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EDITORIAL

FALL IN RUPEE - A MAJOR CONCERN FOR THE ECONOMY



CA Vinod Jain*

The recent fall of the Indian rupee vis-à-vis US Dollar and other major currencies have caused serious concern in the business, profession and Indian intellectuals. The fall of Indian rupee indicate serious inherent weakness of the Indian economy and in spite of some arrests of the inflationary tendency the overall outlook is very weak. Some major indicators include:

- The industrial production growth rate has come down around 2%;
- GDP growth rate is at its lowest in more than a decade;
- Public Sector Corporations are sitting on hard cash reserve of more than ₹ 4 lakh crore, without any major initiative for investments;
- Private sector top 500 companies are also sitting on hard cash of more than 1 million crore, no major investment initiatives;
- Balance of payments is getting bad to worse;
- Gold import is mounting up;
- Real Foreign Direct Investment is shying away due to hyper active taxation wing of the government including transfer pricing, international withholding tax and a tendency to deny legitimate benefits to the assessee.
- Almost all large public sector and private sector banks are not receiving any major investment related loan proposals except real estate, roads and power sector.
- Project worth more than ₹ 7 lakh crore in infrastructure sector including power, roads, ports and mining are stuck/standstill due to policy constraint and lack of financial closure.

US Economy Strengthening

In this backdrop it is important to note that the US economy has off late started to strengthen materially. The US government has advised all the major funds having their

headquarters in US, to divert all their major investments into US and have even directed them to wind up their current investments from India and other developing countries to achieve the objective of investment in US.

Excessive Speculation in Foreign Currency and Gold

The fall of rupee and specially a very severe volatility can also be attracted to increased speculative transactions in the foreign currencies stock exchanges and very heavy speculative activities in gold on the commodity exchanges. The Gold funds have even lead to larger Gold imports.

Government Policy in action

The Indian government seems to have become insensitive and have come to a position of complete confusion in respect of the direction and strategy. Any further lackluster approach will very severely harm the Indian economy.

The economy requires a real push as the Indian entrepreneurs are primarily waiting for a clear green signal from the government to provide them sufficient confidence about their investment initiatives. The government needs to review again even their latest policy of domestic transfer pricing, which will further aggravate the investment climate.

Overblow of Investigation

Lack of policy initiative and decision making is largely contributed to scam related investigations, arrests and resignations. While corruption cannot be tolerated, a clear-cut decision of the government and the judiciary is mandatory to provide confidence among political leadership, top bureaucrats, bankers and the public sector that the genuine decision will not be questioned on the pretext of non compliance of procedures or technical breaches. In the absence of direct clinching evidence, corruption charges should not be blown beyond proportion, based on apprehensions or alleged benefits to related parties or very indirect circumstantial evidence. The allegations of favour or a questionable policy framework alone cannot be the basis of questioning, arrests and prosecution.

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**LATEST IN FINANCE****1.0 Key Features of the Real Estate Regulatory Authority Bill**

The Real Estate (Regulation and Development) Bill, approved by the Union Cabinet on 4th June 2013 provides a uniform regulatory environment to the sector.

- Developers/ Builders with a project of 1,000 sq. mt. and above must register all projects and obtain all relevant clearances with the state regulatory authority. Authorities have 15 days to approve or reject a project.
- Developers cannot offer any pre-launch sales or collect any money from buyers without all regulatory approvals. Advance money of not more than 10% can be accepted from the buyers without any written agreement.
- Construction to begin only after the developer's website has displayed all details of the project including receipt of clearances and the carpet area of the flat.
- The developers will have to maintain a separate bank account for each project, and will not be allowed to divert the money for other projects. It will be mandatory to keep 70% of the buyers funds in a separate bank account to ensure timely completion of projects.
- Builders will have to use photographs of actual site for advertisements purpose. Builders coming out with misleading advertisements consider as punishable crime.
- Builder will refund the full amount received from the buyer with interest in case of delay in projects.
- Failure of any provision will attract a penalty which may be up to 10% of the project cost or imprisonment up to three years.

2.0 RBI has offered 10-year IIB for ₹ 1000 crore

The Reserve Bank of India (RBI) has offered 10-year inflation indexed bonds for a notified amount of ₹ 1000 crores. The auction was conducted through uniform price method and 20% of the notified amount being reserved for the retail

investors under non-competitive bidding. The coupon has been set based on the bids received and will be payable twice a year.

3.0 RBI plans to ease hedging norms

The Reserve Bank of India (RBI) plans to allow exporters and importers to rebook and cancel up to 50 percent of their hedged exposure from their present cap of 25 percent.

4.0 RBI makes debt recast norms more stringent

The Reserve Bank of India (RBI) has said that all loans recast after April 1, 2015, should be classified as non-performing asset (NPA). Also, from June 1, 2013

- Provision for existing stock of recast debt to be raised from 2.75% to 5% in a phased manner over three years
- If principal converted into debt or equity, it will be held under the available-for-sale category
- Banks not to artificially reduce the net present value of cash flows by resorting to any sort of financial engineering
- Banks to ensure infrastructure units achieve viability in 8 years and other cases in 5 years
- Promoters' contribution should be a minimum 20% of banks' sacrifice or 2% of restructured debt, whichever is higher
- Banks to insist on higher sacrifice from promoter if exposure is large
- Conversion of debt into preference shares the last resort, with a cap of 10% of restructured debt
- Only listed companies' debt could be converted into equity
- Promoters' personal guarantee must, corporate guarantee not a substitute for personal guarantee

5.0 ADB to lend India \$6 billion over next three years

The multilateral bank's president Takehiko Nakao has said that the Asian Development Bank will maintain its lending rate to India of about \$2 billion per annum for the next three years, which will



be invested in power, transportation, water and sanitation.

6.0 Overseas debt norms relaxed for infrastructure firms

India has eased overseas debt norms for infrastructure firms allowing oil marketing companies to finance short-term credit through external commercial borrowings but kept the overall limit unchanged for the fiscal. The panel also extended the External Commercial Borrowings (ECB) relaxation for affordable housing for two years and aviation for a few more months. In December last year, the Reserve Bank of India (RBI) had allowed real estate developers and housing finance companies to raise up to \$1 billion through ECBs in the last fiscal to promote low-cost housing projects.

The funds raised through ECBs could be used either for developing low-cost housing projects or for providing loans up to ₹ 25 lakh to individuals for buying units with a price tag of ₹ 30 lakh or less.

7.0 Power Grid to raise ₹ 8,000 cr via domestic, overseas bond sale

State-run power Transmission Company Power Grid Corporation plans to raise ₹ 8,000 crore during the fiscal through domestic and international bonds.

8.0 Finance Ministry to consider regulating Finance and Investment Schemes

The following schemes are being considered for being appropriately regulated/ banned by Finance Ministry

Prize chit funds

- Each member subscribes to a certain sum of money by way of periodical installments over a period. Each subscriber, in his turn, as determined by various ways, is entitled to the prize amount
- Banned by the Prize Chits and Money Circulation Schemes (Banning) Act, 1978

Money-circulation schemes

- Promises to give commissions not only in the event of personal efforts of recruiting members for the scheme but also on the

contingency relative to enrolment of new members

- Banned by the Prize Chits and Money Circulation Schemes (Banning) Act, 1978

Ponzi scheme

- Pays returns to investors from its own money or that paid by subsequent investors, rather than from profit earned by the firm running the operation. The scheme usually lures new investors by offering fancy returns

Collective investment schemes

- A way of investing alongside other investors to benefit from the advantages of working as part of a group
- The Securities & Exchange Board of India approval needed to launch such schemes

Pyramid schemes

- Offer payments to participants primarily to recruit other people for the scheme; there is no real investment or sale of products

Multi-level marketing

- These schemes sell products directly; salesmen are compensated for their own sales as well as for those of people who join the company through them

9.0 Withholding tax on rupee-denominated infrastructure bonds lowered to 5%

From June 1, foreign investors will have to pay 5 per cent withholding tax on interest earned on rupee-denominated long-term infrastructure bonds issued by Indian companies and Government securities. Earlier, the rate was 20 per cent. The government also clarified that those foreign investors would not have to obtain a PAN card to benefit from reduced withholding tax on long term infrastructure

10.0 India's sovereign credit rating

Credit Rating Agency	Rating	Outlook
Fitch	BBB-	Negative
S&P	BBB-	Negative
Moody's	Baa3	Stable



11.0 Rupee Export Credit - Interest Subvention: New Sector notified

The Reserve Bank of India (RBI) has decided to widen the interest subvention scheme to the following sectors for the period April 1, 2013 to March 31, 2014, on the same terms and conditions:

1. ITC (HS) and Textiles good to 6 tariff lines as per the list given in the Annex -I to the circular.
2. Additional 101 tariff lines in engineering good sector in addition to the existing 134 lines as per the list given in Annex- II to the circular.

RBI/2012-13/507 dated 24.05.2013, www.rbi.org.in

12.0 RBI ban levy of cheque return charges

The Reserve Bank of India (RBI) has said that cheque return charges shall be levied only in cases where the customer is at fault and is responsible for such returns. The illustrative list of returns, where the customers are not at fault are indicated in the annexure to circular.

RBI/2012-13/493 dated 07.05.2013, www.rbi.org.in

13.0 Banks mandated to acknowledge Form 15-G/ 15-H

With a view to protect interest of the depositors and for rendering better customer service, the Reserve Bank of India (RBI) has advised the banks to give an acknowledgment at the time of receipt of Form 15-G/15-H. This will help in building a system of accountability and customers will not be put to inconvenience due to any omission on part of the banks.

RBI/2012-13/516 dated 31.05.2013, www.rbi.org.in

14.0 NBFCs finance for Purchase of Gold banned

The Reserve Bank of India (RBI) has said that no advances should be granted by Non Banking Finance Companies (NBFCs) for purchase of gold in any form, including primary gold, gold bullion, gold jewellery, gold coins, units of gold Exchange Traded Funds (ETF) and units of gold Mutual Funds.

RBI/2012-13/510 dated 27.05.2013, www.rbi.org.in

15.0 RBI prescribed interest rate cap

The Reserve Bank of India (RBI) has said that

the margin cap for all Non Banking Finance Companies (NBFCs) irrespective of their size would be 12 % per cent till March 31, 2014. However, with effect from 1st April, 2014 margin caps as defined by Malegam Committee may not exceed 10 per cent for large MFIs (loans portfolios exceeding ₹100 crore) and 12 per cent for the others.

RBI/2012-13/517 dated 31.05.2013, www.rbi.org.in

16.0 Invest excess funds or pay more dividends

Prime Minister's Office has asked state-run companies to invest their excess funds or pay higher dividend, repeating a warning that helped achieve some progress last year.

CAPITAL MARKET

1.0 SEBI announces deadline extension for complying with new ESOP norms

In January, Securities and Exchange Board of India (SEBI) issued a circular stating that trusts formed under employee benefit schemes are being used to deal in the company's own shares. The new norms prevent listed entities from framing any ESOP scheme to acquire their own shares from the secondary market. SEBI has decided to extend the deadline from the earlier proposed 30.06.2013 to 31.12.2013.

2.0 SEBI registration must to act as an investment advisor

The Securities and Exchange Board of India (SEBI) has said that in terms of Investment Advisory Regulations, no person shall act as an Investment Advisor unless he has obtained a certificate of registration from the board or he is specifically exempt. The applicant is required to submit the form with a fee of ₹ 5000 by way of bank draft.

3.0 Amendment to ESOP and ESPS guidelines

The amendment to SEBI (ESOS and ESPS) Guidelines 1999 dated 17.01.2013 also provided that no ESOS/ESPS schemes shall involve acquisition of securities of the company from the secondary market compliance now extended till 31st December 2013

CIR/CFD/DIL/7/2013 dated 13.05.2013, www.sebi.gov.in



4.0 NSE launches debt trading platform

As part of its attempts to bring additional transparency and depth to securities market, the National Stock Exchange (NSE) has launched a dedicated debt trading platform.

5.0 Submission of Valuation Report from Independent Chartered Accountant

All listed companies undertaking a Scheme of Arrangement under Part IV and Chapter V of Part VI of the Companies Act, 1956, (Amalgamation/ Merger/ Reconstruction/ Reduction Of Capital, etc.) are required to submit a valuation report in terms of Para (I) (A) read with Part A, Annexure-I of the SEBI Circular No. CIR/CFD/DIL/5/2013 dated February 4, 2013. However, 'Valuation Report from an Independent Chartered Accountant' need not be required in cases where there is no change in the shareholding pattern of the listed company / resultant company.

CIR/CFD/DIL/8/2013 dated 21.05.2013, www.sebi.gov.in

AUDIT

1.0 RBI probe upholds Cobrapost charges on 3 private banks

A confidential report prepared by Reserve Bank of India (RBI) on the Cobrapost exposé in March on HDFC Bank, Axis Bank and ICICI Bank has shown violations of regulatory norms. It has found use of fictitious permanent account numbers issued by the income tax department, use of unknown non-resident ordinary (NRO) accounts, unauthorized gold sale and rampant non-compliance of Know Your Customer (KYC) norms.

2.0 Shashi Kant Sharma appointed new CAG

Shashi Kant Sharma, a 1976 IAS batch officer, has been appointed as the Comptroller and Auditor General (CAG) of India. The incumbent Vinod Rai demits office on May 23. Presently, Sharma was holding the office of the Defence secretary.

3.0 Tax Audit Reports to be filed electronically

The Central Board of Direct Taxes (CBDT) has said that in sub-rule(2) of Rule 12 of Income Tax Rules, 1962 an assessee is required to furnish a report of audit electronically under sections 44AB, 92E or 115JB of the Act.

FEMA

1.0 RBI curbs on offshore rupee-dollar trades

The Reserve Bank of India has said that any Indian entity taking direct or indirect equity participation in an overseas outfit that facilitates trading of financial products linked to the rupee will need specific approval from the regulator. The Indian rupee is not fully convertible and such products could have implications for the exchange rate management of the country. Besides currency, the restriction imposed by RBI extends to all rupee-linked securities, stock indices and commodity futures as well.

2.0 Gold Loan restricted

The gold loan by importing banks/agency has been restricted to the following:-

1. Suppliers credit up to a period of 180 days may be availed of by the nominated agencies/banks. However, buyers credit will require prior approval of Reserve Bank irrespective of the period of credit.
2. Gold may be imported by the nominated banks/agencies on consignment basis
3. Import of gold on unfixed price basis.
4. To moderate the demand for gold for domestic use, RBI has decided to restrict import of gold on consignment basis by banks, only to meet the genuine needs of gold jewellery exporters.

Circular No. 105 & 7 dated 13.05.2013, www.rbi.org.in

3.0 Export proceeds to realize within 9 months

The Reserve Bank of India (RBI) has been decided, in consultation with the Government of India, to bring down the realization period of proceeds of goods/ software from twelve months to nine months from the date of export, with immediate effect, valid till September 30, 2013.

CORPORATE AND ECONOMIC LAWS

1.0 Coal regulator ambit widened

The government is set to bring surplus coal produced in private captive coal mines under the regulatory net. The proposed coal regulatory authority, being set up to induce transparency in pricing and coal mining operations, will decide how to price coal produced in captive mines, too.



INSURANCE

1.0 Investors fail to renew Rs 1.9 lakh cr of insurance policies

A large chunk of insurance policies from private insurers lapsed because investors didn't pay their renewal premium, data from the Insurance Regulatory Development Authority (IRDA) Handbook of Statistics reveal.

The lapse ratio was as high as 51 per cent for Birla Sun Life Insurance, 49 per cent for Future Generali and at 42 per cent and 36 per cent, respectively, for ICICI Prudential and Bharti Axa Life in 2011-12.

The Life Insurance Corporation has, however, maintained lapse ratios at 4-5 per cent over the last few years.

INDIRECT TAXATION

1.0 Pay more service tax on house costing over ₹ 1 crore

The Central Board of Excise and Customs, the apex indirect taxes body, has issued new norms that restrict lower service tax to only those houses that cost below ₹ 1 crore and have carpet area less than 2000 square feet. Service tax at the rate of 12% will be applicable on 25% of the total value of the residential unit (effectively 3%) on properties that meet these conditions.

If a housing unit is either more than 2000 square feet carpet area or costs over ₹ 1 crore then the tax will be levied on 30% of the total value, says the CBEC notification, raising the effective tax to 3.6%.

2.0 GST -Consensus on exempted goods being thrashed

The following difference are occurring in case of State List and the Centre's List for Goods & Service Tax (GST):

1. As of now, the exempt list of states contains 96 items whereas the Centre's list has 243 items.
2. Common exemption list for goods and services sought so that fewer items remains outside the

indirect tax net.

3. States also recommend traders with a turnover of less than ₹ 1.5 crores be exempt from the dual control which leads to tax overburden.

3.0 Service Tax Voluntary Compliance Encouragement Scheme notified

The Central Government has issued rules regarding the form and manner of declaration, form and manner of acknowledgement of declaration, manner of payment of tax dues and form and manner of issuing acknowledgement of discharge of tax dues under the Service Tax Voluntary Compliance Encouragement Scheme, 2013

1. Minimum amount to be paid on or before the 31st Dec, 2013 (50% of the tax dues)
2. Remaining tax dues to be paid on or before the 30th June, 2014
3. Any tax dues remaining unpaid as on 1st day of July,2014 shall be paid before the 31st December,2014 along with interest, as prescribed under section 75 or as the case may b, section 73B of the Finance Act, 1994 for the period of delay starting from the 1st day of July,2014.

Cir. No. 10/2013 dated 13.05.2013, www.servicetax.gov.in

DIRECT TAXATION

1.0 Guidance note on advanced pricing pacts issued

The Central Board of Direct Taxes (CBDT) has come out with a comprehensive guidance note with frequently asked questions on advance pricing agreements (APAs).

An APA is an agreement between a taxpayer and tax authorities on the transfer pricing method and rate applicable to taxpayers' inter-company transactions.

India had introduced APA provisions in the income tax law from July 1 last year.

The CBDT had come out with the rules for the APA programme in August last year.



2.0 Some Latest Judgements

Section 54: Exemption under Capital Gains

The Andhra Pradesh High Court has held that exemption under section 54 cannot be denied, where residential house property purchased by assessee consists of several independent units.

CIT-II, Hyderabad vs. Syed Ali Adil, [2013] 33 taxmann.com 212

Section 68: Cash Credits

The Gujarat High Court has held that where assessee in support of gifts received from donors submitted requisite documents such as copies of demand drafts, gift deed, PAN cards and acknowledgement of returns of donors, no addition could be made in respect of gift amount by taking recourse to provisions of section 68.

CIT-VI vs. Heena Sharma, [2013] 33 taxmann.com 176

The Gujarat High Court has held that where, amount gifted through bank established genuineness of transaction, and sufficiency of funds of donor was proved, amount could not be added as cash credit.

CIT -V vs. Mahendra A. Patel, [2013] 33 taxmann.com 23

The Gujarat High Court has held that where sizeable amounts were deposited in cash in account of depositors only before their withdrawal through cheques in favour of assessee, addition was justified.

Blessing Construction vs. ITO, [2013] 32 taxmann.com 366

Section 36(1)(vii): Deduction of Bad Debts

The Delhi High Court has held that where assessee-company consequent upon a scheme of demerger had acquired business of its holding company as going concerns and thereafter continued to run and operate said business, assessee was entitled to write off bad debts, which had been acquired from holding company.

CIT -VI vs. Times Business Solution Ltd., [2013] 33 taxmann.com 173

Section 31: Repairs and Insurance of Machinery, Plant and Furniture

The Cochin ITAT bench has held that when an integral part of machine is replaced, it would come within connotation of 'current repairs'.

Midas Rubber (P) Ltd. vs. ACIT, [2013]33 taxmann.com 335

Section 72, read with Section 80-IA: Set off & Carry Forward of Business Losses

The Bangalore ITAT bench has held that losses from windmill business, i.e., eligible business under section 80-IA, can be set off against other heads of income.

Dy. CIT vs. V.B. Koujalgi, [2013] 33 taxmann.com 319

Section 54, read with Section 54F: Exemptions from Capital Gains

The Hyderabad ITAT bench has held that exemption claimed under section 54 cannot be denied on ground that assessee has not utilized sale consideration received from sale of flats itself, in purchasing a new residential house.

Smt. Pushpa Devi Tirbrewala vs. ITO, Ward - 8, Hyderabad, [2013] 33 taxmann.com 305

Section 92C: Computation of Arm Length Price

The Chennai ITAT bench has held that where assessee company sold its stake in an Indian company to its foreign associate company, discounted cash flow method could be used for valuation of shares sold, due to non-applicability of other methods prescribed u/s 92C(1).

Ascendas (India) (P.) Ltd. Vs. Dy. CIT, Company Circle-I(1), [2013] 33 taxmann.com 295 (Chennai - Trib.)

FINANCIAL INDICATORS

	Current Rate* (in %)	Month Ago (in %)	3Month Ago (in %)	6 Month Ago (in %)
3 Month LIBOR (\$)	0.27	0.277	0.305	0.343
3 Month MIBOR (₹)	8.53	8.79	8.75	8.7
SENSEX	19441	18413	19664	18631
NIFTY	5878	5558	5969	5652
CRR	4	4	4.25	4.5
REPO	7.25	7.5	8	8
REVERSE REPO	6.25	6.5	7	7
Gold (per 10 gm)	28011	29230	30797	31456
Silver (per kg)	44162	51775	58128	62176
Crude (USD/bbl)	103.95	105.79	112.38	114.33
Rs. vs USD	57.78	54.53	54.63	53.05
Rs. vs Euro	76.24	71.33	71.32	68.21
Rs. vs 100 Yen	58.79	55.03	61.99	67.82
Rs. vs RMB	9.5	8.8	8.79	8.44
Rs. vs Pound	89.71	83.59	87.5	84.84
MCX Aluminium	108.85	102.4	113.3	105.65
MCX Copper	408.9	413.2	444.75	429.3

*As on 10th June 2013 (Sources: Moneycontrol, NSE, BSE, RBI, MCX)

EDITORIAL

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FALL IN RUPEE - A MAJOR CONCERN...

In case politicians, after politicians and bureaucrats after bureaucrats are questioned for a possible corruption, which are ultimately held as not guilty, may result into a complete absence of quick decision making at various levels.

In our considered view, the accused should only be arrested in corruption charges, after the charges are fully established and punishment given by the court. In case a large number of persons are arrested or are subjected to harassment or humiliation, without final evidence, the working atmosphere gets fully vitiated.

Investigation should be completely confidential

The investigation or interrogation and even prosecution

can be kept confidential in a properly institutionalized mechanism till the time charges against the persons are fully established. In the absence of these precautions a very large number of persons get defamed, humiliated and actually punished even much before their guilt is finally established. The old famous judicial guidelines that no innocent should be punished at any cost, has to be followed in letter and spirit.

Tax Laws should be business friendly

The tax GDP ratio is already very high, when we consider state level as well as central level taxes. The indirect tax rates need to be substantially lowered. The complicated and vindictive tax and regulatory laws and procedures have to be curtailed and their litigant interpretations need to be avoided. We need to respect DTAT and a liberal interpretation is necessary to provide confidence back in businesses.

DEBT SYNDICATION & STRUCTURED FINANCE SOLUTIONS



- ☛ External commercial borrowing (ECB)
- ☛ Inter-Corporate Deposits (ICD)
- ☛ Debt re-structuring and Debt syndication
- ☛ Debt swapping at lower interest rate with enhanced facility
- ☛ Funds against shares
- ☛ Foreign Direct Investment (FDI)
- ☛ Preparation of project reports
- ☛ Private Equity (PE) & Venture Capital (VC)
- ☛ Packing credit limit
- ☛ Bank Guarantee & Letter of Credit (L/C)
- ☛ Standby letter of credit (SBLC)
- ☛ Trade, Infrastructure and Project Finance in India
- ☛ Internal credit rating



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