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FEEL GOOD FACTOR - AGENDA AHEAD

by Vinod Jain*

The economic growth in India is likely to exceed 8% during the current year, the inflation rate is less than 6%, the capital market is buoyant, industry has not only revived but has also started growing at a fast phase. Exports, Foreign Direct Investments, agriculture, food production are all growing. The Indian telecom sector has become the largest Telecommunication Network in the world with about 2 million lines adding every month.



INTERACTIVE SESSION ORGANISED BY BJP CA CELL

(L-R) Mr. Vinod Jain, FCA, Programme Co-ordinator; Dr. Harsh Vardhan, President, BJP (Delhi State); Mr. Arun Jaitley, Minister of Law, Justice, Commerce & Industry, Government of India; Mr. R.C. Chandiwala, FCA, Convenor, BJP CA Cell and Mr. Sunil Bhargava, FCA, Joint Convenor, BJP CA Cell

areas where still there is a long way to go. The important areas requiring attention would be:

- Population control by family planning including introduction of an appropriate incentive-cum-disincentive mechanism.
- The problem of unemployment is to be addressed at the grass root level both in rural sector as well as in urban sector.

Contd....5

There is a feel good factor in the Indian economy arising out of the pragmatic policies of the Government implementing economic reforms as well as concentrating on development of infrastructure. The living standards, employment opportunities, medical facilities, level of education, availability of power have all improved significantly.

India is a rising sun. We are a more confident India. We are confident that we can compete with the world and can also achieve our target of being a developed nation by year 2020. This all can be achieved, provided the Government at the Centre as well as various State Governments commit themselves to carry forward the reform process and plan an effective action in all those

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CAPITAL MARKET

1.0 EXCHANGE TRADED DERIVATIVE CONTRACTS – MINIMUM CONTRACT SIZE

It has been noticed that in the recent past, with the increase in prices of underlying stock, the contract size/value of most derivative contracts have far exceeded the stipulated value of Rs. 2 Lakhs. In case of some derivative contracts, due to a fall in the price of the underlying stock, the contract size/value has fallen below Rs. 2 Lakhs. It has therefore been decided that the lot size/multiplier shall be reduced for contracts with value exceeding Rs. 2 Lakhs. It has also been decided that the lot size/multiplier shall be increased for contracts with value less than Rs. 2 Lakhs.

Accordingly, for derivative contracts which have a contract size/value of Rs.4 Lakh and above, the lot size/multiplier shall be reduced to one-half of the existing lot size/multiplier. For derivative contracts which have a contract size/value of Rs.8 Lakh and above, the lot size/multiplier shall be reduced to one-fourth of the existing lot size/multiplier.

Similarly, where the contract size of the derivative contracts is less than Rs. 2 Lakhs, for the sake of standardisation, the existing lot size/multiplier shall be increased so as to bring the contract size to Rs. 2 Lakhs. The increase shall be carried out by increasing the lot size/multiplier in multiples of 2. To facilitate the aforesaid measures, the stipulation that the lot size/multiplier should be in the multiple of 100, stands revoked.

(Source: SEBI/DNPD/Cir- 20/2004/02/23 dated February 23, 2004)

2.0 ACQUISITION THROUGH OFF-MARKET TRANSACTIONS – THRESHOLD LIMIT 5%

SEBI is recommending that the threshold limit for acquisition through off-market transaction should be limited to 5 per cent of shares.

This is following the observation of SEBI's internal group report on takeover regulation that off market transactions avoided transparency and also did not contribute to price discovery. Investors, as a result, could not get the benefit of the best possible price, according to the report.

SEBI felt that on-market transactions ensure that the set of shareholders who are not party to off-market transaction, get an equal opportunity to exit at a price which would be non-discriminatory.

The report further recommended that an acquirer who hold more than 5 per cent but less than 15 per cent shares or voting rights should acquire additional shares or voting rights only through the stock market. Otherwise, the acquisition would trigger the open offer obligation.

3.0 SEBI ENCOURAGE DISCLOSURE OF CORPORATE GOVERNANCE RATING

SEBI will encourage companies to disclose their corporate governance rating, though it will not be made mandatory. As per SEBI, it is required to develop an instrument by which form and substance of corporate governance can be integrated.

4.0 IMPLEMENTATION OF UNIFORM SECURITY SPECIFIC ACTIONS

It has been decided that all stock exchanges shall implement the security specific decisions taken by BSE/NSE such as transferring of scrips from rolling settlement to trade for trade segment and vice-versa, imposition of margins, suspension of trading, etc in cases where such securities are also listed and traded on those stock exchanges.

For this purpose, all the stock exchanges shall obtain the necessary information regularly from the website/s of BSE/NSE and concurrently implement the security specific decisions taken by BSE/NSE.

(Source: SEBI/MRD/SE/Cir- 12/2004 dated February 26, 2004)

5.0 MENTIONING OF BANK ACCOUNT & PAN BY INVESTORS

With a view to further strengthen the process of "know your client" for mutual funds, it shall be mandatory for the investors of mutual funds schemes to mention their bank account numbers in the applications/requests for redemption.

Also, wherever an application is for a total value of Rs. 50,000 or more, the applicant should mention his/her Permanent Account Number (PAN) allotted under the Income Tax Act, 1961.

(Source: SEBI/IMD/CIR No.6/4213/04 dated March 01,2004)

6.0 SEBI CLARIFIES PARTICIPATORY NOTE (PN) CODE FOR OVERSEAS INVESTMENT COMPANIES

SEBI has clarified on the participatory notes issue and defines entities that could be deemed as "regulated entities" to come into the Indian market through Participatory Notes (PN) route.

Earlier, it was directed by SEBI that PNs could be issued only to "regulated entities" from February 3, but gave a grace period of five years for terminating PNs that have already been issued to unregulated entities. The regulator has put the responsibility on the issuer to prove that the holder of PNs are regulated. It did not give official clarification on what it meant by 'regulated bodies'.

Now it has been clarified that, a "regulated bodies" are:

- Incorporated in a jurisdiction that requires filing of documents with a Registrar of Companies.
- Regulated, authorized or supervised by a Central Bank or a similar body such as the Bank of England, The Federal Reserve, The Hongkong Monetary Authority, The Monetary Authority of Singapore etc.
- Regulated, authorised or supervised by a securities or futures commission such as the Financial Services Authority (UK), SEC (USA), The Commodities Futures Trading Commission (USA) etc.
- Any member of the securities or futures exchanges in any country, state or territory such as NYSE, LSE, Tokyo Stock Exchange, NASD (USA).

SEBI also directed that these organisations should ultimately be accountable to the respective securities/financial market regulators.

INCOME TAX

1.0 INCOME TAX JUDGEMENTS

1.1 Salaries to related parties

Hon'ble Allahabad High Court in the matter of *Abbas Wazir Pvt. Ltd. Vs. CIT* has held that where increase in salary as claimed with reference to larger responsibilities permitted by commercial expediency, there can be no disallowance with reference to Section 40A(2) merely because the payee is a Director. [255 ITR 77]

1.2 Interest on Borrowing for non-business purposes

Where the borrowing was utilized for lending the amount to a sister concern without interest, such lending being not part of assessee's business and hence such interest cannot be allowed as a business deduction. The above was decided in the matter of *Caldern Pharmaceuticals Limited Vs. CIT* by Hon'ble Calcutta High Court. The similar view was taken by Hon'ble Rajasthan High Court in the matter of *Indian Shaving Products Ltd. Vs. CIT*. [265 ITR 244/200].

1.3 Non Appearance of the appellant before the High Court

Where an appeal is filed by an aggrieved party against the order of the Tribunal, then the appellant is expected to attend the hearing and pursue the appeal. Since there was no appearance inspite of service of notice, reference at the assessee's instance was returned unanswered, so that the order of the Tribunal becomes final. It was so decided in the matter of *CIT Vs. Khattar and Company Pvt. Ltd.* by Hon'ble Allahabad High Court [265 ITR 252].

1.4 No penalty for technical omission in filing the TDS Return

Hon'ble Rajasthan High Court in the matter of *CIT Vs. Dy. Housing Commissioner, Rajasthan Housing Board* was of the view that State Undertaking had deducted tax and deposited in time but failed to file the Return in time. It was a technical fault which could have been taken leniently by exercise of discretion since such inadvertent office mistake would not justify penalty. A similar view was taken by Hon'ble High Court in *CIT Vs. Superintendent Engineer PWD* [265 ITR 686].

1.5 Provision for bad debts

Hon'ble Allahabad High Court in the matter of *Jubilant Organosys Vs. CIT* has confirmed that all bad debt is allowed on its being written off as irrecoverable in the accounts of the assessee vide Section 36(1)(vii) of the Act. The Court reiterated that mere provision will not be allowable as a bad debt. [265 ITR 420].

2.0 TDS ON IDBI FLEXI BONDS 2003-2004

Tax shall not be deducted at source u/s 193 of Income Tax Act, 1961 from interest on IDBI flexibonds 2003-2004 issued by Industrial Development Bank of India (IDBI).

Provided that the benefit under the said proviso shall be admissible in the case of transfer of such bonds by endorsement or delivery, only if the transferee informs the Industrial Development Bank of India (IDBI), Mumbai, by registered post within a period of sixty days of such transfer.

(Source: IT Notification No. 54 / 2004 dated 19.02.2004)

3.0 LOSSES ARISING FROM SECURITIES OR UNITS ARE NOT ELIGIBLE FOR TAX BENEFITS

Losses arising from purchase and sale of securities or units are not eligible for tax benefits, if it is proved that the transaction was carried out only for avoiding tax, according to a new CBDT circular (dt. February 23, 2004). According to the I-T department, everybody involved in a dividend stripping transaction benefits except the exchequer.

4.0 ITCC ABOLISHED IN COMMERCIAL CONTRACTS

CBDT reiterated that Income Tax Clearance Certificate (ITCC) is not required to be furnished at the time of bidding for contracts and in other situations. A press release to this respect was issued on 20th January 2003.

It is also clarified that ITCC shall also not be required for any other purposes such as registration or renewal of registration of contractors, renewal of import / export licenses, renewal of post licenses and renewal of shipping licenses. PAN will have to be quoted in tenders or other relevant documents.

(Source: Circular No. 2/2004 dated February 10, 2004)

5.0 CLARIFICATION REGARDING PROVISIONS OF SECTION 80HHC AND 80HHE OF THE INCOME TAX ACT, 1961

The Board had earlier decided that all the appeals which pertain to Section 80HHC and Section 80HHE of the Income Tax Act, 1961 pending at the level of CIT (Appeals) be kept in abeyance and not to enforce the collection of demand attributable to such issues. At that time, it was also decided that the assessments involving such issues pending at the level of Assessing Officers may also be kept in abeyance till 30th November, 2003 by which time the decision in these issues was expected to be finalized, unless the matter was getting time-barred.

Now, after a detailed examination of the issues relating to Section 80HHC, including the allowance of the deduction on credits in respect of the Duty Entitlement Passbook Scheme, it has been decided that it is not feasible for the Board to intervene in these matters, at this stage. However, the issue regarding section 80HHE has already been clarified and accordingly a Circular No.3/2004 dated 12th February 2004 has been issued in this regard.

The Board's direction for keeping in abeyance various appeals / enforcement of collection of demand / assessments involving such issues as mentioned above is extended from 30th November 2003 till the date of issue of this letter.

(Source: Circular No. F.No. 176/SZ/2002-ITAJ Dated 17.02.2004)

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1.0 LIBERALISATION OF CURRENT ACCOUNT TRANSACTIONS

With a view to further liberalise, it has been decided to remove the following restrictions on remittances by residents under Current Account Transactions, as define under FEMA regulations:

1.1 Remittance for securing Insurance for Health from a Company Abroad

In terms of FEMA regulations, payment for securing insurance for health from a company abroad requires the approval of Ministry of Finance (Insurance Division). It has since been decided that Government's approval would not be required and Authorised Dealers (ADs) may freely allow such remittances.

1.2 Remittance by Artiste

In terms of FEMA regulations, remittance by artistes e.g. wrestler, dancer, entertainer, etc., requires prior approval of RBI. Henceforth, ADs may freely allow such remittances.

1.3 Commission to Agents abroad for Sale of Residential Flats/ Commercial Plots in India

In terms of FEMA regulations, remittance by way of commission to agents abroad for sale of residential flats/commercial plots in India, exceeding 5% of the inward remittance requires RBI's approval. ADs may freely allow such remittances upto USD 25,000 or 5% of the inward remittance, per transaction, whichever is higher.

1.4 Short-term Credit to Overseas Offices of Indian Companies

In terms of FEMA regulations, short-term credit to overseas offices of Indian companies requires prior approval of RBI. Henceforth, ADs may allow such facility without RBI's approval.

1.5 Remittance for Advertisement on Foreign Television Channels

In terms of FEMA regulations, RBI's prior approval is required in cases where the export earnings of the advertiser are less than Rs.10 lakhs during each of the preceding 2 years. Henceforth, ADs may freely allow remittances for advertisement on foreign television channels.

1.6 Remittance of Royalty and Payment of lump- sum fee

In terms of FEMA regulations, RBI's prior approval is required if the agreement for technical collaboration has not been registered with RBI. Henceforth, ADs may allow remittances for royalty and payment of lump-sum fee provided the payments are in conformity with the norms as prescribed i.e. royalty does not exceed 5 per cent on local sales and 8 per cent on exports and lump-sum payment does not exceed USD 2 million.

1.7 Remittance for Use and/or Purchase of Trademark/ Franchise in India

In terms of FEMA regulations, RBI's prior approval is required for remittance towards use and/or purchase of trademark/franchise in India. Henceforth, ADs may freely allow remittances for use of trade mark/franchise in India. However, RBI's prior approval will continue to be required for remittance towards purchase of trademark/franchise.

1.8 Remittance of Hiring Charges of Transponders

In terms of FEMA regulations, RBI's prior approval is required for remittance of hiring charges of transponders. This item stands shifted to Schedule II of the Foreign Exchange Management (Current Account Transactions) Rules, 2000 and henceforth, the proposal for hiring of transponders by TV Channels and internet service providers will require prior approval of the Ministry of Information & Broadcasting.

(Source: RBI/2004/74 / A.P. (DIR Series) Circular No.76 dated 24.02.2004)

2.0 GRANT OF LOANS BY INDIAN COMPANIES TO THE EMPLOYEES OF THEIR BRANCHES ABROAD

It has been decided to grant general permission to the Indian Companies in India to grant loans in foreign currency to the employees of their branches outside India for personal purposes in accordance with the lender's Staff Welfare Scheme/Loan Rules and other terms and conditions as applicable to its staff resident in India and abroad.

(Source: RBI/2004/67/ A.P. (DIR Series) Circular No.74 dated 20.02.2004)

3.0 IMPORTS INTO INDIA - DIRECT RECEIPT OF IMPORT BILLS/DOCUMENTS - LIBERALISATION

Import bills and documents should be received from the banker of the supplier by the banker of the importer in India. Authorised dealers should not, therefore, make remittances where import bills have been received directly by the importers from the overseas supplier, except in the following cases:

- Where the value of import bill does not exceed USD 100,000.
- Import bills received by wholly-owned Indian subsidiaries of foreign companies from their principals.
- Import bills received by Super Star Trading Houses, Star Trading Houses, Trading Houses, Export Houses, 100% Export Oriented Units/ Units in Free Trade Zones, Public Sector Undertakings and Limited Companies.
- Where the value of import bill does not exceed USD 100,000 in respect of import of -
 - books and magazines
 - life saving drugs/equipments by Hospitals, etc. and
 - imports by reputed research and other development institutions like Tata Institute of Fundamental Research, C-DOT, Indian Institute of Technology, Indian Institute of Science and Universities.
- Import bills received by all limited companies viz. public limited, deemed public limited and private limited companies.

In all other cases, at the request of importer clients, authorised dealers may receive bills direct from the overseas supplier upto USD 100,000 (U.S. Dollars one lakh only), provided the authorised dealer is fully satisfied about the financial standing/status and track record of the importer customer. Before extending the facility, authorised dealer should obtain report on each individual overseas supplier from the overseas banker or reputed credit agency.

(Source: RBI/2004/45 A.P.(DIR Series) Circular No.66 dated 6.02.2004)

EXIM-FEMA

4.0 EXPORT OF GOODS BY WAY OF GIFTS - LIBERALISATION

Export of goods by way of gift is permissible subject to declaration by the exporter that goods are not more than one lakh rupees in value. With a view to further liberalising the procedure it has been decided to raise the above limit to five lakh rupees per annum with immediate effect

(Source: Circular No. A.P.(DIR Series) Circular No. 73 dated 20.02.2004)

5.0 EXPORT OF GOODS TO RUSSIA AGAINST REPAYMENT OF STATE CREDITS IN RUPEES - PAYMENT OF AGENCY COMMISSION

It has been decided to permit payment of commission in free foreign exchange for exports of tea and tobacco to Russia against repayment of State Credits upto 10 per cent of the invoice value.

Accordingly, Authorised Dealers may permit payment of commission in free foreign exchange upto 10 per cent of invoice value for export of tea and tobacco only.

(Source: RBI/2004/64/ A.P. (DIR Series) Circular No.71 dated 20.02.2004)

6.0 CLARIFICATION REGARDING AUTOMATIC ROUTE FOR RESIDUAL ACTIVITIES UNDER FOREIGN DIRECT INVESTMENT (FDI)

It may be observed that in the amended Notification No. FEMA 94/2003-RB dated June 18, 2003 there is no mention in the Annexure B about the investment in respect of residual activities viz. "Any other Sector/Activity (other than included in Annexure A)" previously classified under item No.9 of Annexure B to Schedule I of FEMA.20/2000-RB dated May 3, 2000.

Government have since clarified that Automatic Route for FDI upto 100 per cent would continue to be available for residual activities as was previously available.

(Source: RBI/2004/46/ A.P.(Dir Series) Circular No.67 dated 6.02.2004)

7.0 SERVICES SECTOR ALLOWED TO IMPORT CAPITAL GOODS DUTY FREE

The government has removed all restriction on duty-free import of capital goods by the services sector.

Capital goods can be imported by service providers duty-free under DFCEC scheme. The restriction on importing capital goods has been removed.

DGFT and the customs department have notified the change. There is no need for service provider to opt for the EPCG scheme.

The revenue department's stipulation was creating confusion over import of certain items like computer which are capital goods for software companies. Any type of capital goods required by service providers can be imported now as there is no need to distinguish professional equipment or office equipment.

It is reiterated that under DFCEC scheme for service providers, inter-alia, import of any capital goods required by the service providers for rendering service shall also be permitted.

Contd. from page no. 1

FEEL GOOD FACTOR

- The power shortage is required to be addressed by suitably implementing vision of Shri Suresh Prabhu, FCA, former Minister of Power.
- The river linking project is to be coupled with a comprehensive water preservation, purification and distribution plan to provide enough drinking water of right quality to everyone.
- The provision of good quality medical and educational facility at affordable price and even free to the needy. The upgradation of quality and service in Government's educational and medical institutions to world class levels is a must.
- The labour reforms including exit option are required to be implemented with a big political will and consensus. Even the cases of labour exploitation, non-provision of adequate social security benefits are rising and are required to be addressed strategically.
- The Grameen Sadak Yojana and other infrastructure initiatives are to be implemented swiftly.
- The problems of uncultivated land, requirement of better market access to agricultural produce, upliftment of living standards and employment opportunities to the rural poor are some of the important areas requiring continuing efforts. No one should remain below poverty line.

The vision 2020 of a developed nation should be a mission of everyone in the nation. The Chartered Accountants community need to not only take advantage of better economic and other opportunities but also contribute effectively towards the economic growth. A trust in the social system, upgradation of national value system and a transparent & effective governance of India is a dream which can now come true.

ATTENTION !

Readers are welcome to come forward and contribute articles and write ups on various topics for consideration by the Editorial Board for publication in the issues of Chartered Accountant World

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AUDIT

1.0 COMPANIES CAN WRITE OFF VRS EXPENSES

ICAI has decided to allow business enterprises to write off expenditure on voluntary retirement schemes over a period of 3-5 years. This will be at variance with international practice.

An in-principle decision has been taken to revise the accounting standard that required companies to expense VRS expenditure in the quarter it was incurred.

The Institute will soon issue an exposure draft on the proposed limited revision. The revision is expected to be notified before the companies prepare their full year financial statements for 2003-04.

The revision to the accounting standard on intangibles (AS-26) will allow companies to treat termination benefits paid to employees on termination of employment ahead of normal retirement date on accepting voluntary retirement as deferred revenue expenditure. An immediate consequence of such accounting treatment of the VRS expenditure is that bottom line of companies will not take a one time hit in the quarter or year in which massive job cuts were made.

The AS-26 required companies to immediately write off expenditure incurred on intangible items, including VRS, in the quarter in which it was incurred. The standard came into effect from April 1, 2003. The limited revision is also proposed to be made applicable with retrospective effect from April 1, 2003.

The revision follows lobbying by the affected companies and the Confederation of Indian Industry. They had represented to the Government, National Advisory Committee on Accounting Standard (NACAS) - government's advisor on accounting standards - and ICAI that such treatment of VRS expenditure would show mid-sized companies in the red in the quarter a VRS payout was made.

It was felt that the Indian conditions were very different to justify adoption of international practice on expensing VRS. Globally, companies in most developed countries stake one-time hit when VRS packages are handed out.

The industry had also pointed out the amounts involved were proportionately much larger. The CII in its representation elaborated that VRS should be treated as a restructuring exercise implemented by companies to emerge more competitive.

It was reported earlier that NACAS had favoured relaxation of norms on expensing VRS payout and had suggested to the ICAI to consider a limited revision of AS-26.

2.0 GRANT OF ADVANCES AGAINST THE SECURITY OF RELIEF BONDS

The banks are advised to exercise caution and keep the following aspects in view while sanctioning loans against Relief Bonds/Certificates:

- No third party loans can be sanctioned against Relief Bonds.
- As per the Government of India Notification, Savings Bonds are not eligible for being held as security against loans.

- There is no provision to record a lien of the lending bank against a Government Security including Bond Ledger Account. In case the lending bank would like to have the Government Security as a collateral, it has to be got transferred in its name. In this connection, we further advise that as per extant instructions, Relief Bonds can be held by any banking company if the same are transferred in the name of bank for the limited purpose of obtaining advances against the security of such bonds.

(Source: RBI/2004/82/BPD.PCB.Cir. 36 /13.08.00/2003-04 dated 27.2.2004)

3.0 PRUDENTIAL GUIDELINES ON INVESTMENT IN NON-SLR DEBT SECURITIES

In order to contain the risks arising out of non-SLR investment portfolio of banks, in particular through private placement, the guidelines on banks' investment in non-SLR debt securities have been furnished by RBI, which are available at RBI website (www.rbi.org.in). These guidelines come into force with immediate effect and have to be fully complied with by March 31, 2004. The highlights of the same are as follows:

a) Regulatory requirements

- Banks should not invest in non-SLR securities of original maturity of less than one year.
- Present RBI regulations preclude banks from extending credit facilities for certain purposes. Banks should ensure that such activities are not financed by way of funds raised through the non-SLR securities.
- Banks must not invest in unrated debt securities and unlisted shares of All-India Financial Institutions.

b) Internal assessments

Since non-SLR securities are mostly in the form of credit substitutes, banks are advised to (i) subject all their investment proposals relating to non-SLR securities to credit appraisal on par with their credit proposals, irrespective of the fact that the proposed investments may be in rated securities, (ii) make their own internal credit analysis and rating even in respect of rated issues and that they should not entirely rely on the ratings of external agencies and (iii) strengthen their internal rating systems which should also include building up of a system of regular (quarterly or half-yearly) tracking of the financial position of the issuer with a view to ensuring continuous monitoring of the rating migration of the issuers/issues.

c) Role of Boards

Banks should ensure that their investment policies duly approved by the Board of Directors are formulated after taking into account all the relevant issues specified in these guidelines on non-SLR investment. Banks should put in place proper risk management systems for capturing and analysing the risk in respect of non-SLR investment and taking remedial measures in time.

d) Disclosures

Banks should disclose the details of the issuer composition of non-SLR investments and the non-performing non-SLR investments in the 'Notes on Accounts' of the balance sheet, as prescribed.

(Source: RPCD.CO.RF.BC.65/07.02.03/2003-04 dated February 23, 2004)

LATEST IN FINANCE

1.0 GRANT OF RUPEE LOAN TO NRIs - LIBERALISATION

Authorised Dealers are allowed to grant loans in rupees to Non-Resident Indians (NRIs) (i) against the security of shares or immovable property in India for personal or business purposes and (ii) housing loans against the security of houses/flats to be acquired for acquisition of residential accommodation in India.

It has been decided to allow Authorised Dealers to grant rupee loans to NRIs as per policy laid down by the bank's Board of Directors, other than for purposes specified below. The repayment of the loan may be made by debit to NRE/FCNR/NRO accounts of the non-resident borrowers or out of inward remittances by the borrowers. The quantum of loan, rate of interest, margins etc. on such loans may be decided by the Authorised Dealers based on relevant directives issued by the Department of Banking Operations and Development in this regard.

Authorised Dealers may ensure that the proceeds of rupee loan are not utilised for any of the following activities:

- The business of chit fund, or
- Nidhi Company, or
- Agricultural or plantation activities or in real estate business, or construction of farm houses, or
- Trading in Transferable Development Rights (TDRs), or
- Investment in capital market including margin trading and derivatives.

(Source: RBI/2004/55/A.P. (DIR Series) Circular No.69 dated 12.2.2004)

2.0 REVISED GUIDELINES FOR COMPROMISE SETTLEMENT OF CHRONIC NPAs UPTO RS. 10 CRORE

It has been decided, in consultation with the Government of India, that the applications for one time settlement (OTS) of chronic NPAs upto Rs. 10 crore may be received upto July 31, 2004. Consequently, the last date of processing the applications received upto July 31, 2004 would also be extended to October 31, 2004.

(Source: Noti. No. DBS. FID. No. C-13 / 01.02.00 / 2003-04 Dated 17.02.2004)

3.0 STAFF CAN BORROW FREELY FROM BANKS FOR EMPLOYERS' IPO

There will be no cap on bank loans to individuals interested to invest in the IPO of the company they work for. Till now such borrowing from bank was capped at Rs. 50,000/- or an employees 6 month salary, whichever was less.

RBI has now given banks the freedom to decide the extent to which they want to finance employees interested in investing in shares of their own companies. The banks can assist employees to buy shares of their own company under the employees quota and assistance should be limited to 90% of the purchase price of the shares. It has been decided that all such loans should be treated as banks' exposure to capital market which is capped at 5% of the total outstanding advances at the close of the previous fiscal.

4.0 ECB FOR OVERSEAS DIRECT INVESTMENT/ MERGERS AND ACQUISITIONS

With a view to enable Indian corporates to become global players by facilitating their overseas direct investment, permitted end-use for ECB is enlarged to include overseas direct investment in Joint Ventures (JV)/Wholly Owned Subsidiaries (WOS). This would facilitate corporates to undertake fresh investment or expansion of existing JV/WOS including mergers and acquisitions abroad by harnessing resources at globally competitive rates.

ECB for overseas direct investment shall be in conformity with other parameters of the ECB guidelines issued vide A.P. (DIR Series) Circular No.60 dated January 31, 2004 and the existing guidelines on Indian Direct Investment vide Master Circular No.2/2003-2004 dated July 1, 2003 on Indian Direct Investment in JVs/ WOSs abroad read with A. P. (DIR Series) Circulars Nos. 41 and 42 dated December 06, 2003 and No. 57 dated January 13, 2004.

It may be noted that the ECB proceeds should be parked overseas until its utilisation for investment abroad. The above amendments to ECB Policy will come into force with immediate effect.

(Source: RBI/2004/72 / A.P.(DIR Series) Circular No. 75 dated 23.2.2004)

INSURANCE

1.0 ENTRY OF NBFCs INTO INSURANCE BUSINESS

It has been decided that NBFCs registered with Reserve Bank of India may take up insurance agency business on fee basis and without risk participation, without the approval of Reserve Bank of India subject to the following conditions:

- The NBFCs should obtain requisite permission from IRDA and comply with the IRDA regulations for acting as 'composite corporate agent' with insurance companies.
- The NBFCs should not adopt any restrictive practice of forcing its customers to go in only for a particular insurance company in respect of assets financed by the NBFC. The customers should be allowed to exercise their own choice.
- As the participation by a NBFC's customer in insurance products is purely on a voluntary basis, it should be stated in all publicity material distributed by the NBFC in a prominent way. There should be no 'linkage' either direct or indirect between the provision of financial services offered by the NBFC to its customers and use of the insurance products.
- The premium should be paid by the insured directly to the insurance company without routing through the NBFC.
- The risks, if any, involved in insurance agency should not get transferred to the business of the NBFC.

However, NBFCs satisfying the eligibility criteria laid down in the guidelines dated June 9, 2000 contained in our circular No. DNBS(PD)CC.No.13/02.01/99-2000 dated June 30, 2000 referred to above and intending to set up insurance joint ventures with equity contribution on risk participation basis or making investments in the insurance companies, would continue to obtain the prior approval of the Reserve Bank.

(Source: RBI/2004/51/DNBS(PD)C.C.No.35/10.24/2003-04 dated 10.02.2004)

SERVICE TAX

1.0 SCOPE OF SERVICE TAX AUDIT EXTENDED

The Finance Ministry has extended the scope of service tax audit to all the 58 services for which the service tax is currently levied. Until now, only a few services such as telephone, general insurance and stock broking service came under the ambit of service tax audit.

INSURANCE AGENCY - PROHIBITED FOR CHARTERED ACCOUNTANTS IN PRACTICE

The Chartered Accountants in practice can not undertake Insurance Agency or Insurance Brokerage in their individual name or in the name of the Chartered Accountant firm, as it is prohibited in terms of the Chartered Accountants Act, 1949 and Code of ethics issued by the Institute of Chartered Accountants of India (ICAI).

NEW RBI EMPANELMENT NORMS

Reserve Bank of India has postponed the implementation of New Norms for empanelment of Chartered Accountant firms for allotment of Central Statutory audit of Banks and Statutory Bank Branch Audit, by one year.

"The Chartered Accountant World" had published an Editorial in February 2004 issue on new RBI Empanelment Norms and had raised several issues for consideration by Reserve Bank of India and the Institute of Chartered Accountants of India.

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