



# The Chartered Accountant World

A Journal of All India Chartered Accountants' Society

*Silver Jubilee Edition*

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## EDITORIAL

### INDIAN GOVERNMENT GAINING GROUND



CA Vinod Jain\*

The BJP Government is on the verge of completing a year and has now stabilised. Major economic initiatives and actions are emerging for a high growth oriented economy.

**Monetary Policy:** The latest dialogue between the Government and the Reserve Bank of India to work as a team to bring out monetary, fiscal and economic consolidation is a welcome step. The Interest Rate - Inflation Balancing will bring out positive result over medium term.

**International Financial Services Centre:** The Reserve Bank of India, Securities and Exchange Board of India, and the governments have come out with major initiatives. The first International Financial Services Centre is starting at Ahmedabad, Gujarat. The initiative to permit the facility like Special Economic Zones (SEZs) to Banks, Insurance companies Mutual Funds, Alternative Investment Funds, Stock Exchanges, brokerages and other financial services have the potential of major financial reforms to strengthen international investment and international trade.

**Global Depository Receipts (GDRs):** The Government has permitted conversion of International investment in Indian companies into GDR for listed, unlisted, as well as private companies. This will strengthen investment

sentiments significantly as soon as certain international jurisdiction implement such global depository receipts.

**Coal/2G Auction:** The transparent manner in which scarce resources have been auctioned and ₹ 300,000 crores are being collected have glorified the stand of Hon'ble Comptroller and Auditor General and the Supreme Court.

**Actions under pipeline:** There are many other initiatives which are at various important stages of consideration/implementation such as Goods and Services Tax, Comprehensive Amendment to Companies Act, 2013, electronic approval of all major government departments through a single portal and of course the proposal of the government to withdraw the requirements of approvals, subject to compliance of certain guidelines and parameters in respect of most of the government approvals. The major steps to simplify Income tax Act are awaited for last several months.

**Apprehensions:** A cross section of intellectuals, academicians, bankers, economists, businessmen and professionals are still apprehensive about the success of government initiatives. A major change on the ground indicating economic growth, new business opportunities, availability of adequate financial resources in terms of debt and equity and large employment generation are still to take real shape. The rising expectations of Indian as well as international investors are yet to be met.

*contd.....Pg.3*

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## LATEST IN FINANCE

### International Financial Services Centre – Norms unveiled

A booklet on the rules for IFSCs was released by Finance Minister Arun Jaitley. It includes guidelines by the Reserve Bank of India (RBI), Securities and Exchange Board of India (SEBI) and Insurance Regulatory and Development Authority of India (IRDA).

#### RBI

- Only domestic banks and foreign banks having a presence in India will be allowed to set up units in IFSCs. They will need capital of US \$20 million.
- Initially, banking units will not be permitted to service individual clients.
- Priority Sector Lending, Cash Reserve Ratio/ Statutory Liquidity Ratio requirements will not apply.
- No cash transactions will be permitted.
- Only non-rupee denomination transactions in IFSCs.

#### SEBI

- Any recognised Indian stock exchange or any stock exchange of a Foreign Jurisdiction may form a subsidiary to provide the services of a stock exchange in IFSC, where at least 51% of paid-up equity share capital is held by such exchange and

remaining shares may be offered to any other recognised stock exchange, whether Indian or of foreign jurisdiction.

- Resident Indians are allowed to trade in contracts offered in IFSC to the extent of the liberalized remittance scheme.
- Shareholding norms and Profit-Withholding norms have been relaxed for stock exchanges and clearing corporations.
- Resident Indians, eligible under the Foreign Exchange Management Act to invest funds offshore, to the extent allowed in the liberalized remittance scheme of RBI, in order to avail investment advisory or portfolio management services in IFSC, should have a net worth of at least US \$1 million during the preceding fiscal year.

#### IRDA

- All Indian insurers can apply to set up an IFSC insurance office in the Special Economic Zone (SEZ).
- Foreign Insurance and Re-insurance companies should have a minimum capital of ₹10 crore.
- Will accept Re-insurance businesses from outside the country within the SEZ.

#### 1.0 Central bank scraps ceiling on buyer's credit for Project Exports

The RBI has withdrawn the earlier ceiling of \$20 million for buyer's credit extended to foreign buyers for export of goods on deferred payment terms and turn key projects from India as a step to push project exports.

#### 2.0 New Foreign Trade Policy – Highlights

- Two New Incentive Schemes For Goods And Service Exports
- Quantum of incentives fixed at 2%, 3% and 5% of the value of exports
- Online exports of select items, exports from Special Economic Zone (SEZs) to get sops
- Markets in European Union (EU) extensively covered under incentive schemes
- Exports to Foreign Trade Agreement (FTA) partner countries to get higher incentives.

#### 3.0 Private Company definition made clearer for PPP Funding

Any company where the Centre, state government, or both, doesn't hold at least 51 per cent of equity would be treated as a private-sector company for financial support under Public-Private-Partnership (PPP). This decision was taken by the Cabinet Committee on Economic Affairs (CCEA) and pertained to a particular kind of financial support - Viability Gap Funding (VGF). A subsidiary of a government company would also be treated as a government firm.

#### 4.0 Govt tightens value addition norms for gold jewellery

- For plain jewellery articles, the wastage norm has been cut from 3.5% to 2.5%, while that for value-addition has been raised from 3% to 4%
- The value-addition norm for machine-made jewellery has been raised from 0.5% to 2%



**EDITORIAL**

Contd.....

**Indian Government.....**

**Sectors need special care:** The Real Estate sector, Infrastructure sector, steel, cement and several other consumer goods are still to witness growth momentum and Realty Sector has seen negative growth in certain quarters. The commodity prices Internationally as well as in India are under tremendous pressure.

**Better Sentiments:** Various actions and initiatives of the government have achieved brightening of sentiments and positivity in the mind set.

**Tax Laws and Complex Regulations:** It is important for the government to consider strategic relaxation in direct taxes. Fiscal policies need to be fine-tuned for creation, pooling and channelizing of capital to fuel in growth momentum in the economic activity. The inbound and outbound international investment need to grow with a more relaxed and less regulated atmosphere. Lengthy and complex laws need to be replaced by short and crisp legislations by removing unnecessary procedures and approvals.

**Corruption** needs to be eradicated strategically through systematic changes and E-governance.

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*from concepts to expertise.....*



**Dates:**

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- Corporate taxation
- Search & Survey
- International Taxation, Transfer Pricing
- Taxation of
  - ◆ Private Trust and Charitable trust
  - ◆ Real Estate Transactions
  - ◆ E Commerce,
  - ◆ Share Capital
- Taxation of Partnership Firm & Limited Liability Partnership
- Tax Deduction at source, International remittances
- Implication of Income Computation and Disclosure standards
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**5.0 New investment pattern for PF**

The Finance Ministry had notified the new investment pattern for non-government provident funds, superannuation funds and gratuity funds, allowing them to park 5-15% of their investible funds in equity and equity-related instruments.

**6.0 New Mining Law Comes at a Cost for Companies**

The existing mining leases for companies like SAIL, Tata Steel, JSW Steel, Hindalco and Sesa Sterlite would continue till March 31, 2020, for non-captive usage and March 31, 2030, for captive purposes, which is a positive development. Currently the royalty for iron ore is 15%. A company pays 15% of its value as royalty to the state government and now would pay another 15% to the District Mineral Foundation (DMF). Only once the lease expires either in 2020 or 2030 will the royalty to DMF come down to 1/3rd of the royalty they pay to state governments.

**7.0 SEBI for Re-Issuance of Securities In Corporate Bond Market**

Securities and Exchange Board of India (SEBI) has notified a new regulation to allow re-issuance of existing debt securities by a corporate issuer within a specified time period. An issuer can carry out consolidation and re-issuance of its debt securities in case the issue is made through private placement, obtain fresh credit rating for each re-issuance from at least one registered rating agency and appropriate disclosures are made. The issuer would have to pay the redemption proceeds to investors along with interest due to them within 15 days from the last day within which such right can be exercised. In case of delay, the issuer would have to pay 15% annually.

**8.0 RBI mandates 100% provisioning for Fraud Cases**

The Reserve Bank of India (RBI) has asked lenders to make 100 per cent provisioning in cases where wrong doing is detected.

*Source: Notification No. RBI/2014-15/535 DBR. No. BP.BC.83/21.04.048/2014-15, dated April 1, 2015*

**9.0 New Norms to appoint PSB non-official Directors**

Any applicant for the post of non-official director for Public Sector Banks will have to be at least a

graduate, aged less than 67, and with 20 years of experience in business organization fields. Retired senior government officials, academicians, directors of premier management and banking institutes, professors and chartered accountants with 20 years experience are also eligible. Any director in non-official capacity will be appointed for up to six years, or two terms.

**10.0 NBFCs asked to give public notice prior to Merger and Acquisition deals**

A public notice of at least 30 days shall be given before effecting the sale of, or transfer of the ownership by sale of shares, or transfer of control, whether with or without sale of shares. Such public notice shall be given by the NBFCs and also by the other party or jointly by the parties concerned, after obtaining the prior permission of the Reserve Bank, RBI said in a draft guideline.

**11.0 PAN mandatory for Service Tax registration: FinMin**

Permanent Account Number (PAN) is now mandatory for private firms for getting service tax registration besides email and mobile number.

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**CORPORATE LAW**

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**1.0 Companies can now offer loans to employees at lower interest rates**

Companies can now offer loans to their employees at low interest rates as the government has relaxed conditions related to loan threshold and interest rate in the Companies Act, 2013. Compliance requirements such as seeking approval from the board of directors and shareholders in certain cases have also been removed.

**2.0 Listed Firms to Disclose Specific Details on Frauds**

Under the new norms, companies would have to make disclosures at the time of an occurrence of a fraud, default or an arrest of a Key Managerial Personnel (KMP).

The companies would be required to inform the stock exchanges about the nature of fraud or default or arrest.

Besides, the companies are expected to inform about the estimated impact of the fraud, time of occurrence, persons involved, estimated amount involved and whether the incident has been reported to the appropriate authorities.



## CAPITAL MARKET

### 1.0 SEBI relaxes Delisting Norms

The Securities and Exchange Board of India (SEBI) has brought down the timeline for delisting of companies from 137 days to 76 days. Delisting would, however, be disallowed if the promoter or a group entity sold shares six months prior to the date of the board meeting where the delisting proposal was approved. Promoters will not be allowed to sell shares until the delisting process is completed. SEBI said delisting would be considered successful only if the acquirer acquires 90 per cent of the total share capital of the company. This is in addition to at least 25 per cent of the public shareholders holding demat shares tendering shares in the reverse book building process. However, the 25 per cent rule would not apply if the acquirer and the merchant banker are able to demonstrate that they have contacted all the public shareholders about the offer in the prescribed manner

#### Exemption

Companies with a maximum paid-up capital of ₹10 crore and net worth of up to ₹25 crore and whose shares have not been traded during the past one year, despite not being suspended, are exempt from the reverse book building process.

### 2.0 SEBI norms on Municipal Bonds

The Securities and Exchange Board of India (SEBI) approved new norms for issuing and listing of municipal bonds on stock exchanges. Municipal bonds are debt instruments issued by a state or municipality to finance its capital expenditure for construction of highways, bridges, schools, etc. The new norms have lowered the mandatory credit rating from at least A+ to BBB- currently.

### 3.0 SEBI for including family trusts, NBFCs in QIB segment

In a new proposal, Securities and Exchange Board of India (SEBI) has said the definition of Qualified Institutional Buyers (QIBs) "may be extended to include systematically important NBFCs as per Reserve Bank of India guidelines and family offices/trusts, subject to such family offices/trust registering itself as alternate investment funds."

## ACCOUNTANCY & AUDIT

### 1.0 ICAI to take action against arrested CA

Institute of Chartered Accountants of India (ICAI) will initiate necessary disciplinary action against member Khemchand Gandhi, who has been arrested by the CBI for allegedly leaking "secret" government documents, after receiving details from the investigative agency.

### 2.0 ICAI provides clarity on Auditor's Fraud Reporting Norms

The Institute of Chartered Accountants of India has said that *reporting under section 143(12)* of Companies Act to be done only if such frauds would have a material impact on the financial statements. "In case a fraud has already been reported or has been identified/detected by the management or through the company's vigil/whistle blower mechanism and has been/is being remediated/dealt with by them and such case is informed to the auditor, the latter will not be required to report the same...", ICAI said in the note issued recently. This is because the auditor has not per se identified the fraud.

## DIRECT TAXATION

### 1.0 I-T Department to send OTP to ease taxpayer e-filing

Taxpayers will soon get relief from sending a paper acknowledgement of their e-filed return as Income Tax department is set to introduce a new customer verification system for the task by sending One Time Passwords, validating net banking identity and enrolling Aadhaar number in the returns form.

### 2.0 MNCs' India arms get transfer-pricing relief

The Delhi High Court noted while treating advertising, marketing and promotional expenses by an Indian subsidiary of an MNC as international transactions, under section 92B of the I-T Act, "the exercise undertaken should not result in over- or double-taxation"

The court said for any "excess" expenditure established, the Indian subsidiary must be compensated by the parent group. "Such compensation might be included or subsumed in low purchase price or by not charging or charging lower royalty. Direct compensation can also be paid," the court said.



### 3.0 Income tax department to take closer look at Overseas Assets

The apex body, Central Board of Direct Taxes (CBDT), has directed all tax circles that assessing officers should identify all foreign assets declared in income-tax statements and "examine various aspects related to the foreign assets such as verification of source of investment, taxability of income arising from the assets, etc".

Everyone having accounts with offshore banks, or owning properties or stocks abroad will be subject to scrutiny.

### 4.0 Audit Relief for MNCs

Central Board of Direct Taxes (CBDT) has amended income tax rules to allow a four year

roll back of Advance Pricing Agreements (APAs). APAs were introduced to allow MNCs to declare certain value of their cross-border transactions which will not attract an audit for income suppression for five prospective years.

### 5.0 Retro tax law not applicable on dividends by Foreign Firms

"Declaration of dividend by a foreign company outside India does not have the effect of transfer of any underlying assets located in India," the CBDT said. It means that dividends declared and paid by a foreign company outside India in respect of shares which derive their value substantially from assets situated in India would not be deemed to be income accruing in India.

## CASE LAWS

### 1.0 Penalty - For concealment of income

The High Court of Gujarat held that incorrect claim of expenditure would not amount to giving inaccurate particulars of income and thus, concealment penalty was not called for.

*Commissioner of Income-tax- I v. Amol Dicalite Ltd. [2015] 55 taxmann.com 419*

### 2.0 Provision for warranty is an allowable exp. if made on scientific and reasonable basis

The High Court of Karnataka held that if assessee-company was maintaining proper accounting system for provision for warranty and computed warranty on scientific and reasonable basis, then provision for warranty was an allowable expenditure.

*Commissioner of Income-tax v. Motor Industries Co. Ltd. [2015] 55 taxmann.com 377 (Karnataka)*

### 3.0 Section 271(1)(c), read with section 32, of the Income-tax Act, 1961 – Penalty for concealment of income

The High Court of Bombay held that where revenue authorities passed penalty order taking a view that assessee had raised a false claim of depreciation, in view of fact that assessee brought all relevant particulars on record in support of its claim, impugned penalty order deserved to be set aside.

*Commissioner of Income-tax v. Indusind Bank Ltd. [2015] 55 taxmann.com 406*

### 4.0 Application Software – Revenue Expense

The High Court of Madras held that payment

for application software, though there is an enduring benefit, does not result in acquisition of any capital asset and it merely enhances productivity or efficiency of business of assessee and, hence, it has to be treated as revenue expenditure

*Commissioner of Income-tax, Trichy v. Karur Vysya Bank Ltd. [2015] 54 taxmann.com 324*

### 5.0 Interest on Borrowed Amount - Disallowance

The High Court of Andhra Pradesh held that in absence of any finding to effect that amount borrowed by assessee from financial institutions was straight away passed on to sister concern without levying interest, interest on borrowed amount could not be disallowed.

*Commissioner of Income-tax-2, Visakhapatnam v. Seven Hills Hospitals (P.) Ltd. [2015] 54 taxmann.com 326*

### 6.0 Company can claim Expense Deduction Paid to its unit

A tribunal has clarified that a company can claim deduction of expenses paid to a subsidiary if it follows a global cost allocation policy. The Delhi ITAT held the judgment in a dispute between *British Gas vs IT authorities*.

### 7.0 DTAA Rate to apply even without PAN

The ITAT Pune Bench held that TDS on payments to non-residents who do not furnish PAN shall be deducted at DTAA rate if such rate is less than 20%.

*Deputy Director of Income-tax (IT -II), Pune v. Serum Institute of India Ltd. [2015] 56 taxmann.com 1*



## CIRCULARS

### 1.0 CBDT notifies 10 new standards for computation of taxable income

The Central Board of Direct Taxes (CBDT) has overhauled the way income needs to be computed by businesses to calculate the income tax to be deposited with the exchequer.

As against 12 proposed standards, the CBDT has now notified 10, covering Accounting Policies, Valuation of Inventories, Construction Contracts, Revenue Recognition, Tangible Fixed Assets, Effects of Changes in Foreign Exchange Rates, Government Grants, Securities, Borrowing Costs, and Provisions, Contingent Liabilities and Contingent Assets.

Source: Notification No.32/2015, F. No. 134/48/2010?TPL, dated March 31, 2015

### 2.0 Acquisition/transfer of immovable property - Prohibition on citizens of certain countries

No person being a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Hong Kong, Macau, Iran, Nepal or Bhutan without prior permission of the Reserve Bank shall acquire or transfer immovable property in India, other than lease, not exceeding five years.

Source: Circular No. RBI/2014-15/495 A.P. (DIR Series) Circular No.83, dated March 11, 2015

### 3.0 Amounts received by Private Companies from their members, directors or their relatives before April 1, 2014 - Clarification

It is clarified that such amounts received by private companies prior to 16 April, 2014 shall not be treated as 'deposits' under the Companies Act, 2013 and Companies (Acceptance of Deposits) Rules, 2014 subject to the condition that relevant private company shall disclose, in the notes to its financial statement for the financial year commencing on or after 1st April, 2014 the figure of such amounts and the accounting head in which such amounts have been shown in the financial statement.

Source: MCA/General Circular No. 05/2015, dated March 30, 2015

### 4.0 The Companies (Acceptance of Deposits) Rules, 2014

- If a company receives any amount by way of subscriptions to any shares, stock, bonds or debentures before the April 1, 2014 and disclosed in the balance sheet for the financial

year ending on or before the March 31, 2014 against which the allotment is pending on the March 31, 2015, the company shall, by the June 1, 2015, either return such amounts to the persons from whom these were received or allot shares, stock, bonds or debentures or comply with these rules.

- Every eligible company shall obtain, at least once in a year, credit rating for deposits accepted by it with Minimum Investment Grade Rating and a copy of the rating shall be sent to the Registrar of companies along with the return of deposits in Form DPT 3.

### 5.0 Recent Amendments in Company Rules

- No requirement for issuing and filling of Information memorandum(PAS 4), if the preferential offer is being made to one or more existing members only. (Rule 13, sub rule (1))
- For securing the issue of Secured debentures, where debenture holders are more than 500 in number, a Trust Deed in Form No SH 12 shall be executed by the Company in favor of the debentures Trustee within Three Months of Closure of the Issue or Offer. [Rule 18(5)]
- E-voting is not mandatory for listed SME/ Institutional Trading Platform.

## FINANCIAL INDICATORS

	Current Rate*	Month Ago	3Month	6 Month
3 Month LIBOR (%)	0.2759	0.2677	0.2541	0.2541
3 Month MIBOR (%)	8.23	8.38	8.63	8.63
SENSEX	28879	28709.87	27585.27	27585.27
NIFTY	8780.35	8712.05	8323	8323
CRR (%)	4	4	4	4
REPO (%)	7.50	7.50	8.00	8.00
REVERSE REPO (%)	6.50	6.50	7.00	7.00
Gold (per 10 gm)	26550	25933	26905	26905
Silver (per kg)	36803	35610	36664	36664
Crude (USD/bbl)	56.83	49.93	50.305	50.305
₹ vs USD	62.3660	62.6983	62.1605	62.1605
₹ vs Euro	66.4884	67.6577	73.7348	73.7348
₹ vs 100 Yen	51.74	51.47	52.62	52.62
₹ vs RMB	10.0370	10.0358	10.0097	10.0097
₹ vs Pound	91.6032	94.549	94.2788	94.2788
MCX Aluminium (per kg)	110.55	109.7	725.25	725.25
MCX Copper (per kg)	374.55	368.65	378.9	378.9

\*As on April 10, 2015

(Sources: MoneyControl, NSE, BSE, RBI, MCX)

**OPINION**

## CA Institute – Need for Strengthening Infrastructure

The Council of the Institute has significantly strengthened the course content and the training requirements for Chartered Accountancy proficiency including Orientation course, Information Technology Training, Advance IT Training, 30 days (2 slots of 15 days) of General Management and Communication Skill (GMCS) Training through the branches in the Regional Council. The Class room training to students of at least 6 months will bring enormous improvement in quality.

The newly drafted syllabus has been highly strengthened and is available for public comments. The ICAI council needs to consider substantial strengthening of its infrastructure in terms of **well- equipped classrooms, training rooms,**

**research centres of Global Standards and better than the best International Management Institutes.** ICAI need to match the Growth plan of Indian economy. It is important to have large day campuses as well as residential campuses in all states. The dependence on part time faculty needs to be substantially supplemented by full time high quality academicians and trainees.

The Chartered Accountancy profession has a major role in future of the nation and its substantial upgradation of infrastructure and capability to deliver high end education, training as well as research facility needs strategic planning and implementation.

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