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## EDITORIAL

## Modi Government speeding up reforms

### CAs expectations in waiting



Convener National Economic Forum, Former Chairman BoS and Member Central Council Institute of Chartered Accountants of India

NARENDRA Ji Modi Government needs to be congratulated on speeding up the reform process by:

- UDAY Scheme providing Rs. 99000 crores to State Electricity Boards
- Launching open transparent electricity purchase portal - rates becoming transparent at Rs. 2.50 to Rs. 3.00 per unit
- Bringing down cost of Solar power to Rs. 5.50 per unit
- Coal supply turning in surplus from decades of shortage
- All power projects under construction - now being implemented in full swing
- Railways implementing massive investment for modernisation efficiently and effectively
- Real Estate Regulations Act passed for bringing transparency and fair treatment to consumer
- Transparent electronic market launched for Agriculture produce
- Roads projects construction revived and now in full swing in almost 95% cases with large number of new projects
- Special simplification of Income Tax laws and new schemes
  - ◆ Electronic Assessment - no personal visits
  - ◆ Voluntary disclosure of Income scheme
  - ◆ Regular income declaration freedom
  - ◆ Professionals' special tax scheme
  - ◆ Kar Vivad Samadhan Scheme - clear road map
  - ◆ 10% tax on Research and development in india
  - ◆ Lowering corporate tax rate to 25%
  - ◆ Large number of procedural simplifications
  - ◆ Positive approach and respect for tax payer
  - ◆ Survey, Searches and Raids to be an exception
- Mandatory ISI mark and minimum National standards for large number of consumer goods, barring import of sub standard Chinese goods and many more.....

### CONGRATULATIONS !! REAL TEAM EFFORT



Shri Narendra Modi



Shri Amit Shah



Shri Arun Jaitley



Shri Nitin Gadkari



Shri Suresh Prabhu



Shri Piyush Goyal

The expectations are mounting in different areas. The Chartered Accountants community commits their support to transparency, integrity and ethical approach and completely non corrupt Governance. We await :

- Rationalisation of the Companies Act, 2013
- Independent appointment of Statutory and Internal Auditors for Banks, Insurance, Pension funds, Mutual funds and all public interest institutions.
- Fair role of CAs in ensuring financial discipline
- To eradicate tendering of CAs' professional services. Government need to appoint best persons at pre-determined fee for a top quality efficient and effective reporting. **Lawyers, CAs, Doctors cannot be selected on L1 (Lowest quote) basis.**



## LATEST IN FINANCE

**1.0 Investment Advisory Services cannot be offered by Banks**

The Reserve Bank of India has advised that banks cannot undertake IAS departmentally. Accordingly, banks desirous of offering these services may do so either through a separate subsidiary set up for the purpose or one of the existing subsidiaries after ensuring that there is an arm's length relationship between the bank and the subsidiary.

*RBI/2015-16/379*

**2.0 Real Estate Bill is an act now, may protect home buyers**

The Real Estate (Regulation and Development) Bill, 2016, became an act on May 1, kick-starting the process of making rules as well as putting in place institutional infrastructure to protect the interests of home buyers in India.

**3.0 RBI to prescribe norms for electronic dealing platforms**

The Reserve Bank of India is planning to prescribe a framework for authorisation of electronic dealing platforms for financial instruments regulated by it such as corporate bonds, commercial papers, certificate of deposits and derivative products.

**NDS-OM** is an anonymous electronic platform for trading in government securities.

**CROMS** is a straight-through processing-enabled electronic anonymous order-matching platform to facilitate dealing in market repos in G-Secs.

**4.0 Reverse e-auction now mandatory for short-term power procurement**

The government has amended the guidelines for short-term procurement of power by discoms, making it mandatory for such transactions to be processed online under the reverse auction route to bring more transparency into the system. A power procurement period ranging from a day to a year is considered as short-term.

Under the guidelines, the bidders, during the auction, will have the option of reducing the tariff quoted by them in decrements of one paise or multiples thereof, and to increase the quantum quoted by them by 1 MW or its multiple. During the reverse auction, the prevailing lowest tariff would be visible to all the bidders.

**5.0 Commercial papers allowed for infra debt funds**

The Reserve Bank of India allowed infrastructure debt funds, registered as NBFCs to raise funds through shorter tenure bonds and commercial papers from the domestic market to the extent of upto 10 per cent of their total borrowings.

**6.0 Minimum maturity period for Masala Bonds reduced to 3 yrs**

RBI reduced the minimum maturity period of offshore rupee-denominated bonds or masala bonds to three years from five years earlier.

The RBI said the maximum amount which can be borrowed by an entity in a financial year under the automatic route by issuance of these bonds will be Rs 5,000 crore and not \$750 million, subject to guidelines already in place.

**7.0 Respite for banks as RBI allows some stressed loans to be reclassified**

The Reserve Bank of India did banks a good turn by allowing them to reclassify some loan accounts, especially those facing delays in the date of commencement of commercial operations, as performing or standard assets.

**8.0 RBI tweaks rules on bank fraud provisioning to ease burden**

Under normal circumstances, banks should make provision immediately when a fraud is detected. But, banks can spread them over a maximum of four quarters, commencing from the quarter in which the fraud has been detected.

**9.0 RBI spells out margin requirement for non-centrally cleared derivatives**

As part of its move to implement margin requirements for non-centrally cleared derivatives, the Reserve Bank of India brought out a discussion paper wherein it has been proposed that both initial margin and variation margin will generally apply to all such derivatives.

In such derivatives, at least one of the parties to the transaction should be a scheduled bank, or other agency falling under the regulatory purview of the central bank.



## EDITORIAL

## Education Sector: Regulation and Development

### Need for a strategy

The Indian Education has developed leaps and bounds over last 2 decades without any major plan and Govt. policy guiding Regulation and Development. Education is a state subject even then the Central Government need to play an important role in providing affordable high quality education to all sections of society. The following issues and challenges are required to be addressed by State Government, Central Government and very importantly by the education sector itself.

- Development and implementation of high standard education focused on capability development - CBSE and NCERT kind Institutions are needed not only for School education but also for University educations, Professional qualifications and Vocational. There is a need of the country for
  - ◆ Standard and Uniform level of course curriculum, delivery quality
  - ◆ National level common examination at all levels, to ensure National and International recognition, acceptability and mobility
- **To consider permitting profit motive** educational institutions without any concession in land prices and full taxation on their income and services. This will off course be subjected to regulation on quality, delivery, examination and reasonable profit margins.
- **The charitable** not for profit education societies enjoying concessional land and tax advantages need to be financially disciplined with a mandate of reasonable fee levels, engagement of high quality faculty by ensuring regulated minimum level of salary and perks through proper banking channels and permitting some profit margin to fund growth. No misuse or diversion can go on.
- **The admission** process, criteria of local preferences, donations and capitation fee, reservation of corporate seats based on large financial considerations, charging and levying non

transparent fees, charges and contributions are some areas of major challenges.

- **Minority** educational institutions may also opt for main stream modern education and financial aid and support of Government with committed financial discipline, along with a freedom to preserve their specialties, values, culture and religious education.
- **The Government and Government aided** educational institutions need a big focus on improving their infrastructure, delivery mechanism, quality of education and overall standards to attract all sections and classes of the society on one platform - paving way for major opportunities even for weaker and middle income group. Massive expansion and major financial allocation for such facilities is needed.
- To examine based on detailed research, the impact and challenges faced by weaker section students being educated in high cost private schools based on **mandatory reservation**.
- **The IIT, IIM** and other similar high level institutions - reasonable subsidized high quality education need to come with a commitment towards the country. India is training a majority of them at the cost of society and they join costly jobs internationally.
- **The engineering, Medical, MBA** and similar private institutions and Universities need a deep high quality regulations and developmental support
- Indian education at school level and also at higher level need to also concentrate on Indian **Value System, culture, ethics, integrity, history and leadership traits. Team spirit and development of respect and tolerance for others' views and priorities is a major challenge.**

Transparency in Financial Management and Education quality, Content and Delivery mechanism need Long term vision, Strategy, firm Commitment, Discipline and deep rooted hard work at all levels duly supported by Regulatory independent review and Developmental support.

**INDIA WILL WIN**

#### 10.0 Online sales to foreign buyers get exports tag

All sales by Indian sellers to foreign buyers through digital platforms would be classified as export. All domestic sellers who supply goods and services to foreign buyers would be classified as exporters. It will allow them to claim benefits

under the Merchandise Exports from India Scheme (MEIS), which provides financial incentives.

#### 11.0 India's first small finance bank launched

Capital Small Finance Bank, India's first small finance bank, is launched. It opened 10 new branches on its inaugural day.



**12.0 RBI issues trading norms for PSLCs**

Banks can buy Priority Sector Lending Certificates (PSLCs) - on the lines of carbon credit trading - with a minimum lot size of Rs 25 lakh to meet the shortfall in priority sector lending targets. There will be four kinds of PSLCs - Agriculture, Small Farmers (SF)/Marginal Farmers (MF), Micro Enterprises and General.

**13.0 RBI asks banks not to treat default by some firms as NPA in Q4**

In view of mounting bad loans eating into banks' profits, RBI has allowed them to exclude from provisioning stressed loans of certain companies in the fourth quarter numbers. This will help ease burden on banks to some extent and support their bottom line. About two dozen companies which have been trying to repay loans by selling their assets or some of their subsidiaries have been excluded from defaulters list.

**14.0 Online trading platform for farm goods launched**

Prime Minister Narendra Modi sowed the seeds for a farming revolution, with the launch of e-NAM, an online portal for trading in agriculture produce, which promises to liberate farmers from the clutches of middle-men and realise fair market value for their yields.

The e-NAM marketplace will initially enable farmers in eight States - Uttar Pradesh, Madhya Pradesh, Jharkhand, Himachal Pradesh, Gujarat, Telangana, Rajasthan and Haryana - to sell 25 commodities in 21 wholesale mandis.

The commodities that will initially be sold online include chana (black gram), castor seed, paddy, wheat, maize, turmeric, onion, mustard, mahua flower, tamarind and shelling pea.

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**CAPITAL MARKET****1.0 Prohibition of Insider Trading Regulations**

The Guidance Note on Insider Trading inter alia stated that buy back offers, open offers, rights issues, FPOs, bonus, etc. of a listed company are available to designated persons also, and restriction of 'contra-trade' shall not apply in respect of such matters.

SEBI has clarified that exit offer is also exempted

from the restriction on contra trade under the PIT Regulations.

**2.0 Small firms' delisting relaxed**

Promoters of small companies who get written consent from at least 90 per cent of the public shareholders to delist shares will be considered to have complied with the delisting norms as per SEBI.

**3.0 Sebi nod to make e-book mandatory for private placement issues**

Capital markets regulator SEBI approved new norms to make electronic book mandatory for all private placement issues on debt basis, having a threshold of more than Rs 500 crore inclusive of green shoe option, if any.

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**INDIRECT TAXATION****1.0 All Government services to be taxed - Exemptions notified**

The CBEC has clarified that all 10 services provided by the government will be exempt from service tax. These include services provided by a government or a local authority to another government or local authority, services for issuance of passport, visa, driving licence, birth certificate or death certificate, services where the gross amount charges is less than Rs. 5,000 and legally mandated services for registration, calibration or testing.

Further, services by a local body or government for assignment of right to use natural resources to an individual farmer for the purposes of agriculture, services to a gram panchayat and deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo on payment of Merchant Overtime charges and services provided to business entities with turnover of less than Rs. 10 lakhs and negative list government services will also be exempt from service tax.

**2.0 Relaxation of KYC norms**

The Central Board of Excise and Customs (CBEC) has decided that in cases where the proof of present address is not available with the individual, the proof of identity collected at the time of delivery along with the address recorded



for the delivery purpose by the courier companies would suffice for KYC verification.

*Circular No. 13/2016-Customs*

### 3.0 CENVAT Credit - Right to Use

CENVAT Credit of Service Tax paid in a financial year, on the onetime charges payable in full upfront or in instalments, for the service of assignment of the right to use any natural resource by the Government, local authority or any other person, shall be spread evenly over a period of three years.

Where the manufacturer of goods or provider of output service, as the case may be, further assigns such right assigned to him by the Government or any other person, in any financial year, to another person against consideration, such amount of balance CENVAT credit as does not exceed the service tax payable on the consideration charged by him for such further assignment, shall be allowed in the same financial year.

*Notification No. 24/2016- Central Excise*

### 4.0 DVAT - Composition Scheme

A new composition scheme has been recently notified by the Government vide notification dated 18/03/2016 in exercise of powers conferred in section 16(12), wherein the registered dealers whose annual turnover is upto Rs. 50 Lakhs and who makes sales of cooked food, snacks, sweets, savouries, juices, aerated drinks, tea and coffee etc. have an option to pay composition tax @ 5%.

In the above context, it is clarified that the condition requiring payment of tax on opening stock is not applicable to those dealers.

The directive puts to rest the debate over treatment of income from sale of unlisted shares as capital gains or business income. This also gives certainty to foreign investors taking advantage of favourable tax treaties such as India-Mauritius.

### 2.0 Furnishing of evidence of claims by employee for deduction of tax under section 192

CBDT has introduced new Rule 26C and Form 12BB that require employees to furnish to the employer, evidence/particulars in relation to the expenditure incurred.

Nature of claims	Evidence or particulars
House Rent Allowance	Name, address and PAN of the landlord/landlords where the aggregate rent paid during the previous year exceeds rupees one lakh.
Leave travel concession or assistance.	Evidence of expenditure.
Deduction of interest under the head "Income from house property"	Name, address and permanent account number of the lender.
Deduction under Chapter VI-A	Evidence of investment or expenditure.

*CBDT Notification dated 29th April, 2016*

### 3.0 I-T dept to pay interest on TDS refund

The Income Tax (I-T) department will now add interest amount to a delayed refund made on excess tax deducted at source (TDS) cuts and will also not litigate with the deductor on this issue in the future, a latest directive has said.

### 4.0 Deductions allowed for tax paid in foreign nations

The rules will allow for foreign tax credit with all countries with which India has a double tax avoidance agreement as well as tax paid by Indian residents in other specified countries.

The draft rules have also proposed that the credit will be available to the resident assessee in the year in which the income has been taxed or assessed in India.

## DIRECT TAXATION

### 1.0 Income from sale of unlisted equities to be treated as capital gains

CBDT has said income from sale of unlisted equities would be treated as capital gains in a move that gives significant relief to private equity, offshore and alternative investment funds.

The holding period of unlisted equity shares for long term taxation has been reduced to 24 months from 36 months by Finance Act, 2016



Further, the credit will be calculated separately for each source of income and from each country. The amount of credit available will be lower of the tax payable under the Income Tax Act on such income and the foreign tax already paid and will be calculated based on the conversion rate on the day the foreign tax was paid.

Taxpayers will also have to furnish documentary evidence for availing the credit including a certificate for the tax department of the foreign company, acknowledgement of online tax payment or bank counter foil and a declaration that the amount is not under any dispute.

Cess and surcharges in addition to tax will also be creditable and it will be available against MAT liability too.

#### 5.0 Tips collected by hotel from customers and paid to employees couldn't be taxable as salary

The Supreme Court of India held that the amount of tip paid by the employer to the employees had no reference to the contract of employment at all. Tips were received by the employer in a fiduciary capacity as trustee for payments that were received from customers which it disburse to its employees for service rendered to the customer. Hence, tips so disbursed to employees couldn't be chargeable to tax as salary and the employer has no TDS liability.

*ITC Ltd. Gurgaon v. CIT (TDS) Delhi. [2016] 68 taxmann.com 323*

#### 6.0 All ITRs activated for e-filing

E-filing of income tax return for all categories of filers for the AY 2016-17 has been operationalised. All ITRs including ITR 6 and ITR 7 for AY 2016-17 are available for e-Filing.

#### 7.0 Transaction in shares couldn't be treated as speculative if it doesn't constitute 'business'

The High Court of Madras held that where assessee-company was not regularly dealing with shares, but indulged in purchase and sale of shares because of certain financial problems of sister concern, there being no systematic or

organised course of activity and no regularity in transaction and purchase being one time activity it could not be construed as a speculative transaction.

*Rajapalayam Mills Ltd. v. DCIT, Special Range-I, Madurai. [2016] 68 taxmann.com 3*

## AUDIT / ACCOUNTANCY

### 1.0 Companies (Accounting Standards) Amendment extended by 1 year

Stakeholders have sought clarifications with regard to the accounting period for which the accounts would need to be prepared using the Accounting Standards, as amended through the Companies (Accounting Standards) Amendment Rules, 2016. The Ministry has clarified that the amended AS should be used for preparation of accounts for accounting periods commencing on or after the date of notification i.e. financial year commencing 1st April 2016.

*General Circular No.04/2016 dt. 27/04/2016*

## CORPORATE LAWS

### 1.0 Companies will have unique ID no. to carry out business

Companies will soon have one unique identification number to carry out all business transactions. The Central Board of Direct Taxes (CBDT) and the Ministry of Corporate Affairs are integrating their back-end operations to provide one simple identity to companies, doing away with the multiplicity of numbers currently being used by them.

### 2.0 PF Members can take out entire corpus before retirement

Rescinding its earlier decision after employee protests, the Employees Provident Fund Organisation (EPFO) has decided to allow members to withdraw their entire corpus before retirement for purposes such as housing, professional education, medical treatment and the marriage of their children.

**India signed the protocol amending the DTAA with Mauritius giving India the right to tax capital gains arising from sale or transfer of shares of an Indian company acquired by a Mauritian tax resident.**



### 3.0 Government hikes minimum wage for contract workers to Rs 10,000

Government has increased minimum wage to Rs 10,000 at the national level, taking into consideration the Consumer Price Index and Dearness Allowance. This was based on the verdict of the Supreme Court. This increase of minimum wage has been linked to pension and bonus.

## FEMA

### 1.0 Govt eases norms for foreign firms to set up branch offices in India

The government relaxed the approval process for foreign firms to set up their branch, liaison and project offices in the country.

As a measure towards improving the ease of doing business, it has now been decided that except for a few sectors such as defence, telecom, private security, information and broadcasting and non-government organisation and except a few countries, the power to grant approvals for establishment of branch, liaison, project offices by foreign entities, would be delegated to the Authorised Dealers Category-I Banks. sector.

### 2.0 SEBI regulations governing foreign investment in units issued by REITs, InvITs and AIFs

It has been decided, in consultation with the Government of India, to allow foreign investment in the units of Investment Vehicles registered and regulated by SEBI or any other competent authority. At present, Investment Vehicle will include the following:

- Real Estate Investment Trusts (REITs)
- Infrastructure Investment Trusts (InvITs)
- Alternative Investment Funds (AIFs)

Further, unit shall mean beneficial interest of an investor in the Investment Vehicle and shall include shares or partnership interests.

- Downstream investment by an Investment Vehicle shall be regarded as foreign investment if either the Sponsor or the Manager or the Investment Manager is not Indian 'owned and controlled' as defined in Regulation 14 of the Principal Regulations.

- In case the sponsors or managers or investment managers are organized in a form other than companies or LLPs, SEBI shall determine whether the sponsor or manager or investment manager is foreign owned and controlled.
- The extent of foreign investment in the corpus of the Investment Vehicle will not be a factor to determine as to whether downstream investment of the Investment Vehicle concerned is foreign investment or not.
- Downstream investment by an Investment Vehicle that is reckoned as foreign investment shall have to conform to the sectoral caps.

RBI/2015-16/377

### 3.0 Acceptance of deposits by Indian companies from a person resident outside India

It is clarified that keeping deposits with an Indian company by persons resident outside India, in accordance with section 160 of the Companies Act, 2013, is a current account (payment) transaction and, as such, does not require any approval from Reserve Bank. All refunds of such deposits, arising in the event of selection of the person as director or getting more than twenty five percent votes, shall be treated similarly.

RBI/2015-16/371

## FINANCIAL INDICATORS

	Current Rate*	Previous Month	3 Month ago	6 Month ago
3 Month LIBOR (%)	0.63	0.63	0.62	0.3671
SENSEX	25720.56	24900.63	23766.8	25482.52
NIFTY	7881.90	7614.35	7221.4	7731.8
CRR (%)	4	4	4	4
REPO (%)	6.50	6.50	6.75	6.75
REVERSE REPO (%)	6.00	6.00	5.75	5.75
Gold (per 10 gm)	29972	29131	28199	25184
Silver (per kg)	41273	36671	36700	33754
Crude (USD/bbl)	44.22	39.72	31.64	44.55
₹ vs USD	66.72	66.47	67.87	66.11
₹ vs Euro	75.96	75.90	76.64	70.39
₹ vs 100 Yen	61.35	61.04	59.21	53.63
₹ vs RMB	10.25	10.32	10.43	10.38
₹ vs Pound	96.11	94.04	98.29	100.51
MCX Aluminium (per kg)	105.55	101.10	101.7	96.1
MCX Copper (per kg)	315.05	308.20	306.5	306.05


\*As on May 10, 2016

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



## QUICK UPDATES

- Chhattisgarh Govt. mandates 90% of VAT payments within 15 days of expiry of quarter vide *Notification No.F1017/2016/CT/V (28), dated 31/3/2016*
- The central government will make compulsory the hallmarking of gold jewellery by Diwali.
- The Ministry of New and Renewable Energy (MNRE) has set up three committees to improve quality control of solar modules and products.
- The government has granted infrastructure status to the shipyard industry, a move that will help the sectoral players get long-term financing at cheaper rates.
- The Reserve Bank of India came out with master direction for merger of private sector banks and also between NBFCs and banks.
- The Supreme Court on Tuesday asked the government to come up with a proposal for appointment of a committee to look into the issues raised regarding bad loans and huge write-offs by public sector banks.
- To deal more effectively with bad issue, the finance ministry has sent a draft note for the cabinet to amend the relevant laws including SARFAESI law to help banks recover dues faster in wilful defaults.
- The Securities and Exchange Board of India (Sebi) might allow new participants such as Banks, Mutual Funds and Foreign Portfolio Investors in the commodity market.
- The High Court in Kolkata has ruled in favour of market regulator Securities and Exchange Board of India (SEBI) in the matter of de-recognition and exit of the Calcutta Stock Exchange (CSE).



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