

The Chartered Accountant World



Estd. - 1989

A JOURNAL OF
ALL INDIA CHARTERED ACCOUNTANTS' SOCIETY

VOLUME XV

No. 9

September, 2004

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EDITORIAL VINOD JAIN*

RIISING INFLATION – TAME THE GALLOPING HORSE



The rate of inflation in India has been recorded at 8.33% as per the Wholesale Price Index (WPI), which is at a highest in last 4 years. Though the duty cuts have been

announced by the Government in petroleum as well as in steel, the inflation continues to rise unabatedly. The wholesale price index as well as consumer price index had been moving between 3% per annum to 5% per annum during last 3 to 4 years. A sudden rise in the wholesale price index during last 3 months is a matter of great concern for the Indian economy as well as for the new Government.

Dr. Manmohan Singh, the Hon'ble Prime Minister of India in his press conference on 4th September, 2004 has attributed the rise in price to a host of factors, including surge in global oil prices, delayed arrival of monsoon, truckers' strike and the overhang of excess liquidity. The Prime Minister also stated that the country has adequate foodgrain stock and foreign exchange reserve to deal with the situation.

It is important to analyse the aforesaid reasons. The crude oil price touched a record high to a level of US\$ 50 per barrel, creating an anxiety on the Oil Companies and a pressure on the Indian Government to permit an increase in prices. The prices in India have been increased by about 10% during last 3 months. Also the Government has reduced the import duty on petroleum products, to enable the oil sector to keep the prices in control.

It is, however, very important to note that

the international oil prices were on its peak only for a short period and actually they have come down to a level of less than US\$ 39 per barrel, already and it is expected that the international petroleum prices will shortly settled down to a level of around US\$ 30 to US\$ 35 per barrel within next 2 weeks.

In view of the steep fall in oil prices in the international market, will it not be appropriate for the Government to direct the oil companies to pass on this benefit to the consumers by reducing their prices by about 20%. This itself will give a big signal on price front and could reverse the sentiments.

The monsoon was last reported to be only 6% below normal, as against 20% below normal, 6 weeks ago. The monsoon actually arrived in time in the beginning of "savan" month as per the Hindu calendar and now there is no reason for creating a hype of bad monsoon to reason out the present increase in prices. The prices of vegetable and other agricultural products, which went up for a short period, seasonally, have already reinstated to their normal levels. The Truckers' strike has also been there only for a short period and was of a very small magnitude and efficacy so as to call a highest inflation rate, in last more than 4 years.

The liquidity in the economy is also not extraordinarily high as money supply (M3) growth rate has been in the range of 14% to 17% during last few years, which is fairly reasonable considering the GDP growth rate in real terms. The Government, however, need to look at as to why the liquidity in the economy is not being channelised towards further investments

and growth. In any case the excess liquidity, if any, cannot alone give rise to such a steep inflation especially when there is an ample supply of all products from international markets as well. There are various other factors, which could have contributed to the steep rise in inflation, towards which the Government need to look at more seriously. Some of these factors are analysed hereunder: -

- The Government has recently increased import duty, service tax and various other taxes on a large number of items.
- The steel price in the international market have gone up which had a direct impact on the domestic prices of steel and

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RISING INFLATION

increase in construction industry, automobile as well cost of various other projects.

- The cost of power and other energy sources have been increased by the Government by more than 20% during last few months.
- The cost of water, land, house tax, new professional tax, entry tax, increase in toll tax have also been instrumental in pushing up overall costs and prices.
- A sentiment of price rise has been created.

The current level of inflation is a matter of great concern for the growth of Indian economy and more particularly it is going to have a major impact on the poor and the middle class sections of the society. Risk free real returns (returns from government securities adjusted to inflation) have become negative too. The yield from 10-year G-Sec as on date is 5.93%, with inflation at 8.33% there is negative return of 2.40%. Of all major economies China is the other one with negative return of 1.11 but theirs is because of high GDP growth rate in view of massive investment in infrastructure. Just think about the senior citizens—the recent scheme launched by the government becomes meaningless if inflation remains unchecked. How the price rise has suddenly gained momentum is required to be analysed. There are many Questions that need to be answered. Is it real? Why suddenly it has gone up in last 3 months? Who are really responsible? Is it the failure of the new Government? or Is it a conspiracy of hoarders, black marketers and profiteers,

who have instrumental in creating the price rise sentiment.

We also need to examine this in the back drop of extraordinary high profits being reported by the oil sector companies, the banking & service sector, the manufacturing sector including automobiles, textile, cement, steel, pharmaceutical and many others. How and why the prices are going up unabated? The lobby of large businesses and industry has become very strong. There is a strong belief that monopolies and oligopolies have gained strong ground in India. Mega corporates of large size have started controlling important commodity markets through the cartel mechanism and the government is leaving everything to “market forces”. It is important to examine how genuine these market forces are and whether the consumers are being maliciously affected with high profit motive. The Government needs to support free competition and a liberal business and commercial environment but at same time ensure fair prices and fair competition through Regulatory Mechanism. The 63.75% content of the manufactured products in wholesale price index clearly indicates the importance of a detailed regulation and monitoring required over the industrial sector so as to ensure a free and fair competition and to bring an adequate curb on restrictive trade and business practices.

The inflation in the range of 3% to 5% could be reasonable for the steady and continuing growth of Indian economy. However the current rate of inflation that is moving towards a double digit is very alarming. The Government needs to look at the following suggestions very carefully:

- In view of substantial reduction in international oil prices in last 3 weeks, there is a need to reduce prices of petroleum products in India by at least 20% by reducing hefty margins of oil companies and partly reducing taxes and duties.
- A close monitoring and regulation of various sectors of economy, as far as prices are concerned is necessary. We are not suggesting a price control or

quota but a complete free for all cannot be permitted to the price manipulators.

- The Government expenditure has to be brought down significantly by cutting size of bureaucracy by at least 67%, in case the rising burden of tax on the economy has to be addressed.
- The various proposals for increase in taxes by the Central Government as well as by various State Governments, as identified above are to be re-considered in the interest of the Indian economy.
- In the proposed VAT Legislation to be brought in from 1st April, 2005 there is a proposal to increase sales tax rate significantly to a level near to a highest rate being charged by States like Maharashtra. There is no justification for sales tax rates beyond 0%, 4%, 8% for 3 broad categories of products identified by the high power committee. The average rate of sales tax (VAT) has to be brought down to 4% rather than 12% as is being recommended by the High Powered Committee. In case the VAT Legislation is brought in with such a hefty rates, it will have a severe dampening effect on the Indian economy. The introduction of VAT has to be coupled with withdrawal of sales tax, entry tax, toll tax, road tax, stamp duties and all other state level taxes
- The service sector is worse sufferer in increase in tax. The increase of service tax beyond 4% is completely unjustified without a comprehensive GST legislation.

The Government is proposing to revise the basic structure of wholesale price index. This should be done in a transparent manner. This should not result into playing with facts and figures and a statistical jugglery. The Government needs to concentrate on controlling inflation rather than concentrating on accusing the previous Government for excess liquidity or very low price during its regime. Take hard measures without bowing to lobbyists' pressures. Better tame the galloping horse of inflation towards positive growth before it is too late.

1 Opening of Current Accounts by Banks – Norms Relaxed

Further to RBI circular DBOD.No.Leg.BC.84/09.07.005/2003-04 dated May 15, 2004, it has been clarified that Banks may open current accounts of prospective customers in case no response is received from the existing bankers after a minimum waiting period of a fortnight.

If a response is received within a fortnight, banks should assess the situation with reference to information provided on the prospective customer by the bank concerned and are not required to solicit a formal no objection, consistent with true freedom to the customer of banks as well as needed due diligence on the customer by the bank.

(Source: RBI/2004-05/99 dated August 4, 2004)

2 Guidelines for compromise settlement through lok adalats

Please refer to RBI circular DBOD.No.LEG.BC.114/09.06.002/2000-01 dated May 2, 2001 giving detailed guidelines for compromise settlement of dues through Lok Adalats and advising banks to make increasing use of the forum of Lok Adalats to settle banking disputes involving amount upto Rs.5 lakh.

In the said circular, it was also mentioned that the matter of raising the limit had been taken up with the appropriate authority.

The Government of India, in consultation with RBI has now decided that the monetary ceiling of the cases to be referred to the Lok Adalats, organised by Civil Courts stands enhanced from Rs.5 lakh to Rs.20 lakh with immediate effect.

(Source: RBI/2004-05/95 dated August 3, 2004)

3 Capital Investment Subsidy Scheme

A credit linked Capital Investment Subsidy Scheme for Construction/ Renovation / Expansion of Rural Godowns is being implemented by NABARD. Under the scheme NABARD will release back-ended subsidy for all projects financed by institutions eligible for availing refinance from NABARD.

The subsidy admissible to promoters under this scheme will be retained in the "Subsidy Reserve Fund Account" (borrower- wise) in the books of financing banks till the loan component (net of subsidy) is fully repaid.

(Source: RBI/2004-05/128 dated August 18, 2004)

4 Extension of date of Balance Sheet in case of NBFCs

It has been decided by RBI that whenever an NBFC intends to extend the date of its Balance Sheet as per the provisions of the Companies Act, 1956 it should take prior approval of Reserve Bank before approaching the Registrar of Companies for this purpose.

It is also clarified by RBI that even in cases where RBI and ROC grant extension of time, the NBFC would be required to furnish to RBI a proforma Balance Sheet (Unaudited) as at 31st March of the year and the Statutory returns due on the above date.

(Source: RBI/2004-05/110 dated August 10, 2004)

5 Revised guidelines for State Government Guaranteed Loans and Investments

Reserve Bank of India has revised prudential norms applicable to loans and investments backed by State Government guarantees. The revised norms are as under: -

- a. For the year ending March 31, 2005, State Government guaranteed advance and investment in State Government guaranteed securities would attract asset classification and provisioning norms, if interest and/or principal or any other

amount due to the bank remains overdue for more than 180 days.

- b. With effect from the year ending March 31, 2006, State Government guaranteed advance and investment in State Government guaranteed securities would attract asset classification and provisioning norms, if interest and/or instalment of principal or any other amount due to the bank remains overdue for more than 90 days.

Presently, asset classification and provisioning requirements in respect of State Government Guaranteed exposures are linked to invocation of the State Government guarantee.

(Source: DBOD NO. BP.BC.29/21.04.48/2004-05)

6 Court Favours landlord in amalgamation

A foreign company that is amalgamated into an Indian company cannot hand over its premises to the transferee company without the consent of the landlord, the Supreme Court has held, while giving its judgement in the singer India ltd vs chander mohan case. In this case, Singer sewing machine company, incorporated under the laws of the state of new jersey, had taken on rent prime space in delhi at a monthly rent of Rs.1200/- in 1966. Owing to FERA regulations, the US company had to reduce its share capital to 40% to carry on business in the country. An Indian company, called the India Sewing Machine Co Ltd, was created and the Bombay high court allowed the amalgamation of the US company with the Indian one.

After the amalgamation, the entire business, property, including leases, rights of tenancy, occupancy and other rights, stood transferred and vested in the Indian company. The amalgamation became effective in 1982, that year, the landlord filed an eviction petition as the US company had transferred possession of the premises to the Indian company without his consent. The US company resisted the eviction petition on the ground that the India company was no other entity than its legal substitute and there was no case of sub-tenancy.

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The Finance Minister has made certain amendments to the Finance (No.2) Bill, 2004 at the time of passage of the Bill by the Lok Sabha. The highlights of the same are as follows:

1. The tax exemption on interest paid on NRE and FCNR accounts initially proposed to be withdrawn from 1st September, 2004, is now being withdrawn from 1st April, 2005 (Assessment Year 2006-07).
[Clause 5 of the Bill amending section 10 (4)(ii) and 10(15)(iv)(fa) of the Income-tax Act]

2. The tax exemption on Lease payments for acquisition of aircrafts initially proposed to be withdrawn for agreements entered into after 1st September, 2004, is now being withdrawn for agreements entered into after 1st April, 2005.
[Clause 5 of the Bill amending sections 10(6BB) and 10(15A) of the Income-tax Act]

3. The initial proposal to tax any sum of money received by an individual or HUF has been modified. As per the new proposal any sum of money exceeding Rs.25,000 received without consideration by an individual or HUF from any person other than a relative on or after 1st September, 2004 shall be considered as income from other sources. As per this proposal, it is only the sum of money which is received without consideration shall be taxable. Accordingly gift received in kind may not get covered by the above provision. Further where the money is received for a consideration, the same will not be also liable to tax. The issue of inadequate consideration cannot be covered under this provision. Further, money received on the occasion of marriage of the individual or under a will or by way of inheritance or in contemplation of death, shall not be taxable. There is no change

in the definition of relatives as proposed earlier in the Finance Bill.

[Clauses 3 and 12 of the Bill amending sections 2 and 56 of the Income-tax Act]

4. To remove the anomaly caused by granting total exemption of tax to taxpayer having income up to Rs. 1 lac and total denial of exemption to those having income of above Rs. 1 lac, marginal relief has been provided, whereby the tax payable in case the total income exceeds Rs. 1 lac shall be restricted to the amount equal to the amount by which the tax payable is in excess of Rs. 1 lac.
[Clause 21 of the Bill inserting new section 88D in the Income-tax Act]

5. Provisions relating to annual information return have been modified to clarify that an annual information return is to be filed by certain agencies, and assessee who are required to maintain books of account. The information is to be furnished with regard to certain transactions to be prescribed in the Income-tax Rules.
[Clause 58 of the Bill substituting section 285BA of the Income-tax Act]

6. Falsification of books or documents by a person to induce or abet any other person to evade any tax, penalty or interest chargeable under the Income-tax Act has been made punishable with rigorous imprisonment. It is now being clarified that for purposes of establishing the charge it shall not be necessary to prove evasion of tax, penalty or interest by the other person.
[Clause 56 of the Bill inserting new section 277A in the Income-tax Act]

7. By an amendment it has been clarified that where a housing project has been approved by the local authority before the 1st day of April, 2004, exemption under Section 80-IB(10) shall be available in case the same is completed before 31st day of March, 2008. However, where a housing project has been approved by the local authority on or after 1st April, 2004, exemption shall be available if the same is completed within four years from the end of the financial year in which the housing project is approved. Further the benefit of exemption in respect of reconstruction or redevelopment of existing building shall be available only to those areas which have been declared to be slum areas under any

law for the time being in force and such scheme is notified by the board in this behalf.

8. Securities Transaction Tax (STT) initially proposed on securities traded on recognized stock exchanges is now to be levied on equity shares, derivatives and units traded on recognized stock exchanges and also on units of equity oriented mutual funds, as given below:

- (i) Purchase of an equity share in a company or a unit of an equity oriented fund, where (a) the transaction of such purchase is entered into in a recognised stock exchange; and (b) the contract for the purchase of such share or unit is settled by the actual delivery or transfer of such share or unit – **STT @ 0.075 per cent payable by the Purchaser.**
- (ii) Sale of an equity share in a company or a unit of an equity oriented fund, where (a) the transaction of such sale is entered into in a recognised stock exchange; and (b) the contract for the sale of such share or unit is settled by the actual delivery or transfer of such share or unit – **STT @ 0.075 per cent payable by the Seller.**
- (iii) Sale of an equity share in a company or a unit of an equity oriented fund, where (a) the transaction of such sale is entered into in a recognised stock exchange; and (b) the contract for the sale of such share or unit is settled otherwise than by the actual delivery or transfer of such share or unit – **STT @ 0.015 per cent payable by the Seller.**
- (iv) Sale of a derivative, where the transaction of such sale is entered into in a recognised stock exchange – **STT @ 0.01 per cent payable by the Seller.**
- (v) Sale of a unit of an equity oriented fund to the Mutual Fund – **STT @ 0.15 per cent payable by the Seller.**

STT will be applicable from a date to be notified.

9. The STT paid on business transactions could be treated as advance income tax paid by concerned assessee. In case STT is paid on transaction treated as capital gains, no deduction of STT paid will be allowed.



FOREIGN TRADE POLICY – 2004-09 – HIGHLIGHTS

The highlights of Foreign Trade Policy for 2004-09 are as follows:

1. Export Promotion Schemes

(a) Target Plus

A new scheme to accelerate growth of exports called "Target Plus" has been introduced.

Exporters who have achieved a quantum growth in exports would be entitled to duty free credit based on incremental exports substantially higher than the general actual export target fixed. (Since the target fixed for 2004-05 is 16%, the lower limit of performance for qualifying for rewards is pegged at 20% for the current year).

Rewards will be granted based on a tiered approach. For incremental growth of over 20%, 25% and 100%, the duty free credits would be 5%, 10% and 15% of FOB value of incremental exports.

(b) Vishesh Krishi Upaj Yojana

Another new scheme called Vishesh Krishi Upaj Yojana (Special Agricultural Produce Scheme) has been introduced to boost exports of fruits, vegetables, flowers, minor forest produce and their value added products.

Export of these products shall qualify for duty free credit entitlement equivalent to 5% of FOB value of exports. The entitlement is freely transferable and can be used for import of a variety of inputs and goods.

(c) "Served from India" Scheme

To accelerate growth in export of services so as to create a powerful and unique "Served from India" brand instantly recognized and respected the world over, the earlier DFEC scheme for services has been revamped and re-cast into the "Served from India" scheme.

Individual service providers who earn foreign exchange of at least Rs.5 lakhs, and other service providers who earn foreign exchange of at least Rs.10 lakhs will be eligible

for a duty credit entitlement of 10% of total foreign exchange earned by them.

In the case of stand-alone restaurants, the entitlement shall be 20%, whereas in the case of hotels, it shall be 5%. Hotels and Restaurants can use their duty credit entitlement for import of food items and alcoholic beverages.

(d) EPCG

➤ Additional flexibility for fulfillment of export obligation under EPCG scheme in order to reduce difficulties of exporters of goods and services.

➤ Technological upgradation under EPCG scheme has been facilitated and incentivised.

➤ Transfer of capital goods to group companies and managed hotels now permitted under EPCG.

➤ In case of movable capital goods in the service sector, the requirement of installation certificate from Central Excise has been done away with.

➤ Export obligation for specified projects shall be calculated based on concessional duty permitted to them. This would improve the viability of such projects.

(e) DFRC

Import of fuel under DFRC entitlement shall be allowed to be transferred to marketing agencies authorized by the Ministry of Petroleum and Natural Gas.

(f) DEPB

The DEPB scheme would be continued until replaced by a new scheme to be drawn up in consultation with exporters.

2. New Status Holder Categorization

A new rationalized scheme of categorization of status holders as Star Export Houses has been introduced as under:

Category Total performance over three years

- One Star Export House 15 crores
- Two Star Export House 100 crores
- Three Star Export House 500 crores
- Four Star Export House 1500 crores
- Five Star Export House 5000 crores

Star Export Houses shall be eligible for a number of privileges including fast-track

clearance procedures, exemption from furnishing of Bank Guarantee, eligibility for consideration under Target Plus Scheme etc.

3. EOUs

➤ EOUs shall be exempted from Service Tax in proportion to their exported goods and services.

➤ EOUs shall be permitted to retain 100% of export earnings in EEFC accounts.

➤ Income Tax benefits on plant and machinery shall be extended to DTA units which convert to EOUs.

➤ Import of capital goods shall be on self-certification basis for EOUs.

➤ For EOUs engaged in Textile & Garments manufacture leftover materials and fabrics upto 2% of CIF value or quantity of import shall be allowed to be disposed of on payment of duty on transaction value only.

➤ Minimum investment criteria shall not apply to Brass Hardware and Hand-made Jewellery EOUs (this facility already exists for Handicrafts, Agriculture, Floriculture, Aquaculture, Animal Husbandry, IT and Services).

4. Free Trade and Warehousing Zone

(i) A new scheme to establish Free Trade and Warehousing Zone has been introduced to create trade-related infrastructure to facilitate the import and export of goods and services with freedom to carry out trade transactions in free currency. This is aimed at making India into a global trading-hub.

(ii) FDI would be permitted up to 100% in the development and establishment of the zones and their infrastructural facilities.

(iii) Each zone would have minimum outlay of Rs.100 crores and five lakh sq. mts. built up area.

(iv) Units in the FTWZs would qualify for all other benefits as applicable for SEZ units.

5. Import of Second hand Capital Goods

a. Import of second-hand capital goods shall be permitted without any age restrictions.

b. Minimum depreciated value for plant and machinery to be re-located into India has been reduced from Rs.50 crores to Rs.25 crores.

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FOREIGN TRADE POLICY

6. Procedural Simplification & Rationalisation Measures

(a) All exporters with minimum turnover of Rs.5 crores and good track record shall be exempt from furnishing Bank Guarantee in any of the schemes, so as to reduce their transactional costs.

(b) All goods and services exported, including those from DTA units, shall be exempt from Service Tax.

(c) Validity of all licences/entitlements issued under various schemes has been increased to a uniform 24 months.

(d) Number of returns and forms to be filed have been reduced. This process shall be continued in consultation with Customs & Excise.

(e) Enhanced delegation of powers to Zonal and Regional offices of DGFT for speedy and less cumbersome disposal of matters.

(f) Time bound introduction of Electronic Data Interface (EDI) for export transactions. 75% of all export transactions to be on EDI within six months.

7. Legal Aid

Financial assistance would be provided to deserving exporters, on the recommendation of Export Promotion Councils, for meeting the costs of legal expenses connected with trade-related matters.

8. Bio Technology Parks

Biotechnology Parks to be set up which would be granted all facilities of 100% EOUs.

9. Co-acceptance/ Avalisation introduced as equivalent to irrevocable letter of credit to provide wider flexibility in financial instrument for export transaction.

AUDIT

1 Loans and Advances to Directors etc.

RBI vide its circular UBD.BPD.CIR.18/13.05.00/03-04 dated October 1, 2003 advised banks not to sanction loans and advances to directors, their relatives and firms/concerns in which they are interested w.e.f.1-10-2003. Certain banks/Federations have sought RBI clarification as to whether directors can stand as Surety/Guarantor to the loans and advances sanctioned by the Urban Co-operative banks.

In this connection, RBI clarified that sanction of loans and advances against the surety/guarantee of the directors is against the spirit of RBI's above circular. In view of above, the directors and relatives cannot stand as surety/guarantor to the loans and advances (both secured and unsecured) sanctioned by the UCBs.

(Source: RBI/2004-05/103 dated August 7, 2004)

2 Additional provisioning requirement for NPAs

The provisioning norm for advances identified as 'doubtful for more than three years' will be as under with effect from March 31, 2005:

(a) Unsecured portion

Portion of the advance, which is not covered by the realisable value of tangible security to which the FI/Bank/RRB has a valid recourse and the realisable value is estimated on a realistic basis, provision will continue to be to the extent of 100%, as hitherto.

(b) Secured portion

(i) More than three years outstanding stock of NPAs as on March 31, 2004

Provisioning requirement

- 60 per cent as on March 31, 2005
- 75 per cent as on March 31, 2006
- 100 per cent as on March 31, 2007

(ii) Advances classified as 'doubtful for more than three years' on or after April 1, 2004 (July 1, 2004 in case of NHB)

Provisioning requirement

- 100 per cent

CAPITAL MARKET

1 MAPIN to be mandatory for Corporate, Individuals Investors and Sub-brokers

Pursuant to the directions issued by SEBI, it is required by:

(i) All investors being bodies corporate as 'specified investors', who along with their promoters and directors are required to obtain a UIN before December 31, 2004.

(ii) All investors, whether bodies corporate or not, intending to avail of the margin trading facility in terms of the requirements laid down by the Board, as 'specified investors', are required to obtain a UIN before August 31, 2004.

(iii) All sub-brokers being a specified intermediary shall act as such, if the UIN has been obtained for itself and its related persons by December 31, 2004.

The specified investors, specified intermediaries and their related persons, who are required to obtain a UIN, may contact NSDL or any Point of Service for the purpose of making an application.

It is 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 system of the Designated Service Provider.

(Source: MRD/DOP/MAPIN/Cir-26/2004 dt. 16.8.04)

2 Electronic DP Statements Permitted

It has been decided to permit the Depository Participants (DP) to provide transaction statements and other documents to the Beneficial Owners (BO) under Digital signature, as governed under the Information Technology Act, 2000, subject to the DP entering into a legally enforceable arrangement with the BO for the said purpose.

However, if the BOs are still desirous of receiving statements in hard copy, the DPs shall be duty bound to provide the same.

(Source: Cir-27/2004 dated August 16, 2004)



SERVICE TAX

1 Exemptions under Service Tax

1. Services in relation to collection of duties or taxes on behalf of Government

Central Government has exempted the taxable services provided by a banking company or financial institution including a non-banking financial company, or any other body corporate or commercial concern, to the Government of India or the Government of a State in relation to collection of any duties or taxes levied by the respective Governments, from the whole of service tax leviable thereon.

(Source: 13/2004-ST dt. Sept. 10, 2004)

2. Services under Business Auxiliary Services

Central Government has exempted the taxable services provided by a commercial concern in relation to procurement of goods or services which are inputs for the client, production of goods on behalf of the client, provision of services on behalf of the client or a service incidental or auxiliary to any of these services from whole of the service tax leviable thereon if the services are provided by:

- (i) a proprietary concern;
- (ii) a factory, company, partnership firm, society, co-operative society, corporation or a body corporate if these assessee provide any business auxiliary service in respect of any activity specified above in relation to agriculture, printing, textile processing or education.

(Source: 14/2004-ST dt. Sept. 10, 2004)

3. Construction Services

Central Govt. has exempted the taxable service provided by a commercial concern to any person in relation to construction service, from so much of the service tax leviable thereon as is in excess of the service tax calculated on a value which is equivalent to 33% of the gross amount charged from any person by such commercial concern provided that no credit of duty paid on inputs or capital goods has been taken and the commercial concern has not availed the benefit under Notification No. 12/2003-ST dated 20th June, 2003.

(Source: 15/2004-ST dated September 10, 2004)

4. Service in respect of Enterprise Resource Planning software system

Central Government has exempted the taxable service provided to a client in respect of Enterprise Resource Planning software system by a management consultant in connection with the management of any organization in any manner, from the whole of the service tax leviable thereon.

(Source: 16/2004-ST dated September 10, 2004)

5. Outdoor Catering Services to be taxed on 50% of billed amount

Outdoor catering services to be taxed only on 50% of the gross amount charged from the client provided

- (i) food is also provided by the caterer and bill is inclusive of charges for food,
- (ii) credit of duty paid inputs or capital goods has not been taken, and
- (iii) outdoor caterer has not availed the benefit under Notification No. 12/2003-ST dated 20th June, 2003

(Source: 20/2004-ST dated September 10, 2004)

6. Reinstatement of exemption on Vocational Training Institute and Recreational Training Institute

Central Government has reinstated the exemption on taxable services in relation to commercial training or coaching by the above institutes. Earlier this exemption was withdrawn w.e.f 1st July, 2004.

(Source: 24/2004-ST dated September 10, 2004)

TAXATION

1 Scheme for e-filing of Returns through intermediaries

Filing of e>Returns

An eligible person may, at his option, furnish his return of income, which he is required to furnish under sub-section (1) of section 139 of the Act for the assessment year 2004-05 and any subsequent assessment year, to an e-Return intermediary who shall digitise the data of such return and transmit the same electronically to a server designated for this purpose by the e-Return Administrator, on or before the due date.

The e-Return intermediary shall submit the paper return of income received from the eligible person to the Assessing Officer not later than fifteen days from the issue of the provisional receipt for the electronic data received by the e-Return Administrator.

Qualifications of an e-Return Intermediary

(1) An e-Return intermediary shall have the following qualifications, namely: he must be-

a) an employer being a registered company or a statutory body, who: (i) has been allotted a valid Tax deduction account number (TAN); (ii) has at least 100 employees having taxable income as per the last return of tax deducted at source furnished by him; (iii) has furnished the return of tax deducted at source within the time prescribed under the Act for the last three years;

b) (i) A firm of Chartered Accountants or Advocates which has, for at least last three years been in practice in the matters relating to direct taxes;

(ii) A Chartered Accountant or Advocate who has, for at least ten years been in practice in the matters relating to direct taxes and has returned total income of two lakh rupees or more in the last two years;

c) A registered company, including a bank, having a networth of five crore rupees or more and engaged in the business of providing financial services during the last five years;

(2) He must have set up and commissioned hardware and software resources prescribed in the scheme.

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TAXATION

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(3) He must have at least class II digital signature certificate from any of the Certifying Authorities authorised to issue such certificates by the CCAI.

(4) He should have in place security procedure to the satisfaction of e-Return Administrator to ensure that there is no misuse of the facility and that no programs are resident/ run on the system used to log on to the computer system of the department, which could cause any kind of harm to such system.

(5) The applicant should have necessary archival, retrieval and, security policy for the e-returns which would be filed through him, as decided by e-Return Administrator from time to time.

(6) He or his Principal/ responsible Officers, must not have been convicted for any professional misconduct, fraud, embezzlement or any criminal offence by any court in India or by any professional body, as the case may be.

(The full text of above circular is available at
www.finmin.nic.in)

CFO WORLD MEETING



ON SEPTEMBER 3, 2004

SERVICE TAX - CHALLENGES AHEAD



(L-R) Mr. D.C. Mathur, Member Managing Committee, CFO World & Jt. Managing Director, Hotline CPT Ltd.; Mr. Vinod Jain, President, AICAS & Chairman, INMACS Management Services Limited; Mr. Naveen Jain, Chairman, CFO World & Vice President, Operations Finance & Control, The Oberoi Group and Mr. V. Lakshmi Kumaran (Guest Speaker), Senior Advocate, Supreme Court of India.

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The Chartered Accountant World

A JOURNAL OF

ALL INDIA CHARTERED ACCOUNTANTS' SOCIETY

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The Chartered Accountant World



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PUBLISHED & PRINTED

At New Delhi by Satish Chandra, Administrative Officer, on behalf of All India Chartered Accountants' Society, 4696, Brij Bhawan, 21A, Ansari Road, Darya Ganj, New Delhi - 110 002 Phone : 23265320, 23288101 E-mail: aicas@vsnl.net Printed at : EIH Limited, Unit: Printing Press, No. 7, Sham Nath Marg Delhi-110054. For address change/queries: Dharampal - 2622 6933 / 2622 8410.

If undelivered, please return to :

All India Chartered Accountants' Society
4696, Brij Bhawan 21A, Ansari Road,
Darya Ganj, New Delhi - 110 002

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