

# POC Connect

## Updates

### January, 2012

### Edition



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Section I

**CORPORATE NEWS**

## **ICICI Bank to join Facebook**

ICICI Bank will soon join Facebook, where it plans to allow its customers to access their bank accounts, among other services through its page will include a one-of-its kind 'Your Bank Account' app through which one can access your bank account information while on Facebook

## **SAIL draws up Rs.70,000-cr capex programme**

SAIL) has decided to not only focus on expansion and capacity addition in its Rs.70,000-crore programme but also shift its focus to increase the share of value-added products from 39 per cent to around 55 per cent in the next two years, to meet the emerging challenges

## **RBI removes Rs 50,000 cap on mobile transaction**

RBI has removed the Rs 50,000 per customer per day transaction limit on mobile banking. This limit was imposed in 2009, but now it is up to banks to decide transaction limits based on their own risk perception.

## **Takeover Code doesn't supersede FDI Policy**

SEBI has made it clear that the code will not supersede or replace the FDI policy or any other government regulation for that matter. It is apprehended that code could clash with the FDI caps in sectors where foreign investment is capped at less than 51%.

## **House Panel to meet on Jan 6 to vet Companies Bill**

The parliamentary standing committee on finance is likely to meet on January 6 to draw out the differences on the Companies Bill that was withdrawn from Parliament last week following the divide between the Congress and its principal opponent, the BJP.

## **TCS overtakes RIL as country's most valued firm**

Reliance Industries lost its position of the country's most valued company to Tata group firm TCS this afternoon, when its shares fell sharply in a weak market. At 1450 hours, Reliance Industries (RIL) commanded a market value of Rs 2,27,083 crore, a shade below Tata Consultancy Services' Rs 2,28,153 crore

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Section II

**TAX NEWS**

## **Service tax levy on rail freight put off yet again**

The implementation of service tax levy on transport of goods by rail has been deferred, once again. This levy will now come into effect from April 1 against the earlier announced date of January 1.

## **I-T issues notices to Swiss bank holders**

A few corporate honchos have received Income-Tax notices for holding undisclosed bank accounts with HSBC, Geneva in Switzerland. The I-T department has issued notices to over 100 individuals in Mumbai and there are around 700 Swiss bank account holders whose names figure in the list.

## **MMRDA gets Rs55cr tax notice**

Mumbai Metropolitan Region Development Authority (MMRDA), has come under the scanner of the income tax (I-T) department over acquisition of government land and subsequent rehabilitation of the project-affected persons (PAPs). The I-T department has deemed these two activities as taxable and slapped a Rs55 crore notice on the planning agency.

## **India, EU close to deal on auto duty cuts in FTA**

India and the European Union (EU) have found common ground on the issue of duty treatment of automobiles in their proposed free trade pact as per which, India will cut import duty on finished cars from the EU by half to 30% while export of small cars from India will get duty-free access to the 27-nation bloc.

## **Exporters to get e-refund of tax paid on input services**

Reliance Industries, Bharat Forge, Bajaj auto etc will be able to receive electronic refund of service tax paid on input services used for goods exported. Rate of return will range from 0.03% to 0.20% of the freight on board value of export.

## **Export duty on iron ore hiked to 30 %**

The domestic miners have said the upward revision in the export duty on iron ore to 30 per cent would make India's produce incompetent in the global market and total shipments were unlikely to exceed 50 million tonnes in the current fiscal.

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Section III



**CIRCULARS,  
NOTIFICATIONS AND  
PRESS RELEASES**



## ***Company Law***

### **Company Law Settlement Scheme (CLSS) extended vide [Circular No. 71/2011 dated 15/12/2011]**

- Company Law Settlement Scheme, 2011 condoning the delay in filing documents with the registrar and granting immunity from prosecution by charging additional fees of 25% of additional fees has been extended up to 15th January, 2012.

### **PAN Based DIN-4 Filing date extended vide [Circular No. 70/2011 dated 15/12/2011]**

- The time for filing form DIN-4 by DIN holders for furnishing PAN and to update PAN details has been extended up to 29.02.2012.

### **Convening of Shareholders Meeting through Video Conferencing made optional vide [Circular No. 72/2011 dated 27/12/2011]**

- MCA has decided that convening of shareholders meetings through video conferencing will continue to be optional for listed companies too.

- NSDL and CDSL authorized by MCA for providing and supervising electronic platforms for electronic voting.

## ***Direct & Indirect Tax***

### **Availability of Deemed Export benefits when imported capital goods are directly supplied as such to Project Authority Vide [Circular No.50/2009-2014 Dated: 28th December, 2011]**

1. Deemed Export Benefits will not be available if Bill of entry is in the name of project authority.
2. Deemed export Benefits will be available only if capital goods are manufactured in India.

Example: In case of non mega power projects, capital goods such as boilers etc must be manufactured in India.

3. Custom duties will not be refunded back if capital goods imported by the contractor/sub-contractor and supplied as such to project authorities.

### **Service Tax Refund to exporters through the Indian Customs EDI System (ICES) Vide [Circular No. 149/18/2011-ST Dated: December 16, 2011]**

1. Government has proposed to introduce a simplified scheme for electronic refund of service tax to exporters, on the lines of duty drawback.
2. To obtain benefit under the new electronic STR scheme, an exporter:

(i) should have a bank account and also a central excise registration or service tax code number registered with Customs ICES

(ii) should declare his option to avail STR on the electronic shipping bill while presenting the same to the proper officer of Customs.

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Section IV

**CORPORATE CASE LAWS**

*Simultaneous filing of Dispute regarding leasehold property before civil courts through arbitration and CLB u/s 397*

## **Anand Kumar Jain vs. Anil Kumar Jain CP No.59 of 2008**

### **BRIEF FACTS:-**

The Petitioner filed a petition under section 397 and 398 against respondents alleging certain acts of oppression and mismanagement. The respondents challenged the maintainability of the Company petition alleging that there was a gross abuse of process of law because the leasehold property in dispute had already been partitioned by way of MOU through arbitration. The Petition was neither regarding the dispute in directorship nor regarding dispute in shareholding but only for the leasehold property.

### **HELD:-**

The Petition was dismissed.

### **CONCLUSION:-**

The Petitioners were clearly pursuing parallel proceedings and the matter was already pending before civil courts. There was no justification in holding instant company petition as maintainable.

*Refusal for Registration of Transfer of shares u/s 111A*

**Bhima Govindan vs. Reliance Capital Ltd. CP No.7 of 2010**

**BRIEF FACTS:-**

The Petitioner filed petition under section 111A to CLB stating that he purchased certain shares of respondent company from respondent 3 on 29.11.1994 and forwarded transfer deed on 25.04.2007. The company refused to transfer the said shares stating that the share transfer deeds were lost by registered holder and duplicates share certificates have already been issued to him.

**HELD:-**

The Petition was dismissed.

**CONCLUSION:-**

The Petitioner approached the bench after 16 years & has not reasoned out such inordinate delay in the petition.

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Section V

**TAX CASE LAWS**

*Capital gain Exemption U/s 54F in case of investment in residential house*

**Asstt. CIT v. Sudhakar Ram [2011] 16 Taxmann**

**BREIF FACTS:-**

The Assessee Company earned Long Term Capital Gain on sale of shares. It claimed deduction under section 54F because amount of capital gain had been invested in purchase of two residential flats. The Assessing Officer on finding that building was under construction stage and assessee had chosen to pay entire sum as advance, rejected his claim.

**HELD:-**

Tribunal held partly in favour of the Appellant Assessee

**REASON:-**

It was held that assessee had paid full consideration before statutory period of 2 years from the date of sale of shares and, had acquired right in two flats which were being constructed by builder, and therefore, benefit of deduction under section 54F could not be denied. However, two separate flats/properties, not adjacent to each other could not be regarded as a Single Unit, therefore assessee was entitled to benefit under section 54F in respect of only one of those units.



*Failure to apply law or a section to admitted facts on record is not covered by Explanation 1 to section 147*

**Atma Ram Properties (P.) Ltd. v. Dy. CIT [2011] 203 taxman 408/16 67 (Delhi)**

**BREIF FACTS:-**

For Assessment year 2001-02, the Assessing Officer made an addition of certain amount under section 2(22)(e) as deemed dividend being amount advanced by group company to assessee. On appeal, CIT (A) reduced addition to amount advanced during that year and deleted addition representing amount advanced in earlier years. Thereupon, the Assessing Officer reopened assessments of assessment years 1999-2000 and 2000-01 and made addition under section 2(22)(e).

**HELD:-**

High Court held partly in favour Assessee

**REASON:-**

It was held that since AY 1999-200, all facts were already known and on record and lapse was on part the Assessing Officer in not invoking Section 2(22)(e), reopening is unjustified. However, proceedings for AY 2000-01 were never initiated and relevant material

was not produced before Assessing Officer, therefore reopening for that assessment year is justified

*Liaison office of non-resident assessee in India cannot be considered its PE in India under Section 9 of Income Tax Act-Income deemed to accrue or arise in India*

**Dy. DIT v. M. Fabricant & Sons Inc.**

**[2011] 15 taxmann**

**BREIF FACTS:-**

The Liaison Office of non-resident assessee in India was carrying out activities of selection of goods and negotiation of price as part of purchasing process as per instructions of assessee. The Assessing Officer held that the liaison office shall be regarded as its permanent establishment. The same was under challenge.

**HELD:-**

The Tribunal held in favour of assessee

**REASON:-**

It was held that liaison office could not be considered as a permanent establishment of the assessee in India and, therefore, profit attributed to liaison office not be held to have accrued or arisen in India.

*Happy New Year*



With Warm Wishes:-

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