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EDITORIAL

FDI IN MULTI BRAND RETAILS - CONTROVERSIAL RECOMMENDATION

CA Vinod Jain*

The Committee of Secretaries of Government of India has recently recommended 51% foreign direct investment in multi-brand retail. This recommendation has brought in on the surface a controversial policy proposed to be framed by the Government. The international retail giants as well as American and European Government have been lobbying with Government of India at all levels for persuading foreign direct investors in retail sector. The prime minister, Dy. Chairman planning commission and several other top leaders of UPA are favouring this move.

All India Chartered Accountants Society (AICAS) has through this column have already outlined in detail the negative impact which this decision can have on the Indian economy and on small retailers and wholesalers and most importantly on the common poor men as well as the middle income group. Internationally it has been observed by all who travel regularly that the goods of daily usage are many times costly in the retail stores run by these multinational giants, as compared to prices in India. **It is expected that most of the goods will become about 2 to 5times costlier over a period of 5 years, in case the decision is implemented.** The current practice of distribution in nearby areas, near to production centre is at very low cost and distribution through small retailers having very low overhead ensuring lower cost of distribution. The multinational retail giants will not only eat away employment of all small retailer shops and wholesale merchants but will also create a tremendous pressure on medium and small size companies manufacturing and supplying various commodities and the goods of daily uses. Small producer may be replaced with large supplier who can provide packaged commodities all across India in a branded manner.

Our Team has visited a number of African, Latin American and Asian countries where multi-brand retailing is operational and the prices of the goods are very very high, in spite of very low custom duty or other international trade barriers. The only items which are competitive price will be high end electronic or goods which are manufactured in large factories with severe competition. **The political leaders of our country may please re-examine this decision** / proposal of the Committee of the Secretaries of Government of India **and may take a decision which is in national interest.**

CHINA - INITIAL FEELERS' ECONOMIC PROBLEM

The Chinese economy has been growing very rapidly over last several years. The infrastructure, roads, ports, airports, power, manufacturing and most of the other industrial activities have been growing very rapidly. China has given a tough competition to the world by supplying very low cost commodities and manufactured products at unimaginably low prices. The quality of Chinese goods in certain cases has been a matter of concern.China has been able to provide all types of quality and in some cases their quality as well as price has surprised most of the international players.

The detailed facts and figures of Chinese economic development and the real source from which such a huge funding was sourced to ensure such a rapid growth has been a matter of surprise and apprehension for all international intellectuals. The Chinese economy, of-late, during last few month have started giving a feeling to those who are dealing with the Chinese Companies that something very unusual or unexpected is cooking up and also those who are individual businessman have started taking Chinese commitments and economic position with a pinch of salt.

It is understood that a large cross section of residential and commercial development is lying unused for long periods in a number of major towns. Similarly the demand for Chinese goods has contracted over the last 2 years.The Chinese investment in Us and European financial markets have been huge and value of such investment as well as return on these investment has become very low, putting pressure on Chinese economy.

We have brought out the above as initial feeler and our research team is trying to find out further details. The readers of this column are requested to communicate their feedback in this regard at aicas.cfo@gmail.com and vinodjainca@gmail.com

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LATEST IN FINANCE

1.0 GOVERNMENT MAKES E-PAYMENT MANDATORY FOR IMPORT DUTY OF OVER Rs. 1 LAKH

With a view to reduce transaction cost and time during customs clearance, the Government has made it mandatory for importers to use the e-payment mode for duty payments of above Rs. 1 lakh. The Central Board of Excise and Customs (CBEC) has said that in case of accredited importers the e-payment method would be applicable irrespective of the amount of duty.

2.0 DRAFT MICROFINANCE BILL GIVES RBI TOTAL CONTROL

Reserve Bank of India (RBI) will regulate the Micro Finance sector:

- Every entity , except bank, engaged in Micro Finance to register with RBI.
- RBI may specify margin requirements and other norms for MFIs.
- State advisory councils proposed to give states a say in policy making.
- Systematically important MFIs to register as companies under Companies Act 1956.
- MFIs will need to create a reserve fund out of its net profit.
- All M&As in the MFI sector will have to be approved by the RBI.

3.0 RBI ASKS PSU BANKS TO FURNISH BUSINESS PLAN

Even as the government has launched austerity measures to cut down the fiscal deficit and delayed the decision on the Rs.21,000/- crore rights issue of State Bank of India (SBI), the public sector banks (PSBs) to furnish their details on the capital requirement and other business plans till 2014.

4.0 RBI TO BE REGULATOR FOR MFIS

The Government has proposed to bring all Micro Finance Institutions (MFIs) under the ambit of the Reserve Bank of India (RBI). The central bank will have the powers to formulate policies for the sector and regulate it.

5.0 BANKS' EXPOSURE IN NON- FINANCE ENTITIES LIKELY TO BE CAPPED AT 10%

In a move to discourage Banks participation in Non Financial Activities, the Reserve Bank of India (RBI) has proposed a limit on the equity investment of a Bank in the entities not involved in financial services. Reserve Bank of India (RBI) has proposed a cap on Banks investment in Non Financial Companies at 10% of the latter's capital or 10% of the bank's capital plus reserves. The central bank has issued the draft norm for decision. Banks would not require prior approval from Reserve Bank of India (RBI) if such investments were within the ceiling. Request for an investment in excess of 10% of a company's paid up capital would be considered by Reserve Bank of India (RBI) only if the company was engaged in activities permitted to banks under the Act. A bank's equity investments in the subsidiary entity engaged in Non Financial Services are also to be capped at 20 % of the paid up capital and reserves. The cap of 20% would not apply for investment classified under the "held for trading" category, if not held beyond 90 days. Banks will be permitted to hold stake in excess of 10% without RBI's prior approval if the additional acquisition (of equity investments) is through restructuring or corporate debt restructuring or corporate debt restructuring. Such cases would also be exempted from the 20% ceiling rule.

6.0 RBI REVISES BANK DERIVATIVES GUIDELINES

- Foreign banks accepted operating in India can be market makers for the specific products only if they have the ability to price the products locally in India,.
- Banks should require compliance officer to submit a monthly report to the board of directors of the banks certifying that all the new features of the guidelines have been followed for all derivates transactions undertaken by the banks.
- No bank can be market maker in a products it cannot price independently.
- Before offering derivatives products to clients, banks should obtain resolution of the board of the corporate authorizing the concerned official of company to undertake derivative transactions on behalf of the company.

7.0 PANEL TO FAST-TRACK PSUs ACQUISITIONS ABROAD

To fast-track overseas deals of Public Sector Units (PSUs), the government will soon appoint a high level committee headed by the cabinet secretary. The Department of Public Enterprises (DPE) under the heavy industries ministry has already forwarded a Cabinet note proposing the formation of the committee. The empowered committee headed by Ajit Kumar Seth will also have secretaries of the administrative ministries of the respective PSUs, their chairmen and managing directors and representatives of the ministries of external affairs and finance.

8.0 RBI MOVE ON ASSET SECURITIZATION PROVIDES RESPITE FOR NBFCs

The Reserve Bank of India (RBI) cleared that the assets securitised by NBFCs will be treated as priority sector lending (PSL). While NBFCs can use securitization as one of the fund raising avenues, this benefits private sector banks as well. The latter can use asset-backed securities to meet their PSL requirement.

FEMA

1.0 DIPP SETS TOUGH RIDERS IN LIFTING FDI CAPS TILL 49%

The government's plan to remove sectoral FDI caps below 49% would come with a set of riders as it wants to closely scrutinize sensitive sectors like insurance, news media and defence once the liberal regime is in place. The Department of Industrial Policy and promotion (DIPP), which earlier suggested 49% as the lower threshold for FDI cap, now wants to make it mandatory for all joint ventures seeking approval to increase foreign investment to 49% to have Indian citizens as their MD and CEO. Such firms should also have a government-nominated director or their boards. The government will also scrutinize the balance sheets and other company statements to ensure there are no changes in ownership structure or control. In case of JVs in the defence sector, if the FDI is to the extent of 49%, such companies will have to compulsorily go public.

2.0 INDIA SLIPS IN FDI INFLOWS

India's ranking in the top 20 league of largest Foreign Direct Investment. FDI recipients took a nosedive in 2010. From a position of eighth rank in 2009, India fell to the 14th rank in the top-20 league for global FDI inflows in 2010. India's FDI inflows in 2008 stood at $42.5 billion. This had come down to $35.6 billion in 2009 and $ 24.64 billion in 2010.

3.0 NON-RESIDENT ENTITIES ALLOWED TO HEDGE CURRENCY RISK

Non-resident importers and exporters can now hedge their currency risk in respect of exports from and imports to India, invoiced in rupees. The RBI issued the guidelines for the same. This will facilitate greater use of rupee in trade transactions. According to the RBI guidelines, nonresident exporters or importers can conduct the transaction through their overseas bank (including overseas branches of AD banks I n India) or directly with AD bank in India. The products include forward foreign exchange contracts with rupee as one of the currencies and foreign currency-INR options.

4.0 RBI : COMPANIES CAN ISSUE FRESH FCCBs TO RETIRE OLD DEBT

To facilitate the redemption of existing Foreign Currency Convertible Bonds (FCCBs), the Reserve Bank of India (RBI) has allowed Indian companies to take fresh external loans and issue new FCCBs to address debt obligations. Reserve Bank of India (RBI) would consider applications to refinance FCCBs under the automatic route. Funds raised through fresh extra commercial borrowings (ECBs) and FCCBs cannot exceed the maturity redemption value of outstanding FCCBs. RBI has given Indian companies additional time till March 2012 to buy back FCCBs at reduced discount rates.

The restructuring of FCCBs, involving a change in the existing conversion price, is not permissible. However, companies can use the approval route to put up restructuring proposals which do not involve a change in the conversion price. RBI would consider such proposals on their merit.

INSURANCE

1.0 IRDA TIGHTENS STAKE TRANSFER, DILUTION OF OWNERSHIP IN INSURANCE COMPANIES

The Insurance Regulator aims to control transfer and dilution of ownership in insurance companies similar to what the Reserve Bank of India (RBI) does with banks, to prevent financial investors from flipping investments for short-term gains that may hurt long-term prospects. The Insurance Regulatory and Development Authority (IRDA) has proposed a series of measures including mandatory prior approval for anyone to raise stake beyond 5%, and anyone keen to buy 1% or more should seek regulatory approval.

2.0 IRDA NOT KEEN TO ALLOW INSURERS TO INVEST IN IDRs

The Insurance Regulatory and Development Authority (IRDA) is not in favour of changing the norms that bar insurance firms from investing in Indian Depository Receipts (IDRs).

3.0 ULIPs - NO GUARANTEED RETURNS

The Insurance Regulatory and Development Authority (IRDA) has given in to the demands of the industry and done away with the 4.5 per cent guaranteed return on unit-linked pension plans.

All India Chartered Accountants' Society

Workshop on FEMA

From Concepts to Practice…

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A Sharma & Co.

Delegates

CA Anil Sharma, Sh. Satwinder Singh, CA Vinod Jain, CA Sunil Jain, CA Vijay Gupta
Panel Discussion

CA Vinod Jain & CA Avineesh Matta

GLIMPSES OF WORKSHOP ON SERVICE TAX

All India Chartered Accountants' Society

Workshop on Service Tax

From Concepts to Practice...

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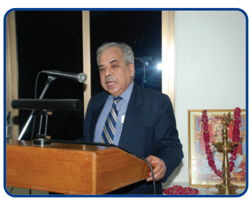

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Panel Discussion

**Sh. Manoj Mishra, CA P K Sahu,
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Panel Discussion

Sh. Upender Gupta
Additional Commissioner
Service Tax

CAManmohan Khemka
Samynk

CA Vaibhav Jain & CA Ashok Batra

Saraswati Puja

TAXATION

1.0 TAX SOP WINDOW FOR SEZ UNITS TO STAY OPEN LONGER

Incentives & facilities offered to units in SEZ

- Duty-free import/domestic procurement of goods for development, operation and maintenance of SEZ units.
- 100% income tax exemption on export income for SEZ units under Section 10AA of the Income Tax Act for first five years, 50% for next five years and 50% of the ploughed-back export profit for next five years. MAT to apply.
- External Commercial Borrowing by SEZ units up to $500 million in a year without any maturity restriction through recognized banking channels.
- Exemption from central sales tax.
- Exemption from service tax.
- Single-window nod for central & State-level approvals.
- Exemption from state sales tax and other levies as extended by the respective state governments.

Major incentives & facilities for SEZ developers

- Exemption from customs/excise duties for development of SEZs for authorized operations approved by the BoA.
- Income tax exemption on income derived from the business of development of the SEZ in a block of 10 years in 15 years under Section 80-IAB of the Income Tax Act
- Exemption from central sales tax
- Exemption from service tax.

2.0 CBEC RELIEF TO SERVICES SECTOR

The Central Board of Excise and Custom (CBEC) has clarified that issuance of invoices will be subject to the service taker certifying 'completion of services'. Despite hectic lobbying from the advertising industry, it has refused to change the 14-day norm. These new rules for the services sector also known as the Point of Taxation Rules 2011 and have been made effective from July 1, 2011.

3.0 I-T SEEKS PAN DETAILS OF BIG JEWELLERY BUYERS

Tax sleuths surveyed the offices of eight New Delhi-based bullion dealers to verify whether they noted clients' Permanent Account Number (PAN) details in large transactions. The surveys came hot on the heels of a new income-tax rule mandating PAN card disclosures for each gold transaction above Rs. 5 lakh.

CAPITAL MARKET

1.0 SEBI REGISTRATION MUST FOR ALTERNATIVE INVESTMENTS

The Securities and Exchange Board of India (SEBI) has framed a separate set of regulations for 'alternative investments' now classified as 'collective investment schemes'. The new rules will apply to all hedge funds, real estate, private equity, debt, venture capital, private investment in public equity, infrastructure, social venture, strategy and small and medium enterprise funds.

2.0 SEBI TELLS VASWANI IND TO GIVE INVESTORS EXIT OPTION

The Securities and Exchange Board of India (SEBI) has directed Vaswani Industries to give a withdrawal option to investors in the Non Institutional Investors (NII) and Retail Individual Investor (RII) categories.

3.0 REGULATOR WANTS DUE DILIGENCE NORMS FOR MERCHANT BANKERS

Market Regulator Securities and Exchange Board of India (SEBI) wants to put in place standard guidelines for the due diligence process carried out by merchant bankers for public issues.

Standard due diligence norms

- Guidelines to involve verification of issuer eligibility, corporate records, the issuer's objectives , amoung other things.
- Specific instructions on how to conduct due diligence of company management, promoters and group companies.
- Move aimed at protecting investors' interest and enchancing the quality of companies to the market.

4.0 SEBI ALLOWS SE MEMBERSHIP FOR LIMITED LIABILITY PARTNERSHIP

SEBI has said limited liability partnership (LLP- a concept which came into being in India only in 2008) firms should be considered as a body corporate and are eligible to become members of stock exchanges.

5.0 NO VOTING FOR FOREIGN INVESTORS HOLDING DEPOSITORY RECEIPTS

The Finance Ministry (FM) has deferred a decision on changing the norms so; foreign investors will not get voting rights in Indian firms in which they hold shares through the depository route.

ICAI

1.0 CAs HAVE TO IMPLEMENT KYC NORMS FOR ALL CLIENTS

For anti-money laundering purposes and also to ensure that terror funds are prevented, we will ask our members to maintain details of all clients. Before taking up a client, they will have to collect and keep records on details like PAN numbers, Director Identification Numbers, connections with foreign entities and holdings in entities abroad. All practicing CAs would be urged to undertake KYC even for non-audit clients who may want to avail themselves of services such as consultancy, tax representation, company formation etc.

AUDIT

1.0 COs WILL HAVE TO ANNOUNCE Q4 RESULTS: SEBI

Securities & Exchange Board of India (SEBI) has made it mandatory for companies to announce their fourth quarter numbers along with audited annual results. Securities & Exchange Board of India (SEBI) also said that companies opting to submit audited annual results within 60 days of the end of the fiscal in lieu of last quarter results shall also submit Q4 results along with audited annual results.

2.0 BANKS SEEK EXTENSION OF DEADLINE TO ADOPT SYSTEM TO IDENTIFY NPAS

Public sector banks (PSBs) have requested the government to extend the deadline for moving towards the system of technology based identification of non-performance assets. Banks have asked that the deadline, which was scheduled to expire on September 30, be extended for another six months.

3.0 CENTRE MANDATES STATE SOCIAL AUDIT FOR NREGs

The government will set up state level independent bodies to carry out financial and social audits of its flagship rural employment guarantee programme. The rural development ministry will also make it mandatory for state governments to submit a report on the social audit, which unlike other government audits, allows beneficiaries of the scheme to register companies.

4.0 RBI WARNS BANKS AGAINST INTERNAL FRAUDS

Reserve Bank of India (RBI) has warned banks against internal fraud committed by their own employees. Reserve Bank of India (RBI) also said that today's employees are able to easily export sensitive files and information via email, FTP or by copying data to portable media. Banks have to control where their sensitive information is, how it's used, and who obtains.

Heartiest Congratulations!

CA Pramod Jain (Lunawat & Co.), Chairman, Direct Tax Committee of AICAS on release of the second revised edition of the book authored by him **"Documentation of Chartered Accountants"**

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FINANCIAL INDICATORS

	Current Rate* (in %)	Month Ago (in %)
3 Month LIBOR	.28	.25
3 Month MIBOR	9.43	9.71
SENSEX	16858	18269
NIFTY	5073	5486
CRR	6	6
REPO	8	7.25
REVERSE REPO	7	6.25
Gold (per 10 gm)	25450	22559
Silver (per kg)	57200	54515
Crude (USD/bbl)	104.53	118.78
Rs. vs USD	45.17	44.72
Rs. vs Euro	64.25	64.72

**As on 10th August 2011*

(Sources: Bloomberg, NSE, BSE, RBI)

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CORPORATE LAW

1.0 ARBITRATION AGREEMENT DOES NOT NEED REGISTRATION: SC

The Supreme Court (SC) has ruled that an Arbitration agreement in an unregistered deed can be enforced and acted upon for dispute resolution even if the deed is compulsorily registrable, this principle will apply.

Decided Case: SMS Tea Estates Ltd Vs Chandmari Tea Co.

2.0 SELLING A BUSINESS MUST TRIGGER OPEN OFFER : MCA

The Ministry of Corporate Affairs (MCA) is contemplating making open offer mandatory in transactions involving sale of any business. This is even as the Securities & Exchange Board of India (SEBI) is said to have rejected MCA's suggestions on this while revising the Takeover Code. ICAI suggestion has been accepted in principle by MCA in this regard.

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