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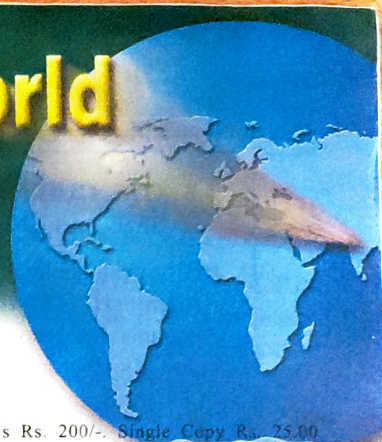
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EDITORIAL VINOD JAIN*

CHARTERED ACCOUNTANTS - PARTNERS IN NATIONAL DEVELOPMENT



Hon'ble President of India Mr. Abdul Kalam Azad addressed an International Conference on **Accounting Profession : Adding Value to New Horizons of Economic Growth**,

organized by The Institute of Chartered Accountants of India at New Delhi. During his address to Chartered Accountants, Hon'ble President of India called upon the Indian Chartered Accountant fraternity to effectively deploy their financial management expertise, business strategy capability and accounting discipline to develop a business model which can facilitate value addition in the business of agriculture, food processing, infrastructure, education and health care besides technological development.

OATH TO CHARTERED ACCOUNTANTS

The President of India also administered an oath to all Chartered Accountants as follows:

"I realize the profession I am entering is the trusteeship of financial management

and I will assist whichever institutions I audit keeping in view the societal obligations. I will not only bring out the problems of financial management for protecting the interest of all the stakeholders of the enterprise, but also suggest possible solutions with ethics as a way of life."

We, the profession of Chartered Accountants, have been committed partners in national development and have been contributing very effectively towards the growth of the manufacturing sector as well as the service sector. All major and minor businesses in the private sector as well as in the public sector are not only monitored by Chartered Accountants as accountants and auditors but are also benefited by visionary business strategy, financial management, corporate structuring, mergers and acquisitions and several other specialized professional services being provided by Chartered Accountants in practice as well as those who are not only employed at senior positions in finance and accounts departments but are also heading large and medium size corporate as Chief Executive Officers (CEO) or Chief Operating Officers (COO).

The challenge before our economy is a sustained cumulative economic growth of 10% and above and to maintain the same constantly at least for 10 years. To enable us to achieve this, the Chartered Accountant fraternity has been requested to provide a business model for enhancing momentum of our business activity.

The All India Chartered Accountants' Society has been undertaking research in

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All India Chartered Accountants' Society
Announces an intensive

WORKSHOP ON SERVICE TAX

DATES: from 17th to 24th December 2005 (17th, 23rd & 24th)
TIMINGS: 2.00 p.m. to 8.30 p.m.

3rd ANNUAL WORKSHOP ON DIRECT TAXES

DATES: from 18th to 31st January 2006 (18th, 19th, 21st, 23rd, 24th & 31st)
TIMINGS: 2.00 p.m. to 8.30 p.m.

VENUE:

India International Centre (IIC), Annexe Building, Lecture Hall, 40, Max Mueller Marg, New Delhi - 110003

1.0 OTS GUIDELINES FOR SME ACCOUNTS

RBI issues guidelines for **One Time Settlement (OTS)** scheme for SME Accounts for recovery of NPAs below Rs.10 crore. The highlights of the guidelines are as follows:

[i] Coverage

- a) NPAs in SME sector which have become doubtful or loss as on March 31, 2004 with outstanding balance of Rs.10 crore
- b) NPAs classified as sub-standard as on 31st March 2004, which have subsequently become doubtful or loss
- c) Cases on which the banks have initiated action under the SARFAESI Act' 2002 and also cases pending before Courts/ DRTs/BIFR will also cover
- d) Cases of wilful default, fraud and malfeasance will not be covered.

[ii] Settlement Amount

a) **NPAs classified as Doubtful or Loss as on March 31, 2004:** Minimum amount that shall be 100% of the outstanding balance in the account as on the date on which the account was categorised as doubtful NPAs.

b) **NPAs classified as sub-standard as on March 31, 2004 which became doubtful or loss subsequently:** Minimum amount that shall be 100% of the outstanding balance in the account as on the date on which the account was categorised as doubtful NPAs, plus interest at existing PLR from April 1, 2004 till the date of final payment.

[iii] Payment

At least 25% of the amount of settlement shall be paid upfront and the balance amount of 75% should be recovered in installments within a period of one year together with interest at the existing PLR.

2.0 AMENDMENT TO THE ISSUE OF FCCB & GDR

In order to bring the ADR/GDR guidelines in alignment with SEBI's guidelines on domestic capital issues, it has been decided by the Government to incorporate the following changes to the GDR/ADR guidelines by amending the Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme: -

a) **Eligibility of issuer:** An Indian Company, which is not eligible to raise funds from the Indian Capital Market will not be eligible to issue FCCB & GDR.

b) **Eligibility of subscriber:** Overseas Corporate Bodies (OCBs) who are not eligible to invest in India through the portfolio route will not be eligible to subscribe to FCCB & GDR.

c) **Pricing:** The pricing of FCCB & GDR should be made at a price not less than the higher of the following two averages:

- (i) The average of the weekly high and low of the closing prices during the six months preceding the relevant date;
- (ii) The average of the weekly high and low of the closing prices during the two weeks preceding the relevant date.

3.0 FOREIGN CO.'S ARE MAKING PROFITS IN INDIA

The Federation of Indian Chamber of Commerce and Industry's (FICCI) annual survey on foreign direct investment finds that 70 per cent of the foreign companies are making profits from their Indian operations and 84 per cent of the surveyed companies have given a 'positive' assessment of the Country.

As per over 91 per cent of the respondents, there are opportunities for greater FDI inflow in their own industry sector. Eighty four per cent of the Companies surveyed are planning expansion of their Indian operations. India's attraction as a source of skilled IT/ BPO workforce was rated as 'high' by 90 per cent of the respondents.

However, India's attraction in terms of being an export platform or manufacturing base was rated as 'high' by only 34 per cent and 32 per cent respectively.

4.0 BANKS TO APPLY EXPOSURE NORMS ON ECB REFINANCING

As per Banking sources, during the last few months, several large corporates attempted to substitute ECBs with domestic debt, owing to the steep increase in international interest rates. The US Federal Reserve Board had hiked Fed funds rate to 3.5 per cent and the US discount rate to 4.5 per cent.

The domestic corporates had resorted to ECBs in 2002 and 2003 when international interest rates were considerably lower than domestic rates. Some ECBs came at rates as low as 2.5% when the London Interbank offered rate (libor) was 1.75 - 2 per cent, coupled with low forward premia, the effective financing costs were low.

With the series of hikes in the US interest rates, LIBOR is currently upwards of 4 per cent. This has meant a steep increase in debt servicing costs for those corporates who had taken ECB route for raising funds. Moreover, as per bankers, the rates were poised to rise further with further hikes in US Fed rates. Consequently, though the forward premia (0.4 per cent for six months) in the country was currently low, in interest rate edge no longer existed in ECB financing.

5.0 ABU DHABI TO GRANT PROPERTY RIGHTS TO FOREIGNERS

Abu Dhabi has issued a law allowing foreigners to own property in some developments in the Gulf Arab emirate. Under the law, foreigners can own property in investment areas in the capital of the United Arab Emirates (UAE) under a 99 year land title agreement or a renewable 50 year surface ownership deal. Previously, Abu Dhabi restricted foreigners to leasing property. Under the new law, they still cannot own land.

Neighboring emirate Dubai, the region's tourism and trade hub, has been the centre of a real estate boom in the past few years after it allowed foreigners to buy property in 2002. The UAE comprises several semi-autonomous emirates with a federal constitution that allows local and foreign ownership of properties, but individual emirates decide whether to grant ownership rights.



6.0 ASSESSMENT TOOL FOR INTELLECTUAL CAPITAL LAUNCHED

Consulting company Bizworth India has partnered with Intellectual Capital Sweden AB to launch intellectual capital assessment service. IC Rating measures intellectual capital, which is an intangible asset of a company. Current valuation methods attribute about 75% of the value of the company to intangible assets, while financial assets get 25% of the value. Compared this to heritage accounting, which credited about 80% of the value to financial assets.

7.0 CHEQUE TRUNCATION TO COME IN 2006

RBI has directed all commercial banks, especially members of the New Delhi clearing house, to take steps such as finalisation of cheque truncation points and amending manuals for payment processing. This is to enable them to prepare for the pilot project on cheque truncation in the national capital region, expected to go live in early 2006.

8.0 ADR, GDR RULES TO CHECK MISUSE

The finance ministry's directive on voting rights on ADR and GDR is expected to affect the management of companies and private banks where custodian votes are transferred to managements. The revised rules for GDRs issued by the finance ministry recently stipulated that the voting rights be in line with the RBI norms or the Companies Act rules.

9.0 FED HIKES RATES TO 3.5 PER CENT

The Federal Reserve recently again lifted US borrowing costs for the 10th time by per cent to 3.5% running to guard against inflationary pressure and signalled it would stay on a tightening course.

10.0 INFRA SPV TO REFINANCE LONG - TERM DEBTS

It has been decided by the government that it will allow its infrastructure SPV to refinance long term debts in domestic and international market on the lines of National Housing Banks (NHB). The government hopes the newly christened India Infrastructure Finance Company Limited (IIFCL) will do for infrastructure lending what the NHB has done to develop the housing boom in the country.

It will have the mandate to offer a combination of long-term debt, and refinancing of long-term loans given by banks and financial institution, for infrastructure projects of more than 10 years. For any viable infrastructure project in the private and public sector, IIFCL would therefore ask bank and FIs promoting the project to bear the initial lending risk. To the extent the debt component of the project is for 10 years or more, the IIFCL will refinance the risk for a max. of 20 % of the project cost. The finance ministry has assigned Rs. 10,000 crore for the initiative in 2005-2006.

11.0 ECB ROUTE STAYS CLOSED FOR CHARITABLE TRUSTS

Funding of charitable work would continue to be difficult with the ministry of finance taking a firm view that charitable trusts would continue to remain out of the external commercial borrowing (ECB) fold. It has been stated by senior Finance Ministry official that Charitable trusts would not be allowed to raise funds through ECBs. Since they are not commercial organisations they cannot take on foreign exchange risks.

12.0 PRICE NORMS MAKE CO.'s GO SLOW ON GDRs, FCCBs

Over half a dozen companies are pulling back their GDR floats, while several others are reviewing their proposed issuances of FCCBs, which have emerged as the hottest instrument to raise overseas funds. The moves follow the government's recent guidelines, which have set floor prices for GDRs and FCCBs. Since a large number of GDRs in the past have happened at a discount of 5-10% to the local share price, corporates fear that GDR issuances will not fulfil the floor price norm.

13.0 OPENING OF ACCOUNTS WITH BANKS NOW GETS EASIER

In terms of the simplified procedure, RBI has directed banks to open accounts based on an introduction from another account holder who has been subjected to full KYC procedure. The introducer's account with the bank should be at least 6 months old and show satisfactory transactions. However, RBI has asked banks to inform customers that should the deposits cross Rs 50,000 or should the credit limit cross Rs 1,00,000 their accounts will be locked until the full KYC needs are met with.

14.0 INVESTMENT NORMS FOR NRIs EASED

The government recently did away with the need to get FIPB clearance for conversion of NRI investment through a rupee account into repatriable equity. The department of industrial policy and promotion has notified press note 4 to this effect.

Earlier, NRI investments in foreign exchange on non-repatriable basis were allowed to be made fully repatriable through the automatic route, whereas investment in rupees through rupee account could be repatriated only with FIPB nod.

The liberalisation of repatriation norms, however, would be subject to the condition that the original NRI investment was in foreign exchange under the FDI scheme 2000. And the new policy would not supercede sectoral FDI regulations.

15.0 INDIA INC RAISES \$ 606M VIA ECBs IN JULY

India Inc raised a total of \$606 million through external commercial borrowings (ECB) route in July 2005. Unlike other months, the corporate sector has only raised debt through ECB as there is no issuance of quasi debt instruments such as foreign currency convertible bonds (FCCBs). Moreover, the entire fund has been raised through automatic route, which does not need prior approval of RBI. Banks could report to RBI after their corporate clients raise the funds.

Power finance Corporation led the pack by borrowing \$ 106 mn. maturing in two years and six months for refinancing old loans.

1.0 NORMS FOR TRANSFER BY WAY OF GIFT

It has now been decided by RBI that a person resident in India who proposes to transfer, by way of gift, to a person resident outside India any security including shares/convertible debentures is required to obtain prior approval of the Reserve Bank of India.

However, the application is required to be submitted along with following information:

- a) Name and address of the transferor (donor) and the transferee (donee).
- b) Relationship between the transferor and the transferee.
- c) Reasons for making the gift.
- d) In case of Government securities and treasury bills and bonds, CA certificate on market value of such security.
- e) In case of units of domestic mutual funds and units of Money Market Mutual Funds, a certificate from the issuer on the NAV of such security.
- f) In case of shares and debentures, CA certificate on the value of such securities.

2.0 OVERSEAS DIRECT INVESTMENT IS NOW ALLOWED IN BHUTAN

It has now been decided by the Reserve Bank, in consultation with Government of India, to allow direct investments in Bhutan in freely convertible currencies. This facility will be in addition to the existing facility of making investments in Indian Rupees. It is clarified that all dues receivable on such investments as well as their sale / winding up proceeds are required to be repatriated to India in freely convertible currencies only.

As hitherto, direct investments in Nepal can only be made in Indian Rupees.

(Source: RBI/2005/146, dt. 29.08.2005)

3.0 FDI IN PRINT MEDIA SECTOR

On a review, it has been decided by Government of India to permit Foreign Direct Investment (FDI) and portfolio investment within the composite ceiling of 26 per cent of the paid-up capital of an Indian company publishing newspapers and periodicals dealing with news and current affairs. Accordingly, Reserve Bank has issued a Notification withdrawing the prohibition placed on FIIs, NRIs and FVCIs to purchase shares of an Indian company engaged in print media sector. Further, the Indian company accepting FDI would have to comply with the guidelines issued on July 13, 2005 by the Ministry of Information and Broadcasting in this regard.

(Source: RBI/2005/118 dt. 11.08.2005)

4.0 FDI IN CONSTRUCTION DEVELOPMENT SECTOR

With a view to catalyzing FDI in townships, housing, built-up infrastructure and construction development projects, Government of India, (Ministry of Commerce & Industry), vide Press Note 2 (2005) dated March 3, 2005, has decided to permit FDI upto 100 per cent under the automatic route, in townships, housing, built-up infrastructure and construction development projects (which would include, but not be restricted to, housing, commercial premises, hotels, resorts, hospitals, educational institutions,), subject to the guidelines mentioned therein. Accordingly, RBI has also now amended the applicable FEMA guidelines.

(Source: RBI/2005/127 dt. 17.08.2005)

5.0 RBI TIGHTENS GRIP OVER FOREX DEALING

RBI has taken a strong stand on the foreign currency dealing of some service providers which insist payment in foreign currency. The RBI went to the extent to terming such an activity as violation of FEMA provisions. It is not a very uncommon practice in India that certain service providers, hotels for example, quote differential tariff in dollar for foreigners and insist that be made in foreign exchange.

6.0 RETURN ON FINANCIAL PARAMETERS BY NBFCs NOT ACCEPTING PUBLIC DEPOSITS

It has been decided to change the periodicity to a month and all NBFCs with assets size of Rs 100 crore and above will be required to submit the return in following manner:

- a) The return should be submitted within seven days of the month following the month to which it pertains. The first monthly return may be submitted for the month of September 2005 by October 7, 2005.
- b) The return will be submitted to the Regional Office under whose jurisdiction the company is located both via email and hard copy.

Non submission of the return will be viewed seriously and penal action will be taken for such non compliance.

(Source: RBI/2005-06/157 dt. 06.09.2005)

7.0 TRANSFER OF SHARES/ CONVERTIBLE DEBENTURES BY WAY OF SALE

Authorised Dealer banks have been delegated powers to deal with transfer of shares/convertible debentures from resident to non-resident and vice-versa, subject to the conditions stipulated therein.

It is, therefore, clarified that the transactions detailed below are also covered under the powers delegated to AD banks:

- a) Transfer of shares/convertible debentures of an Indian company, engaged in an activity earlier covered under FIPB/SIA route but now falling under Automatic Route of RBI, but not engaged in any activity in the financial service sector (i.e. Banks, NBFCs and Insurance), by a resident to a non-resident.
- b) Transfer of shares by a non-resident to an Indian company under buy-back and/or capital reduction scheme of the company.

(Source: RBI/2005-06/149 dt. 30.08.2005)



..... International Corporate & Tax Structuring

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1.0 GUIDELINES FOR BLOCK DEALS

In order to facilitate execution of large trades, the stock exchanges are being permitted to provide a separate trading window. A trade, with a minimum quantity of 5,00,000 shares or minimum value of Rs.5 crore executed through a single transaction on this separate window of the stock exchange will constitute a "block deal" as distinguished from "bulk" deal.

(Source: SE/Cir-19/05 dt. 02.09.2005)

2.0 QIB PARTICIPATION NORMS IN BOOK BUILT ISSUES

It has been decided in respect of participation of QIBs in book built issues that following measures should, henceforth, be implemented:

- a) QIBs shall bring at least 10% margin while submitting the bids.
- b) The allotment of shares to QIBs shall be on proportionate basis.
- c) Out of the existing 50% portion available for QIBs, 5% thereof shall be specifically available for Mutual Funds registered with SEBI. However, these Mutual Funds participating in QIB category will also be eligible for allotment in the remaining portion, i.e 45%, available to QIBs.

3.0 SCHEDULE FOR T + 2 ROLLING SETTLEMENT

The revised activity schedule under T+2 rolling settlement is as follows:

- a) T - Trade Day;
- b) T+1 - By 1.00 pm - Completion of custodial confirmation of trades to CC/CH; and by 2.30 pm - Completion of process and download obligation files to brokers/ custodians by the CC/CH;
- d) T+2 - By 11.00 am Pay-in of securities and funds; and by 1.30 pm - Pay-out of securities and funds.

(Source: SE/Dep/Cir-18/dt. 02.09.2005)

4.0 NORMS FOR MINIMUM PUBLIC SHAREHOLDING

It has been decided to revise the provisions related to minimum public shareholding in following manner:

- 1) All listed companies will be required to maintain atleast 25% shareholding with public for the purpose of continuous listing.
- 2) This will not, however, be applicable to companies which are permitted to make an Initial Public offer (IPO) of atleast 10% to public in terms of Rule 19(2)(b) of Securities Contracts (Regulation) Rules, 1957 (SCRR). Such companies will be required to maintain atleast 10% public shareholding for the purpose of continuous listing.
- 3) The aforesaid minimum public shareholding requirement will not be applicable to Government companies, infrastructure companies and companies registered with Board for Industrial and Financial Restructuring (BIFR).
- 4) Listed companies, which are not presently complying with the minimum public holding requirement as mentioned above, will be given a period of two years, for compliance, from the date of issuance of circular in this regard.
- 5) Listed companies which may in future fall short of the requisite minimum level as mentioned above on account of reasons like Corporate Debt Restructuring (CDR) packages etc. will be given a period of one year, for compliance, from the date of non-compliance.

The objective is to ultimately reach a single level of minimum public shareholding requirement for listed companies, in course of time. However, no time frame has been envisaged at this stage.

5.0 GOLD (METAL) LOAN

The Reserve Bank of India has allowed the Banks to lend gold loans to domestic jewellery manufactures. Thus, banks were allowed to lend gold loans to jewellery exporters only. The Gold (Metal) Loan provided by bank will be subject to the following conditions:

- i) The tenor of the gold loan for the domestic jewellery manufacturers should not exceed 90 days;
- ii) Interest charged to the borrowers should be linked to the international gold interest rate.
- iii) Banks should ensure end-use of gold loans to jewellery manufacturers and adhere to KYC guidelines.
- iv) The bank issuing the stand-by LC / BG (only ILC/BG) should ensure that adequate margin is available to it at all times consistent with the volatility of the gold prices

(Source: RBI/2005-06/155 dt. 05.09.2005)

6.0 COS CAN DOUBLE EXPOSURE IN COMMODITY EXCHANGE

To attract participation from corporates, the government has changed the rules in the commodity ring. In a significant shift from an earlier policy of allowing corporates to hedge only a fraction of their physical market exposure, corporates can now almost double their participation in commodity exchanges.

Extra limit on hedging will apply to domestic as well as international traders who are trading from India. Apart from corporates, this will also encourage participation from speculators, thanks to a possible deepening of the market in the coming days. Speculators will get more flexibility to cover up their open positions.

7.0 GDR, FCCB FLOATS TIED TO DOMESTIC IPOs

The government recently barred unlisted companies from issuing shares or debt overseas through foreign currency convertible bonds (FCCB's), without prior or simultaneous listing in the domestic stock market. This move is expected to come as yet another shot in the arm for the domestic capital market. Listed companies barred from raising finance in domestic markets will also not get permission to tap overseas market, for equity or debt.

Companies, which have already issued GDR, ADR or FCCB, will now have to get themselves listed in the domestic market within three years of such issue.

INMAGS

..... Capital Market – Compliance Audit

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1.0 INCOME TAX DECISIONS

1.1 Adherence of Principle of Consistency is must by judicial authorities

Hon'ble Madhya Pradesh High Court in the matter of Arihant Builders, Developers and Investors Pvt. Ltd. Vs. Income Tax Appellate Tribunal & others held that Tribunal cannot give contradictory decision for different years for same assessee on same facts. Hon'ble Court pointed out that one of the elementary principles of the judicial administration is that there should be consistency. The order of the Tribunal suffered from legal infirmity and could not be sustained. [277 ITR 239].

1.2 Assessment is not possible on dissolved Company

The Company which is dissolved cannot be assessed, even if some one files return and participate in the assessment proceedings in the name of the company. It was so held by the Hon'ble Income Tax Appellate Tribunal Delhi Bench in Impsat Pvt. Ltd. Vs. Income Tax Officer following the well established law that jurisdiction cannot survive after the death of the assessee even as found in the case of CIT vs. Amar Chand and Shroff [48 ITR 59 (SC)]. [276 ITR (AT) 136].

1.3 Mistake apparent from record

Hon'ble Income Tax Appellate Tribunal Mumbai Bench in the matter of Datamatic Financial Services Ltd. Vs. Jt. Commissioner of Income Tax held that on consideration of judgment of Jurisdictional High Court constituted a mistake apparent from record regardless of judgment being rendered prior to or subsequent to order proposed to be rectified. [95 ITD 23].

1.4 Application of mind necessary for recording reasons of escapement

Hon'ble Punjab & Haryana High Court in the matter of CIT Vs. Smt. Attri Devi held that it is necessary for the Assessing Officer to apply his mind in recording reasons for income escapement before issuing notice u/s 148 of the Income Tax Act, 1961 [276 ITR 532].

1.5 Levy of interest u/s 234A

Hon'ble Income Tax Appellate Tribunal Mumbai Bench in the matter of Milan Enterprises Vs. Asstt. Commissioner of Income Tax held that it is not open to the Assessing Officer to charge interest u/s 234A in a situation where the assessee had paid due taxes and merely filing of income tax return was delayed. [95 ITD 18].

2.0 DEPB ISSUE - PM ADVISORY PANEL FAVOURS EXPORTERS

The issue of negative profit in case of exporters have been taken favourably by the Economic Advisory Council to the Prime Minister.

Exemption under section 80HHC on the sale of DEPB licenses was always a controversial issue. Exporters want that proceeds from sale of DEPB licenses should be treated at par with the export proceeds. Income tax Department has reopened several of the cases involving DEPB issues and denying exemption under section 80HHC as there was no positive profit. Government is also in two-way thoughts. CBDT has already issued a circular no. 178/32/2002/ITA-I staying recovery of tax from such cases first up to 30th June, 2005 and later the date was extended to 31st August, 2005. In a recent case Hon'ble ITAT, Delhi Bench in the matter of P & G Enterprises Pvt. Limited Vs. DCIT (case no. ITA 3942/Del of 2004) held that 90% of DEPB receipts assessable u/s 28(iv) cannot be excluded from the profits of business as computed under the head 'profits and gains of business or profession' for the purpose of computing profits of business under clause (baa) of the Explanation to Section 80HHC(4B). Consequently, the order of CIT(A) is modified to that extent and AO is directed to recompute the deduction u/s 80HHC in accordance with our finding.

3.0 2005-2006 CAPITAL GAIN INDEX

CBDT issued a notification No. SO 1132(e) dated 12th August 2005 notifying cost inflation index for the financial year 2005-06 as "497" for the purpose of calculating capital gains.

4.0 CIRCULAR ON FRINGE BENEFIT TAX (FBT)

CBDT has issued a detailed Circular 'The Finance Act, 2005 - Explanatory Notes on the Provisions relating to Fringe Benefit Tax'. This Circular contains 107 FAQs besides other matters relating to FBT. Some of the FAQs answered in the Circular are as under:

Q. Whether FBT is payable by an entity having no employees? For example, will law firms having retainer-relationship arrangements and no employees be liable to pay FBT?

Ans. No

Q. Whether value of any benefit provided by the employer to its employees by way of allotment of shares, debentures or warrants directly or indirectly under any ESOP etc. is liable to FBT?

Ans. It is a fringe benefit within the meaning of clause (a) of sub-section (1) of section 115WB. However, in the absence of a computation provision in respect of such benefits, the charging section fails. Therefore, the value of such benefit is not liable to FBT.

Q. Whether expenditure incurred by a professional like a lawyer or auditor on conveyance, tour and travel and reimbursed by the client, is liable to FBT in the hands of the client?

Ans. The reimbursement of expenditure incurred for the purpose of conveyance, tour and travel is essentially a component of professional fee paid by the client to the lawyer or auditor. Accordingly, such expenditure is not liable to FBT in the hands of the client.

Q. Whether pre-operative expenses falling within the categories specified in section 115WB(2) would be covered in the scope of fringe benefits?

Ans. Yes



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Q. In a case where the expenses are capitalized and amortised over a period, whether FBT will be payable over the whole of the amount capitalized or restricted to the amount amortised during the year?

Ans. FBT is payable in the year in which the expenditure is incurred irrespective of whether the expenditure is capitalized or not. However, the same expenditure will not be liable to FBT again in the year in which it is amortised and charged to profit.

Q. Whether FBT is chargeable from an entity even if its income is exempt under DTAA?

Ans. Exemption, if any, under a DTAA is only in respect of income of the entity. However, FBT is a liability of an entity qua employer. Therefore, FBT is payable by a non resident employer if it fulfills the various conditions relating to its chargeability laid down in Chapter XII-H of the Income-tax Act.

Q. Whether expenses disallowed being in the nature of personal or bogus expenses will be liable to FBT?

Ans. FBT will be payable on the expenses after excluding the personal or bogus element of the expense.

(Source: Circular No. 8/2005 dt.29.08.2005)

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CAs - PARTNERS IN

macro and micro economic aspects of the Indian economy and have contributed several important suggestions in the past to the government and to the society for poverty alleviation, improving employment opportunities and an effective financial discipline of the national resources. Arising out of the pledge given to the nation at the behest of President of India the profession of Chartered

Accountants, including each one of us need to very effectively contribute towards :

- Value addition to the business of agriculture.
- Encouraging entrepreneurs to implement small, medium size projects in the area of food processing and projects adding value to agro- produce including cold chain (cold storage and refrigerated perishable goods movement fleets), warehousing, transportation and distribution projects.
- Empowering agriculturists by providing them entrepreneurial training and support to enable them to garner financial strength on their own and also to supplement the same by assisting them in organising resources from the organised sector.
- Developing business plans and ideas to implement projects in the following fields:
 - Small, medium size and mega power projects including distribution and transmission providing reliable quality electric power;
 - Other infrastructure projects including roads and ports;
 - Surface Transport Project;
 - Mass Education Projects;
 - Healthcare Projects;
 - Information and Communication Technology Projects;
 - Research and Development Projects to enable achievement of self-reliance in critical technologies.

We also need to take up with the Government for compulsory double entry accounting as well as audit by independent Chartered Accountants, with a positive approach, to provide guidelines, process control and checks so that the funds allocated in Government Projects are effectively and efficiently incurred. **The benefit of Chartered Accountants' expertise should be taken even for initial feasibility study for large Government Projects.** It is importantly necessary to implement a robust and responsive method of financial reporting for bringing about transparency and participation of all stake holders in the decision making process of large public sector projects.

We the Chartered Accountants community stands committed to channelize our core competence for providing maximum

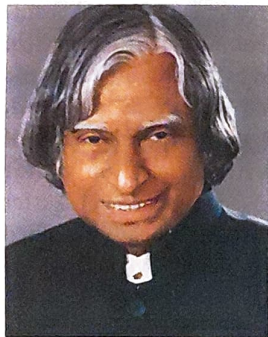
economic benefit for the given investments towards development task. In this process our expertise is to be made available to a wider spectrum of society, including agriculturists, entrepreneurs in rural, semi-urban and small urban areas and to channelize the national resources towards the economic growth. **We need to act as a friend, philosopher and guide for all kinds of business activities** not only for manufacturing and service sector but also for those who are so far not adequately benefited from the economic growth. Even SSI sector has witnessed a number of problems arising out of international competition. We, Chartered Accountants, need to help our clients in re-defining their business process, business strategy and technology and working methodology with a view to achieve cost saving, competitiveness through innovation and technological advancement.

Simultaneously, the Chartered Accountant profession need to develop professional expertise including specialization in international business, international accounting, international financial management and international auditing practices to empower Indian business to take on the international competition not only on the Indian turf but also for setting up businesses in various parts of the world including mergers and acquisitions, international resource raising, international regulatory compliance and international business strategy are certain areas requiring Indian Chartered Accountants' specialized skills. In fact the Indian businessmen are sincerely looking forward towards Indian Chartered Accountant Firms as well as Indian Chartered Accountant professionals employed by them to provide necessary guidance, support and solution in the international framework, as effectively and efficiently as it has been provided by the Indian profession in the domestic area.

The All India Chartered Accountants' Society is committed through its Professional Development Task Force to further strengthen the profession and seek necessary support from each Chartered Accountant to empower the Society in achieving its vision of acting as a strong catalyst to the growth of our own nation i.e. Hindustan, our India.

ICAI NEWS

1.0 CAs TO BECOME NATION'S FARM BUSINESS GURUS



President APJ Abdul Kalam recently at a conference asked the Institute of Chartered Accountants of India (ICAI) to develop business models for agriculture and rural development, PURA (providing urban amenities in rural areas) initiatives, and revitalising small-scale industries.

The President also asked ICAI to look beyond accounting and auditing, and remodel itself as a financial adviser o

the nation's economic development.

The President called upon ICAI to train local talent in basic accountancy and financial management by establishing village knowledge centres in village panchayats and providing consultancy to the village enterprises.

2.0 CAs MAY BE ROPED IN FOR EXCISE AUDITS

The 65,000 odd practicing Chartered Accountants may soon get more professional opportunities coming their way, with the Finance Ministry looking to leverage their expertise for excise duty reviews or audits.

Faced with a sluggish growth in excise duty revenues so far in the current fiscal, the Finance Ministry is keen to put in place a strong audit system to curb the leakage or evasion of excise duty.

The revenue department has begun consultations with the Institute of Chartered Accountant of India (ICAI) as to how the institute's members could take a lead role in the audit/review system being muddled by the Finance Ministry.

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