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EDITORIAL VINOD JAIN*

CORRUPTION IN TAX DEPARTMENT – WHO WILL TAME THE TIGER?

The Government of India has brought in several changes in the procedures and administration of tax laws, with a view to reduce inconvenience and harassment of taxpayers. A planned reduction in average tax rate over last few years has also contributed significantly to increase compliance by the assesseees. The profession of Chartered Accountants has also played a key role in persuasive education of assesseees towards more and more voluntary tax compliance. The menace of a parallel black money economy has significantly eroded out of concerted efforts of Chartered Accountants duly supported by the business, industry, service sector and the society.

The corruption in taxation department has, however, severely hampered the cleanliness and growth orientation of the system. Corruption is one major hurdle in buoyant growth of the Indian economy. The corruption in the tax department is deep and

requires a major commitment at senior political and bureaucratic level to tame the corruption tiger. The tax department officials, in large number of cases delay assessments, refunds, rectification and appeal effect with a view to ensure that their palms are greased. The present system of scrutiny of the returns filed by the assesseees does not bring much additional revenue to the Government and only breeds corruption. The following important areas would require immediate attention:

- The various procedural actions undertaken at the end of the tax officials including assessments, refunds, rectification, appeal effect etc. should be made within a specified time frame. The adherence of such time frame should be monitored at the senior level including by providing for an independent governance audit ensuring compliance of specific time limits and procedures.
- It is important to build a sense of faith between government and the assesseees and the number of scrutiny assessments have to be significantly limited to a maximum random sample of 1%. In no category, a sample size should be allowed to go above 3% for any reason. This sample size will ensure identification of systematic procedural and intentional loopholes and lapses and will be enough deterrent.
- The discretion of the tax officials to pick up scrutiny cases has to be completely withdrawn. The compulsory scrutiny specified in certain cases should not be mandated. The scrutiny guidelines issued this year suffer from a serious setback as

it not only provide for compulsory scrutiny in a large number of areas but also provide for discretion to tax officials to pick up cases for scrutiny. This will only breed corruption. A centralised random sampling should only be continued.

- The incidents of surveys, searches and raids are to be marginalised. In a democratic set up of our kind this type of actions are not warranted. In the current technologically developed scenario the government could concentrate on cross verification of various transactions by

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for details please see page no. 8

1 Banks to Sue wilful defaulters

RBI has directed banks to monitor the end-use of funds and obtain certificates from borrowers ensuring that funds are utilised for the purpose for which they are obtained. Banks have been asked to 'promptly' consider initiating criminal action against wilful defaulters under the provisions of sections 403 and 415 of the Indian Penal Code (IPC) 1860.

2 Who is a wilful defaulter?

As per the revised definition, a wilful default happens when the unit fails to meet its payment/repayment obligation even when it has the capacity to honour the obligation, the unit diverts the funds for other purposes or siphons them off and they are not available with the unit even in the form of assets. According to RBI, acts which can be termed as 'diversion of funds' are as follows:

- Utilisation of short-term working capital funds for long-term purposes not in conformity with the terms of sanction.
- Deploying borrowed funds for the purposes/activities or creation of assets other than those for which the loan was sanctioned.
- Transferring funds to subsidiaries/group companies or other corporates by whatever modalities.
- Investment in other companies by way of acquiring equities/debt instruments without the approval of lenders.

However, as per RBI while stringent measures would help, it is necessary to ensure that the classification of wilful defaulters is objective and borrowers who default due to genuine reasons are not put to hardship.

3 Companies turn to foreign shores for funds

With the improvement in market conditions, fund seeking corporates have been quick to get into action, firming up plans to raise funds from overseas investors through the FCCB or GDR/ADR route. Corporates like Welspun Gujarat Stahl Rohren (WGSR), Torrent Pharmaceuticals and Gammon India are among the latest to join the FCCB/GDR bandwagon.

4 Booking of Forward Contracts Based on Past Performance

In terms of RBI's A.P.(DIR) Series Circular No. 46 dated December 9, 2003 and paragraph A.2 of RBI Master Circular No. 2 dated July 1, 2004 on Risk Management and Inter-Bank Dealings, it has been provided that importers/exporters are permitted to book forward contracts on the basis of past performance (without production of any underlying documents) up to the average of the past three years' or the previous year's turnover, whichever is higher.

Outstanding contracts under this facility at any point of time should not exceed 50 per cent of the eligible limit. Importers/exporters desirous of higher limits are required to approach the Reserve Bank for necessary approval.

It has now been decided that AD banks may, henceforth, grant permission to their importer / exporter constituents for enhancement of the outstanding limit of forward contracts under this facility from 50 per cent to 100 per cent of the eligible limit after examination of the following documents:

- i) A certificate from the Chartered Accountant of the customer that all guidelines have been adhered to while utilizing this facility.
- ii) A certificate of import/export turnover of the customer during the past three years duly certified by their Chartered Accountant/bank in the format, as prescribed.

(Source: RBI/2004-05/265 dated November 1, 2004)

5 RBI plans clearing house for cheque truncation

The RBI is planning to set up a centralised clearing facility and a central warehouse in Delhi prior to the introduction of cheque truncation system in the national capital region in July, 2005.

Cheque Truncation System (CTS) is an image based cheque clearing system. With CTS, the cheque will be scanned upon deposit and its electronic image (instead of the physical cheque itself) will be transmitted throughout the entire clearing cycle.

6 Closure of Inter-Bank Cheque Clearing System in Mumbai

As, most of the inter-bank transactions in Mumbai are now being settled on the Real Time Gross Settlement (RTGS) System platform, hence, the Inter-Bank Cheque Clearing System in Mumbai has become virtually redundant, and so closed with effect from 1st of November 2004.

(Source: Circular No. PAD.MRO.CH.No.3214/12.02/2004-05 dated 19.10.2004)

7 Trade Credits for Imports into India – Issue of Guarantees

In order to promote investment activity and to further liberalise the procedures relating to trade credits for imports, the policy regarding issuance of guarantees has been reviewed.

Accordingly, it has been decided to accord general permission to ADs to issue guarantees / LoUs / LoCs in favour of overseas supplier, bank and financial institution, up to USD 20 million per transaction for a period up to one year for import of all non-capital goods permissible under Foreign Trade Policy (except gold) and up to three years for import of capital goods, subject to prudential guidelines issued by Reserve Bank from time to time.

The period of such guarantees/LoUs/LoCs has to be co-terminus with the period of credit, reckoned from the date of shipment.

(Source: RBI/2004-05/263 dated November 1, 2004)

8 Mid-term Review of Annual Policy for the year 2004-05

The important highlights of Mid-term Review of Annual Policy for the year 2004-05 are as follows:

(a) Ceiling on Interest Rates on NRE Deposits

The ceiling on NRE interest rates has been increased to LIBOR/SWAP rates of US dollar of corresponding maturities plus 50 basis points from the existing level of US dollar LIBOR/SWAP rates

(b) Fixation of Interest Rates on FCNR(B) Deposits

Banks may fix the ceiling on interest rates on FCNR(B) deposits on monthly basis for the following month based on rates prevailing as on the last working day of the preceding month. The ceiling interest rates on FCNR(B) deposits, however, would continue to be at LIBOR/SWAP minus 25 basis points as hitherto.

(c) Reduction of Tenor of Domestic Term Deposits

Banks, at their discretion, can reduce the minimum tenor of retail domestic term deposits (under Rs.15 lakh) from 15 days to 7 days.

(d) Enhanced Lending to Priority Sector

Limits on advances under priority sector for dealers in agricultural machinery has been increased from Rs. 20 lakh to Rs.30 lakh and for distribution of inputs for allied activities has been increased from Rs.25 lakh to Rs.40 lakh.

(e) Liberalisation of Bank Finance to NBFCs

Banks may, henceforth, extend finance to NBFCs against second hand assets financed by them, provided suitable loan policies duly approved by the banks Boards are put in place.

(f) Enhancement of Composite Loan Limit to SSI Units

Composite loan limit for SSI entrepreneurs has been increased from Rs.50 lakh to Rs.1 crore.

(g) Investment by Banks in Securitised Assets Pertaining to SSI Sector

Investments made by banks in securitised assets representing direct lending to the SSI sector would be treated as their direct lending to SSI sector under priority sector, provided the pooled assets represent loans to SSI sector which are reckoned under priority sector and the securitised loans are originated by banks / financial institutions.

(h) Housing Loan

Banks, with the approval of their Boards, may extend direct finance to housing sector up to Rs.15 lakh, irrespective of location, as part of their priority sector lending. At present, banks direct finance for housing up to Rs.10 lakh in rural and semi-urban areas is treated as priority sector lending

(i) Commercial Paper (CP)

In order to provide an option to issuers to raise short-term resources through CP as also an avenue to investors to invest in quality short-term papers, the minimum maturity period of CP is reduced from 15 days to 7 days with immediate effect.

(j) Repo Rate

The fixed reverse repo rate will stand at 4.75 per cent and the fixed repo rate with a spread of 125 basis points over the fixed reverse repo rate, will stand at 6.0 per cent.

9 Notice on cheques by post with correct address considered as served

Warning unscrupulous elements avoiding service of notice regarding bouncing of cheques issued by them, the Supreme Court has ruled that once such a notice was sent by post to the correct address, then it will be taken as served on the alleged offender.

This ruling was given by a bench comprising justice Arijit Pasayat and C K Thakker while rejecting a plea that the period of 15 days to make good the payment promised through the cheque will begin only after the receipt of notice.

10 Revised Norms for Execution of Bond and Bank Guarantee

The **Bank Guarantee/cash security** shall be taken as per the following norms for the purpose of permitting clearance of imported goods under Advance License/EPCG Schemes:

- All exporters who have an export turnover (physical exports) of Rs 5 crores in current or preceding financial year and having a good track record of three years of exports – **Nil**
- Public Sector Undertaking – **Nil**
- Star Export House – **Nil**
- Manufacturer exporters registered with Central Excise, who have been exporting during the previous two financial years and have minimum export of Rs. 1 crore or more during the preceding financial year – **Nil**
- Manufacturer exporters registered with Central Excise, who have paid central excise duty of Rs.1 crore or more during the preceding financial year – **Nil**
- Manufacturer exporters who are not covered under (a), (b),(c),(d) & (e) above – **25%**
- Others – **100%**

Bank Guarantee exemption shall be admissible subject to the following conditions:

- The license holder has not defaulted on the export obligation.
- The exporter shall submit the proof of export performance or payment of duty, as the case may be, duly certified by the jurisdictional Superintendent of Central Excise. In other cases the exporter shall produce a certificate duly authenticated by a practicing Chartered Accountant. The Chartered Account issuing the certificate will mention his STC code and other registration details in the certificate.
- The License holder should not have been penalized under the Customs Act, 1962, the Central Excise Act, 1944, the FEMA.

(Source: Cir. 58/2004 – Cus. Dated October 21, 2004)

11 Securitisation of normal assets

As per the Reserve Bank of India, (RBI) securitisation of normal assets to be governed under a separate set of regulations and not within the scope of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (Sarfasi) Act.

The Central Bank has suggested that securitisation of normal assets can be covered under a separate legislation, regulated by Securities and Exchange Board of India (SEBI) through amendments to Sebi Act or to Securities Contract Regulation Act.

RBI is of the view that Sarfasi Act should focus on asset reconstruction companies (ARCs) for dealing with impaired assets and their securitisation.

12 Ombudsman advisory to foreign banks

The office of the Banking Ombudsman has shot off an advisory to a clutch of foreign banks, listing a few basic dos and don'ts, based on the many grievances lodged by their clients. Complaints about foreign banks constitute the single largest block of issues raised by customers under the revised Banking Ombudsman Scheme, 2002

13 India to grab more FDI than China

According to Management Consulting firm AT Kearney, more than half of foreign offshore investments over the next three years are likely to be placed in India and China. As per AT Kearney, India is all set to grab a bigger share of the FDI pie, with 35% of the total expected offshore investments compared to China with 16% and the share of the rest of Asia is expected at 14%.

14 CDR threshold to be lowered to Rs.10 crore

The threshold level for considering Corporate Debt Restructuring (CDR) proposals by banks/all India financial institutions is likely to be halved to Rs10 crore to enable restructuring of corporate debt of viable medium-sized enterprises, affected by certain internal and external factors.

RBI is studying a proposal to this effect, following successful restructuring of debt of large corporates, ever since the CDR mechanism was established in March 2002.

As per the current situation, the CDR system covers only multiple accounts/syndication/consortium of accounts with outstanding exposure of Rs. 20 crore and above by banks/ financial institutions.

The CDR has saved many corporates, is scored by the fact that since its inception, 106 large corporate accounts, primarily from the iron & steel, petrochemicals, fertiliser, textiles, power, and cement sectors, with outstanding loans aggregating Rs. 65,412 crore have been restructured through CDR mechanism.

manishgoyal@inmacsindia.com

INSURANCE

1 Entry of RRBs into Insurance Business

The issue of permitting Regional Rural Banks (RRBs) to undertake insurance business has been examined and it has been decided to permit RRBs to undertake insurance business as corporate agent without risk participation subject to fulfilling of the certain terms and conditions.

CONGRATULATIONS



Mr. D.P. Gupta, FCA



Mr. R.K. Gupta, FCA

We congratulate our members having brought out a comprehensive and useful book having title "Risk Based Internal Audit in Banks"

EXIM-FEMA

1 FDI Limit Raised for Domestic Airlines

Foreign Direct Investment (FDI) cap for Air Transport Services (Domestic Airlines) has been raised by the Government. The new guidelines permit 49 per cent through automatic route and 100 per cent by NRIs/ Overseas Corporate Bodies through automatic route.

2 Issue of Bank Guarantee in Favour of Foreign Airlines IATA – Freely Permitted

AD banks, may, in their ordinary course of business, issue guarantees in favour of foreign airline companies or IATA on behalf of IATA approved travel agents. In case of invocation of the guarantee, the authorised dealer bank should send a detailed report to Reserve Bank of India, explaining the circumstances leading to the invocation of the said guarantee.

(Source: RBI/2004-05/221 dated October 16, 2004)

3 Period of Realisation for EOUs

It has now been decided that 100 per cent Export Oriented Units (EOUs) and units set up under the Electronics Hardware Technology Parks (EHTPs), Software Technology Parks (STPs) and Bio-Technology Parks (BTPs) Schemes would be allowed to realise and repatriate the full value of export proceeds within a period of twelve months from the date of export. The existing guidelines relating to 100 per cent credit of foreign exchange earnings to EEFC account by the above units would continue as hitherto.

(Source: RBI/2004-05/264 dated November 1, 2004)

4 Remittance of Hiring Charges of Transponders

Authorised Dealer banks may allow the remittances towards hiring of transponders by TV Channels and Internet Service Providers, after obtaining the approval of the Ministries concerned

(Source: RBI/2004-05/234 dated October 25, 2004)

1 Provisional attachment of property

The Finance Ministry recently clarified that if the tax payer is backed by sufficient assets to meet the demand, revenue authorities will not provisionally attach property.

(Source: CBDT CIR. dt. November 5, 2004)

2 Income Tax Decisions

(a) Co-operative's income payment to members exempt from TDS

In a significant judgement, the supreme court (SC) recently held that income credited or paid by a co-operative bank to its members, irrespective ordinary or nominal members, is exempt from tax deducted at source (TDS).

In the *Union of India Vs Jalgaon District Central Co-operative bank Ltd.* case, the SC quashed the central board of direct taxes circular of 2002, which said that to be eligible for tax deducted at source (TDS) exemption, member must have subscribed to and fully paid for at least one share of a co-operative bank, must be entitled to participate and vote in its general body meeting or special general body meeting, and must be entitled to receive share from the profits of the bank.

Following the apex court's judgement, delivered on July 7, 2004, income credited or paid by a co-operative bank to its members, be they ordinary registered or nominal members will be eligible for exemption from TDS under section 194A(3) (v) of the income tax Act, 1961.

(b) Assessee pardoned under Criminal Procedure Court (CRPC) – not to be prosecuted under tax law

Hon'ble Supreme Court of India in the matter of *Mr. Dipesh Chandak Vs. Union of India* held that the assessee cannot be prosecuted u/s 277 and 278 of the Income Tax Act, 1961 when pardon is granted u/s 306 of the Code of Criminal Procedure, in respect of the offence for which the assessee has been charged as an accused, on full and complete disclosure of the information by the accused.

The court also observed that under Article 20(2) of the Constitution of India no person could be compelled to be a witness against himself. To continue with the prosecution would amount to forcing the appellant to give evidence against him or to risk the pardon being cancelled, as he cannot make a full and complete disclosure for fear of being convicted in the other case.

Thus, even though the pardon might not extend to the offences under sections 277 and 278 of the Income-tax Act, this was a fit case where the Government should consider not prosecuting the appellant under those sections.

It was so held in the famous Foddar Scam cases in the State of Bihar [270 ITR 85].

(c) Dividend stripping is Legal Transaction

Hon'ble Income Tax Appellate Tribunal 'Mumbai Bench' held that dividend stripping carried out prior to fiscal year 2001 – 2002 was a part of Legitimate tax planning. ITAT has accepted the argument that the transactions made prior to assessment year 2002 – 2003 when the new provisions became operational were entitled for tax benefits.

Since ITAT is the second appellate authority on matters of tax, after CIT (Appeal), the ITAT decisions will have a bearing on those who claimed tax benefits for similar transactions

(d) Notice u/s 148 – Rights of assessee

Hon'ble Kerala High Court in the matter of *Tolins Rubbers vs. Asstt. Commissioner of Income Tax* held that when a notice u/s 148 of the Income Tax Act, 1961 is issued, the proper course of action for the noticee is to file a return and if he so desires to seek reason for issuing notices, and the assessing officer is bound to furnish reasons within a reasonable time.

On receipt of reasons the noticee is entitled to file objection to issuance of notice and the assessing officer is bound to dispose off the same by passing a speaking order. [270 ITR 280].

(e) Payment of interest on refund of interest paid u/s 220(2)

Hon'ble Delhi High Court in the matter of *Modipon Limited vs. Commissioner of Income Tax* held that the assessee is entitled to interest u/s 244(1A) of the Income Tax Act, 1961 in respect of the interest payment made u/s 220(2), which is now to be refunded [270 ITR 227].

(f) A residential house can contain more than one residential units

Hon'ble ITAT Bangalore Bench in the matter of *D. Anand Basappa vs. Income Tax Officer* has held that there is no bar on acquiring more than one residential house out of the proceeds of one residential house to claim deduction u/s 54. The above decision is based on the decision of Hon'ble Allahabad High Court in the matter of *Shiv Narain Chaudhari vs. CWT (1997) 108 ITR 104* wherein it was decided that 'a residential house' can contain more than one residential units and still can be considered 'a residential house' only. [91 ITD 53].

(g) Advance received shall be treated as Gross Receipt for the purpose of Sec. 44AB.

Hon'ble Income Tax Appellate Tribunal Lucknow Bench in the matter of *Dy. Commissioner of Income Tax vs. Gopal Krishan Builders* held that advance received for booking of flats is to be adjusted towards cost of construction and is an element of profit and therefore it should be included in words "Gross Receipt", requiring proper accounting and auditing.

3 Payment of Income Tax through Internet

Payment of Income Tax through internet has now become possible with the inauguration of the facility by IDBI Bank Ltd. on 16-10-2004. Account holders of IDBI Bank, who are registered for net banking with the Bank, can avail of this facility and pay Income Tax 24x7x365.

(Source: CBDT PR, dated 19-10-2004)

4 Tatkal PAN

It is now possible to apply for PAN through Internet and pay Rs.60 + Service Tax, as applicable, through a nominated credit card. In such cases, Tatkal PAN will be communicated through e-Mail in 5 working days. The PAN card will, however, be printed and forwarded only after M/s. NSDL receives supporting documents and photograph. Failure to send supporting documents and photograph within stipulated time may result in cancellation of PAN so allotted. At present this facility is available through M/s. NSDL (www.tin.tin.nsd.com) only, though very soon M/s. UTIISL (www.utiisl.co.in) will also offer a similar facility.

5 Export benefits on income from sale of DEPB licences

CBDT has sent instructions to deny export benefits on income arising from the sale of Duty Entitlement Passbook Scheme (DEPB) licences, which generally forms a significant part of income for most exporters.

A direct impact of this decision by the tax authorities is that tax will be levied on such income, which, according to industry estimates, is anywhere between two to three thousand crore.

6 Foreign Airlines Staff Akin to Tourists

In a recent order, the Income tax Appellate Tribunal (ITAT), Mumbai has held that tax could not be levied on payments received by the Indian hotels from foreign crew of airline companies. The ITAT has recently came up with this interpretation of Section 80 HHD of the Income-tax Act

7 Voluntary Disclosure Scheme expected

CBDT has set up an expert committee to recommend special schemes to unearth black money and hidden assets. This is line with the government's announcement in the National Common Minimum Programme (NCMP). The committee, which is headed by the director general of investigations, will submit its report to the board in the next four weeks. The committee's mandate would include recommending both enforcement measures and schemes for voluntary disclosure.

dcgarg@inmacsindia.com

AUDIT

1 Norms for classification of Doubtful Assets for FIs

With a view to moving closer to international best practices and ensuring convergence of the norms applicable to the FIs with those of the banks, it has since been decided that with effect from March 31, 2005, in respect of FIs, an asset would be classified as doubtful, if it remained in the sub-standard category for 12 months. The FIs are permitted to phase out the consequent additional provisioning over a four-year period, commencing from the year ending March 31, 2005, with a minimum of 20% each year.

2 Consolidated accounts must be mandatory

ICAI has come out against the government proposal to make the presentation of consolidated accounts by corporate groups optional. As per ICAI, the consolidated accounts should be made mandatory not just for listed companies but also for unlisted ones. At present, the law requires only listed companies to present consolidated accounts.

EXCISE-CUSTOMS

1 Eligibility of DEPB benefit on exports

Ministry of Finance has vide Circular No. 57/2004-Customs, dated 21st October, 2004 clarified that the benefit of DEPB would be available to the exports where the inputs used in the manufacture of the export product were imported on payment of duty through DEPB. The point raised was that since no customs duty has been paid on the inputs by way of cash, the exporter would not be entitled to DEPB on export goods utilizing such inputs. The Ministry examined the matter and it is clarified that the benefit of DEPB Scheme should be allowed on exports even though the inputs used in the manufacture of the export product were cleared through DEPB route.

(Source: F.NO.605/11/2004-DBK)

2 Large excise assessee to furnish statement

The finance ministry has decided to monitor large domestic companies under the excise net to plug possible revenue leakages. Excise assessee paying duty of Rs1 crore and above (in cash) in previous years will have to start mandatorily filing an annual financial information statement to the excise authorities.

This is similar to the annual information returns to be filed with the income-tax authorities, which is meant to track high net-worth individuals. Of the 106,000 registered units paying excise duty, close to 5,000 assessee will have to file the annual financial statement by November 30 every year. Relevant amendments have been made in the central excise rules, with the introduction of a new ER-4 form on the annual financial information statement.

rajeshgosain@inmacsindia.com

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1 Finger prints of individual investor made mandatory

It has been decided by SEBI that all resident investors not being bodies corporate who enter into any securities market transaction (including any transaction in the primary market or secondary market in any listed securities and any transaction in units of mutual funds or collective investment schemes) of value of one lakh rupees or more are required to obtain a UIN before March 31, 2005 as 'specified investors'.

For obtaining UIN, it is made mandatory for the applicant who is a natural person to provide biometric impressions of the left thumb, left index finger, right thumb and right index finger and photograph electronically on the on the system of the Designated Service Provider.

(Source: Cir - 37/2004 dt. Oct. 27, 2004)

2 Sebi issued debenture- listing norms

Sebi issued a listing agreement for debt instruments, including debentures, to provide simplified norms for disclosing information and follow a standard format.

All debentures or any other debt instrument, proposed to be listed on SEs, should follow the listing agreement. This agreement is meant to list the debentures issued by all entities except supra national organizations like ADB and World Bank. The provisions of listing agreement would also be applicable to entities, which want to list the debt securities, which were issued on private placement basis.

3 Sebi can slap Rs. 25 cr fine

In terms of the provisions as contained under recently issued The Securities Laws (Amendment) Ordinance, 2004, it has been provided that:

- if a Stock Exchange (SEs) fails to furnish periodic returns to SEBI or to make or amend its rules or bylaws as directed by the regulator, SEBI could slap a penalty of up to Rs 25 crores.
- SEBI can also slap a penalty of upto Rs. 25 crore on companies which dematerialises more than the issued securities or delivers in the market, securities which are not listed or where no trading permission has been given by the exchange.
- If a person fails to pay the penalty imposed by SEBI, he could face imprisonment of upto 10 years.

4 Decisions by SAT

1. Liability of Directors

In a recently decided case of *Rahul H. Shah v. Securities & Exchange Board of India* [2004] 55 SCL 416 (SAT-MUM), It has been decided by Securities Appellate Tribunal (SAT) that college going students, who are directors of company but not in charge of its day-to-day affairs, cannot be fastened with any liabilities for acts of directors who are incharge of day-to-day affairs of company.

2. Compliance of Sebi guidelines

In a recently decided case of *Toubro Infotech and Industries Limited v. Securities & Exchange Board of India* [2004] 55 SCL 243 (SAT-MUM), It has been decided by Securities Appellate Tribunal (SAT) that Violation of SEBI Guidelines cannot lead to any punitive action unlike violation of SEBI regulation.

3. The SAT recently, directed SEBI to be more reasonable while imposing penalties on market players.

pankajgupta@inmacsindia.com

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CORRUPTION IN TAX

appropriate systemic and procedural changes.

- The corruption can be further tamed by providing for a tax officials responsibility provision in the tax laws prescribing for their duties, responsibilities and providing for ensuring complete fairness of the tax administration towards assesseees. The government should provide for a procedure by which the assesseees or NGO's could approach the Income Tax Appellate Tribunal to adjudicate penalty on tax officials for making frivolous additions or for making apparently wrong assessments. The accountability of the tax officials has to be fixed. An appropriate financial penalty for such defaults may be prescribed.
- The contact between tax officials and assesseees is to be reduced significantly by effectively implementing e.filing, e.refunds, e.rectifications. A new concept of e.scrutiny providing for written offside clarification and confirmation from the assesseees could be introduced.
- The internal circulars and guidelines issued by the tax department should be in public domain. The Right To Information Act should be implemented in the tax department ensuring complete transparency not only to the assesseees but also to the society.
- The correspondence by the assesseees should be given a control number from a centralized system ensuring a timely response to all issues raised by the assesseees.

Above all, a regular effective surveillance of tax officials by a cleaner and effective surveillance agency like CBI would ensure that the corruption does not breed and dampen the growth process. Our economy is all set for an inclusive high growth and the eradication of corruption would contribute significantly towards this noble cause. The profession of Chartered Accountants is always committed to support the government in eliminating corruption.

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VENUE:

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Lecture Hall, 40, Max Mueller Marg, opp. Lodhi Road, New Delhi - 110003

TIMINGS:

1.30 p.m. to 8.00 p.m.

PROGRAM SCHEDULE

| | |
|----------------------|------------------------|
| Registration & Lunch | 1.30 p.m. to 2.00 p.m. |
| Workshop Session | 2.00 p.m. to 4.45 p.m. |
| Tea Break | 4.45 p.m. to 5.15 p.m. |
| Workshop Session | 5.15 p.m. to 8.00 p.m. |

CONCEPT & THEME

A comprehensive 7 days annual workshop to sharpen professional skill in tax laws, practical aspects, critical issues and tax planning and practical implications of recent case laws.

COURSE DIRECTORS

Mr. Pramod Jain, FCA; Mr. Yatinder N. Khemka, FCA; Mr. Manoj Pahwa, ACA

REGISTRATION FEE

For ICAI members - Rs. 3750
For others Rs. 4250

- Alternate nominee permitted
- Registration on first paid first serve basis

Please send your registration to:

Ritu Julka (9350899605)
503-504, Chiranjiv Tower
43, Nehru Place, New Delhi - 110019
Tel.: 2622 3712, 2622 8410;
Fax: 91-11-2622 3014; cfoworld@vsnl.net

WORKSHOP TOPICS

- Basic framework of Income Tax Law.
- Formation, registrations and taxation of Incomes of Charitable Trusts, NGOs, Societies, etc.
- Taxation of Salaries of residents, expatriates and postings outside India.
- Taxability of gifts.
- Taxation of business incomes including deductibility u/s 32, 40(a)(ia), 43B, etc.
- Taxation of business incomes (foreign) including DTAA.
- Taxation of BPOs.
- Taxation of capital gains including STT and bonus/dividend stripping.
- Deductions & Rebates under chapter VIA & VIII respectively.
- Deductions u/s 10A & 10B.
- Taxation of MF units & Derivatives.
- Practical issues in Transfer Pricing.
- Corporate Taxation including MAT, Deemed dividend, etc.
- TDS & TCS
- Search & Survey.
- Appeals & penalties including penalty u/s 277A.
- Wealth Tax



MEETING OF CFO WORLD

We are pleased to inform you that the next meeting of CFO World, a forum promoted by All India Chartered Accountants' Society and The Chartered Accountant World is scheduled as per the following programme:

Date: Saturday, November 27, 2004
Time: 8.30 a.m. to 11.30 a.m.

Venue:

The Oberoi, Dr. Zakir Hussain Marg, New Delhi-110 003

Programme

Breakfast and Informal Interaction : 8.30 a.m. to 9.00 a.m.

"Business Excellence - TATA's Experience"

- Organisational Effectiveness - Major General B.K. Bhatia
PMS Approach
- An NDPL Experience Mr. Sunil Wadhwa, CFO, NDPL

The programme is open only for members of CFO World.

For membership details please contact **Ms. Ritu Julka (9350899605)**

Tel.: 2622 3712, 2622 8410; Fax: 91-11-2622 3014;

E-mail: cfoworld@vsnl.net

The Chartered Accountant World



EDITOR

Pankaj Gupta, LL.B, FCS E-mail: pankajgupta@inmacsindia.com

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