

**POC CONNECT**

**NEWS LETTER**

**UPDATES, APRIL 201**



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## **FDI proposals worth Rs.733 crore approved**

The Central Government approved six foreign direct investment (FDI) proposals envisaging a capital inflow worth about Rs.732.77 crore in foreign exchange on 26<sup>th</sup> March, 2013. According to a Finance Ministry statement here, the approvals, based on the recommendations of the Foreign Investment Promotion Board (FIPB) headed by Economic Affairs Secretary Arvind Mayaram, include clearance to Malaysia-based Air Asia Investment Limited's proposal to bring in FDI worth Rs.80.98 crore to set up a joint venture company for undertaking the business of operation of scheduled passenger airlines.

## **SEBI tightens takeover norms to check frivolous open offers by promoters**

SEBI said no offer can be withdrawn on the ground that it is not successful in order to prevent promoters from influencing stock prices through frivolous open offers. The decision was taken to address the concerns that some acquirers use the public announcement as a means to influence the market price and



subsequently attempt to withdraw the offer on the pretext that the acquisition was not successful.

### **TVS to rope in BMW to challenge Bajaj-KTM**

Chennai-based TVS Motor is planning to challenge Bajaj Auto-KTM's leadership in the 180-250cc premium sports bike market through a major partnership with Germany's BMW Motorrad.. An announcement on the BMW-TVS tie-up is due in April, which is expected to give TVS access to hi-end technology while BMW will get a low-cost manufacturing partner for the lucrative Indian two-wheeler market.

### **Financial inclusion likely to be part of banking code**

The Reserve Bank of India is exploring the possibility of enshrining financial inclusion in the Code of Bank's Commitments to Customers. Financial Inclusion is the process of ensuring access to appropriate financial products and services – deposit accounts, payment services, micro-credit and micro-level insurance – to vulnerable groups such as weaker sections and low income groups by mainstream institutional players.

## **SEBI to tighten norms for pledging, insider trading & share buybacks**

The Securities and Exchange Board of India (SEBI) will soon frame stricter laws to tackle instances wherein promoters pledge their shares without making the mandatory disclosures on the stock exchanges. The regulator is also planning to strengthen the guidelines for insider trading and share buybacks.

## **HDFC Bank cuts benchmark lending rates by 0.1% effective from March 30**

HDFC Bank has decided to cut its benchmark lending rates by 0.1 per cent with effect from March 30. The base rate, or the minimum lending rate, of the country's second largest private sector bank will become 9.6 per cent from the existing 9.7 per cent. The benchmark prime lending rate ( BPLR) of the bank is expected to be slashed by similar margin to 18.10 per cent.

## **EU, Australia, Canada may follow India's Patent Law**

India's strong stance on minor drug innovations could

reverberate in national parliaments and courthouses of the developed world as Australia, the EU and Canada get ready to discuss and ban patent protection for frivolous improvements.

### **Drugs to skip price control for 5 years**

Drugs that boast of an element of Indian innovation can skip price control for five years under the proposed new pharmaceutical pricing policy, an incentive for encouraging domestic research. At present, prices of 74 bulk drugs and their formulations are regulated.



**CAUTION  
TAXES  
AHEAD**



## India and Liechtenstein sign tax information agreement

Amid government efforts to track black money stashed abroad, India today signed a Tax Information Exchange Agreement with Liechtenstein. "India and Liechtenstein have signed a Tax Information Exchange Agreement (TIEA) at Bern, Switzerland,"

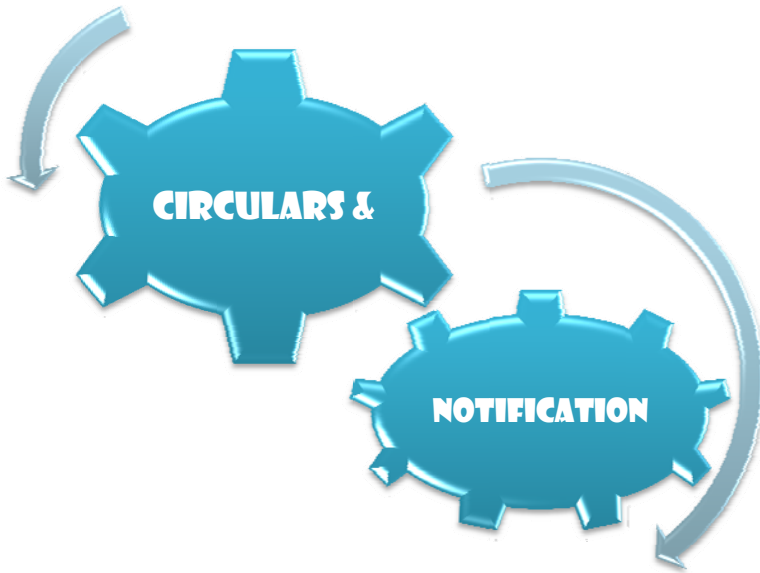
## Central Board of Direct Taxes lays out rules for captive R&D centres

India has streamlined the taxation treatment for the IT sector in a bid to make the country an attractive destination for software development and research and development (R&D). The Central Board of Direct Taxes has laid down conditions for a development centre in India to be treated as a contract R&D service provider with "insignificant risk". This will address the problems created by the divergence of views among the field officers and taxpayers regarding the functional profile of

development centres engaged in contract R&D services for the purposes of transfer pricing audit.

### India's tax-GDP ratio one of the lowest'

At 15.5 per cent, India has one of the lowest tax-to-gross domestic product (GDP) ratios, says a recent paper by the Centre for Budget and Governance Accountability. The 37.7 per cent share of direct taxes to India's total taxes was lower and regressive compared to developing countries such as South Africa (57.5 per cent), Indonesia (55.85 per cent) and Russia (41.3 per cent). The property tax-to-GDP ratio in India is only 0.48 per cent. Wealth tax in India is only 0.007 per cent of GDP, while it is 0.89 per cent in France.



## SEBI

CIRCULAR NO. CIR/ MRD/ DRMNP /9 / 2013 DATED 20<sup>th</sup> MARCH 2013.

### Corporate bonds and Government securities as collateral

- ❖ FIs are permitted to use their investment in corporate bonds and Government securities as collateral to meet their margin requirements towards their transactions on the recognized Stock Exchanges in India.
- ❖ Reserve Bank of India vide RBI/2012-13/439 A.P. (DIR Series) Circular No. 90 dated March 14, 2013 has permitted FIs to use, in addition to already permitted collaterals, their investments in corporate bonds as collateral in the cash segment and government securities and corporate bonds as collaterals in the F&O segment.

## INCOME TAX

CIRCULAR NO. 02 /2013 DATED 26<sup>TH</sup> MARCH, 2013

12 Circular on application of profit split method

Rule 10B (1) (d) of Income Tax Rules 1962 (the Rules) provides that profit split method (PSM) may be applicable mainly in international transactions involving transfer of unique intangibles.

Selection and application of PSM will depend upon following factors as prescribed under Rule 10C (2) of the Rules:

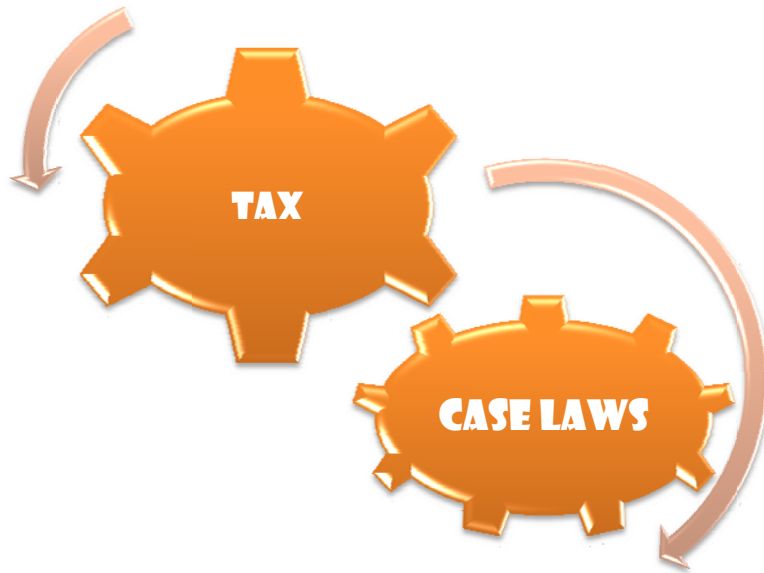
- The nature and class of the international transaction;
- The availability, coverage and reliability of data necessary for application of the method;
- The degree of comparability existing between the international transaction and the uncontrolled transaction and between the enterprise entering into such transactions
- The extent to which reliable and accurate adjustments can be made to account for differences, if any, between the international transaction and the comparable uncontrolled transaction or between the enterprises entering into such transaction.

## SERVICE TAX

**NOTIFICATION NO: 01/2013- DATED 06<sup>th</sup> MARCH.2013**

### **Extension of Submission of Form ST-3**

In exercise of the powers conferred by sub-rule (4) of rule 7 of the Service Tax Rules, 1994, the Central Board of Excise & Customs hereby extends the date of submission of the Form ST-3 for the period from 1st July 2012 to 30th September 2012, from 25th March, 2013 to 15th April, 2013. The circumstances of a special nature, which have given rise to this extension of time & Form ST-3 is expected to be available on ACES around 20th March, 2013.



[HIGH COURT OF BOMBAY]CIT vs. Regalia Apparels Pvt. Ltd M/s. Regalia Apparels Pvt. Ltd. (ITXAL No. 88 of 2013) (Bom.)

**Explanation to S. 37(1): No disallowance for compensatory payments**

**Brief Facts:** The assessee company was granted an export entitlement by Apparel Export Promotion Council (APEC) for export of Garments and Knit Wares. The assessee furnished Bank Guarantee in support of its commitment to abide by the terms and conditions in respect of export entitlements. One of the terms decided upon in this agreement was that the bank guarantee would be forfeited if the export obligation was not fulfilled. The assessee company in view of incurring heavy losses, decided not to utilize the entitlement. Consequentially, APEC encashed the Bank Guarantee (as forfeiture) and the same was booked under 'Penalty' by the assessee in its books of accounts. The AO rejected the claim, it could not be allowed under the Explanation to sec 37(1). However, the CIT (A) and ITAT allowed the claim. On appeal by



the department to the High Court, HELD dismissing the appeal:

**Held:** The Hon'ble Bombay High Court held that the assessee took a business decision not to honour its commitment of fulfilling the export entitlement in view of loss being suffered by it. The genuineness of the claim of expenditure being for business purpose is not disputed by the A.O. The Court confirmed the finding of the Tribunal that the assessee has not contravened any provision of law and the forfeiture of the bank guarantee is compensatory in nature and does not attract the Explanation to s. 37(1) and thus, dismissed the appeal of the Revenue. The decision lays down the fact that payments which are compensatory in nature should not be disallowed in Income Tax solely on the basis of nomenclature. If the substance of the payment makes it evident that it is not incurred towards violation of any law, rather it is an expenditure incurred in the course of business then it should be allowed while computing Taxable Income.

## [High Court of Bombay]CIT vs. Bennett Coleman & Co. Ltd

**No s. 271(1)(c) penalty if income not offered to tax due to “inadvertent mistake”**

**Brief facts:** The assessee claimed deduction/ exemption of interest on tax-free bonds of Rs.5.60 crores. When the AO asked the assessee to give details of the interest on tax-free bonds, the assessee stated that it had inadvertently treated taxable interest of Rs. 75 lakhs as being tax-free and offered the said sum to tax. The AO levied penalty u/s 271(1)(c) for concealment of income/ filing inaccurate particulars of income. This was upheld by the CIT(A) though deleted by the Tribunal on the ground that there was an “inadvertent mistake” by which the taxable bonds were classified as tax-free and that there was “no desire” on the part of the assessee to hide or conceal its income so as to avoid payment of tax on interest from the bonds. On appeal by the department, HELD dismissing the appeal:

**Held:** The decision of the Tribunal is based on finding of fact that there was an inadvertent mistake on the part of the

assessee in including the interest received of 6% on the GOI Capital Index Bonds as interest received on tax free bonds. Hence the Judgment of High Court is against the Department.

# Thank

***FOR ANY SUGGESTIONS & QUERIES***

***CONTACT:-***

**PUNKAJ OSWAL & CO.**

**CHARTERED ACCOUNTANTS**

**7A LGE, NRI COMPLEX**

**MANDAKINI GK-IV**

**NEW DELHI-110019**

**PH: +91-11-26277030, 26270070**

**FAX: +91-11-26272011**