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EDITORIAL

MILES TO GO BEFORE TRUE COMPETITIVENESS

It is notable that, in the World Economic Forum's Global Competitiveness Index for 2016-17, India is ranked a credible 39th, and has risen 16 places, the highest rise among all economies. It is commendable that India's competitiveness seems to have improved across the board, and in particular when it comes to goods market efficiency, business sophistication and innovation. However, the ground reality is that investments, including in the corporate sector, remain sluggish, and the current account deficit has been reduced to the tiny decimal points of national income, meaning that the Indian economy is unable to absorb foreign savings to boost domestic investments.

Note also that outward investments keep rising, suggesting that our corporates are somewhat keener to invest abroad than here. The WEF report adds that while recent reforms have focused on improving public institutions, opening up the economy to foreign investment and increasing transparency in the financial system, a lot remains to be done. Banks remain saddled with bad debt, state power utilities are financially moribund and there is scant growth in formal employment.

Besides, when it comes to the Networked Readiness Index, the WEF earlier in July, ranked India a lowly 91st on readiness to transition to a digitised economy and society. We need to reduce infrastructural bottlenecks and improve digital access and skills to step-up productivity and boost innovativeness economy-wide. In the domain of policy, there's the pressing need to improve the ease of doing business across sectors and jurisdictions. And in tandem, we need transparency in electoral funding across political parties to purposefully stem corruption and the generation of unaccounted black money. It would rev up our competitiveness.

MORE REFORM NEEDED IN RETIREMENT SAVINGS

The pension regulator's move to raise the cap on equity exposure of voluntary subscribers to 75% from 50% through the life cycle fund is welcome. It provides flexibility to a person whose age is 35 years or less to allocate more of her savings to risky equity and reduce that exposure as she moves closer to retirement and her risk-taking ability comes down. Equities in fast growing India offer superior returns along with higher risk.

Civil servants are hamstrung as the NPS limits their contribution to a maximum 15% exposure to the stock market, as the investment norms are absurdly linked to the Employees Provident Fund's rules. That must change.

The government should take steps forthwith to allow individual civil servants to be treated on par with voluntary savers with regard to choice of asset class and fund manager. The government should also swiftly resolve the legal and operational hurdles to let workers switch to the NPS rather than save with the Employees Provident Fund, if they choose to. This will increase the enrolment to the NPS and substantially increase the pool of funds to be managed by the NPS that has the institutional framework to generate superior returns. More volumes will also bring stability to the system. Locking all savers into exposure to equity regardless of their age profile is a major shortcoming of the EPF and constitutes one more reason for migration to the NPS.

Workers will choose to migrate to the NPS only when there is tax parity between the EPFO and the NPS. The EPFO is tax exempt at the three stages of contribution, accumulation and withdrawal whereas NPS is taxed at the time of withdrawal. The government should bring parity to the tax treatment of both retirement saving schemes.



LATEST IN FINANCE

LATEST IN FINANCE

1.0 Credit counsellors to be to be accredited

The repo rate has been reduced by 25 basis points from 6.5 per cent to 6.25 per cent with immediate effect.

2.0 Govt issues notification on monetary policy panel

The government issued a gazette notification on the compensation of the Monetary Policy Committee (MPC), including three external members appointed by the government recently.

3.0 Govt sets up panel to study capital issues

In a bid to promote export finance, the government recently constituted a panel headed by the finance secretary to look into various issues.

4.0 Centre constitutes Insolvency and Bankruptcy Board'

The Centre has constituted a four-member Insolvency and Bankruptcy Board of India (IBBI) under the Chairmanship of MS Sahoo. The main activity of IBBI would be to regulate the functioning of insolvency professionals, insolvency professional agencies and information utilities under the Insolvency and Bankruptcy Code 2016.

5.0 Indian goods set for greater market access under APTA

Indian exporters will get greater market access in textiles, chemicals and pharma in countries such as China and Korea under the Asia-Pacific Trade Agreement, with the Cabinet approving the exchange of duty concession pact for the region.

6.0 Guidelines to regulate direct selling industry

The Centre has released model guidelines on direct selling, which among other things, prohibit such companies from charging any entry/registration fee from, or forcing suppliers to buy back unsold stock. It has also barred e-commerce firms from selling products without approval from direct selling firms.

7.0 WTO rules against India in solar case with US

In a setback to India, the WTO's appellate body upheld the rulings of a panel which stated the Indian government's power purchase agreements with solar firms were "inconsistent" with international norms.

8.0 Government mulls new licensing policy for tobacco items

The government is considering a licensing policy for tobacco in a bid to control consumption and bring the largely unregulated business of products such as gutka and pan masala under some sort of government watch.

9.0 Framework in the works for identification of SIFI

A framework for identification of systemically important financial institutions (SIFI) is under preparation and the government plans to soon release in consultation with regulatory bodies including the Reserve Bank of India guidelines to identify such institutions.

10.0 CEA panel sows the seeds of a 'pulses revolution'

The CEA listed a series of measures, some to be implemented immediately and others in the medium term -

- Increase MSP for tur, urad, gram; direct CACP to review MSP formula.
- Eliminate export ban on pulses and stock limits.
- Put government agencies on high gear to procure kharif pulses at the announced MSP.
- Review ESMA and future trading.
- Promote development of GM technologies.
- Encourage states to delist pulses from their agricultural produce market committees (APMCs).

11.0 Government looks to change rules to boost piped gas consumption

The government looks to overhaul its city gas distribution policy to clear major hurdles holding back expansion of piped cooking gas in the country.

- The government aims to expand domestic piped gas consumer base to 1 cr by 2019.
- The number of consumers stood at 31.6 lakh in April, 2016.
- The country added barely 3 lakh new consumers in 2015-16
- .Oil ministry has set up two committees to

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LATEST IN FINANCE / INDIRECT TAXATION

address issued raised by city gas companies.

- One committee will look at making the bidding process more effective.
- The other will suggest ways to deal with key obstacles city gas company face.
- The panels are to submit their reports by the end of Sep, following which the oil ministry will initiate changes.

12.0 Government to Communicate With Design Applicants via Email

The Indian Patent Office has decided that all official communications for registration of designs will be communicated through email or the applicant's digital address. The move is aimed at facilitating faster processing of applications for registration of designs."...First examination reports and subsequent office communications shall be communicated in the e-mail or digital address of the applicant/agent as mentioned in the address of service for respective design applications wherever available," the Controller General of Patents, Designs and Trademarks said in a public notice.

13.0 Government wants PSBs to take equity route

The government may soon direct state-owned banks to explore public offering to increase their capital at reasonable rates rather than opting for comparatively costlier bond issues, which could spill over into higher interest rates, a government official said. The development comes at a time when the country's largest bank State Bank of India plans to raise Rs 11,000 crore through additional tier 1 bonds, popularly called AT-1bonds or perpetual bonds.

INDIRECT TAXATION

1.0 Power to arrest - Guidelines

Vide sections 155, 156 and 157 of the Finance Act 2016, with effect from 14.05.2016, sections 89, 90 and 91 of the Finance Act, 1994 have been amended. As a consequence of these amendments, the power of arrest in Service Tax is available only if a person collects any amount as service tax but fails to pay the amount so collected to the credit of the Central Government beyond the period of six months from the date on which such payment becomes due and the amount exceeds rupees two crore. It is emphasized that since an arrest impinges on the personal liberty of an individual, this power should be exercised with great responsibility and caution and only after a careful examination of the legal and factual aspects.

Circular no. 201/11/2016 - Service Tax

2.0 Stage for launching of prosecution- Custom Act Offences

Normally, prosecution may be launched immediately on completion of adjudication proceedings. However, prosecution in respect of cases involving offences relating to items i.e. Gold, FICN, arms, ammunitions and explosives, antiques, art treasures, wild life items and endangered species of flora and fauna may preferably be launched immediately after issuance of show cause notice".

Circular No. 46/2016 - Customs dated 4th October 2016

3.0 Notification exempts services by way of renting of precincts of a religious place meant for general public

Religious Place' has been defined in the notification to mean a place which is primarily meant for conduct of prayers or worship pertaining to a religion, meditation or spirituality.

CBEC has directed that field formations may not take a restricted view of the word 'precincts' and consider all immovable property of the religious place located within the outer boundary walls of the complex (of buildings and facilities) in which the religious place is located, as being located in the precincts of the religious place. The immovable property located in the immediate vicinity and surrounding of the religious place and owned by the religious place or under the same management as the religious place, may be considered as being located in the precincts of the religious place and extended the benefit of exemption under Notification No. 25/2012-Service Tax, Sl. No. 5(a) dated 20.6.2012.

Circular No. 200/10/2016-Service Tax

4.0 Admissibility of duty drawback in case rebate claimed on inputs used in manufacture of Export goods - Clarification

Board has clarified that as per notification no 84/ 2010-Customs (N.T.) dated 17.09.2010, Customs component of AIR drawback shall be



THE CHARTERED ACCOUNTANT WORLD

INDIRECT TAXATION / CAPITAL MARKET / BANKING

available even if the rebate of Central Excise duty paid on raw material used in the manufacture of export goods has been taken in terms of Rule 18 of the Central Excise Rules, 2002, or if such raw materials were procured without payment of Central Excise duty under Rule 19(2) of the Central Excise Rules, 2002.

Circular No. 1047/35/2016_F.No 268/01/2016-CX.8, Dated 16th September 2016

5.0 New import policy for marble, travertine blocks notified

Import of marble and traveltine blocks, the government has notified a new policy with effect from October 1, 2016.

6.0 Government notifies GST Council

Government has formally notified the GST Council, which will decide on the tax rate, exempted goods and the threshold under the new taxation regime. The council will be chaired by Union Finance Minister and have Minister in charge of Finance or Taxation or any other Minister nominated by each State Government as its member. Also Minister of State in charge of Revenue or Finance at the Centre would be a member.

CAPITAL MARKET

1.0 Sebi tightens norms on promoter

The Securities and Exchange Board of India (Sebi) tightened corporate governance norms on compensation agreements between promoters and private equity (PE) funds so that they wouldn't cut other shareholders out of the loop and allowed foreign portfolio investors to invest directly in corporate bonds without a broker.

2.0 Sebi for curbs on compensation agreements with PE firms

The Securities and Exchange Board of India (Sebi) has proposed curbs on compensation agreements between promoters of a listed entity and private equity (PE) funds.

3.0 BSE to compile data on clients defaulting payments to brokers

Leading stock exchange BSE said it will compile database of clients who have failed to make payments of arbitration awards to the stock brokers. Accordingly, the exchange has created a separate module in the BSE electronic filing system (BEFS) wherein the trading members can submit the details of such defaulting clients to the exchange. The move comes after trading members asked BSE to initiate action against the clients defaulting in making payments to the members against the arbitration awards.

4.0 Restrictions on Promoters and Whole-Time Directors of Compulsorily Delisted Companies Pending Fulfillment of Exit Offers to the Shareholders

Promoters, Directors barred for 10 years

In terms of Regulation 24 of the Delisting Regulations, the company which has been compulsorily delisted, its whole-time directors, its promoters and the companies promoted by any such person, shall not directly or indirectly access the securities markets for a period of ten years from the date of compulsory delisting.

Public shareholding to buy at FMV

Sub-regulation (3) of regulation 23 of the Delisting Regulations provides that pursuant to compulsory delisting of a company, the promoter shall acquire delisted equity shares from the public shareholders, subject to their option of retaining their equity shares, by paying them the fair value, as determined by the independent valuer appointed by the concerned recognised stock exchange.

SEBI/HO/CFD/DCR/CIR/P/2016/81 dated September 07, 2016

BANKING

1.0 Mandatory Auditors Report for Companies

The Reserve Bank of India (the Bank) has issued Non-Banking Financial Companies Auditor's Report (Reserve Bank) Directions, 2016 (the Directions) to every auditor of every non-banking financial companies effective from 29th September, 2016 in supersession of Directions issued in 2008.

RBI has substantially **modified mandatory reporting requirements** by Auditors of Non Banking Financial Companies and has issued fresh Directions w.e.f. 29th September, 2016. (Directions of 2008 stands modified). The reporting is to be made even by the Auditors of Companies which are not registered with RBI as NBFC but which meet the criteria of more than

ALL INDIA CHARTERED ACCOUNTANTS' SOCIETY



BANKING / DIRECT TAXATION

50% financial asset and more than 50% income from financial assets.

Master Direction DNBS. PPD.03/66.15.001/2016-17 dated September 29, 2016

2.0 Govt panel proposes Resolution Corp for banks, financial firms

A Finance Ministry-appointed committee today proposed to set up a Resolution Corporation to expeditiously deal with issues concerning insolvency of financial institutions, including banks and insurers.

3.0 Banks spicing up masala bonds for NRIs

Bankers are finding new ways to sell India's "masala" bonds by structuring this rupeedenominated debt issued abroad into derivatives, and then sweetening the deal with leveraged returns of 12 to 13 percent after fees and hedging.

4.0 Released S4A norms help corporate

Scheme for Sustainable Structuring of Stressed Assets, or S4A, the scheme, launched in June, allows banks to convert up to half the loans of stressed corporates into equity or equity-like instruments. A bank will have to decide on the 'sustainable' portion of the debt. The rest can be converted into equity. The RBI has now allowed the sustainable portion of the debt to be treated as a standard asset in all cases, subject to certain conditions. While guidelines will be issued by this month-end, the leeway will offer relief to banks in terms of provisioning and ease up capital to an extent.

Foreign Exchange Management (Deposit) Regulations, 2016

<u>Restrictions on deposits between a person</u> resident in India and a person resident outside India

Save as otherwise provided in the Act or Regulations or in rules, directions and orders made or issued under the Act, no person resident in India shall accept any deposit from, or make any deposit with, a person resident outside India.

Provided that the Reserve Bank may, on an application made to it and on being satisfied that it is necessary so to do, allow a person resident in India to accept or make deposit from or with a person resident outside India.

Acceptance of deposits by an authorised dealer

An authorised dealer in India may accept deposit under:

- (1) NRE account
- (2) FCNR(B) account
- (3) NRO account

(4) Any person resident outside India having a business interest in India may open, hold and maintain with an authorised dealer in India, a Special Non-Resident Rupee Account (SNRR account), specified in Schedule 4.

(5) Acquirers may maintain Escrow Account with Authorised Dealers in India

(6) Issue of Commercial Paper to NRI or PIO

or FPI subject to conditions that the Commercial Paper shall not be ransferable.

(7) A shipping or airline company incorporated outside India, may open, hold and maintain a Foreign Currency Account with an authorized dealer for meeting the local expenses in India of such airline or shipping company

(8) An authorised dealer in India, may subject to the directions issued by the Reserve Bank, allow unincorporated joint ventures (UJV) of foreign companies/ entities, with Indian entities, executing a contract in India, to open and maintain non-interest bearing foreign currency account and a SNRR account.

(9) An authorised dealer in India, with the prior approval of Reserve Bank, may open an account expressed in foreign currency in the name of a person resident outside India for the purpose of adjustment of value of goods imported into India against the value of goods exported from India in terms of an arrangement voluntarily entered into by such person with a person resident in India.

Prohibited deposits

1) Companies or firms cannot accept from foreigners even from NRI or PIO (except on nonrepatriation basis)

2) Opening of accounts by companies/ entities of Pakistan/ Bangladesh ownership/ nationality would require the prior approval of the Reserve Bank



THE CHARTERED ACCOUNTANT WORLD

DIRECT TAXATION / AUDITING / CORPORATE LAWS

5.0 Banks in a bind over RBI norm

The Reserve Bank of India's (RBI) new norms asking banks to cap their collective exposure to a single large corporate borrower at ?10,000 crore, by April 1, 2019, has left the lenders between a rock and a hard place. Banks fear that stressed corporate borrowers may not be able to raise resources from the bond market - as the RBI has suggested - to repay their loans.

AUDITING

1.0 Constitution of Expert Group to look into issues related to Audit firms

In order to examine Audit firms related issues and make suitable recommendations to the Government, an Expert Group consisting of the following members is hereby constituted:-

- Shri Ashok Chawla
 Chairperson
- Shri Hari S Bhartia Member
- Shri N. S. Vishwanathan Member

The Expert Group would examine and give its recommendations, inter alia, on:

- Whether there is an adverse impact on Indian audit firms from restrictive shareholder covenants?
- Whether there is an adverse impact on Indian audit firms through the manner in which audit rotation is being implemented by companies?
- Whether joint audit could be introduced in cases where there are restrictive covenants and/or in other specified cases where there is a multinational audit firm as the auditor?
- If joint audit is to be implemented, then the legal and regulatory steps towards the same.
- Practices in other large emerging market economies in relation to domestic audit firms/ joint audit.
- India, as a global power in services, should aspire to have its own audit firms at international level. What measures can be taken to promote creation of international-level Indian audit firms which provide services outside India, particularly in developing countries, in competition with multi-national accounting firms?

The Expert Group shall complete its work and submit its report within two months of this Order.

F. No. 17/112/2016-CL-V dated 30th September, 2016

CORPORATE LAWS

1.0 FSSAI proposes norms to hold e-tailers responsible for food quality

The Food Safety and Standards Authority of India (FSSAI) has come up with a draft notification, putting the onus of quality of food products on e-commerce marketplaces that sell such products.

2.0 Centre plans ESIC, EPF benefits for construction workers

The central government is planning to extend benefits under the ESIC and EPF for construction workers, while auto and cycle-rickshaw drivers and Anganwadi and ASHA workers would get benefits of ESIC in a phased manner.

DIRECT TAXATION

1.0 Income Tax - Mandate Accounting Standards - ICDS

With effect from 1st April, 2017, a tax auditor will report whether any adjustment is required to be made to the profits or loss for complying with the provisions of income computation and disclosure standards notified under section 145(2) and will disclose amount of increase or decrease in profit relating to each ICDS separately. Adequate disclosure will also be made in respect of ICDS 1 to ICDS 10, except in case of ICDS 6 or ICDS 8.

CBDT Notification No. 88/2016

2.0 CBDT set to honour honest taxpayers

In a novel initiative revived after decades, the CBDT will soon honour lakhs of "honest and compliant" taxpayers across the country who have paid their income tax dues diligently over the years. The CBDT has created four broad categories of taxpayers for the purpose - large, regular, compliant, and diligent taxpayers. Such people will be issued commendation certificates by the policy-making body of the I-T department under the signature of the CBDT chairperson.

ALL INDIA CHARTERED ACCOUNTANTS' SOCIETY

CORPORATE LAWS / FEMA / INSURANCE

3.0 SIT on black money asks RBI to share info

The special investigation team (SIT) on black money has asked the Reserve Bank of India (RBI) to develop an institutional mechanism, in consultation with the revenue department, to share export-import and foreign exchange (forex) transaction information with investigative agencies, to curb illicit financial flows out of the country.

4.0 Sum paid to visiting doctors on basis of patients attended would attract sec. 194J TDS and not sec. 192 TDS

ITAT Bangalore bench held that where remuneration paid to a visiting doctor was variable with number of patients attended by him, payment to him would be subject to TDS under section 195J.

Hosmat Hospital (P.) Ltd. v. Assistant Commissioner of Income-tax, (TDS), Circle 18 (1), Bangalore. [2016] 73 taxmann.com 147

5.0 Transfer of shares from stock-in-trade to investment doesn't result into any income; HC sets aside reassessment

The High Court of Gujarat held that Transfer of shares by assessee form stock-in-trade to investment did not result into any immediate income accruing to it which could be taxed in assessment year in question.

Aditya Medisales Ltd. v. Deputy Commissioner of Income-tax, Circle 1(1). [2016] 73 taxmann.com 197

6.0 CBDT launches online nivaran to resolve I-T grievances

CBDT has launched the ambitious e-nivaran facility for online redressal of taxpayers grievances related to refunds, ITRs and PAN among others as part of its initiative to reduce instances of harassment of the public when it comes to complaints related to the I-T department.

An exclusive e-nivaran (electronic resolution) link has recently been activated on the e-filing portal of the department-

https://incometaxindiaefiling.gov.in-where taxpayers can register their complaints through their personal computer systems and receive a special PIN number on their registered mobile and email, as their unique number to keep track of the issue. CPGRAM is already working effectively monitored by PMO.

ICAI

1.0 Guidance Note on Reports or Certificates for Special Purposes

> The Institute of Chartered accountants of India has issued Guidance Note on Reports or Certificates for Special Purposes (Revised 2016).

> This guidance note supercedes the Guidance Note on Audit Reports or Certificates for Special Purposes, issued by the ICAI in 1984.

2.0 Threatening letter issued by CA to recover fees from client is an act of professional misconduct

The High Court of Delhi held that threatening a client while raising bill by CA for professional services that legal action would be initiated in case of non-payment of professional fees was a professional misconduct; penalty of reprimand would be leviable.

Council of the Institute of Chartered Accountants of India v. Mahesh Kumar Gupta. [2016] 73 taxmann.com 83 (Delhi)

FINANCIAL INDICATORS

	Current Rate*	Previous Month	3 Month ago	6 Month ago
3 Month LIBOR (%)	0.87	0.84	0.66	0.63
SENSEX	28082.34	28384.21	27,707.42	24900.63
NIFTY	8708.80	8729.85	8,491.65	7614.35
CRR (%)	4	4	4	4
REPO (%)	6.25	6.50	6.50	6.50
REVERSE REPO (%)	5.75	6.00	6.00	6.00
Gold (per 10 gm)	29809	31150	31564	29131
Silver (per kg)	42231	45524	48075	36671
Crude (USD/bbl)	49.83	45.88	44.81	39.72
₹ vs USD	66.58	66.55	67.14	66.47
₹ vs Euro	74.40	75.02	74.11	75.90
₹ vs 100 Yen	64.56	65.13	65.89	61.04
₹ vs RMB	9.94	10.01	10.04	10.32
₹ vs Pound	82.48	88.59	86.91	94.04
MCX Aluminium (per kg)	111.80	104.55	110.45	101.10
MCX Copper (per kg)	321.55	311.85	322.05	308.20
*As on October 10, 2016	(Sources: MoneyControl, NSE, BSE, RBI, MCX)			

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3.0 CA held guilty of misconduct as he didn't provide services after receiving Rs. 2.5 lakhs advance fee

The High Court of Delhi held that CA to be held guilty of misconduct as he didn't provide services after receiving Rs. 2.5 lakhs advance fee.

Council of the Institute of Chartered Accountants of India v. Rakesh Verma. [2016] 73 taxmann.com 40 (Delhi)

4.0 CA held guilty of professional misconduct for non-detection of fraud in concurrent audit : HC

The High Court of Delhi held that where respondent-Chartered Accountant did not detect fraudulent transactions in bank of which he was concurrent auditor, respondent was guilty of misconduct contemplated by clause (7) of Part 1 of Second Schedule, read with sections 21 and 22.

Council of Institute of Chartered Accountants of India v. Uma Shankar Jha. [2016] 73 taxmann.com 8 (Delhi)

5.0 CA held as guilty of professional misconduct as he had disclosed info gathered during audit

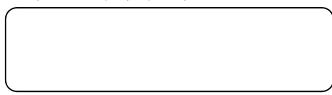
The High Court of Delhi held that Disclosure of confidential/privilege information by an auditor which was gathered in course of audit of a company would be a professional misconduct liable to penalty.

Council of The Institute of Chartered Accountants of India v. Devinder Kumar Jain



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