

A person is standing in the center of a large, complex maze. The maze is constructed from light-colored walls on a darker floor. The person is wearing a dark jacket and pants, and has their hand to their forehead in a thoughtful or confused pose. The lighting is bright, creating strong shadows and highlights on the maze walls.

POC Connect

# NEWSLETTER

*Updates*

*September, 2011 Edition*

## CORPORATE NEWS

(From 1<sup>st</sup> to 31<sup>st</sup> August, 2011)

### ***Religare forms panel to apply for new banking licence***

Religare Enterprises on Tuesday said it has set up an advisory panel that would support in seeking banking licence under guidelines issued by country's central bank. Kiran Karnik, former president of NASSCOM, have joined the panel

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### ***Fabindia invites bids from PE firms buys 8% stake***

Fabindia has invited bids from private equity investors for investing in the company and also buying out the 8% stake held by Wolfensohn Capital Partners. Fabindia wants to raise Rs 200 crore from private equity funds.

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### ***Satyam case: Andhra high court rejects bail pleas of Ramalinga Raju and others***

Justice Samudrala Govindarajulu, AP High Court dismissed the bail petitions of B Ramalinga Raju and seven other accused in the multi-crore Satyam Computer accounting fraud.

### ***Indian economy grew at 7.7% in June quarter***

India's economy grew 7.7 percent in the three months through June; it's weakest in six quarters. While GDP fell below 8 percent and inflation remained above 9 percent.

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### ***VIP's 4 Years of Share Disclosure Error***

VIP Industries said they'd been inadvertently under-reporting their shareholding in the company for the past four years in a letter to the Bombay Stock Exchange on August 10, they've declared 51.98 per cent stake in the company and not the 44.12 per cent they'd been reporting for several quarters.

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### ***Steve Jobs quits as CEO of Apple***

Steve Jobs, 56, resigned from the CEO post of Apple Inc. in a citing unspecified health issues. Jobs, who co-founded Apple in 1976, previously survived pancreatic cancer and received a liver transplant.

## TAX NEWS

(From 1<sup>st</sup> to 31<sup>st</sup> August, 2011)

### ***Rs 200 cr tax notice to DIAL, MIAL: Govt***

Show cause-cum-demand notice of Income Tax have been issued to operators of Mumbai and Delhi airports to recover service tax dues of Rs 54.68 crore and Rs. 145.47 crore respectively for the period April 2009 to January 2011.

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### ***HDFC Bank starts income tax payment service through ATMs***

Private sector lender HDFC Bank on Wednesday launched a service whereby its 115 lakh debit card holders can pay income tax through the bank's ATMs. The service can now be accessed by the bank's 115 lakh debit card holders at 5,998 HDFC Bank ATMs in 1,111 cities across the country.

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### ***Introduction of TDS on Service Tax soon***

The Government is planning to introduce TDS even for Service Tax. The intention could well be to increase overall tax revenues to make up for possible shortages in other sources.

### ***Govt Services May Be Taxed Under GST***

Paid government services, rail travel, renting of vacant land for commercial use, donations to educational institutions and some new services in construction and real estate sector may become taxable if a finance ministry concept paper on negative list of services is adopted.

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### ***Sahara to pay depositors 4 years before RBI deadline***

Sahara India Financial Corp. Ltd, India's largest residuary non-banking company, has decided to wind up deposits and pay all its customers Rs. 73000 Crores by December, 2011 about four years before a deadline set by RBI .

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### ***CBEC not to move appellate tribunal if amount less than Rs 5 lakh***

The Central Board of Excise and Customs has instructed its officials not to file appeals in the tax tribunals if the fine and penalty on an alleged offender is less than Rs 5 lakh. The existing threshold for approaching an appellate tribunal is Rs 1 lakh. The order will take effect from September 1

## Circulars, Notifications and Press Releases

(From 1<sup>st</sup> to 31<sup>st</sup> August, 2011)

### ❖ COMPANIES ACT, 1956

#### ***General Circular No. 59/2011 dated 05.08.2011***

##### Company Law Settlement Scheme, 2011

- The Defaulting Companies can avail benefit under CLSS, 2011 as they can file belated documents with a subsidized penalty of only 25% of additional fee liable for such default.
- Scheme shall remain effective from 12.08.2011 to 31.08.2011.
- CLSS shall be applicable only on the following Annual Forms Form 23AC, 23ACA , 20(B), Form 21A, Form 66 and Form 52

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### ❖ SERVICE TAX

#### ***Notification No. 43/2011 – Service Tax, dated 25-8-2011***

##### Service Tax Return to be filed by all asseses

- As per amended Rule 7 of Service Tax Rules, 1994 and inserted a new sub rule 3 , every service tax assessee is required to file half-yearly return electronically from 1st October 2011

❖ **SEBI**

***Circular No. CIR/MIRSD/16/2011 dated August 22, 2011***

**Simplification of Trading Account Opening Process**

- Replacement of client-broker agreements with the 'Rights and Obligations' document
- Uniform documentation
- The client will now be required to sign only on one document i.e. Account Opening Form.

***Circular No. CIR/MIRSD/18/2011 August 25, 2011***

**Redressal of investor grievances against stock brokers and sub brokers in SEBI Complaints Redress System (SCORES)**

- Processing of investor grievances in a centralized web-based complaints redressal system, 'SCORES'
- Online tracking of status of complaints by investors
- Online upload of Action Taken Reports (ATRs) by the concerned entities;

## Corporate Case Laws

(Till to 31<sup>st</sup> August, 2011)

### ***Societe General v. Daewoo Motors India Ltd. [Del]C.A No. 227/2011 in C.P. No. 66/2003***

#### Brief Facts:-

The Application was filed on behalf of the employees of the Company-in-liquidation for ad-hoc payment of their wages as an interim relief. The proceedings against the Company was initiated by ICICI Bank before DRT where some property of the Company was sold through Private sale for Rs. 765 Crores, out of which Rs. 50 Crores was earmarked towards 'Workers claim'. The sale of land is challenged. The application prayed disbursement of this amount.

#### Held:-

Application was dismissed

#### Reason:-

The party is challenging the sale cannot claim the amount as they cannot be paid money in hope that some party would come forward to offer price more than what existing purchaser has offered. They are at liberty to challenge the sale price in order to once again approach court for such relief



## Tax Case Laws

(Till to 31<sup>st</sup> August, 2011)

### ***G.E India Technology Centre Pvt. Ltd. vs. DRP [Karnataka High Court]***

#### **BREIF FACTS:-**

The assessee claimed deduction of Rs. 32.18 Crores u/s 10A which was allowed by AO, who passed a draft assessment order u/s 144C allowing s. 10A deduction of Rs. 44.49 lakhs only. The assessee filed objections before the Dispute Resolution Panel which took the view that the assessee was not at all entitled to s. 10A deduction as it was engaged in “research & development”. On the alternative plea that the assessee was engaged in providing “engineering design services”. DRP directed the AO to examine the claim on merits. The assessee filed a Writ Petition claiming that the directions given by the DRP was beyond jurisdiction. This was dismissed by the single judge. On appeal by the assessee.

#### **HELD:-**

The appeal was allowed

#### **REASON:-**

DRP had no jurisdiction to hold that the assessee was not at all eligible for s. 10A deduction as such if orders and directions are permitted to be allowed, it would defeat the object of the alternate dispute resolution.

***CIT vs. K. Raheja Corporation Pvt. Ltd. [Bombay High Court]***

**BREIF FACTS:-**

In AY 2000-01 the assessee had investments in shares & mutual funds of Rs. 20 Crores on which it earned tax-free dividend of Rs. 13.35 lakhs. The assessee also had borrowed funds on which it claimed deduction of interest of Rs. 8.70 Crores. The AO disallowed interest of Rs.2.79 Crores on the ground that it was relatable to earning tax-free dividend. The Tribunal deleted the disallowance on the ground that the investments had been made out of the assessee's own funds and not out of the borrowed funds. The department filed an appeal before the High Court.

**HELD:-**

The appeal was dismissed

**REASON:-**

The Revenue could not point as to how interest on borrowed funds to the extent of Rs.2.79 Crores was attributable to earning dividend income which are exempt u/s 10(33) of the Act. Therefore, in the absence of any material or basis to hold that the interest expenditure directly or indirectly was attributable for earning the dividend income, the decision of the Tribunal in deleting the disallowance of interest made u/s 14A cannot be faulted.

*Thank You*

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