

POC CONNECT

UPDATES

MAY, 2013



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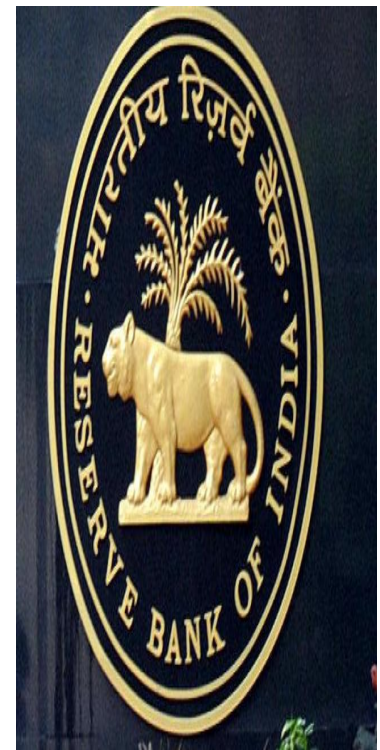


Saradha Chit Fund scam

The corporate affairs ministry is working with the West Bengal government to help small investors recover their savings they had invested in the bust Saradha group, in the news for duping investors, minister Sachin Pilot said on Monday. The announcement comes a few days after his ministry set up a special task force within the Serious Fraud Investigation Office to unravel the money trail in the 15 companies of the Saradha group.

RBI may allow 7-8 new banks

The Reserve Bank of India (RBI) is likely to give banking licences to seven-eight new entities, including aspirants among non-banking financial companies, as well as industrial houses. In its discussion paper on the matter, released in August 2010, RBI had said a “few” licences would be given, leading the market to believe the number would be three or four. The process to allow new banks has come from RBI nearly a decade after two entities were allowed to set up banks in the previous round.





Reliance Jio inks pact with Bharti for cable network

Bharti Airtel will share part of its submarine cable network with Reliance Industries' telecom arm, a rare partnership between two firms not known for their camaraderie. The country's largest telco will provide Reliance Jio Infocomm data capacity on its undersea cable that links India and Singapore, enabling the Mukesh Ambani-owned venture to connect its proposed 4G network to the Asia-Pacific region.



RBI earns over 40% returns from its gold reserves

The Reserve Bank of India is sitting on handsome returns on its gold reserves despite the recent crash in the yellow metal's price.

The RBI's gold stock of about 400 tonnes, currently valued at \$25.7 billion, has appreciated 41% since it bought 200 tonnes in October-November 2009 from the International Monetary Fund. During the same period, returns from alternative liquid assets were just one-fourth of gold.



Government hopes amended Registration Act will weed out corruption

Having forged a political consensus on the Land Acquisition Bill, the government now hopes to weed out corruption in land deals by amending the Registration Act, 1908. Changes include making it compulsory to register leases for a period of less than a year, mandatory registration of power of attorney transfers, registration of property in the state where it is located and allowing inspection of registered documents.

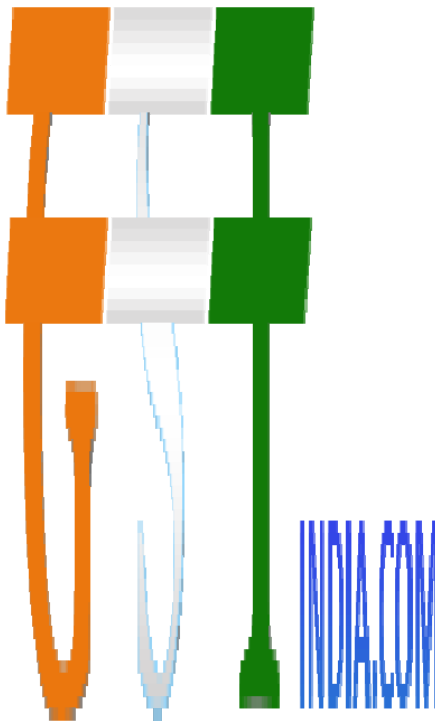
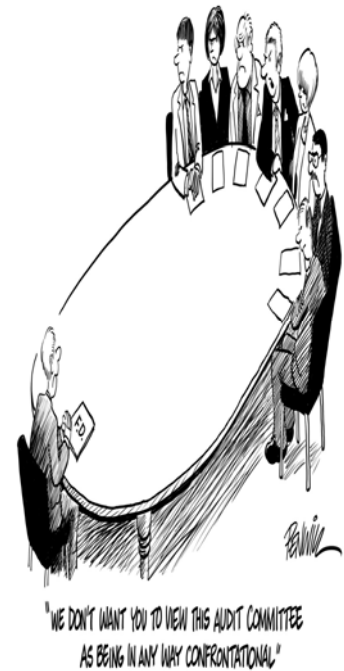
Bharti Airtel to acquire Warid Telecom Uganda

Bharti Airtel, the country's largest telco by revenue and customers, signed an agreement to buy rival Warid Telecom Uganda for an undisclosed sum on April 23, reinforcing its position as the second-largest mobile phone firm in Uganda with a 39 per cent market share, just behind market leader MTN, which controls 49 per cent.



Audit committee should be talking to the auditor

Due to Corporate frauds, accounting scandals and business failures the Regulators now want to significantly enhance corporate governance practices. One such measure involves fostering a constructive dialogue between auditors and the audit committee on the accounting and auditing aspects of companies.



Government considering to Incentivise State who are willing to implement GST

The proposed Goods and Service Tax (GST) is designed in a way that it will not hamper the financial autonomy of states, rather it will incentivize the states. The committee has been tasked with building a consensus on this major indirect tax reform. Sushil Kumar Modi, the chairman of the committee said the committee was also looking at incentivizing states that agree to implement GST, in line with international practices as Canada and Singapore having similar structures



Microsoft gets a tax notice

After IBM India and Nokia, it's now the turn of Microsoft to receive a demand notice from the income tax (I-T) department on valuation of transactions with its parent company. The company has challenged the notice. "Microsoft complies with the tax laws in each jurisdiction in which we operate. We are seeking relief against the transfer pricing adjustments through the appropriate appellate forums

Reserve Bank of India



RBI Circular No. RBI/2012-13/481 A.P. (DIR Series) Circular No. 100 dated 25.04.2013

- Any overseas entity having equity participation directly / indirectly shall not offer financial products linked to Indian Rupee (e.g. non-deliverable trades involving foreign currency, rupee exchange rates, stock indices linked to Indian market, etc.) without the specific approval of the RBI.
- Such product facilitation without approval would be treated as a contravention of the extant FEMA regulations and would consequently attract action under the relevant provisions of FEMA, 1999.

Service Tax

Order No: 03/2013-Service Tax. dated the 23rd April, 2013



Central Board of Excise & Customs extends the date of submission of the Form ST-3, for the period from 1st October 2012 to 31st March 2013, from 25th April, 2013 to 31st August, 2013.



Service Tax

[Circular No. 168/3 of 15-04-2013]

Service Tax applies on erection of Pandal / Shamiya as it is preparation of a place to hold a function & it is a declared Service with no transfer of right to use goods.

Income Tax

IT Circular 2 dated 26th March 2013:

Transfer pricing office can use Transactional net margin method or Comparable uncontrolled price method Methods for calculation of Arms Length Price instead of Profit Split Method where intangibles are involved.

Customs

[F No 609/35/2013-DBK of 04.04.2013]

Exporters not to be asked to attend personal hearing after submitting BRC/negative statement or to submit them again.



**Nagesh Kumar v. Nagesh Hosiery Exports Ltd. [High Court of Delhi]
CO. A (SB) No. 18 of 2008, 05.03.2013**

Whether CLB has the power to direct purchase/ sale of shares without proper valuation by approved valuer for arriving at fair market value of shares ?

Brief Facts:

The appellants filed a petition under section 397/398 alleging oppressive acts and mismanagement on part of respondents including removal of Appellant No.1 from the board of the company on EGM dated 08.02.2006, with respect of which it was alleged that no notice was received by Appellant No. 1. Petitioners alleged that Respondent No. 2 and his brothers Respondent No. 3 & Respondent No.4 are withdrawing various amounts without any authority, despite Memorandum of Understanding executed between the parties by virtue of which the respondents were prevented to deal with properties of the company. The CLB passed the impugned order on 11.06.2008 whereby holding that, the allegations of acts of oppression and mismanagement of affairs remained unquestioned and also directed the Petitioners to go out of the Company @ Rs.706.73 per share being the admitted value per share. The appellants/Petitioners challenged the said order.

Held:

Appeal was disposed off while the impugned order of CLB was set aside and the matter was remanded back to CLB for valuation of shares afresh.

Reason:-

As the Petitioners have succeeded in demonstrating oppression by respondents, they could not be compelled to accept an arbitrary value as admitted by respondents because the such valuation is not based on any sound financial and accounting principles. Thus matter was remanded back to CLB for appointment of valuer and fresh valuation of shares.



CIT vs. Jagtar Singh Chawla (P&H High Court) April 2nd, 2013
Deposit in capital gains account scheme by due date of Belated return under section 139(4) also sufficient for claiming exemption under section 54F.

Brief Facts:

The assessee sold property on 20.06.2006 (AY 2007-08) for a consideration of Rs. 2.24 crores. The said amount was not invested in the capital gains account scheme by the due date of filing the return u/s 139(1) (31.07.2007) and was instead used to purchase a new residential house on 31.3.2008. The assessee claimed exemption u/s 54F which was denied by the AO & CIT(A) on the basis that u/s 54F(4) the amount of the consideration which is not appropriated for purchase of the new asset before the date of furnishing the return of income u/s 139 had to be deposited in the “capital gains account scheme” before the due date for filing the return of income u/s 139 (1). On appeal by the assessee, the Tribunal allowed the claim. On appeal by the department to the High Court, HELD dismissing the appeal.



Held:

Though s. 54F(4) provides that the amount not appropriated towards purchase of the new asset has to be deposited in the capital gains account scheme before the due date for filing the return u/s 139(1), sub-section (4) of s. 139 is in the nature of a proviso to s. 139(1). S. 139(4) provides that a person who has not furnished a return within the time allowed to him under s. 139(1) may furnish the return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment whichever is earlier. For AY 2007-08, the last date for filing the return u/s 139(4) is 31.3.2009. This extended time limit is available for making deposit in the capital gains account scheme. As the assessee had invested the consideration in purchase of a new house before that date, the exemption has to be allowed (Jagriti Aggarwal 339 ITR 610 (P&H), Rajesh Kumar Jalan 286 ITR 274 & Fathima Bai (Kar) followed).



VIJAY PARKASH AGRAWAL VS. CIT HIGH COURT OF ALLAHABAD WRIT TAX No. - 1357 of 2012 APRIL 23rd 2013

Non – grants of refunds: strictures passed against dept for harassing honest taxpayers

Brief facts:

Honest taxpayer was harassed by dept. A search was conducted at the premises of the assessee during which cash of Rs. 25 lakhs was seized. The assessee succeeded in the block assessments and the said amount of Rs. 25 lakhs became refundable to the assessee. However, the said amount was not refunded to the assessee on the ground that there were demands outstanding against a third party who was also named in the search warrant. The assessee claimed that he had no relation with the third party and the fact that there were demands outstanding there did not mean that the assessee refund could be blocked. The department refused to pass an order on the assessee application for refund.



Held:

Allahabad high court held that It is but evident that the department has failed to discharge its legal obligation in not refunding the seized amount. The argument of the department that unless a direction is issued, a speaking order shall not be passed on the application for refund of the amount due to him is not appreciated. It shows that the officers of the Income-tax Department are shirking their responsibilities. The revenue official failed to take any decision right or wrong on the refund application filed by the assessee and passed on the buck on the Court. An honest tax-payer should not be subjected to unnecessary harassment and an action not warranted in law, which can be of very serious consequence to the tax-payer if is allowed to remain without correction, such harassment and browbeating of an honest tax-payer will otherwise drive even such honest tax-payers to become cynical and lead to a situation where taxpayers will get a feeling that paying taxes honestly is not a worthwhile exercise; that the tax authorities are a menace to the society rather than simply being representatives of the State for enforcing the tax provisions. The department shall pay costs of Rs. 15,000 to the assessee.



For any suggestions & Queries

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