

Cos can't set off Mark-To-Market Losses against profit to reduce tax liability. In a double whammy of sorts, companies hit by mark-to-market (MTM) losses due to exposure to forex derivatives are unlikely to get the income-tax department to treat these losses as deduction. The reason is that there are no specific provisions in the Income Tax Act dealing with this issue.

2.0 INTEREST ON FOREIGN BORROWINGS VIA CONVERTIBLE BONDS UNDER TDS NET

Interest paid by domestic entities to foreign companies in respect of borrowing through convertible bonds is liable for tax deduction at source (TDS). The Authority for Advance Ruling (AAR) on Income Tax has held that TDS provisioning has to be made in respect of interest paid by Indian companies towards borrowings made by issuing convertible bonds under the foreign investment schemes

3.0 TAX DEPT. ROLE IN TRANSFER PRICING AUDITS DEFENDED

In a recent survey, India was found in sixth rank in aggressive TP practices. India is making adjustments in nearly 24 per cent of the audit cases.

CERTIFICATE COURSE

All India Chartered Accountants' Society

Announces an Intensive

1ST Workshop on VAT & Sales Tax

from concepts to expertise……

CFO WORLD Where Ideas Converge

DATES:	TIME:	VENUE:
From 8th November 2008 to 22nd November 2008 (8th, 21st & 22nd November 2008)	1.00 p.m. to 8.30 p.m. (Lunch: 1.00 p.m. to 2.00 p.m.) (High Tea: 5.30 p.m. to 6.00 p.m.)	India International Centre, Annexe Building, Lecture Hall, 40 Max Mueller Marg, New Delhi

THE COMPREHENSIVE REFERESHER COURSE ON VAT & SALES TAX

A Comprehensive Refresher Course/ Workshop on VAT & Sales Tax is being conducted spread over 3 days with the active participation of eminent speakers and professionals. The MAIN THRUST is to carry out an indepth study of the basic concepts, critical issues and their practical applications including rules and regulations and recent case laws relating to VAT & Sales Tax.

DAY 2 – 21ST NOVEMBER 2008 (FRIDAY)

Session VIII 2.00 pm to 2.45 pm ● VAT & CST Liability – How to be calculated ● Return of Goods Sold - Adjustment ● Deposit of VAT & CST – Periodicity ● Filing of Return/ e-Return of VAT & CST – Periodicity ● Return - Filed without payment of tax, whether a valid return ● Revision of Returns ● Records to be maintained under VAT/CST Regulations

Session IX 2.45 pm to 4.00 pm ● Local/inter State Levy on Right to Use Goods ● Local/Inter State Works Contracts - Complexities & issues ● Valuation of Works Contracts - Inclusions & exclusions ● Deduction of Tax at Source – Concept & requirements ● Taxation of Works Contract Civil under DVAT Act, CST Act & in neighbouring States ● TDS on Works Contract

Session X 4.00 pm to 4.45 pm ● Composite Contracts - Concept & issues ● Installation Contracts, Printing Contracts, Catering Contracts etc. ● Rules of Valuation of Composite Contract

Session XI 4.45 pm to 5.30 pm ● Levy of VAT on Real Estate Builders – Legal provisions & precedents ● Levy of VAT on Construction Contractors – Legal provisions & precedents

Session XII 6.00 pm to 6.45 pm ● Transfer of Goods to Branch/Agents – Issues & precautions ● Concept of Form 'F' - Related issues ● Inter State Sale of Goods – Concept of Form 'C'

Session XIII 6.45 pm to 7.30 pm ● Applicability of VAT on ● Hospitals – Whether a contract for service or for sale of medicines ● Telecommunication – Whether Sim Cards are subject to VAT ● Rent a Cab

Session XIV 7.30 pm to 8.15 pm ● High Seas Sales - Concept ● Agreement of High Sea Sale – Precautions while drafting

8.15 pm to 8.30 pm ● Open House for discussion

DAY 3 – 22ND NOVEMBER 2008 (SATURDAY)

Session XV 2.00 pm to 2.45 pm ● Units in Uttaranchal/HP/J&K/North East-Availability of benefits of CST/VAT ● Other Tax Planning Measures

Session XVI 2.45 pm to 3.30 pm ● Levy of VAT on Intangibles ● Levy of VAT on Customised Software-Whether a Contract for Service or Sale

Session XVII 3.30 pm to 4.15 pm ● Levy of VAT on: - Lease, Hire Purchase Transactions ● Transfer of Property in Goods otherwise than in pursuance of a contract ● Supply of Goods to Members in Clubs etc. ● Supply of Foods Articles in hotels, restaurants etc.

Session XVIII 4.15 pm to 5.00 pm ● Refund of Input Tax Credit ● Refund of VAT/CST to STPI Units, UN Organisations etc. ● Procedure for Claiming Refund

Session XIX 5.30 pm to 6.15 pm ● Vat Audit ● Survey, Search & Seizures

Session XX 6.15 pm to 7.00 pm ● VAT/CST Liability on Transfer of Business under: ● Stock transfer mode ● Slump sale mode ● Itemised sale mode ● Transfer of Business – Liability of transferor & transferee

Session XXI 7.00 pm to 7.45 pm ● Moving towards GST ● Possible Structure of GST ● Possible impact on Dealers

Session XXII 7.45 pm to 8.30 pm ● Job Work- Concept & legal provisions ● Local vs. Inter State Job Work – Situations & Issues

SPEAKERS – VAT & SALES TAX WORKSHOP

- **Mr. Randhir Chawla,** Advocate
- **Sh. Sushil Verma,** Advocate
- **CA Kamal Aggarwal,** Exe. Director, Ernst & Young
- **Mr. Balram Sangal,** Advocate
- **Mr. Rajesh Jain,** Advocate
- **CA Payal Tuli, Manager,** Ernst & Young
- **Mr. Manish Mishra,** Sr. Manager - Indirect Taxes, KPMG
- **CA Siddharth Mehta,** Sr. Manager, KPMG
- **CA Rakesh Garg**
- **CA R. P. Varshney**
- **Sh. Raj Kr. Batra,** Advocate, President Sales Tax Bar Association
- **Mr. Krishna Arora,** Advocate, Manager, Indirect Tax, KPMG
- **CA Anita Rastogi,** Pricwaterhouse Coopers
- **CA Ashok Batra,** Member Indirect Tax Law Committee of ICAI
- **CA Manmohan Khemka**
- **CA H. L. Madan**
- **Sh. H. C. Bhatia,** Advocate
- **Sh. Vineet Bhatia**, Advocate
- **Sh. Girish Shukla,** Advocate

PROGRAM ORGANIZING TEAM

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Co-conveners	CA Deepak Bahl (9810084888), CA Rajesh Rastogi (9810296909) CA Binu Nanda (9810508866), CA DC Garg (9811039211)
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President:	CA Avineesh Matta (9811052264)
Vice President:	CA Pramod Kapur (9810730568)

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DETAILS – STUDENTS' WORKSHOP

Date	Time	Venue
21st November 2008 (Friday)	9:00 am to 1:00 pm (Tea: 11:15 am to 11:30 am) (Lunch: 1.00 pm to 1.30 pm)	India International Center, Annexe building, Lodhi road

8:30 am to 9:00 am	• Registration	
9:00 am to 9:15 am	• Inauguration and Key Note address	
Session I 9:15 am to 11:15 am	• Attitude towards Work	**CA Dinesh Bahl** Sahni Natrajan & Bahl
Session II 11:30 am to 12:15 pm	• Pre requisite of a Successful Professional	**CA Sunil Sukhija** Eminent Motivational Speaker
Session III 12:15 pm to 12:45 pm	• Tips for effective study and Cracking Examination	**CA Vinod Jain** Member, Central Council, ICAI
Session IV 12:45 pm to 1:00 pm	• Open House Discussion	

Convenor: CA Manmohan Khemka **Advisor: CA Anil Sharma**

Fee: 250/- (including Tea and Lunch)
Payable in favour of All India Chartered Accountants Society

REGISTRATION FORM

* Fax form to : 91-11-26223014
* E-mail form to : aicas.cfo@gmail.com
All India Chartered Accountants' Society
503-504, Chiranjiv Tower, 43, Nehru Place, New Delhi-110019
Tel. : 26223712, 26226933, 26228410

Registration for ☐ VAT & Sales Tax ☐ Student Workshop

Name : Mr/Ms ....

CA Membership No. : ....

Designation : ....

Company Name : ....

Address : ....

.... Pin ....

Phone : (O) .... (R) ....

E-mail: ....

Payable to "All India Chartered Accountants' Society"

Via DD/Cheque (Delhi only) No. : ....

Date : .... Bank : ....

Amount : .... Signature ....

TAXATION

4.0 SEC 14A APPLICABLE ON DIVIDENDS FROM SHARES HELD AS STOCK-IN-TRADE.

ITAT Mumbai in the case of ITO vs. Daga Capital (I) has ruled that sec 14A of IT Act, which says that no deduction shall be allowed for expenditure incurred in relation to any tax free income, will apply in respect of tax free dividend income earned from shares held as stock in trade. The assessee had agrued that as income by way of profit from trading in shares is taxable, sec 14A should not be applicable on the dividend earned in the process of trading.

The bench turned down the contention of the assessee and further held the fact that the dividend income is "incidental" to the purchase of shares is irrelevant. The question as to whether the onus is on the assessee or the AO for bringing an item of expenditure within sec14A is also irrelevant in view of Rule 8D.

FEMA

1.0 CABINET OKAYS BILL TO RAISE FDI IN INSURANCE TO 49%

After many years of debate, the government has decided to increase the foreign direct investment (FDI) limit in insurance companies from 26% to 49%. A bill to effect this change will be introduced in Parliament.

CORPORATE LAWS

1.0 HOLDING COMPANY NOT LIABLE TO RECOVER PROVIDENT FUND DUES OF SUBSIDIARY: SC

The Supreme Court (SC) has reiterated that a holding company could not be held liable for recovery of provident fund dues of its subsidiary company. The Orissa High Court had allowed the petition of ABS Spinning Orissa Ltd, which had challenged the demand of the provident fund commissioner for provident fund dues. The commissioner appealed to the SC which dismissed the petition stating that "we are of the view that the subsidiary company has an independent existence as against the holding company and therefore the holding company is not liable to clear the provident funds dues of its subsidiary company".

2.0 ARBITRATION CLAUSE NEED NOT BE EXPLICIT, SAYS SC

Supreme Court in the case of Unnissi (I) Ltd. vs PGI has ruled that even if one party has not signed a formal agreement, threre could be a consensus on arbitration by implication. It asserted that no agreement was executed and there was no arbitration clause. On appeal, the Supreme Court ruled that there was an arbitration clause in the tender document itself. Since the document was accepted by PGI, there was an arbitration clause.

ACCOUNTING

1.0 IASB AND FASB LAUNCH CONSULTATION ON PROPOSEDENHANCEMENTS TO THE PRESENTATION OF FINANCIAL STATEMENTS

The International Accounting Standards Board (IASB) and the US Financial Accounting Standards Board (FASB) has published for public comment a Discussion Paper on financial statement presentation. The Discussion Paper contains an analysis of the current issues in financial statement presentation and presents the Boards' initial thinking on how those issues could be addressed in a possible future format.

International Financial Reporting Standards (IFRSs) and US generally accepted accounting principles (GAAP) provide only limited presentation guidance. In addition, presentation guidelines in US GAAP are dispersed across standards. Moreover, users of financial statements have often expressed dissatisfaction that information is not linked across the different statements and that dissimilar items are in some cases aggregated in one number.

To address these issues, the IASB and the FASB propose to introduce cohesiveness and disaggregation as the two main objectives for financial statement presentation. Cohesiveness would ensure that a reader of financial statements can follow the flow of information through the different statements of an entity; disaggregation would ensure that items that respond differently to economic events are shown separately. To achieve these main objectives, the Boards have developed a principle-based format that is presented in the Discussion Paper. The Boards seek views from interested parties on both the objectives for the presentation of financial statements and the proposed format.

2.0 IASB AND FASB COMMIT TO A GLOBAL APPROACH TO ENHANCE MARKET CONFIDENCE

The IASB and the FASB have announced further details on their joint approach to dealing with reporting issues arising from the global financial crisis. The boards reiterated the importance of working cooperatively and in an internationally coordinated manner to consider accounting issues emerging from the global crisis. The boards also emphasized the role of high quality financial reporting in helping enhance confidence in the financial markets by responding in a timely manner that improves transparency and provides greater global consistency in financial reporting.

(i) **Rapid appointment of a high-level advisory group:** The boards agreed that the advisory group shall be comprised of senior leaders with broad international experience with financial markets.

(ii) **Public roundtables in Asia, Europe, and North America:** In the coming weeks, while the advisory group is being established, the IASB and the FASB will organise three roundtables—one each in Asia, Europe, and North America.

(iii) **Common long-term solutions to reporting of financial**

instruments for Reducing Complexity in Reporting Financial Instruments: In addition to considering the potential for short-term responses to the credit crisis, both boards emphasized their commitment to developing common solutions aimed at providing greater transparency and reduced complexity in the accounting of financial instruments. The boards will use their joint discussion paper, the responses received to the discussion paper, and the deliberations of the high-level advisory group as starting points for this longer term objective. The boards will reconsider the composition of the existing IASB Financial Instruments Working Group to ensure that working group provides appropriate and balanced advice to both boards.

3.0 CENTRE MAY AMEND AS 21 TO PLUG GAPS IN ACCOUNTING PRACTICES

Accounting Standard 21 – which speaks of consolidated financial statements – gives holding companies the leeway of not showing the composite effect of all its subsidiaries if the control in the subsidiary is intended to be temporary. That is, if the subsidiary is acquired and held with a view that it will be subsequently disposed in the near future, consolidation of financial statements is not required. It is alleged that holding companies often abuse this relaxation to prevent poor performance of loss-making subsidiaries causing a dip in their consolidated profits. The proposal for mandatory consolidation may help investors to take an informed decision on the financial status of companies.

4.0 ICAI TO START COURSE ON DERIVATIVES, IFRS & VALUATION.

With complex financial instruments emerging across the globe, apex accounting body ICAI has come with course on derivatives, forex, treasury management, valuation, IFRS for the chartered accountants.

INSURANCE

1.0 IRDA SEEKS ULIP DATA TO GAUGE LOSS

With the mayhem in the stock markets and dip in sales of unit-linked insurance plans (ULIPs), insurance regulator IRDA has decided to direct life insurers to furnish data on the performance of their funds. Worried that the drastic fall in the net asset values (NAVs) of ULIPs may affect the popularity of life insurance policies, the regulator is looking at imposing some restrictions on ULIPs. Currently, companies have full freedom to sell ULIPS or traditional policies or a mix of both.

COMMODITY

1.0 FMC TIGHTENS PERMIT PROCESS FOR TRADING IN DELICENSED COMMODITIES

Acting tough on the single commodity exchanges, the Forward Markets Commission (FMC) has tightened the process for granting permission to restore futures trading in de-licensed commodities. The commodity markets regulator has sought details of steps taken by commodities exchanges to make contracts liquid, in at least two cases.

AUDITING

1.0 DERIVATIVES: NORMS FOR OFF-BALANCE SHEET EXPOSURE TIGHTENED

Overdue receivables representing positive mark-to-market (MTM) value of a derivative contract should be treated as a non-performing asset, if these remain unpaid for 90 days or more. In a notification on the prudential norms for off-balance sheet exposure of banks, the Reserve Bank of India said that all other facilities granted to the client should also be classified as NPAs based on the principle of borrower-wise classification.

(i) Restructured Derivatives: In case where a derivatives contract is restructured, the MTM value of the contract on the date of restructuring should be cash settled .For this purpose, any change in any of the parameters of the original contract would be treated as restructuring .This instruction will also be applicable to the foreign branches of the Indian Banks.

CAPITAL MARKET

1.0 SEBI AMENDS CLAUSE 49

SEBI has made amendments to Clause 49 of the listing agreement that deals with corporate governance norms. The amendments have been made after representations from entities requested SEBI to bring about further clarity on the amendment (made on April 8) where the promoter of a listed company is a listed or an unlisted entity. According to SEBI, "If the promoter is a listed entity, its directors – other than the independent directors, its employees, or its nominees – shall be deemed to be related to it." but, "if the promoter is an unlisted entity, its directors, employees or nominees shall be deemed to be related to it."

2.0 REVISED EXPOSURE MARGIN FOR EXCHANGE TRADED EQUITY DERIVATIVES

With a view to ensure market safety and safeguard the interest of investors, it has now been decided that the exposure margin for exchange traded equity derivatives shall be higher of 10% or 1.5 times the standard deviation (of daily logarithmic returns of the stock price), with effect from October 21, 2008.

SEBI/DNPD/Cir-41/2008, dtd. 15/10/08

3.0 NEW NAV NORMS FOR DEBT-ORIENTED FUNDS

Bulge-bracket investors (those investing more than Rs. 1 crore) in income or debt-oriented funds will have to buy units at the net asset value (NAV) of the day they make the payment for the schemes. However, liquid funds will continue to operate as earlier.

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CAPITAL MARKET

4.0 SEBI RELAXES NORMS FOR PROMOTERS TO UP STAKE

Promoters can increase their stake up to 75 per cent through creeping acquisition, instead of 55 per cent earlier. However, they will have to buy shares through normal market purchase and not through bulk, block or negotiated deals. Through a creeping acquisition, the promoters of a company can increase their stake in the company by buying up to five per cent of the company's equity annually.

5.0 SEBI LIFTS CAP ON DEBT, EQUITY RATIO ON FIIs

With FIIs pulling out of stock market, SEBI has removed the restrictions of the 70:30 ratio of investments in equity and debt respectively to provide greater flexibility and investment options to overseas investors.

6.0 SEBI CURBS SHORT SALES VIA P NOTES

In a move that could halt short selling through Participatory notes (P notes), the Securities and Exchange Board of India (SEBI) has asked foreign institutional investors (FIIs) and their sub accounts to provide details of such lending and borrowing in overseas market. FIIs have been lending third party shares held through P notes to other investors overseas, who in turn were selling such shares in Indian markets. SEBI has now said that sales in the Indian market by FIIs and sub accounts are also possible on account of the securities being lent by these entities abroad. In order to lend more transparency to the market, it has been decided that the position of the securities lent by these entities abroad shall be disseminated on a consolidated basis twice a week-Tuesday and Friday.

7.0 SEBI ROLLS BACK P-NOTE CURBS

The SEBI has lifted curbs on foreign institutional investors (FIIs) imposed a year ago to stem huge sales by FIIs that have triggered a 42 per cent slide in the Sensex this year. A requirement forcing investors to register in India before buying shares and limits on offshore derivatives that were imposed last October have been lifted with immediate effect. Under the October rules, foreign investors could only issue offshore derivatives linked to stocks upto a limit of 40 per cent of assets under custody as of September 30. The regulator also overturned rules that banned overseas investors from issuing participatory notes (P-notes) on derivatives. This means investors can issue P-notes on single stock and index F & O.

8.0 SEBI MODIFIES VALUATION NORMS FOR DEBT SECURITIES

Capital market regulator SEBI has modified the valuation methodology of debt securities, conceding additional discretionary room to mutual funds (MFs) with immediate effect.

Category	Current	Proposed
Instruments with duration upto 2 years	Discretionary discount of upto +50 bps over and above mandatory discount of +50 bps	Discretionary discount of upto +450 bps over and above mandatory discount of +50 bps
Instruments with duration over 2 years	Discretionary discount of upto +50 bps over and above mandatory discount of +25 bps	Discretionary discount of upto +375 bps over and above mandatory discount of +25 bps

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