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**EDITORIAL**

**PROFESSIONAL OPPORTUNITIES IN CO-OPERATIVE SECTOR**



CA Vinod Jain\*

CA profession has been rendering highly valuable services to the national economy and the society. The integrity, independence, capability, credibility, competence and a complete devoted professionalism for growth of their clients and employers have brought in a new sense of confidence in the government about the profession. There could be some minor exceptions but largely Indian chartered accountants are highly respected and valued for their professionalism.

97th Amendment in the Constitution of India made in the month of November, 2011 (effective from February, 2012) by inserting Article 43B has made formation of cooperative as fundamental right of the citizens of India. Detailed provisions have been made for formation, administration and dissolution of cooperatives. Para 2432M of newly inserted Part IXB provides for mandatory

audit of accounts of cooperative societies. States are required to maintain a panel of auditors for cooperatives to select auditor for them and get their accounts audited.

Consequent to constitutional amendment, all the State Governments are required to amend their co-operative Societies Acts on or before February, 2013 to incorporate provisions in line with the matters provided in the Constitution including mandatory audit by chartered accountants. On the one hand it is going to be a big professional opportunity and on the other hand it shall strengthen the cooperative movement in the country with the professional help and support by the CA fraternity.

Practicing chartered accountants have to rise to the occasion and prove to the Government that faith imposed by it on the profession was a correct move.

There are many more new professional opportunities knocking our door and we will bring the same to your knowledge on an ongoing basis.

**IMPROVING BUSINESS CLIMATE - LARGE EXPECTATIONS FROM THE GOVERNMENT**

The Indian economy is today suffering from a negative sentiment arising out of several developments in the past few months, including:-

- The taxation wing of the government has generated a lot of unnecessary heat by bringing in General Anti Avoidance Rule (GAAR), direct tax code, retrospective amendment in tax legislation, a complete denial of Double Taxation Avoidance Treaty, continuance of threats to review all international transactions, investments and various kinds of business transactions with a special negative approach. This has severely impacted genuine business activities including foreign direct investment, Indian investment outside India, most importantly even the local investments and new business decisions and actions.
- A large agitation against corruption in the politics and bureaucracy has diverted their guns on Indian businessman. The Indian businessman is not only feeling harassed by corruption but also by unending investigation, questioning, arrest, prosecution and similar other emotional, psychological and legal pressure.

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**LATEST IN FINANCE**

**1.0 RBI panel recommends tighter loan recast norms**

The Reserve Bank of India (RBI) working group has recommended an increase in provisioning and also doing away with regulatory concession towards classification of such loans in two years.

It has suggested that banks must provide for 5% against restructured loans that are classified as standard, instead of the current 2%. Promoters must make good 15% of the fall in fair value, or 2% of the restructured amount, whichever is higher.

**2.0 Downstream investment by a banking company**

The Govt of India has reviewed the policy relating to calculation of downstream investments by a banking company incorporated in India, which is owned and/or controlled by non-residents/ a non-resident entity (s).

A new Note below paragraph 3.10.4.1 in FDI policy is inserted as below:

"Downstream investment/s made by a banking company, as defined in clause (c) of Section 5 of the Banking Regulation Act, 1949, incorporated in India, which is owned and/or controlled by non-residents/non-resident entity(s), under Corporate Debt Restructuring (CDR), or other loan restructuring mechanism, or in trading books, or for acquisition of shares due to defaults in loans, shall not count towards indirect foreign investment. However, their 'strategic downstream investment' shall count towards indirect foreign investment. For this purpose, 'strategic downstream investments' would mean investment by these banking companies in their subsidiaries, joint ventures and associates."

**3.0 RBI eases derivatives exposure guidelines for banks**

The Reserve Bank of India (RBI) has eased the norms for banks to restructure derivatives contracts by allowing them to partially or fully terminate the contract before maturity.

The Central Bank said in a notice said that in such cases, if the Mark to Market (MTM) value of the derivative contract is not cash settled, banks may permit payment in instalments of the crystallised MTM of such derivative contracts (including Forex Forward Contracts).

**4.0 Cabinet fixes ₹ 14,000 crore as base price for spectrum auction**

The Union Cabinet has decided to fix ₹ 14,000 crore as the base price for the upcoming spectrum auction. It has also decided to continue with the existing slab system for collecting spectrum usage charges.

**5.0 RBI gives MFI-NBFCs loan pricing flexibility**

Microfinance Institutions (MFI)-NBFCs have been allowed operational flexibility whereby the interest rate that they can charge on individual loans can exceed the earlier cap of 26 per cent. However, the flexibility on pricing loans comes with a caveat that the maximum variance permitted for individual loans between the minimum and maximum interest rate cannot exceed 4 per cent.

Microfinance Institutions (MFIs) have to ensure that the average interest rate on loans during a financial year does not exceed the average borrowing cost during that period plus the margin within the prescribed cap. Even as the cap on interest rate has been removed, the Reserve Bank of India (RBI) has persisted with the cap on margins - 10 per cent for large Microfinance Institutions (MFIs) (with loan portfolio exceeding ₹ 100 crore) and 12 per cent for others.

**6.0 RBI rationalises customer service charges levied by bank on NEFT transaction**

| Value Band                    | Maximum Charges (exclusive of service tax) |
|-------------------------------|--|
| Up to ₹ 10,000/-              | ₹ 2.50/-                                   |
| From ₹ 10,001/- to ₹ 1 lakh   | ₹ 5/-                                      |
| Above ₹ 1 lakh up to ₹ 2 lakh | ₹ 15/-                                     |
| Above ₹ 2 lakh                | ₹ 25/-                                     |

Reference: RBI/2012-13/131



Contd.....from page 1

**IMPROVING BUSINESS.....**

- The decision of the top judiciary to even question policy decisions being taken by the politicians and officials of the government have resulted into delays, either no decisions or too safe decisions resulting into very poor growth of the concerned sector. e.g. hefty spectrum fee for 2G Telecom, lack of coal mines and coal linkages for power sector, poor new initiatives in the infrastructure sector have severally impacted growth of business.
- The capital market is suffering from lack of positive initiative to build confidence among the investors and only cosmetic changes are being brought in.

A threat of Central Vigilance Commission, CBI, search, raid, arrest and prosecutions have created a lack of directions of the policy in the government, bankers, bureaucrats, businessman and various sectors of the economy. A policy decision by parliament/cabinet supporting transparent policy decisions and amnesty to committee and group decisions is a must.

**Pricing of public issue:** SEBI need to bring out a major policy shift and ensure that the public issues are priced on the basis of independent valuation by Valuers appointed by SEBI and also there should be a mandatory provision for compulsory bonus issues in favour of the public subscribers, in case the shares issued at a hefty premium and the share price rules substantially below their issue price. For example, in case public is issued shares at Rs. 500 and its market price is below Rs. 400 for more than 3 months in the 1st year of the issue, then the new public shareholders should be issued additional shares on the basis of 52 week average price. In the above example in case the average price is Rs. 100 the new shareholder should get additional 5 times shares as bonus shares so that the real issue price of the share is determined by the average market price. SEBI also need to mandate special Audit of all large listed companies by ICAI / SEBI committee appointed CAs.

**Funds and economic policy:** It is important to provide support to the Indian businesses by providing adequate risk capital from Government sponsored PE funds, loans at reasonable rates, stable and visionary economic policy. Banks need to play a developmental

role and insurances on collaterals need to be done away with. The power sector need hand holding for fuel linkage and financial closure. Housing, real Estate and infrastructure sector is suffering from high cost debt.

**Agriculture:** The state governments need to withdraw all Mandi taxes and charges. There cannot be restriction on free movement, storage and sales of agro produce. Equity support by FI for storage and capacity to hold stocks by farmers need policy initiatives. New crops development should take a front seat.

The tax laws need to be business friendly and survey, searches and raids by tax officials need to be barred; responsibility should be fixed for high pitch assessments. Requiring all large tax payers to be subjected to 100 % scrutiny is a negative mindset. Foreign countries pressure to dilute FDI guidelines against national interest cannot and should not be accepted.

**We sincerely hope from the government to give positive signals to the Indian economy by taking major steps which are business friendly and are growth oriented. The developmental role of the government need to be supreme and the regulatory role should remain more as a balancing exercise and not a threat to the continuing growth of businesses.**

**FINANCIAL INDICATORS**

|                    | Current Rate*<br>(in %) | Month Ago<br>(in %) | 3 Month<br>Ago (in %) | 6 Month<br>Ago (in %) |
|--------------------|-------------------------|---------------------|-----------------------|-----------------------|
| 3 Month LIBOR (\$) | 0.438                   | 0.458               | 0.467                 | 0.52                  |
| 3 Month MIBOR (₹)  | 9.09                    | 9.35                | 9.77                  | 9.92                  |
| SENSEX             | 17560                   | 17489               | 16420                 | 17831                 |
| NIFTY              | 5322                    | 5306                | 4966                  | 5412                  |
| CRR                | 4.75                    | 4.75                | 4.75                  | 5.5                   |
| REPO               | 8                       | 8                   | 8                     | 8.5                   |
| REVERSE REPO       | 7                       | 7                   | 7                     | 7.5                   |
| Gold (per 10 gm)   | 29751                   | 29465               | 28427                 | 28274                 |
| Silver (per kg)    | 52971                   | 52283               | 53573                 | 56915                 |
| Crude (USD/bbl)    | 113.22                  | 99.15               | 112.73                | 117.31                |
| Rs. vs USD         | 55.34                   | 55.81               | 55.34                 | 49.75                 |
| Rs. vs Euro        | 68.04                   | 68.59               | 69.07                 | 65.80                 |
| Rs. vs Yen (₹100)  | 70.51                   | 70.22               | 66.93                 | 63.94                 |
| Rs. vs RMB         | 8.69                    | 8.69                | 8.47                  | 7.89                  |
| Rs. vs Pound       | 86.45                   | 86.53               | 86.11                 | 78.35                 |
| MCX Aluminium      | 101.55                  | 105.45              | 106.85                | 110.15                |
| MCX Copper         | 416.60                  | 423.80              | 431.30                | 432.30                |

\*As on 10th Aug. 2012 (Sources: Bloomberg, NSE, BSE, RBI, MCX)



**7.0 New Banks Needed: Ranga**

Chakravarthy Rangarajan, the influential chairman of the Prime Ministers Economic Advisory Council has said that the Reserve Bank of India (RBI) should consider licensing new banks even without amending the Banking Regulation Act.

**8.0 Department of Electronics & IT (Deity) announced financial assistance for setting-up of Electronics manufacturing clusters**

- Greenfield Clusters : 50 % of Project cost @ Rs. 50 Crores for every 100 acres
- Brownfield Clusters: 75% of Project cost with ceiling of Rs. 50 Crores
- Assistance for SPVs managing EMCs
- Eligible sectors: Telecom, IT Hardware, Consumer Electronics, LEDs, LEDs, Strategic Electronics, Avionics, Industrial Electronics, Nano-electronics, Semi-conductors chips & Chip Components and EMS
- Scheme available for 5 years
- Scheme detail available at [www.mit.gov.in](http://www.mit.gov.in)
- Application will be received as per guidelines to be announced shortly.

**9.0 RBI tweaks priority sector lending norms**

The Reserve Bank of India (RBI) has added several activities under the priority sector lending category, but has retained the overall target at 40% for commercial banks.

The Reserve Bank of India (RBI) also revised guidelines of priority sector lending based on the recommendations of the committee formed to study the existing norms under the chairmanship of MV Nair. Loans to all micro and small manufacturing companies, loans to food and agroprocessing units, to distressed farmers and loans for setting up off-grid renewable energy solutions are now included in priority sector lending.

Also home loans of up to ₹ 25 lakh in metropolitan areas having population above 10 lakh, education loans of up to ₹ 10 lakh in India and up to ₹ 15 lakh for overseas, overdraft of up to ₹ 50,000 in no-frills accounts are included.

Banks' investments in securitised loans, wherein the underlying qualifies for priority sector label, will be included in priority sector lending target. However, the interest rate on the underlying loan must not exceed the base rate plus 8% of the investing bank.

**10.0 Amendment in Regulation 5A of Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000.**

The Reserve Bank of India (RBI) has amended regulation 5A in following manner:

"A person resident in India may enter into currency futures or currency options on a stock exchange recognized under section 4 of the Securities Contract (Regulation) Act, 1956, to hedge an exposure to risk or otherwise, subject to such terms and conditions as may be set forth in the directions issued by the Reserve Bank of India from time to time."

*Reference: FEMA 210/RB-2010*

**11.0 Banks need not submit NRI deposits data in physical form**

Banks dealing in foreign exchange will now need not to submit data on non-resident deposits accounts in physical format.

**12.0 RIL buys back shares worth ₹ 2,512 cr in biggest buyback**

In one of the biggest buybacks so far, the Mukesh Ambani-led Reliance Industries Ltd (RIL) has bought back 35.1 million shares, for ₹ 2,512 crore, from its public shareholders

| <b>List of Major Buy Back in recent past</b> (in ₹ crores) |                |
|--|----------------|
| Reliance Industries  | 2,512 (so far) |
| Piramal Healthcare   | 2,508          |
| Reliance Infra   | 795.5          |
| Hindustan Unilever   | 626.2          |
| Hindustan Unilever   | 625.3          |
| GIL  | 258.8          |

**13.0 Finmin tells PSBs not to stop loans for shipments via Iran**

The finance ministry has directed the Public Sector Banks (PSBs) to continue providing loans



and banking facilities to exporters, whose shipments are passing through the ports of Iran for onward shipment to other countries. This move is intended to prevent the newly imposed US sanctions on Iran from impacting country's trade as a lot of exporters use Iranian ports as transit point for onward movement of goods to the markets in the Middle East and CIS countries.

Except the state-owned UCO Bank, other PSBs cannot do business with Iranian companies, or with Indian companies having commercial dealings with Iran, as fallout of sanctions imposed by the US on Iran. But PSBs have also been denying credit facilities to even those exporters who use the Iran ports such as Bandar Abbas as a transit point. The official sources have said that the department of financial services has directed banks to provide seamless credit services and other facilities to such exporters. Exporters use Iran as a transit point for sending shipments to many other countries such as Afghanistan.

#### 14.0 Bain acquires 30% stake in Genpact for \$1 billion

Private equity player Bain Capital Partners has agreed to buy 30 per cent stake in Genpact for \$1 billion, valuing India's largest business process outsourcing and Technology Company at \$3.29 billion (Rs 18,095 crore).

#### 15.0 Asset recast firms to be allowed to convert bad loans into equity

The government is set to allow Asset Reconstruction Companies (ARCs), such as Arcil, Pegasus and Reliance ARC, to convert the bad loans they acquire from banks into equity in the debtor company in a move aimed at making corporate turnaround an easier and remunerative business in the wake of slowing economic growth.

#### 16.0 Standard Chartered sells distressed assets

Standard Chartered Bank, the largest foreign bank in the country in terms of branch presence, has sold ₹ 900-1,000 crore of distressed assets to Mumbai-based International Asset Reconstruction Company (IARC), in an all-cash deal.

#### 17.0 Mines and Minerals are national wealth: Apex Court

The Supreme Court has said that mines and minerals are part of the nation's wealth, upholding the Jharkhand government's decision. This judgement may have wide ramification.

### CAPITAL MARKET

#### 1.0 Reduction of Time-line for Transfer of Equity Shares and Prescription of Time-line for Transfer of Debt Securities

The Securities and Exchange Board of India (SEBI) has decided in that in consultation with Registrars Association of India (RAIN), Stock Exchanges and market participants to reduce the time-line for registering the transfer of shares to 15 days. The same time-line shall also be applicable for transfer of debt securities.

*Reference: CIR/MIRSD/8/2012*

#### 2.0 New eligibility norm to weed out a fifth of F&O stocks

The new eligibility criteria for the derivatives segment given by the Securities Exchange Board of India (SEBI) will weed out about a fifth of the current crop of stocks in the futures and options (F&O) segment.

#### 3.0 Ex-staff can't sell ESOP shares for one year post IPO: SEBI

The Securities and Exchange Board of India (SEBI) has said that shares owned by ex-employees, allotted through ESOPs (Employee Stock Options), cannot be sold for a period of one year pursuant to an initial public offering (IPO) by the company.

#### 4.0 Synchronized trading is illegal only on price manipulation: SAT

The Securities Appellate Tribunal (SAT) has asked the Securities Exchange board of India (SEBI) to note that synchronized trading is unfair only if it leads to price manipulation.

The Securities Appellate Tribunal (SAT) said that synchronized trades were not illegal. They turn illegal only if used to manipulate scrip prices. The fact that trades were carried out only for four days during investigation period and were spread over three months with substantial time difference between trades was ignored by Securities and Exchange board of India (SEBI).



## **INSURANCE**

### **1.0 Micro Insurance product, distribution framework**

To boost the micro insurance sector, the Insurance Regulatory and Development Authority (IRDA) has proposed to allow broadening of the product portfolio and distribution network, by allowing more entities to sell the products.

It has proposed to allow cooperative banks, regional rural banks, primary agricultural co-operative societies and individuals (shopkeepers, medical store owners, petrol pump owners, public telephone operators) to act as micro insurance agents. Noting the sector's business performance was far below the potential, the regulator has decided to revisit the regulations. The Micro Insurance Regulations prescribe a framework within which insurers can offer affordable products in this regard.

Insurance Regulatory and Development Authority (IRDA) notes a majority of the products offered are basic ones, and mostly term assurance. It has asked insurers to consider diversifying the portfolio of micro insurance products by including savings-linked and health cover features.

## **FEMA**

### **1.0 QFIs can invest in debt securities**

The Reserve Bank of India (RBI) has allowed Qualified Foreign Investors (QFIs) to invest in debt securities on a "Repatriation Basis". The eligible securities that foreign investors have been permitted to buy are listed non-convertible bonds of Indian companies and listed units of MF debt Scheme among others.

### **2.0 India allows FDI from Pakistan**

The Department of Industrial Policy and promotion (DIPP) has said that the Government has reviewed the policy and decided to permit a citizen of Pakistan to make investment in Pakistan to make investment in India, under the government route, in sectors/activities other than defence, space and atomic energy.

*Reference :- Press Note No. (2012 Series) dated 1st August, 2012*

## **INDIRECT TAXATION**

### **1.0 Amendment in Finance Act, 1994**

1. Service provided or agreed to be provided by a director of a company to the said company is 100% taxable vide notification no. 30/2012 - Service tax, dated 20.06.2012, vide GSR no. 472(E)
2. "Security services" means services relating to the security of any property, whether movable or immovable, or of any person, in any manner and includes the services of investigation, detection or verification, of any fact or activity vide notification no. 36/2012 - Service tax dated 20.06.2012 vide GSR no. 478 (E)

## **ACCOUNTING**

### **1.0 New CDR provisioning norms**

The new corporate debt recast norms issued by the Reserve Bank of India (RBI) will have a massive impact on the profitability of banks.

The new provisions, under which banks will have to provide additional 3% in the first year and 5% in the second year, will see this increasing by ₹ 3,500 crore.

## **CORPORATE AND ECONOMIC LAWS**

### **1.0 NDTV sues Nielsen for manipulation of viewership data**

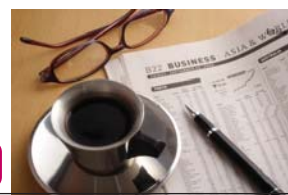
NDTV has sued the global TV rating agency, Nielsen, for billions of dollars for allegedly manipulating viewership data.

### **2.0 Maruti Suzuki, Suzuki Powertrain amalgamation cleared**

The Competition Commission of India (CCI) has approved the proposed amalgamation of Maruti Suzuki India Ltd (MSI) and Suzuki Powertrain India Ltd (SPIL) on the grounds that the proposed combination is not likely to have an appreciable adverse effect on competition in India.

### **3.0 Migrating E- Governance System of 'Limited Liability Partnership' to MCA21**

Ministry of corporate affairs (MCA) has integrated LLP system into MCA21 system with effect from 11th June 2012.



LLPs incorporated under earlier LP system (i.e. before 11.6.12) which functions with both designated partners and Ordinary Partners are required to update /verify the detail prior to filing/ uploading forms. This can be carried out from any login; however, it should be authenticated by DSC of designated Partners of the LLP at the final submission. For LLPs which function only with designated partners, the above process is not required.

Reference: [Http://llp.gov.in](http://llp.gov.in)

#### 4.0 Central Vigilance Commission's survival tips for whistle blowers

- Draft Complaint carefully; don't leave clues about your identity
- Submit Specific details in your complaint that can be verified
- Don't send any follow-up letters or expect acknowledgements
- If more details are, the CVC will contact you
- Anonymous and pseudonymous complaints won't be examined
- Mention your name and address on either the top or bottom of the complaint or in an attached letter
- Send complaints in sealed envelopes, marked 'Under public Interest Disclosure'

## TAXATION

### 1.0 Mauritius treaty being amended

After six years of deliberations, Mauritius has finally agreed to tweak its tax treaty with India to address the issue of round tripping of funds. However, the affirmation came with a rider that any domestic legislation like the General Anti-Avoidance Rules (GAAR) should not override the treaty.

Mauritius has proposed a limitation of benefit (LoB) clause in the three-decade old double taxation avoidance agreement (DTAA) between the two countries. The clause limits tax benefits under the treaty to resident investors who fulfill certain conditions. India's treaty with Singapore has this clause.

### 2.0 Date for filing I-T returns extended

The Central Board of Direct Taxes (CBDT) has

extended the due date for filing income tax returns for assessment year 2012-2013 by a month to August 31, considering the power failure in many parts of the country.

### 3.0 Mauritius funds into Indian stocks to face SEBI and RBI enquiry

A large number of entities, which have been used for investing billions of dollars in the Indian markets, have come under the scanner of financial sector regulators The Securities Exchange Board of India (SEBI) and the Reserve Bank of India (RBI) for possible routing of illicit wealth of Indians and NRIs back into the country.

### 4.0 GAAR to be reworked as PM wants new plan

Prime Minister Manmohan Singh has indicated the General Anti-Avoidance Rules (GAAR) would be written afresh, as the government strove to undo the damage to investor sentiment seen after the rules were proposed in the Budget.

A new panel headed by taxation expert Parthasarathi Shome, the head of Indian Council for Research on International Economic Relations (ICRIER) and a former adviser to the finance minister during P Chidambaram's tenure between 2004 and 2008, will draft fresh GAAR guidelines and prepare a road map for its implementation to be submitted to the government by Sep. 30.

Meanwhile, Foreign institutional investors (FIIs) have sought an unqualified exemption from the application of General Anti-Avoidance Rules (GAAR).

### 5.0 AAR's decision can be challenged in high courts: SC

The Supreme Court has held that appeals against the findings of the Authority of Advance Rulings (AAR) must be made for the high courts. The Authority of Advance Rulings (AAR) findings can't be challenged directly before the apex court.

### 6.0 GST rollout unlikely before 2014: Parthasarathi Shome

Parthasarathi Shome, one of the architects of the proposed goods and service tax, does not expect the government to implement GST regime before

2014 as the next Lok Sabha election may delay preparations for the eagerly awaited tax reform.

### 7.0 Apex court directs Essar to pay ₹ 1,000-cr sales tax dues to Gujarat Govt

The Supreme Court has asked Essar Oil to pay ₹ 1,000 crore to the Gujarat Government by July 30 to avoid any coercive action. The directive came on the company's plea that it may be allowed to pay the amount towards the first instalment of its total sales tax / VAT liability.

### 8.0 Tax residency certificate adequate to avail benefits: AAR

The Authority of Advance Rulings (AAR) has said

that the tax residency certificate given by Mauritius authorities is adequate to avail tax benefits under the India-Mauritius tax treaty and rejected tax authorities attempt to apply principles of anti-avoidance akin to proposed General Anti-Avoidance Rules (GAAR).

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