



POC Connect

Updates December, 2012 Edition



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Corporate News

[From 1st to 30th November, 2012]

Promoters Pool for CDR increased

Before tightening of norms by RBI, bankers insist on a higher promoter contribution for loan recasts of at least 25% of the diminution in the fair value of any loan that is recast. A meeting of the core group of the corporate debt restructuring cell (CDR) cell that meets on December 5 will ratify the decision.

LIC gets nod to buy 30% in companies

The government has allowed LIC to invest up to 30% in a company as against the earlier limit of 10 per cent. The government will also announce a recapitalization plan for banks and is considering of doing it through rights issue.

67% FCCBs maturing in H2 may default

India Ratings and Research's report indicates that more than half of FCCBs issued by 23 Indian companies maturing between 16.10.2012 and 23.03.2013 are expected to either be restructured or go into outright default. It expects 67% of the outstanding dues of \$1.5 billion belonging to 17 companies are unlikely to be redeemed on time.

PVR acquires Cinemax

PVR has bought out the 141-screen multiplex chain Cinemax for Rs 395 crore, making PVR the largest player in the market having share of 27%. The Cinemax acquisition will be executed by PVR's wholly owned subsidiary, Cine Hospitality Pvt. Ltd (CHPL) which will buy the 69.27% stake owned by Cinemax promoters, for Rs 203.65 per share in an all-cash deal.

GlaxoSmithKline lines up 5,222 crore share buyback offer

GSKPlc announced an open offer to buy 31.8 per cent stake in its Indian arm GlaxoSmithKline Consumer Healthcare at Rs 3,900 per share from existing shareholders. The buyback announcement, offering a 28 per cent premium to the firm's closing price last week, prompted a big rush and the share hit the upper limit of 20 per cent on Monday to close at Rs 3,651.80 on the BSE.

Close watch on audit qualifications

Listed Companies while filing annual reports with stock exchanges for the period ending on or after December 31, 2012, now need to file Form A or Form B, depending on the type of audit observation/ qualification in the audit report. This is a seemingly minor change, but has multiple repercussions for various stakeholders.

Tax News

[From 1st to 30th November, 2012]

ITAT: Four new e-courts to be launched, hearing through video-conferences

ITAT will launch e-courts in four cities from December 10 to facilitate hearing of cases via video-conferencing. The tribunal, a quasi-judicial body, has set up webcast facilities at Delhi, Mumbai, Nagpur and Ahmedabad, a first in the history of tax judiciary in India.

Final draft of GAAR to be made public in 10 days: Chidambaram

The government plans to announce within the next 10 days the final general anti-avoidance rules (GAAR) according to the Finance Minister. The rules, introduced in this year's budget to check tax evasion, provoked an outcry from foreign investors who feared excessive scrutiny by the tax department.

No info about Indians having accounts in Swiss banks: CBDT

CBDT has said before CIC in a reply to RTI seeking names and addresses of Indians who have accounts in Swiss banks, that it does not have any such information of reported stashing of money in Swiss banks.

CIC to seek political parties' asset details from department

The CIC will seek a report from Income Tax department and Directorate of Estate regarding tax exemptions claimed by political parties and their assets to ascertain whether there is enough indirect funding from the government to bring them under the ambit of RTI Act. The CIC is considering the case whether political parties which receive benefits from the government in the form of subsidized buildings for offices; free air-time and various tax exemptions come under the RTI Act.

Govt. plans 2% raise in excise duty, service tax

The finance ministry is considering a proposal to raise excise duty and service tax by two per cent to 14 per cent each in the Union Budget for 2013-14. The move is likely to help the ministry collect about Rs 30,000 crore. Certain exemptions may also be rolled back.

MNC woes: I-T dept's claims on transfer pricing up 85% in FY12

The revenue department in its 2011-12 audit has claimed income suppression of Rs. 44,532 crore (\$8billion) pertaining to transfer pricing, up 85% over the comparable figure in the previous year's audit. Companies have been asked to pay nearly a third of this amount called 'transfer pricing adjustment' as tax.

Notifications, Circulars & Press Releases

[From 1st to 30th November, 2012]

Ministry of Corporate Affairs

- General Circular 37/2012 dated 6.11.2012

Examination of the Balance Sheet

Companies and Directors are liable for penalty for any incorrect, false or misleading information that such filing such disclose upon the scrutiny of the Balance Sheet as filed by the Company.

- General Circular No:35/2012 dated 5.11.2012

Default by the Cost Auditor in filing Form 23D against the corresponding Form 23C

Company is required to issue formal letter of appointment to the cost Auditor who shall in 30 days file form 23D intimating MCA. All defaulting Cost Auditor are to file the Form 23D till December 16,2012

Income Tax

- **Press Release dated 2/11/2012**

CBDT Has Extended the Time Limit for Filing ITR-V

The Director General of Income Tax has extended the time limit for filing ITR-V forms up to 31st December, 2012 or within a period of 120 days from the date of uploading of the electronic return data, whichever is later (without digital signature Certificate) for A.Y. 2010-11 (filed during F.Y. 2011-12) and for A.Y. 2011-12 (filed on or after 1st April, 2011).

- **Notification No. 51/2012-IT dated 23/11/2012**

Rajiv Gandhi Equity Savings Scheme 2012-Section 80CCG

Central Government has made the New Scheme naming Rajiv Gandhi Equity Savings Scheme, 2012 which shall apply for claiming computation of total income of the assessment year relevant to a previous year on account of investment in eligible securities under sub-section (1) of section 80CCG of the Income-tax Act, 1961 available to a new retail investor who complies with the conditions of the Scheme and whose gross total income for the financial year in which the investment is made under the Scheme is less than or equal to ten lakh rupees.

Income Tax Case Laws

[Till 30th November, 2012]

- Commissioner of Income-tax Vs. SPEL Semi Conductor Ltd.
[Tax Case (Appeal) No.2490 Of 2006] High Court of Madras

Depreciation and unabsorbed depreciation can be set off from any head (except from salary)

BRIEF FACTS OF THE CASE:

The assessee has claimed set off of unabsorbed depreciation and unabsorbed loss. While re-computing the income for the assessment year 1998-99, the Assessing Officer adjusted the brought forward loss on the business income and arrived at the business income as 'Nil'. There was still more amount available by way of carried forward loss. The assessee had income from other sources. He sought for adjustment of carried forward unabsorbed depreciation in the income from other sources. This was refused by the Officer and the Commissioner of Income Tax. Aggrieved by the same, the assessee went on further appeal before the Tribunal and the Tribunal made

the decision in favour of the assessee. Aggrieved by the same, the Revenue is on appeal before this Court.

HELD:

Appeal was dismissed.

REASON:-

The decision was made in the favour of assessee by the high court of Madras since as per section 32(2) the current year depreciation and unabsorbed depreciation can be set off against the profits of any business .The balance ,if any, against income any other head (except from salary).

- Assistant Commissioner of Income-tax vs. C. Ramabrahmam IT Appeal NO. 943 (MDS.) OF 2012 [ITAT Chennai]

Assessee can claim Deduction of Interest on Housing Loan Both under sec. 24(b) and sec. 48 [Assessment Year 2007-08]

BRIEF FACTS OF THE CASE:

The Assessee (individual), filed his 'return' declaring income of Rs. 6,40,440/-. In scrutiny proceedings, the Assessing Officer noticed

that the assessee had purchased a house property on 20.01.2003 and sold the said property on 20.04.2006. While computing the cost of acquisition the assessee had added an amount of Rs. 4,82,042/- as interest on housing loan taken in 2003 for purchasing the property. The Assessing Officer was of the opinion that since interest had already been claimed as deduction under section 24(b) in assessment years 2004-05 to 2006-07, the same could not be taken into consideration for computation under Section 48 of the "Act"

HELD:

ITAT held in favour of the assessee.

REASON:-

ITAT has held that the assessee was entitled to include the interest amount for computation under Section 48 despite the fact that the same had been claimed under Section 24(b) while computing income from house property. Deduction under Section 24(b) and computation of Capital Gains under Section 48 of the "Act" are altogether covered by different heads of income i.e., income from 'House Property' and 'Capital Gains' Since both provisions are altogether different, the assessee in the instant case is certainly

entitled to include the interest amount as part of cost of acquisition at the time of computing Capital Gains under Section 48 of the "Act.

- **Global Digital Color Lab vs. CCE [2012] 27 TAXMANN.COM 232 [CESTAT Principal Bench, New Delhi]**

A Service provider can take CENVAT Credit on machinery imported prior to date of its registration

BRIEF FACTS OF THE CASE: -

In the instant case the assessee took CENVAT credit in respect of machine imported prior to its registration under service tax law. The department denied the credit on the ground that no credit can be taken on machine imported prior to registration.

HELD:-

On appeal, the Tribunal held in favour of assessee.

REASON: - The Tribunal held that:-

- a. There is nothing in the rules prohibiting a person from maintaining proper account. There is no statutory record presently prescribed like "RG-23" as was earlier in force;
- b. Therefore, procedures, as was prevalent in old rules that credit entries in register for taking credit should not belong to a date prior to the date of granting of registration, are not in force now.

Accordingly, the credit in respect of machine imported even prior to registration was allowed to assessee

Thank you

For any suggestions & Queries

Contact:-

Punkaj Oswal & Co.

Chartered Accountants

7A LGF, NRI Complex

Mandakini GK-IV

New Delhi-110019

Ph: +91-11-26277030, 26270070

Fax: +91-11-26272011