Monthly Newsletter Volume No. 2/2008

SNK

Love is to think about someone else more times in a day than you think about yourself.

Happy Valentine's Day!!!!

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DIRECT TAXES

Judicial Pronouncements

CIT V. Suresh N. Gupta (2008) 166 Taxman 313 (SC)

Section 113 read with Chapter XIV B of the Income Tax Act, 1961 and read with para 1 of first schedule to Finance Act, 2001 – Block assessment in search cases – Tax in case of - Block Period 1991-92 to 2000-01 – On 17-01-2001 a search under section 132 was carried out at premises of assessee which unearthed certain undisclosed income - AO computed tax thereon at 60% in terms of section 113 and also levied surcharge at the rate of 17% on the amount so taxed – Assessee challenged levy of surcharge in appeal before CIT(Appeals) – CIT(Appeals) allowed assessee's appeal – decision of CIT(Appeals) was confirmed by Tribunal and High Court – Whether since even without proviso to section 113(inserted vide Finance Act, 2002 with effect from 01-06-2002), Finance Act, 2001 was applicable to block assessment under chapter XIV B in relation to search initiated on 17-01-2001, surcharge was leviable at rate of 17% on amount of tax computed – Held Yes

Whether proviso inserted in section 113 by Finance Act, 2002 is clarificatory in nature as it clarifies that relevant date for applicability of Finance Act would be the year in which search stood initiated under section 158BC- Held Yes

Spice Telecom V. ITO (2008) 113 TTJ 502 (Del.)

Agreement between India and Mauritius – Royalty – Payment for liaison with legal and financial advisers and negotiations with vendors and financial institution for extension of the vendor loans and syndication of the long term project finance being purely for services, was not royalty being taxable in India within the meaning of article 12(2) of the Indo-Mauritius DTAA, hence no tax was deductible at source from such expenditure.

CIT V. Vikas Electronics (International) (P.) Ltd. (2008) 166 Taxman 137 (Del.)

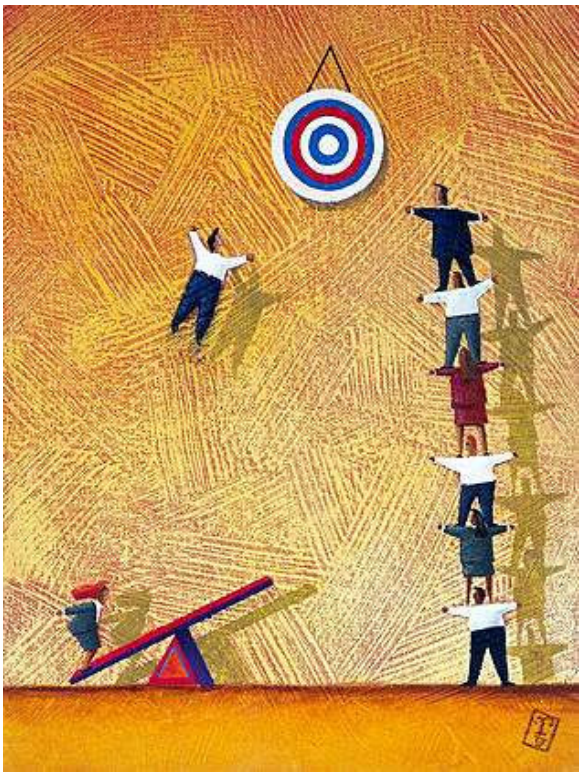
Section 158B, read with section 158BC, of the Income Tax Act, 1961 – Block assessment in search cases – Undisclosed income – Whether in respect of a block assessment, undisclosed income is required to be computed on the basis of evidence found during search or being directly relatable to evidence found during search – Held Yes – A search and seizure operation was conducted at various residential and business premises of the assessee and during said search, books of accounts were seized – Subsequent to search and with a view to verify correctness of the books, Deputy Director of Income Tax recorded statement of One V who admitted to have made purchases of some goods from the assessee – Subsequently V retracted from his statement and stated that goods were directly sent to his customers and he did not physically preparing false bills for assessee for which he received a commission and therefore he added back some amounts to income of the assessee – Whether since statement V was recorded after search proceedings with a view to confirm correctness of account books and it was not recorded because of some incriminating material that was unearthed during search proceedings, it could not be said that statement of V was a direct consequence or result of obtaining some incriminating material which showed that assessee had undisclosed income – Held Yes – Whether therefore addition made was unjustified - Held yes

Shah Originals v. ACIT (2007) 112 TTJ 754 (Mum.)

DEPB credits amount constitute profit of export business for purposes of deduction u/s 80HHC.

Arun Excello Foundations (P.) Ltd. V. ACIT (2008) 166 Taxman 53 (Chennai)

Section 80IB of the Income Tax Act – deductions – Profit and gains from industrial undertakings other than infrastructure development undertakings – AY 2003-04 and 2004-05 – Whether amendment to section 80-IB(10) brought by Finance (No. 2) Act, 2004 with effect from 01-04-2005 whereby a restriction is put regarding maximum commercial area to be built up by the assessee for purposes of claiming deduction under said section, would apply only prospectively and retrospectively – Held yes.



DCIT V. Sheth & Sura Engg. (P.) Ltd. (2008) 110 ITD 39 (Pune.)

Section 32 of the income tax Act – depreciation- Whether for claiming depreciation, assessee has to satisfy conditions laid down in section 32, mere disclosure of amount and investment in some assets, whose description is withheld is not sufficient to claim deduction of depreciation - Held yes – Whether where during the course of search of its premises, assessee company surrendered certain amount representing 'undisclosed income' which included investment in plant and machinery and furniture and fixture, but failed to furnish necessary particulars of those assets, AO was justified in disallowing assessee's claim for depreciation on those assets, though disclosure was accepted and taxed by the department – Held yes.

Charbinnages De France International SA V. DCIT IT Appeal No. 98(Mum.) of 2002

Section 5, read with section 9 of the Income-tax Act, 1961 and article 13 of Double Taxation Avoidance Agreement between India and France - Income - Accrual of - Assessment year 1997-98 - Assessee, a company incorporated in France, entered into an agreement with Central India Coal Company Ltd. (CICCO) for Feasibility study Report for developing coal mines for Lohara West Mine Project - Said agreement provided, inter alia, that CICCO would furnish information technical data and geological information in respect of Lohara West Mine Project to assessee for purpose of preparing Report after feasibility study, that feasibility report was to remain as property of CICCO, and that assessee shall have no, right, title, interest in project report prepared - CICCO furnished information in France to assessee - Assessee was not having a permanent establishment in India - Assessee received payment of Rs. 55.32 lakhs from CICCO and claimed that said income/profit arising to it on sale and/or transfer of feasibility report to CICCO was only a business profit liable to be taxed in France - Assessing Officer held that sum of Rs. 55.32 lakhs received by assessee as a consideration for services of managerial, technical or constancy nature fell within meaning of 'fees for technical services' in article 13(4) of DTAA with France and was taxable in India, even in absence of permanent establishment of assessee in India - Whether since assessee had no permanent establishment in India as all services were rendered outside India, income in question could not be considered as accrued in India and thus section 5(2) and section 9(1)(vii) were not attracted - Held, yes - Whether, therefore, provisions of DTAA between India and France needed not be gone into - Held, yes - Whether,

therefore, impugned payment received by assessee was wrongly taxed in India - Held, yes

Rolls Royce V. DDIT (2008) 1 DTR 394 (Del. ITAT)

Double Tax Relief – agreement between India and UK – Permanent Establishment – Assessee, a UK based company has a wholly owned subsidiary RRIL in India – Any request of the Indian customers for quotation/extension and other correspondence is routed through the office of RRIL – This shows that RRIL maintains a permanent office in India to undertake all activities on behalf o the assessee – Thus, assessee has a business connection India within the meaning of Article 5 – Premises in the name of RRIL are being used for business operations of the assessee in India and the cost of maintenance thereof is met by the latter – Further the activities of RRIL are not merely preparatory or auxiliary in character – primary responsibility rests on RRIL to analyse and scrutinize the proposals and orders and the employees of RRIL are functionally responsible to the assessee for the specified matters – RRIL is required to act as a marketing office to receive orders and to promote the activities which converts the request for quotations into orders – admittedly assessee has a dependent agent in India in the form of RRIL – RRIL habitually secures orders for the assessee in India – No customer in India is allowed to send orders directly to the assessee in UK – manufacturing operation is carried out by the assessee outside India – 50% of the profits are to be allocated towards manufacturing activity which cannot be taxed in India – Likewise assessee has also carried out research and development activity outside India which is important as manufacture in the line of business – 15% of the profits are to be allocated towards R & D activities – therefore the balance of the profit i.e. 35% can be attributed to the marketing activities which are carried out in India and the same are chargeable to tax.

Radhe Developers & Ors. V. ITO (2008) 113 TTJ 300 (Ahd.)

Profit derived from developing and building house projects – land not registered in the name of the assessee – Deduction u/s 80IB(10) is to be allowed irrespective of the fact that whether the assessee is the owner of the land or not.

Poompuhar Shipping Corporation Ltd. V. ITO (2008) 297 ITR 219 (Chennai)

Payment to non-resident – Whether sum chargeable to tax is to be decided by the AO and not the person making payment – Held Yes

West Asia Maritime Ltd. V. ITO (2008) 297 ITR 202 (Chennai)

DTAA between India and Cyprus - Bare boat Charter and demise agreement in respect of ship owned by the non-resident – payment of hire charges to the owner – Not income from plying ships in international traffic but payment for use of ship i.e. equipment – Hire Charges taxable in India as Royalty – cannot be treated as business income

Galileo International Inc. V. DCIT (2008) 19 SOT 257 (Del.)

Section 9, read with section 5, of the Income-tax Act, 1961 - Income - Deemed to accrue or arise in India - Assessee- a foreign company had developed a fully automatic reservation and distribution system known as CRS with ability to perform comprehensive information, communication, reservation, ticketing, distribution and related functions on a worldwide basis -

Through that system, assessee provided service to various participants, i.e., Airlines and hotels, etc., whereby subscribers/ Travel Agents (TAs) could perform functions of reservation and ticketing, etc. - For that purpose, it maintained and operated a Master Computer System (MCS) in USA which was connected to participating airlines/hotels servers' from which data regarding flight schedules, seat/room availability, fare structure, etc., on a real time basis was continuously sent and obtained - For disseminating said data to various TAs in India, assessee entered into a distribution agreement with an Indian company 'I' – 'I' in turn, entered into a subscribers agreement with various TAs to provide them with access codes, equipment, communications link and support services

- Assessee paid remuneration to 'I' for acting as its distributor and additionally bore all expenses for installation of equipment; i.e., computers at premises of TAs with requisite configuration /connectivity thereof

- Assessee was also remunerated outside India only by airlines and it did not receive any remuneration from TAs - In respect of relevant assessment years, assessee filed its return declaring nil income on ground that no income accrued or arose to it in India nor could any such income be deemed to accrue or arise in India; in any event, it had no operations in India which gave rise to taxable income under section 5(2) or section 9(1)(i) - As per business model of assessee, all subscribers in respect of which income was held taxable were situated in India, equipment, i.e., computer in some cases and connectivity as well as configuration of computer in all cases were provided by assessee; request which originated from subscriber's computer in India, ended at subscriber's computer itself and on basis of information made available to subscriber, reservations were also possible; and but for request generated from subscriber's computer's situated in India, booking, which was source of revenue to assessee, was not possible - Whether in such a situation, there was a continuous seamless process involved, at least part of which was in India, thus, there was a direct business connection established in India and, hence, in terms of section 9(1)(i), income in respect of booking, which took place from equipment in India, could be deemed to accrue or arise in India and, hence, taxable in India - Held, yes - Whether since extent of work in India was only to extent of generating request and receiving end result of process in India, and major functions like collecting database of various airlines and hotels were processed at assessee's host computer in USA, 15 per cent of revenue accruing to assessee in respect of bookings made in India could be reasonably attributed as income accruing or arising in India and chargeable under section 5(2) read with section 9(1)(i) - Held, yes - Whether, however, since remuneration paid to 'I' in respect of activities carried out in India had consumed entire income accruing or arising in India and further since entire payment made by assessee to 'I' had been allowed as expenses while computing its total income, in such a situation, in view of circular No. 23, dated 23-7-1969 no income could be further charged to tax in India - Held, yes

Article 5, read with Article 7, of the Double Taxation Avoidance Agreement between India and USA - Permanent establishment - Whether in view of facts under heading 'income', since CRS, which was source of revenue to assessee, was partially existent in computers installed at

premises of subscribers, and when said computers could not be shifted from one place to another even within premises of subscriber, leave apart shifting of such computer from one person to another, assessee could be said to have exercised complete control over computers which would amount to a fixed place of business for carrying on business of its enterprise in India and, thus, assessee could be said to have established a PE within meaning of article 5(1) - Held, yes - Whether since function of PE in India was not to advertise products of assessee, instead, part of booking function was operated in India which directly contributed to earning of revenue, activities carried out by assessee in India were in no way of preparatory or auxiliary character and, thus, exception provided in article 5(3) would not apply and assessee would be deemed to have a PE in India - Held, yes - Whether since business of 'I' was to provide data processing and software development services together with relative distribution of assessee's system to TAs in India and it had also an authority to enter into agreements with TAs, it could be said that functionally as well as financially, it was dependent entirely on assessee and, thus, was a dependent agent of assessee - Held, yes Whether since agreements entered into by 'I' with subscribers under an authority granted to it, were contracts relating to operations which constituted business proper and not merely in nature of internal operations, it was to be held that 'I' was dependent agent of assessee who had habitually exercised authority to conclude contracts on behalf of assessee - Held, yes - Whether in all circumstances only that much of profit as are arising due to assets and activities of PE can be brought to tax and if whole of activities of business are not carried out in India profit should be apportioned between that arising in India and that arising outside India - Held, yes

DCIT V. Perfetti SPA (2008) 19 SOT 433 (Del.)

Whether mere existence of business relation of non-resident company in India would not give any right to the AO to assessee any income of such company in India – The AO must establish the that the company has permanent establishment in India – assessee company supplied machinery to subsidiary on cost to cost – There is no control over subsidiary company in India – No part of profit is taxable in India.

DDIT V. Tata Chemicals Ltd. I.T. Appeal No. 5016 / Mum. of 2002

Section 9 read with section 115A of the Income-tax Act, 1961 and Article 12 of DTAA between India and Germany - Income - Deemed to accrue or arise in India - Assessment years 1996-97 and 1997-98 - Assessee-company purchased designs and drawings from a German party - Assessing Officer held that payment for purchase of drawings constituted a payment or royalty under section 115A read with Explanation 2 of sub-section 1 of section 9 and directed to deduct tax - Whether since payment was for purchase of drawings was payment for acquiring right of ownership in property, it could not be treated as royalty as per article 12 of DTAA between India and Germany - Held, yes - Whether since there was no permanent establishment (PE) in India of German company, such payment was not taxable as business income or as capital gains in hands of German company - Held, yes

JCIT V. Indian Management Advisor & Leasing (P.) Ltd. (2008) 19 SOT 156 (Del.)

Whether an assessee who has acquired an asset on hire purchase agreement, is entitled to depreciation on asset in the year of entering into hire purchase agreement, notwithstanding that he

would become owner of the asset, once he makes payment of all installment – Held yes

Paperbase Co. Ltd. V. ACIT (2008) 19 SOT 163 (Del.)

Whether in case of slump sale, where liabilities are more than value of asset, net worth viz. cost of acquisition has to be taken at Nil and entire sale consideration is liable to capital gain tax – held yes

DCIT V. B.S.E.S. Ltd. (2008) 113 TTJ 227 (Mum.)

Interest u/s 244A on refund of self assessment tax is to be allowed to the assessee right from the date of payment of such tax and not merely from the date of assessment order.

Siemens Information System Ltd. V. ACIT (2008) 214 CTR 16 (Bom.)

Change of opinion- Reopening of assessment on the basis of different interpretation of the same provisions by the successor AO in a later assessment year or on the basis of a tribunal decision amounts to mere change of opinion and not 'reason to believe' to justify the reopening of assessment.

CIT V. Prem Nath Nagpal (2008) 214 CTR 51 (Del.)

Computation of undisclosed income - In the absence of recovery of any indiscriminating document showing any understatement of purchase consideration or the cost of improvement of the property in question, no addition of undisclosed income in respect of said property could be made by resorting to the provisions of Chapter XIV-B.

Ganesh Banzoplast Ltd. V. ACIT [IT Appeal No. 7279 (Mum) of 1998]

Section 37(1), read with section 35D, of the Income-tax Act, 1961 - Business expenditure - Allowability of - Assessment year 1995-96 – During relevant year, assessee-company issued and allotted certain fully convertible debentures and claimed deduction of debenture issue expenses as revenue expenses – Said debentures had two convertible portions, namely, Part-A and Part-B, while Part-A portion was fully converted by assessee into equity shares on date of allotment itself, Part-B portion of said debentures was converted on expiry of one year from date of their allotment – In view of this, Assessing Officer held that since debentures so issued and allotted during previous year were fully converted by assessee into equity shares within one year of allotment thereof, debenture issue expenses were capital expenses - Whether in view of Tribunal's decision in assessee's own case in relation to assessment year 1996-97, expenses incurred by assessee in respect of part-B of debentures till their conversion into equity capital was revenue in nature – Held, yes - Whether since debenture issue expenses relating to Part-A of debentures were treated as capital expenses, same were entitled to be amortized as per section 35D and assessee was entitled to deduction as contemplated in section 35D - Held, yes

Ocean Structure Private Limited V. ACIT (Del.)

The assessee constructed a building and entered into license agreement under which the license was permitted to use the premises for its business of dealing in sarees, garments, fabrics etc. for a consideration which was to be a percentage of the sale proceeds. The AO came to the conclusion that the assessee and licensee were not independent entities but were closely connected to each other and concluded that the income had to be charged as income from house property and not as business income.

The High Court held that the entire arrangement of a license agreement was a colourable devise to make the income from house property appear as income from business and the assessee has merely parted with the possession of the premises for the purpose of earning income there from.

Circulars/Notifications/Press Release

Press Release No.402/92/2006-MC (05 of 2008)

The optional scheme of electronic payment of taxes for income-tax payers was introduced in 2004. With a view to expand the scope of electronic payment of taxes, it is proposed to make the scheme mandatory for the following categories of tax-payers:-

(i) All corporate assesses;

(ii) All assesses (other than company) to whom provisions of section 44AB of the Income Tax Act are applicable.

2. The scheme of mandatory electronic payment of taxes for income-tax payers is proposed to be made applicable from 1st April, 2008.

3. Tax-payers can make electronic payment of taxes through the internet banking facility offered by the authorized banks. They will also be provided with an option to make electronic payment of taxes through internet by way of credit or debit cards.

Circular No. 1/2008, Dated 10-1-2008 F.No. 275/59/2007-IT(B)

Representations have been received from various quarters regarding applicability of the provisions of Section 194-I to cooling charges paid by the various customers to the owners of cold storages. It has been represented that the cold storage owners provide a composite service, which involves preservation of essential food items including perishable goods at various temperatures suitable for specific food items for required periods and storage of goods being incidental to the activity of preservation. The cooling of goods is controlled through mechanical process. The customer brings its packages for preservation for a required period and takes away its packages after paying cooling charges. The customer does not hire the building, plant/machinery etc. in any manner and does not become a tenant of any kind.

2. The matter has been examined. The main function of the cold storage is to preserve perishable goods by means of a mechanical process, and storage of such goods is only incidental in nature. The customer is also not given any right to use any demarcated space/place or the machinery of the cold store and thus does not become a tenant. Therefore, the provision of 194-I is not applicable to the cooling charges paid by the customers of the cold storage.

3. However, since the arrangement between the customers and cold storage owners are basically contractual in nature, the provision of section 194-C will be applicable to the amounts paid as cooling charges by the customers of the cold storage. This may be brought to the notice of the Assessing Officers under your charge.

Instruction No. 1/2008, Dated 9-1-2008 F.No. 225/260/2007-ITA-II

Your attention is drawn to the guidelines for selection of cases under scrutiny for the F. Y. 2007-08 under which claim of refund of Rs. 5 lakhs or above is one of the criteria for compulsory scrutiny. Such cases were to be selected for scrutiny by CASS in all the networked stations and manually in non-networked stations.

Instances have been brought to the notice of the Board wherein cases involving refund of Rs. 5 lakhs or above are not being picked up for scrutiny by the CASS in the networked stations. This happened in cases where credit for prepaid taxes is not being given at the time of processing for want of necessary documentary evidence. Such cases, thereof, do not fall in the category of determined refund of Rs. 5 lakhs or more and consequently are not picked up by the CASS. Subsequently, rectification orders are passed

manually on submission of necessary evidence in respect of prepaid taxes and the data is not captured in the AST. As a result, several such cases involving refund of Rs. 5 lakhs or above have been left out of the selection process.

I am directed to state that all such refund cases that have been left out by CASS for the reasons mentioned in para 3 above should be picked up for scrutiny through manual intervention in the networked stations.

This may be brought to the notice of all concerned for strict compliance.

Industrial Park Scheme, 2008

Notification No. 3/2008/ F. No. 149/278/2006-TPL] dated 08-01-2008

The government has notified Industrial Park Scheme, 2008 on similar line with erstwhile Industrial Scheme, 2002 in reference to the provisions of section 80IA(4)(iii) of IT Act. The scheme is applicable in respect of Industrial park commencing between 01-04-2006 to 31-03-2009. The notification will come into operation from the date of its publication in the official gazette.

Notification No. 11/2008/F.No. 142/25/2007–TPL

40D. For the purposes of clause (ba) of sub-section (1) of section 115WC, the fair market value of any specified security, not being an equity share in a company, on the date on which the option vests with the employee, shall be such value as determined by a merchant banker on the specified date.

Explanation.- For the purposes of this rule, "merchant banker" and "specified date" shall have the meanings assigned to them in clause (b) and clause (e) respectively of sub-rule 4 of Rule 40C."

Explanatory Memorandum

The Finance Act, 2007 amended the provisions of the Income-tax Act to provide that employers will be liable to pay fringe benefit tax on the value of ESOPs granted to employees as and when the specified security or sweat equity share were allotted or transferred to the employees. The value of ESOPs for the purposes of levy of FBT shall be the fair market value of the specified security or sweat equity share on the date of vesting of the options as reduced by the amount actually paid, or recovered from, the employee.

Explanation (i) to clause (ba) of sub-section (1) of section 115WC of the Income-tax Act defines "fair market value" to mean the value determined in accordance with the method as may be prescribed by the Board. Earlier, Rule 40C was inserted in the Income-tax Rules which prescribed guidelines for valuation of specified security or sweat equity shares being an equity share in the company. The said rule 40C has been amended to omit the definition of "equity share" as the same was not necessary in view of the term having been used in the charging section of the Income-tax Act without a definition, thereby allowing it to take its natural meaning. Further, a new Rule 40D has been inserted in the Income-tax Rules for the purposes of valuation of specified security not being an equity share in the company.

The amended Rule 40C and the new Rule 40D will take effect from the 1st April, 2008 and will, accordingly, apply in relation to the assessment year 2008-2009 and subsequent years.

INDIRECT TAXES

Judicial pronouncements

Suchitra Components Ltd. V. Commissioner of Central Excise (2008) 12 STT 25 (SC)

Whether a beneficial circular has to be applied retrospectively while oppressive circular has to be applied retrospectively –Held yes

RLC Engineers Pvt. Ltd. V. CCE (2008) 84 RLT 145 (Mum. Cestat)

Demand – Shortage –Section 11 of CEA – 100% EOU – 20% of raw material sent by EOU to job worker was claimed to have been lost during manufacture of job worker's premises – duty not payable on such invisible loss –demand set aside – appeal allowed

TNT India (P.) Ltd. V. Commissioner of Service Tax [2008] 12 STT 170 (Bang. Cestat)

Rule 4, read with rule 3, of the Export of Services Rules, 2005 - Export without payment of service tax - Period from 15-3-2005 to 15-6-2005 - Whether in case of international courier service, consignment has to be delivered abroad and in light of rule 3(2), such service is to be considered as performed outside India and, thus, there cannot be any service tax liability in terms of rule 4, as such a service is deemed to be exported - Held, yes - Whether fact that service provider and service recipient are in India is not relevant while considering whether there is export of service in light of deeming provision in rule 3(2) - Held, yes [Para 4]

Rule 3 of the Export of Services Rules, 2005 - Export of taxable service - Whether clarification dated 3-10-2005 issued by Ministry with regard to international courier agency is contrary to rule 3(2) - Held, yes [Para 4]

Section 76, read with section 78, of the Finance Act, 1994 - Penalty - For failure to pay service tax - Whether where assessee did not discharge service tax liability on bona fide understanding of law, there was absolutely no justification for imposing penalty, which was equal to twice duty involved - Held, yes [Para 4.1]

OTHER LAWS

FOREIGN EXCHANGE MANAGEMENT ACT

Circulars/Notifications/Press Release

A. P. (DIR Series) Circular No. 23 dated 31-12-2007

Attention of Authorised Dealer Category - I (AD Category - I) banks is invited to A. P. (DIR Series) Circular No.53 dated December 17, 2003 wherein SEBI registered FIIs / sub-accounts of FIIs were permitted to buy / sell equity shares / debentures of Indian companies. In terms of para 5 of the Annex to the circular, FIIs are not allowed to engage in short selling and are required to take delivery of securities purchased and give delivery of securities sold.

2. It has now been decided in consultation with Government of India and SEBI, to permit Foreign Institutional Investors (FIIs) registered with SEBI and sub-accounts of FIIs to short sell, lend and borrow equity shares of Indian companies. Short selling, lending and borrowing of equity shares of Indian companies shall be subject to such conditions as may be prescribed in that behalf by the Reserve Bank and the SEBI / other regulatory agencies from time to time.

3. The above permission is subject to the following conditions:

(i) The FII participation in short selling as well as borrowing / lending of equity shares will be subject to the current FDI policy and short selling of equity shares by FIIs shall not be permitted for equity shares which are in the ban list and / or caution list of Reserve Bank.

(ii) Borrowing of equity shares by FIIs shall only be for the purpose of delivery into short sale.

(iii) The margin / collateral shall be maintained by FIIs only in the form of cash. No interest shall be paid to the FII on such margin/collateral.

4. The designated custodian banks shall separately report all transactions pertaining to short selling of equity shares and lending and borrowing of equity shares by FIIs in their daily reporting with a suitable remark (short sold / lent / borrowed equity shares) for the purpose of monitoring by the Reserve Bank.

5. Necessary amendments to the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 (Notification No.FEMA.20/2000-RB dated May 3, 2000) are being issued separately.

6. AD Category – I banks may bring the contents of this circular to the notice of their constituents and customers concerned.

7. The directions contained in this circular have been issued under Sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law..

Due Dates of key compliances pertaining to the month of Feb-08:

5th Feb.	**Payment of Service Tax & Excise duty for January**
6th Feb.	**Payment of Excise duty paid electronically through internet banking**
7th Feb.	**TDS/TCS Payment for January**
10th Feb.	**Excise Return ER1 / ER2 /ER6**
15th Feb.	**PF Contribution for January , Excise payment by SSI**
21st Feb.	**ESIC Payment for January**