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EDITORIAL

INDIAN ECONOMY CONSOLIDATING TOWARDS GROWTH MOMENTUM

CA Vinod Jain*

The New Year 2012 has set in with a new hope for the Indian economy. In the year 2011, the European economies have passed through a very tough time and the apprehension of "EURO" getting destabilized and insolvency of 1 or 2 large European economies, created a big impact on the entire world economy. The US economy has off late started gaining grounds and it is expected that the 1st quarter of 2012 will show much stronger indications of consolidating recovery and growth in the US, through the year 2012.

The Indian economy has been passing through tremendous pressure arising out of inflation and impact of rising interest rates at the instance of RBI monetary policy. **A heavy successive increase in the interest rates has severely impacted the industry and its growth plan.**

The recovery of industrial production growth rates in November and increase in exports are being seen as an initial indication of a major consolidation of the Indian economy, preparing itself for a major growth in 2012-13.

Current Scenario

The inflation rates have started showing the sign of downward tendency and the RBI and the Government seems to have taken a view to stabilize the interest rates at this level and may consider some relief after watching the situation for few months. The recovery of industrial production growth rates in November and increase in exports are being seen as an initial indication of a major consolidation of the Indian economy, preparing itself for a major growth in 2012-13.

The government initiative is needed to provide support to the power sector and the infrastructure sector so that the current situation of absence of coal linkage, poorer disbursement of sanctioned loans and stagnating sanction of new term loan to the power sector and other infrastructure sector can be addressed effectively. The severe crunch of liquidity in banking sector will require special attention of the market regulators and the Government. On the one hand RBI is undertaking open market operation and on the other hand the Government borrowing from the financial market has increased beyond proportion. The fiscal deficit is expected to be much beyond the budgetary figure.

The government may consider investment of surplus cash of more than Rs. 2000, 000 Crores with public sector undertakings to further capitalize the banks, infrastructure projects and other areas where equity funding can give a big push to the growth. PSU's have more than Rs. 2 lac crore internal accrual on an annual basis. These are to be channelised for effective usage.

Role of Professionals

The Indian economy is ready for a major leap forward and we need to prepare our clients to plan and implement significant growth. It is very important to ensure corporate governance and business ethics are inculcated into our clients, with a view to ensure sustained long term growth of corporate sector clients. The recent jerks to a certain sections of industry in relation to 2G scam is sufficient indication of the need for ethical practices and be committed towards transparency, true and fair disclosure, creation of value and growth in a dignified ethical manner.

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LATEST IN FINANCE

1.0 RBI LIMITS INVESTMENTS BY BANKS

In a bid to regulate the banks' investments in non-financial services companies which do not require prior approval from it, the Reserve Bank of India has said equity investment by a bank in such companies would be subject to a limit of 10% of the investee company's paid up share capital or 10% of the paid up share capital and reserves, whichever is less.

Moreover for the purpose of this limit, equity investments held under 'Held for Trading' category would also be reckoned.

Further, equity investments in any non-financial services company held by a bank; entities which are bank's subsidiaries, associates or joint ventures or entities directly or indirectly controlled by the bank; and mutual funds managed by AMCs controlled by the bank should in the aggregate not exceed 20% of the investee company's paid up share capital.

A bank's request for making investments in excess of 10% of such investee company's paid up share capital, but not exceeding 30%, would be considered by RBI if the investee company is engaged in non financial activities.

Equity holding by a bank in excess of 10% of non-financial services investee company's paid up capital would be permissible without RBI's prior approval (subject to the statutory limit of 30%) if the additional acquisition is through restructuring/CDR or acquired by bank to protect its interest on loans/investments made in a company. The equity investment in excess of 10% of investee company's paid up share capital in such cases would be exempted from the 20% limit referred to above.

2.0 FOREIGNERS ALLOWED TO INVEST DIRECTLY IN EQUITIES

- ❖ Direct entry for foreign individual, association/ group into Indian equity market.
- ❖ RBI will grant general permission under the Portfolio Investment Scheme route, similar to that for FIIs.
- ❖ Individual investment limit would be 5 per cent; aggregate limit would be 10% of paid-up equity of the company.
- ❖ These limits shall be over and above the FII and NRI investment ceilings.
- ❖ QFIs will be allowed to invest through Depository Participants (DP). Only one demat and trading account per QFI will be allowed.
- ❖ DP will be responsible for all KYC and other regulatory requirements.
- ❖ QFIs shall remit money through normal banking channels in any permitted currency (freely convertible) directly to the single rupee pool bank account of the DP.
- ❖ On receipt of instructions from QFI, DP will execute the sale/purchase.
- ❖ DP will be required to deduct tax, as and when required before making any payment to QFIS.
- ❖ Risk management, margins and taxation on such trades by QFIs may be on lines similar to the facility available to the other investors.

3.0 FACTORING SERVICES NOT TO ATTRACT STAMP DUTY LEVY

Factoring transactions may not attract stamp duty in the coming days, giving a boost to such businesses in the country. This follows an amendment to exempt 'assignment of receivables' from stamp duty, moved by the Centre in the Factoring Bill. Factoring is a financial transaction where a business sells its accounts receivable to a third party called a "factor", which finances the receivables and handles the administration and collection of debt.

4.0 DISCLOSING COST OF POWER NOW A MUST FOR DISCOMS

Power distribution companies will have to make public their average cost of power purchase - the minimum price they pay for buying renewable power - following a regulatory intervention. The move comes in the wake of complaints that discoms deliberately understate their average cost of power to arm twist project developers into selling renewable power at a lower price, thus scaring away interested investors.

5.0 NO USE OF FARMLAND FOR INDUSTRIES: FOOD BILL

The Food Security Bill has put in a clause to restrict the diversion of agricultural land.

6.0 DEBT FUND ALLOWED

The Reserve bank of India (RBI) has issued guidelines to allow banks and NBFCs to sponsor Infrastructure Debt Funds (IDFs), to support long term finance in infrastructure. NBFCs trying to set up IDFs should have been operational for at least 5 years, should have minimum net owned funds of Rs.300 Crore and a capital adequacy ratio of 15 percent. Moreover, its net non performing assets should be less than 3 percent of net advances.

7.0 CAPITAL ADEQUACY NORMS FOR NBFCS REVISED: RBI

The Reverse Bank of India (RBI) has revised the capital adequacy framework for off-balance sheet items for NBFCs. It expanded the off-balance sheet regulatory framework to introduce greater granularity in the risk weights and credit conversion factors for different types of off balance sheet items.

8.0 NBFCs BARRED FROM SELLING CREDIT DEFAULT SWAPs (CDS)

Non-banking companies can participate in the credit default swap (CDS) market only as users, according to the Reserve Bank of India. As users, they would be permitted to buy credit protection only to hedge their credit risk on corporate bonds they hold. CDS is an agreement that the seller of the CDS will compensate the buyer in the event of loan default.

The RBI, in a notification, said NBFCs are not permitted to sell protection and hence not permitted to enter into short positions in the CDS contracts.

However, they are permitted to exit their bought CDS positions by unwinding them with the original counterparty or by assigning them in favour of buyer of the underlying bond.

9.0 PARLIAMENT PANEL FOR 26% VOTING RIGHT CAP IN PRIVATE SECTOR BANKS

A parliamentary panel has recommended raising voting rights of investors in the private sector banks but with a cap of 26 per cent with a view to maintaining a balance between economic controls and promoting corporate democracy.

The Banking Laws (Amendment) Bill 2011, introduced in the Lok Sabha in March this year, had proposed providing voting rights to investors commensurate with their shareholding in the private sector banks.

At present, the voting right is capped at 10 per cent.

10.0 GOVT PLANS RS 10,000-CR FUND TO PROMOTE ELECTRONIC MANUFACTURING

The Union Government proposes to set up Rs 10,000-crore Electronic Development Fund (EDF) next year, to promote electronic hardware manufacturing in the country.

These funds will be managed by different fund managers. Though EDF will have anywhere between 25 per cent and 100 per cent equity exposure in these funds, it will not interfere in day-to-day affairs of them. The Government will, however, give some broad guidelines to be followed.

11.0 RBI REMOVES CAP ON MOBILE TRANSACTIONS

The Reserve Bank of India (RBI) has decided to remove the Rs. 50,000 cap per customer per day on mobile banking transactions. It said banks could place limits based on their risk perception with the boards.

12.0 RBI CURBS FOREX FORWARDS

Corporate & FIIs cannot bet on $ by buying $ forward, selling it when $ rises & buying again.

Corporate will have to take/give delivery of most of the $ they buy/sell. This will discourage speculation.

CAPITAL MARKET

1.0 NO SERVICE TAX ON LATE PAYMENT FEES BY STOCK INVESTORS

Stock market investors would not have to pay any service tax on any late payment charges paid by them to their brokers provided such fines are shown separately in the account statement.

The Ministry of Finance has clarified the matter to the capital market regulator SEBI (Securities and Exchange Board of India), which in turn has informed the stock exchanges about the same.

2.0 SEBI ISSUES GUIDELINES ON PASSING ON THE INCENTIVES

The stock market regulator has directed that no person connected with a public issue of debt securities (including distribution of the issue) shall pass on incentives in cash, kind, and services or otherwise to any person making an application for allotment of the securities.

3.0 SEBI BANS 100 ENTITIES RELATED TO 7 IPOS

The Securities and Exchange Board of India (SEBI) cracked down on promoters, key officials and directors, including independent directors, of issuer firms, merchant bankers and stock market operators involved in several irregularities in seven recent initial public offerings (IPOs). Over 100 entities involved in these IPOs are banned from the securities market with immediate effect.

4.0 SEBI MULLS ELECTRONIC PUBLIC OFFER

Securities and Exchange Board of India (SEBI) is considering a proposal to allow companies to sell shares through an all-electronic initial public offer (e-IPO). Investors would be able to bid for shares electronically

and without the need for signing any papers physically.

Securities and Exchange Board of India (SEBI) is currently awaiting a formal clearance from the Ministry of Corporate Affairs (MCA).

5.0 NEW KYC 'S NORMS BY SEBI

Under the new process, once the investor has undergone the Know Your Client (KYC) process, an intermediary shall perform the initial KYC of its clients and upload the details on the system of the Kyc Registration Agency (KRA). If the investor intends to open account with another intermediary, the intermediary concerned can verify and download the client's details from the system of the KRA.

This will help the investor in avoiding going through KYC process every time he makes an investment through a single or multiple intermediaries.

It shall be mandatory for all the intermediaries to carry out In-Person Verification (IPV) of their clients.

6.0 2012 TO BE BIGGEST INTERNET IPO YEAR SINCE '99 DOTCOMS

With Face Book considering the largest internet IPO on record and regulatory filings showing that at least 14 other Web-related companies are planning sales, the industry may raise $11 billion next year. That would be the most since $18.5 billion of IPOs in 1999, just before the dotcom bubble burst.

Even internet companies may cut valuations for their offerings after Zynga, the largest developer of games for Face Book, and online-radio company Pandora slumped following share sales this year.

7.0 SEBI ON CASH SETTLED FUTURES

The Securities and Exchange Board of India (SEBI) has allowed the stock exchanges to carry out cash settled futures on two and five year notional coupon bearing the government of India security in currency derivatives segment. Bourses need to get approval from the market regulator before introducing these futures. The underlying for these futures would be the notional coupon bearing two year and five year government security with a coupon of seven per cent, paid semi-annually and face value of Rs.100. The size of these contracts will be Rs. 2 lakh, which could be traded from 9 am to 5 am. The maximum maturity of the contracts would be 12 months. Initially, stock exchanges can introduce three serial monthly contracts.

INSURANCE

1.0 IRDA SET TO ALLOW FOREIGN BRANCHES FOR PVT INSURERS

Private insurers that have been operating for more than 10 years would be allowed to open branches and set up insurance joint ventures, including subsidiaries, outside India. The norms would apply to all sets of insurance companies involved with life, non-life, health and reinsurance businesses. The Insurance Regulatory and Development Authority (IRDA) said that the companies should put in place appropriate arrangements to ensure policyholders' liabilities are adequately "ring-fenced". This means any capital to start operations outside India should be met from the shareholders' fund, thereby protecting policyholders' money in the parent company. All liabilities shall be restricted to the paid-up capital of the foreign insurance joint venture.

2.0 DEMAT ACCOUNT FOR LIFE POLICIES

Insurance Regulatory Development Authority (IRDA) is planning to put in place the system for holding life insurance policies in electronic format by April 2012. Such a system for general insurance policies will be introduced later where motor policies are likely to be taken up first, followed by health.

ACOUNTANCY

1.0 INDIA INC SET TO GET RELIEF ON ACCOUNTING OF FOREX LOSSES

The National Advisory Committee on Accounting Standards has decided to recommend to the Government that companies be given an option of taking their exchange losses, if any, to the balance sheet instead of the profit and loss account even for accounting periods beyond March 31, 2012.

This time round the flexibility is likely to be open-ended in the sense that it would be available till the tenure of the liability (foreign currency loans, bonds etc) and not merely for a specified period. If this recommendation were to be accepted by the Government, companies would not be required to reflect their marked-to-market position of their foreign currency debt in their quarterly financial statements for the periods beyond March 31, 2012.

National Advisory Committee on Accounting Standards (NACAS) have largely gone with the recommendation of the Institute of Chartered Accountants of India (ICAI).

2.0 AS 11 FLEXIBILITY

This flexibility allowed corporates to take the losses arising from exchange rate differences to the balance sheet and adjust them against the depreciable capital asset for whose acquisition the borrowings were made in foreign currency.

This was available only for accounting periods commencing December 7, 2006, till March 31, 2011, and later extended till March 2012. Now, this has been extended to March 2020.

This has been recommended by ICAI and accepted by MCA.

CORPORATE LAW

1.0 UNLISTED FIRMS CANNOT RAISE FUNDS FROM MORE THAN 49 PERSONS

The Ministry of Corporate Affairs (MCA) has tightened the norms contained in unlisted public companies (Preferential Allotment) Rules, 2003. Accordingly, hereafter no equity or quasi-equity or hybrid instruments such as convertible debentures can be issued without complying with the stringent norms prescribed.

The Issue and Allotment is restricted to not more than 49 persons, special resolution at a general body meeting in favour of such allotment in terms of a specific provision to that effect in the Articles of Association (AOA) and mandatory payment for these instruments by cheque or Demand Draft (DD) by investors.

2.0 COMPETITION REGULATOR TO SCREEN BIG JVs TOO

The ministry of Corporate Affairs (MCA) is considering two key changes in the Competition Act, 2002: One to give the Competition Commission of India (CCI) regulatory powers over big Joint Ventures (JVs) and another to include deal size as a criterion for mergers and acquisitions (M&A) to come under the commission's preview.

3.0 US CALL CENTRE BILL

The Bill, tabled in the US House of Representatives, seeks to make companies that move call centre jobs abroad ineligible for all federal grants for the next five years. Introduced by Representatives Tim Bishop and David McKinley, it also aims to put stringent mandates on the operations of call centres.

FEMA

1.0 FDI IN CASH MANAGEMENT SERVICES GETS GREEN LIGHT

The government has allowed foreign direct investment (FDI) in cash management services. These include transport of valuables including cash, foreign currency, jewellery, precious metals, bullion, credit and debit cards for banks.

It also includes ATM cash replenishment services and valuable management. So far these services for banks both private and public have been managed by Indian security companies. After being wary of allowing FDI into these services for few years, the government and RBI have decided to allow foreign firms to join in and bring in their world-class expertise in cash management.

2.0 LAW MIN NOD TO BAN FDI IN WHOLESALE TOBACCO TRADE

The law ministry has said it favours the commerce ministry's move to ban Foreign Direct Investment (FDI) in wholesale trading in tobacco. Currently, the manufacturing of tobacco and tobacco substitutes are under the prohibitory list of the FDI press note, while such investment is allowed up to 100 per cent in wholesale trading of cigarettes and other related products under the cash and carry category - albeit under the approval route.

Under the guidelines, foreign tobacco companies bring in money for branding and advertising, while selling to retailers directly can only be done by their Indian joint venture partner.

3.0 FDI IN PENSION SECTOR APPROVED

In a move that would help bring much-needed marketing strength to India's burgeoning pension industry and diversify the product basket to enable its rapid growth, the government has decided to allow FDI in this sector and strengthen the sect oral regulator with statutory powers. To start with, FDI in pension fund management would be capped at 26%. However, by separating the issue from the principal legislation, the government has made it easier for it to raise the limit when needed.

5.0 PANEL REJECTS 49% FDI CAP IN INSURANCE

The standing committee on finance has rejected the government's proposal to hike Foreign Direct

Investment (FDI) in the insurance sector from 26% to 49%, saying that it would expose the Indian economy to global uncertainties.

6.0 NON-RESIDENTS CAN NOW HEDGE CURRENCY RISK WITH BANKS

To protect foreigners who lend to Indian NGOs in a volatile rupee market, the Reserve Bank of India (RBI) has permitted them to buy forward cover for their loans.

7.0 FEMA SUPERSEDE TAKEOVER CODE

Removing concerns over a perceived dichotomy between Foreign Direct Investment (FDI) policy and the takeover code, The Securities and Exchange Board of India (SEBI) has made it clear that the code will not supersede or replace the FDI policy or any other government regulation for that matter.

8.0 MICRO-LENDERS CAN NOW RAISE UP TO $10 MILLION A YEAR OVERSEAS

Micro Finance Institutions (MFIs) may soon be able to borrow up to $10 million in a year overseas. Reserve Bank of India (RBI) has said that Micro Finance Institutions (MFIs) may be permitted to raise funds through External Commercial Borrowing (ECB) under the Automatic Route.

According to the Reserve bank of India (RBI) guidelines, Micro Finance Instructions (MFIs) should have a satisfactory borrowing relationship for at least three years with a scheduled commercial bank authorised to deal in foreign exchange.

Reserve Bank of India (RBI) has also said that, the bank would also require to issued a certificate of due diligence on 'Fit and proper' status of the board or committee of management of the Micro Finance Institutions (MIFs) that is borrowing. The External Commercial Borrowing (ECB) funds should be routed through normal banking channels. NBFC-MFIs will also be permitted to borrow from multilateral institutions, such as International Finance Corporation and Asian Development Bank. Other Micro Finance Intuitions (MFIs) will be permitted to avail themselves of External Commercial Borrowing (ECBs) from international banks, multilateral financial institutions, Export Credit Agencies, Overseas Organisations and Individuals, subject to certain conditions.

The RBI has also increased the ECB limit of Non-Government Organisations (NGOs), engaged in Microfinance Activities, to $10 million in a financial year, as against the current $5 million.

9.0 FOREIGN INVESTORS CAN GET EQUITY IN LIEU OF DIVIDEND

In a significant liberalisation of the Foreign Direct Investment (FDI) policy, the government has permitted the issuance of additional equity shares to a foreign investor that already has shareholding in a company in lieu of its dividend income. The approval will, however, be subject to the regular conditions on valuation and pricing norms laid down by the Reserve Bank of India (RBI). Such transactions are not permitted under the prevailing policy. The issue of shares other than against cash requires Foreign Investment Promotion Board (FIPB) clearance. But, the policy does not provide for the issuance of equity shares in lieu of dividend to foreign investors.

10.0 TWO-TIER FOREIGN DIRECT INVESTMENT (FDI) CAP IN MEDIA FINALISED

Now, a 74% uniform cap for non-news media (carriage services) and a 26% cap for news media (content) shall apply. Also, up to 49% FDI in the carriage service providers like Multi-System Operators or MSOs, DTH broadcasters, headed-in-the sky or HITS operators, and providers of mobile TV, satellite teleport and IPTV services will be automatically allowed. But any FDI above 49% will need Foreign Investment Promotion Board (FIPB)'s nod.

AUDIT

1.0 WATER AUDITS MAY BECOME MANDATORY FOR COMPANIES

Water audits may become mandatory for companies in the coming days. Indications are that such audits may be amended in the water management strategy that will form part of the Twelfth Five - Year Plan.

2.0 SECTION 30 OF THE BANKING REGULATION ACT, 1949

The Delhi Tribunal, in case Gupta & Gupta Chartered AccountantsVs.Reserve Bank of India held that where RBI failed to afford Chartered Accountants an opportunity of defending itself against Nationalised Bank's allegations and also, neither RBI nor Bank had communicated to Chartered Accountants decision to discontinue it as an Statutory Central Auditor for extended review period, it was violative of principles of natural justice and was, therefore, illegal

TAXATION

1.0 I-T ISSUES NOTICES TO SWISS BANK HOLDERS

A few corporate honchos have received Income-Tax notices for holding undisclosed bank accounts with HSBC, Geneva in Switzerland.

The I-T department has issued notices to over 100 individuals in Mumbai and there is around 700 Swiss bank account holders whose names figure in the list. Of the 700 in the list, close to 200 account holders of HSBC Geneva were reported to be from Mumbai. It is being expected that the I-T department will come up with more revelations in connection with Swiss bank account holders.

2.0 SERVICE TAX ON RAIL FREIGHT

The decided imposition of service tax on rail freight by 10% has again put in abeyance till March 31.

3.0 ONLINE DATABASE: TDS ON ROYALTY

Software companies are looking at additional tax burden, with the Karnataka High Court ruling that payments made for subscription to online databases, such as those maintained by advisory firms and industry information portals, would be taxed as royalty.

The high court verdict came in a case involving Wipro and the income tax department, in which the court found Wipro to be in default of its obligations to withhold taxes on payments made to research firm Gartner, for accessing the latter's electronic database in the United States and Ireland.

4.0 INTERNATIONAL TAXATION / TRANSFER PRICING

- The Delhi ITAT bench in Aithent Technologies Pvt. Ltd. vs. ITO has held that CUP method will determine ALP of interest-free loan for transfer pricing purposes
- The Delhi High Court in Ranbaxy Laboratories Ltd. vs. CIT has held that AO's self-determination of ALP without referring to TPO is "erroneous & prejudicial to interests of revenue"
- The Delhi High Court in DIT vs. Ericsson AB has held that Profits from offshore supply of equipment & software is not taxable in India u/s 9.
- The Bangalore ITAT bench in Genisys Integrating Systems (India) Pvt. Ltd. vs. Dy. CIT has set out important Principles on scope, data & comparability for determining ALP for the purpose of transfer pricing

5.0 ASSESSMENT & REASSESSMENT

- The Gujarat High Court in Cadila Healthcare Ltd. vs. ACIT has held that if AO disputes Audit objection, she cannot use that as "reason to believe" for reassessment u/s 147.
- The **Rajkot ITAT bench in Ram S. Sarda vs. Dy. CIT** has held that Cash seized in search has to be adjusted against "Advance Tax".

6.0 TAX DEDUCTED AT SOURCE

- The **Delhi High Court in CIT vs. Expeditors International (India) P. Ltd.** has held that payments made by assessee to its parent company for Global Management expenses was in the nature of reimbursement which are not chargeable to tax, and thus, no tax was to be deducted at source u/s 195.
- The **Delhi High Court in CIT vs. Maruti Udyog Ltd.** has held that not deducting tax at source on the VRS paid to employees over and above the admissible exemption under section 10(10C) was not a default as there was sufficient and reasonable reasons for not deducting such TDS.
- The **Delhi Tribunal, in case Asstt. CIT v. Sanjay kumar** held that payment made by assessee for taking cranes on lease on time basis, did not constitute payment with regard to 'work contract' as defined in section 194C.

FINANCIAL INDICATORS

	Current Rate* (in %)	Month Ago (in %)	3 Month Ago (in %)	6 Month Ago (in %)
3 Month LIBOR	0.58	0.54	0.4	0.25
3 Month MIBOR	9.79	9.67	9.37	9.71
SENSEX	16067.44	16002	16958	18412
NIFTY	4820.65	4801	5099	5526
CRR	6	6	6	6
REPO	8.5	8.5	8.25	7.5
REVERSE REPO	7.5	7.5	7.2	6.5
Gold (per 10 gm)	27555	28673	26988	22522
Silver (per kg)	51968	55213	54417	52981
Crude (USD/bbl)	113.09	108.09	111.73	115.96
Rs. vs USD	52.22	52.23	49.24	44.33
Rs. vs Euro	66.79	69.60	66.17	63.65
Rs. vs Yen	67.99	67.33	63.95	54.55
Rs. vs RMB	8.27	8.36	7.24	6.89
Rs. vs Pound	80.84	81.55	76.57	70.74
MCX Aluminium	108.8	106.25	107.25	117.95
MCX Copper	397.15	409.6	395.4	404.9

**As on 10th January 2012*

(Sources: Bloomberg, NSE, BSE, RBI)

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OTHER IMPORTANT JUDGEMENTS

- The Delhi High Court in Pitney Bowes India Pvt. Ltd. vs. CIT has held that am**ount paid for non-compete rights while acquiring business is capital expenditure.**
- The Delhi High Court (HC), in case Delhi music society vs. DGIT. held that where assessee was being run like a school or educational institution in a systematic manner with regular classes, vacations, attendance requirements, enforcement of discipline and so on, is imparting 'education' and fulfils the requirement of being 'Educational institutions' within the meaning of section 10(23C)(vi).
- The Karnataka High Court, in case Commissioner of Central Excise vs. Tata advanced materials ltd. held that where insurance company compensated assessee for said loss which also included excise duty which assessee had paid on said capital goods, the said duty will not be entitled to be set off under cenvat credit rules.
- The Delhi High Court (HC), in case Rollatainers ltd. vs. CIT held that waiver of a term loan will not be treated as income at the hands of assessee but when there is a waiver of a loan which relates to cash credit account and which was taken for carrying day to day operations will be treated as income at the hands of assessee.

8.0 SECTION 54EC OF THE INCOME TAX ACT, 1961 -

To attract section 54 and section 54EC, what is material is the investment of sale consideration in acquiring residential premises or investing amounts in bonds set out in section 54EC; once the sale consideration is invested in any of these manner the assessee would be entitled to benefit of these provisions; there is no express provision contained in these sections that investment should be in name of assessee only, and not in name of any other person.

"We will create value, valuation will follow."

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