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SNK Newsletter

DIRECT TAXES

Judicial pronouncements

Pik Pen Pvt Ltd vs. ITO (ITAT Mumbai)(ITA No. 6847/Mum/2008)

Delayed payment of employees' PF contribution allowable u/s 43B

The assessee paid the employees' contribution to PF and ESIC after the grace period but before the due date for filing the return. The AO disallowed the payment u/s 36(1) (va) and held that s. 43B had no application. This was confirmed by the CIT (A). On appeal, HELD deciding in favour of the assessee:

In Alom Extrusion Ltd 319 ITR 306 the Supreme Court held that the omission of the second proviso to s. 43B by the Finance Act 2003 operated retrospectively w.e.f. 1.4.1988. The Court held that the contribution payable by the employer to the P.F/Superannuation Fund or any other Fund of welfare of the employees was allowable if paid before the due date of filing the return. Consequently, the issue is covered in favour of the assessee and the deduction is allowable u/s 43B.

CIT v. AIMIL Limited (ITA No.1063/Del/2008)

Employer's as well as Employee's contribution towards PF/ESI after the due date prescribed under the relevant Act/Rules but before the date of filing return is an allowable expenditure

The High Court held that employer's as well as employee's contribution amount deposited by the taxpayer towards PF/ESI after the due date, as prescribed under the relevant Act/Rules, but before date of filing return was allowable expenditure.

ACIT v. M/s Blue Mountain Food Products Ltd. [2009-TIOL-787-ITAT-BANG]

Prior period interest paid to the bank during the year was allowable under section 43B of the act with effect from assessment year 1997-98 even when there was no business activity

The Tribunal after considering the decision of the Supreme Court in the case of Allied Motors (P) Limited v. CIT [1997] (224 ITR 677) and Circular no.762, dated 18 February 1998 held that the amendment to the provisions of section 43B of the Act allowing the interest expenditure paid to the scheduled banks in the year of payment was applicable from AY 1997-98. Accordingly, the Tribunal allowed the interest expenditure relating to AY 96-97 claimed by the taxpayer, even though there was no business activity during the year.

Umicore Finance Luxembourg, In re (AAR No. 797 of 2009)

Shares allotted to partners of an extinct firm consequential to registration of that firm as a company would not give rise to any profit or gain

In a transaction involving the conversion of firm into Company under Part-IX of Companies Act, with all the assets automatically vesting in the newly registered company as per the statutory mandate contained in Section 575, it can hardly be said that the partners have made any gain or received any profit, assuming that there was transfer of capital assets.

Section 47(xiii) read with Section 47A (3) cannot be construed to introduce a fiction to the effect that the income which is not liable to be taxed under the other provisions of the Chapter on capital gains can be deemed to be capital gains, if the violation of conditions take place.

On facts & circumstances of the case in question, no capital gains accrued or arose at the time of conversion of partnership firm into a private limited company under Part IX of the Companies Act and therefore, notwithstanding the non-compliance with clause (d) of proviso to Section 47(xiii) of the Income Tax Act, by reason of premature transfer of shares, the said company is not liable to pay capital gains tax.

CIT v. Sri Hariram Hotels (P) Ltd. (Karnataka HC)

Sec 48 - Interest on borrowing for purchase of asset is part of cost of acquisition

Assessee company having purchased a property out of loan taken from the directors and interest thereon having accrued at the end of the relevant previous year, interest payable is to be included in the cost of acquisition of the property for computing capital gains on the sale of said property even though such interest was not paid till the time the property was sold.

ITO v. Harley Street Pharmaceuticals Ltd. (ITA No. 2492/Ahd/2007)

Provisions of section 50C are applicable only for computation of capital gains in real estate transaction in respect to seller only and not for purchaser

Section 50C creates a legal fiction for taxing capital gains in the hands of the seller and it cannot be extended for taxing the difference between apparent consideration and valuation done by Stamp Valuation Authorities as undisclosed investment u/s 69 in the hands of the purchaser.

The Mathrubhumi Printing & Publishing Co. Ltd. v. DCIT (ITA Nos. 143 & 144/Coch/2006)

Once source is proved, it is not possible to treat deposits as unexplained

When the scheme of financing adopted by the assessee company is explained in a convincing manner, it is not fair on the part of the lower authorities to treat a part of the deposits as unexplained only for the reason that inch-by-inch documentary particulars were not furnished before them in respect of that remainder deposits.

DCIT v. Alok Gautam (ITAT Lucknow)

Gifts- Genuineness of NRE gifts

The facts argued in favour of the gifts being genuine are :

- gifts were transferred through banking channels;
- existence of NRE accounts from which gifts were given are not disputed;
- the credits into NRE accounts came from outside India;
- Identity of donors is established through NRE accounts;
- creditworthiness of the donors is established because no one else could deposit money into NRE account;
- there is no evidence that it is the assessee's money which is routed through NRE accounts by way of hawala or otherwise;
- there is a relationship between assessee and the donors in as much as S was a composer contractor and he taught the assessee the art of composing and further that when assessee visited Saudi Arabia, arrangements for stay in Jeddah was made by S.

Tribunal observed that these facts are not enough to establish either the identity of the donors or their creditworthiness. Further,

- In spite of repeated requests by the AO to produce the donors for examination, the assessee failed to do so.
- So far as identity of donors is concerned, it is not proved as to who has given gifts to the assessee.
- Copies of their passports which could have been used to verify the signatures of the donors on the letters of gift were not produced.
- It was also not explained as to how the money into the NRE accounts claimed to be belonging to the donors was transferred and whether such transfer was actually done by the alleged donors as the linkage between transfer from the accounts of donors to the NRE account in India was not established.
- The claim of the assessee that in the NRE account of the donors only the donors can deposit is not

acceptable because at the direction of any third party, money can be credited into a NRE account operated by owner's representatives.

- It is not for the AO to prove that money into NRE account had come from a third source and not from the donors.
- It is for the assessee to show that money in the NRE account which is maintained and operated through Authorised Representatives in India, had actually come from the alleged donors.
- The claim of the assessee that merely because money had come into NRE account of donors, it must have actually been transferred by the donors cannot be upheld. It is necessary to establish the nexus between money deposited in NRE accounts and the donors, which the assessee has failed to do so.

It was held that assessee having failed to prove the identity of the non-resident donors who are said to have gifted substantial amounts to him from their NRE accounts by producing them personally or copies of their passports and also failed to prove the creditworthiness of the said donors, the alleged gifts cannot be treated as genuine, more so since the assessee had no direct relationship with the donors, there was no occasion for making the gifts, and there was no contact between the parties for almost ten years before the time of said gifts.

Satnam Overseas Ltd. v. ACIT (WP (C) no. 3210-11/2005, 1533-34/2005, 3208-9/2005 and 3220-21/2005) (Delhi HC)

Re-Assessment can not be initiated just because AO feels he failed to verify things properly during regular Assessment

Merely because the Assessing Officer feels that he has 'failed to do what he ought to have done' cannot be a valid ground for seeking initiation of re-assessment under sections 147/148 of the Act.

The only reason which has been given seeking re-opening of the assessment is that suppression of sales have taken place on account of the fact that when average price of the closing stock is multiplied with the quantity of the sales in the year then the value of the sales would be at a higher figure than that as declared by the assessee. Clearly, there is no new material which is alleged to have come to the notice of the Assessing Officer which has paused him to seek re-opening of the assessment. Further the new logic, rationale and opinion which has been formed by the Assessing Officer for seeking rc-opening of the assessment is nothing but a change of opinion and a new approach to the existing facts and material which the Assessing Officer could well have done during the regular assessment proceedings of the relevant assessment years.

Rallis India Ltd. v. ACIT WP No. 2514 of 2009) (Bom. HC)

Reopening of an assessment on mere change of opinion without any tangible material is unsustainable

The principle that there must be tangible material on the basis of which an assessment is sought to be re-opened even within a period of four years is now established in view of the judgment of the Supreme Court in CIT v. Kelvinator of India Ltd. [2010] 187 Taxman 312 (SC).

J.C. Bansal, Chief Engineer v. TRO (2010) 123 ITD 245 (Indore)

Deduction of tax at source u/s 194-I for payment of Rent – F.Y. 2001-02 to 2003-04

Licence fee was paid by assessee (licensee) to licensor for utilizing all production facilities provided at licensor's premises, including use of all facilities, utilities, machines, factory, office premises, tools, equipments and residential quarters with freedom to sub-let or under-let whole or part of premises to any other company. It was held that since right to enjoyment in entire property had been created in favour of assessee, licence fee paid by assessee would fall within definition of 'rent' as prescribed in Explanation (i) to section 194-I.

Section 201 r.q.s. 194-I - Consequences of failure to deduct or pay

Where assessee (licensee) filed complete details showing that taxes had been paid by licensor on whole of its income including income received from assessee on account of licence fees, assessee could not be required to pay tax under section 201 for non-deduction of tax at source on such licence fees.

CBDT Circular No. 715, dated 8-8-1995 and CBDT Circular No. 736, dated 13-2-1996.

CIT v. Sutlej Industries Ltd. (ITA No. 1204/2005)(Delhi HC)(2010) 3 taxmann.com 63

Section 244A read with Explanation thereto does not exclude payment of interest on refund of self assessment tax

Where the self-assessment tax paid by the assessee under section 140A is refunded, the assessee should, on principle, be entitled to interest thereon since the self-assessment tax falls within the expression `refund of any amount'. The computation of interest on self-assessment tax has to be in terms of section 244A(1)(b), i.e., from the date of payment of such amount up to the date on which refund is actually granted.

CIT vs. Earnest Exports (Bombay High Court)(ITA No.26 of 2010)

ITAT has no power u/s 254 (2) to re-evaluate correctness on merits of earlier decision

The assessee claimed deduction u/s 80HHC which was allowed to the extent of Rs. 32.17 crs by the AO. The claim included DEPB license sale proceeds. The CIT revised the assessment u/s 263 on the ground that s. 28 (iiia) did not apply to a DEPB license and its proceeds were not eligible for deduction u/s 80HHC. The assessee filed an appeal before the Tribunal where it relied on the judgements in Pratibha Syntex Ltd vs. JCIT 81 ITD 118 and Pink Star vs. DCIT 27 ITD 137 to argue that the DEPB license would form part of the incentive and had to be considered for s. 80HHC deduction. However, the Tribunal held that these judgements were distinguishable and dismissed the appeal. The assessee thereafter filed a MA u/s 254(2) for rectification. The Tribunal allowed the application and recalled its order. The Tribunal further allowed the assessee's appeal and set aside the CIT's s. 263 revisional order. The Tribunal relied on Pratibha Syntex and Pink Star to hold that when the assessment order was passed, there was no dispute as to whether export incentives by way of a DEPB license were eligible for deduction u/s 80HHC. The department filed an appeal where it argued that the Tribunal's MA order was a review of the earlier order and that it had no jurisdiction to do so u/s 254 (2). HELD allowing the appeal:

(i) S. 254(2) empowers the Tribunal to rectify a mistake apparent from the record. In Honda Siel Power Products 295 ITR 466 (SC) it was held that s. 254(2) is based on the fundamental principle that a party appearing before the Tribunal should not suffer on account of a mistake committed by the Tribunal. It was held that the Tribunal would be regarded as having committed a mistake in not considering the material which is already on record;

(ii) However, in the present case the Tribunal in the original order specifically dealt with the decisions in Pratibha Syntex and Pink Star and held them to be distinguishable. However, in the s. 254(2) order, the Tribunal virtually reconsidered the entire matter and came to the conclusion that in view of Pratibha Syntex and Pink Star a DEPB license was eligible for deduction u/s 80HHC. This amounted to a re-appreciation of the correctness of the earlier decision on merits. This was impermissible. Re-evaluating the correctness on merits of an earlier decision lies beyond the scope of the power conferred u/s 254(2).

(iii) The power u/s 254(2) is confined to a rectification of a mistake apparent on record. S. 254(2) is not a carte blanche for the Tribunal to change its own view by substituting a view which it believes should have been taken in the first instance. S. 254(2) is not a mandate to unsettle decisions taken after due reflection. It is not an avenue to revive a proceeding by recourse to a disingenuous argument nor does it contemplate a fresh look at a decision recorded on merits, however appealing an alternate view may seem. Unless a sense of restraint is observed, judicial discipline would be the casualty. That is not what Parliament envisaged.

CIT v. Reliance Petroproducts (Supreme Court)

S. 271 (1) (c) penalty cannot be imposed even for making unsustainable claims

The assessee claimed deduction u/s 36 (1) (iii) for interest paid on loan taken for purchase of shares. The AO disallowed the interest u/s 14A and levied penalty u/s 271 (1) (c) on the ground that the claim was unsustainable. The penalty was deleted by the appellate authorities. On appeal by the department to the Supreme Court, HELD dismissing the appeal:

(i) S. 271 (1) (c) applies where the assessee "has concealed the particulars of his income or furnished inaccurate particulars of such income". The present was not a case of concealment of the income. As regards the furnishing of inaccurate particulars, no information given in the Return was found to be incorrect or inaccurate.

The words "inaccurate particulars" mean that the details supplied in the Return are not accurate, not exact or correct, not according to truth or erroneous. In the absence of a finding by the AO that any details supplied by the assessee in its Return were found to be incorrect or erroneous or false, there would be no question of inviting penalty u/s 271(1)(c).

(ii) The argument of the revenue that "submitting an incorrect claim for expenditure would amount to giving inaccurate particulars of such income" is not correct. By no stretch of imagination can the making of an incorrect claim in law tantamount to furnishing inaccurate particulars. A mere making of the claim, which is not sustainable in law, by itself, will not amount to furnishing inaccurate particulars regarding the income of the assessee. If the contention of the Revenue is accepted then in case of every Return where the claim made is not accepted by the AO for any reason, the assessee will invite penalty u/s 271(1)(c). That is clearly not the intendment of the Legislature.

(iii) The law laid down in Dilip Shroff 291 ITR 519 (SC) as to the meanings of the words "conceal" and "inaccurate" continues to be good law because what was overruled in Dharmendra Textile Processors 306 ITR 277 (SC) was only that part in Dilip Shroff where it was held that mens rea was an essential requirement for penalty u/s 271 (1)(c).

Rajesh C. Gandhi v. ITO (ITA No. 3158/M/2009/ Mumbai ITAT)

In absence of a clear finding as to concealment of income penalty u/s 271(1) cannot be levied

When an AO drops the proceedings of detection of concealment by accepting assessee's surrender of income without making further examination or investigation regarding detection of concealment, it can be held that it is not a case of concealment of particulars of income or furnishing of inaccurate particulars of income; because in that situation, the AO does not record satisfaction as required u/s 271(1).

Even in a case where proceedings for detection of concealment is going on during the assessment proceedings, the assessee surrenders some income and AO drops the proceedings of detection of concealment by accepting assessee's surrender without making further examination or investigation regarding detection of concealment, it can be held that it is not a case of concealment of particulars of income or furnishing of inaccurate particulars of income; because in that situation, the AO does not record satisfaction as required u/s 271(1).

CIT v. Modi Industrial Corporation (P & H HC)

Penalty – Where addition is made on estimate basis penalty is not imposable

The Tribunal has recorded a finding of fact with regard to the addition of income being made on the basis of estimate, which does not require any interference. A perusal of the order passed by the Tribunal in the assessment proceedings, makes it clear that addition of the income was made only on the basis of estimate. Therefore, the Tribunal has not recorded a wrong finding in this regard. As far as the finding with regard to concealment of income is concerned, it is clear that in the original assessment order, there was no finding that the assessee has concealed its income and furnished inaccurate particulars of income, but subsequently after the cancellation of the assessment, the AO has proceeded on the basis that the assessee, while inflating the electricity charges and undervaluing the closing stock of rice bran, has suppressed the income. Therefore, the additions on account of processing of unaccounted rice bran and undervaluation of closing stock of rice bran were made and income was assessed on the estimate base. Therefore, the Tribunal is right while coming to the conclusion that when the assessment is made on estimate basis, the penalty should not be imposed. No substantial question of law arises from the order of the Tribunal.

Mercedes Benz vs. UOI (Bombay High Court)(Writ Petition No. 1614 of 2010)

One Bench cannot differ from the view of another co-ordinate Bench but must refer to a larger Bench

One Bench of the Tribunal decided an appeal in favour of the assessee. However, another Bench refused to follow that decision even though the facts were the same on the ground that the earlier decision did not address the grievance of the Revenue and did not consider all the facts and did not lay down a clear ratio. The assessee filed a writ petition complaining of breach of propriety on the part of the Tribunal by not referring the issue to a larger Bench. HELD upholding the challenge:

(i) We are not happy to observe but constrained to say that one must remember that pursuit of the law, however glamorous it is, has its own limitation on the Bench. In a multi-judge court, the Judges are bound by precedents and procedure. They could use their discretion only when there is no declared principle to be found, no rule and no authority. The judicial decorum and legal propriety demand that where a learned single Judge or a Division Bench does not agree with the decision of a Bench of co-ordinate jurisdiction, the matter should be referred to a larger Bench. It is a subversion of judicial process not to follow this procedure. In our system of judicial review which is a part of our Constitutional scheme, we hold it to be the duty of the judges of the courts and members of the tribunals to make the law more predictable. The question of law directly arising in the case should not be dealt with apologetic approaches. The law must be made more effective as a guide to behavior. It must be determined with reasons which carry convictions within the Courts, profession and public. Otherwise, the lawyers would be in a predicament and would not know how to advise their clients. Subordinate courts would find themselves in an embarrassing position to choose between the conflicting opinions. The general public would be in dilemma to obey or not to obey such law and it, ultimately, falls into disrepute.

(ii) The view taken by the Tribunal is not the correct approach. If the Tribunal wanted to differ to the earlier view taken by the Tribunal in the identical set of facts, judicial discipline required reference to the larger bench. One co-ordinate bench finding fault with another co-ordinate bench is not a healthy way of dealing with the matters.

Judicial Pronouncements - International Taxation

Computer Associates Pvt. Ltd v. DCIT (ITA Nos. 5420 & 5421/ Mum/2006)

Bad debts written off cannot be factor to determine ALP of any international transaction

Where the ALP determined by the TPO and adopted by the AO in respect of international transaction was not as per the procedure prescribed by rule 10B, the same could not be sustained.

BBC Worldwide Ltd. v. DDIT (Int'l Taxation)(ITA No. 1188/Del/06)

Tax liability of company who have no PE in India and remunerate its Indian Agent on arm's length basis

Assessing Officer was not justified in assessing BBC Worldwide's profits attributable to its agent in India @ 10 per cent of the gross revenue receipts from India.

Pioneer Overseas Corpn. v. Dy. ADIT (Int'l Taxation)(ITA Nos.1868, 1869, 1870, 1871 2289, 2290, 2291 & 2292/Del/2005)

Determination of PE when Research of product produced by Non-Resident Company situated in USA is done by its branch office in India

Determination of PE where there exists a relation between a business of producing hybrid breeder seeds in USA by non-resident assessee-company which yield profits or gains and activity of providing result of research conducted by Branch Office in India which contributes directly or indirectly to earning of those profits or gains.

Aramco Overseas Company B. V., In re (AAR No. 825 of 2009)

Any and every person who in someway or the other facilitates purchases by a non-resident for the purpose of export cannot be brought within the ambit of clause (b) of Explanation 1 to section 9(1)(i)

The language of cl. (b) of Explanation 1 cannot be stretched too far so as to extend the benefit to those who do not really act for and on behalf of the non-residents in the purchase transactions, but only provide certain support services to the non-residents in connection with the purchases made by them.

The whole object of clause (b) is to ensure that no attribution income shall be made to the purchase operations if a non-resident makes such purchases for the purpose of export; the non-resident may effect purchases directly or through the media of an authorized representative such as an agent.

The applicant is liable to pay tax in India on the amount received by it for the support services rendered for its affiliate entities abroad through the branch office in India because the applicant's income is not coming out of the `operations confined to the purchases of goods in India for the purpose of export', but on account of certain support services rendered in connection with the purchases by third parties.

HMS Real Estate Pvt. Ltd., In re (AAR No. 832 of 2009)

Consideration received by American company from applicant-Indian company for providing Architectural design services is liable to be taxed in India as fees for included services' as per Article 12.4 of Indo-US Tax Treaty.

Having regard to the scope, objective and predominant features of the Agreement for provision of Architectural design services, basic (design) services which include preparation of Master Plan, concept design, schematic design, design development and construction documents, assistances in bidding and contractors' selection process and consultancy during construction phase are all part of architectural services undertaken by the American company and the payment received by it for furnishing all these documents and services to the applicant fall appropriately within the meaning of `fee for included services' under Article 12.4(b) of the Treaty; they cannot be disintegrated and viewed in water-tight compartments.

DDIT (IT) v. Tekmark Global Solutions LLC (ITA No. 671/Mum/2007)

Persons deputed by an American Company to an Indian company cannot be considered as its PE in India when services rendered by them are independent and not under control of that American company

No income would arise to the American company in India in the course of deputing personnel to an Indian company who work under the control and supervision of the Indian company and carry out the work allotted to them by the Indian Company and the American company is reimbursed by the Indian company.

Ernst & Young (P.) Ltd., In re (AAR No. 820 of 2009)

Amounts receivable by a British company (EMEIA) from the applicant under the Area Services & Market Development Agreement are not liable to be taxed under the Income Tax Act as fee for `included services' or as business profits, as per the provisions of Indo-UK Treaty.

Dissemination of informations, furnishing guidelines and suggesting plans of action aimed at uniformity and seamless quality in business dealings of participating group entities do not paramount to making available to them technical knowledge and experience possessed by EMEIA to a substantial extent; There is no transfer of technical know-how in that process nor can it be said that the recipient of these coordinated/centralized services has been enabled to apply the technology which EMEIA is possessed of.

Sands Advertising Communications Pvt. Ltd. v. DCIT (TDS) (ITA Nos. 790 to 795/Bang/2009)

TDS not applicable when an advertising agency reimburses advertising charges to the accredited advertising agency for release of its advertisements in newspapers

When an advertising agency reimburses advertising charges to the accredited advertising agency for release of its advertisements in newspapers, provisions of section 194C have no role to play.

ACIT v. Indraprastha Medical Corpn. Ltd. (Delhi ITAT)

TDS u/s 194J - Hospital merely acted as conduit - Doctors did not provide professional service to hospitals

Where a hospital engaged consulting doctors and provided them with consulting chambers with secretaries assistance and the fees collected from out-patients and paid to the consultants each day after deducting certain amount towards rent and secretarial assistance, it was not a case of payment of professional fee and neither s. 192 nor s. 194J was attracted and the hospital cannot be treated as assessee in default for not deducting tax from such payments.

U/s. 194J a person is liable to deduct tax at source for any payment in excess of Rs. 20,000 to a resident for availing professional or technical services. There was no relationship of the service provider and the service recipient between the consultants and the assessee. Rather, such relationship existed between the doctors/ consultants and the patients. The collection of fee was paid and passed it on to the doctors by the pooled secretarial staff of the assessee hospital. Nothing inured for the benefit of the assessee. Rather, it was the assessee providing services to the doctors by providing them consultation chambers and secretarial staff, and not other way round.

Judicial pronouncements
(International Taxation)

ABB Ltd., In re (AAR No. 834 of 2009)

Payments made by Applicant-ABB India to ABB Zurich for funding of corporate R&D under Cost Contribution Agreement (CCA) cannot be treated as payments in nature of royalties liable to be taxed in India

It cannot be said that ABB Zurich has rendered any service of technical or consultancy nature to the applicant when it makes available to the applicant and other parties to the CCA the results of corporate research.

The payments made to ABB Zurich towards the applicant's share of the cost incurred in respect of R&D activities are not liable to be taxed under the Income Tax Act, 1961 as business income in the absence of permanent establishment in India, having regard to Article 7 of the Indo-Swiss Tax Treaty; nor can it be subjected to tax as royalty or fees for technical services under Article 12 of the Treaty.

E*Trade Mauritius Ltd., In re (AAR No. 826 of 2009)

Capital gain tax is not liable to be charged in India in respect of transfer of shares by a Mauritian company held in an Indian company to another Mauritian company

The applicant-Mauritian company is not liable to pay capital gains tax in India in respect of the transfer of shares held in an Indian Company to a company in Mauritius having regard to the provisions of India-Mauritius DTAA.

Though it looks odd that the Indian tax authorities are not in a position to levy the capital gains tax on the transfer of shares in an Indian company, this is an inevitable effect of the peculiar provision in India-Mauritius DTAA, the Circular issued by CBDT and the law laid down by Supreme Court in Azadi Bachao case.

Van Oord ACZ India vs. CIT (Delhi High Court)(ITA No. 439 of 2008)

The obligation to deduct the tax at source u/s 195 (1) arises only when the payment is chargeable to tax. Samsung Electronics not followed

The assessee, an Indian company remitted mobilization & demobilization charges of Rs. 8.65 crs by way of reimbursement to its parent company, a company based in Netherlands. The assessee applied to the AO u/s 195 (2) for a Nil withholding rate though the AO held that tax had to be deducted at 11%. The assessee deducted tax on sums aggregating Rs. 6.98 crs. In the assessment order the AO took the view that as the assessee had failed to deduct tax at source u/s 195, the expenditure had to be disallowed u/s 40 (a)(i). This was upheld by the CIT (A) and the Tribunal (effectively on the balance amount). The Tribunal followed the judgement of the Supreme Court in Transmission Corporation of AP 239 ITR 387 and held that the assessee was duty bound to deduct tax u/s 195 (1) and could not escape liability without obtaining a certificate u/s 195 (2). The Tribunal held that the assessee was not entitled to "step into the shoes of the AO" and examine "whether the receipt was income in the hands of the recipient or not". On appeal by the assessee, HELD reversing the judgement of the Tribunal:

(i) The observations of the Supreme Court in Transmission Corporation of AP 239 ITR 387 have to be read in the context of the question before the Court i.e. whether tax was deductible on the gross trading receipts or only on the "pure income profits". The Court was not concerned with a case where the receipt was not chargeable to tax in the hands of the recipient at all. On the other hand the observations of the Court make it clear that the liability to deduct tax at source arises only when the sum payable to the non-resident is chargeable to tax;

(ii) Even the plain language of s. 195 shows that the tax at source is to be deducted on the "sum chargeable under the provisions of the Act". One can, therefore, reasonably say that the obligation to deduct tax at source is attracted only when the payment is chargeable to tax in India;

(iii) The determination by the AO under s.195(2) of the Act is tentative in nature. In case it is ultimately found in the assessment proceedings relating to the recipient that he was not liable to pay any tax on the sums received, the assessee cannot be treated in "default" inasmuch as s. 195(1) of the Act casts an obligation to deduct the tax at source on the sum 'chargeable under the provisions of this Act';

(iv) As regards Samsung Electronics 185 Taxman 313 (Kar), the context was different. The assessees wanted to show in their own assessment proceedings that the amount paid by them was not assessable to tax at the hands of recipient. No doubt, they would be precluded to do so. However, when in the assessment proceedings relating to recipient itself, it is opined by the income tax authorities that the tax is not payable at all on the amounts so received, provision of s. 195 would not be attracted. "Even otherwise, because of the analysis of what Transmission Corporation of AP decides, we, with due respect, are not in agreement with some of the observations made in the aforesaid judgment of the Karnataka High Court".

Amiantit International Holding Ltd., In re (AAR No. 7 of 2010)

No capital gains on intra-group transfer of shares in an Indian company for no consideration

Transfer of shares held in an Indian company, to its 100% subsidiary under a re-organization scheme, is taxable as per the provisions of the Indian Tax Law (ITL) only if the transfer of shares results in any consideration. The AAR also held that even though the transfer was an international transaction between Associated Enterprises (AEs), as there was no income arising as per the charging provisions of the ITL, the transfer pricing (TP) provisions could not be applied to determine taxable gain based on arm's length principles.

AAR has observed on the following lines:

- The charging provisions for capital gains state that any profits or gains arising from the transfer of a capital asset would be chargeable to tax when such an asset is transferred.
- The term 'arising' as used in the charging provisions for capital gains refers to 'a right to receive profits'. When the right to receive income becomes vested in the taxpayer, it is said to accrue or arise. Thus, in this context, the expression 'arising', employed in the charging provisions refers to actual receipt of income as well as a right to receive income.

- If consideration is incapable of being valued in definite terms or it remains unascertainable on the date of the transfer of shares, the charging provisions and the computation mechanism cannot be applied. As there is nothing concrete or definite which the transferee (Cyprus subsidiary) gives or makes over to the transferor (Applicant) as a quid pro quo for the receipt of shares, there cannot be a consideration as contemplated in the charging provisions for capital gains.
- The TP provisions under the ITL can be applied only when there is income chargeable to tax that arises from an international transaction. Reliance was placed on an earlier ruling of the AAR in the case of Dana Corporation [2009-TIOL-29-ARA-ITIrnwhich held that TP provisions are not independent charging provisions and the expression 'income arising' postulates that the income has already arisen under the charging provisions of the ITL. Therefore, the application of TP provisions was ruled out in a case where the income is not chargeable to tax by the application of the charging provisions for capital gains.
- As there is no income chargeable to tax, the question of withholding the tax does not arise. Therefore, there can be no obligation on the Cyprus subsidiary to withhold any taxes under the ITL.

KSPG Netherlands Holding B.V., In Re (2010) 35 DTR (AAR) 193

Allowability of Exemption under s. 10(34) - Dividends received by Dutch company from wholly-owned Indian subsidiary

Applicant Dutch company would not be liable to tax in India on the dividends received by it from its wholly-owned Indian subsidiary, who was liable to dividend distribution tax under s. 115-O.

Capital gains on transfer of shares of Indian company by Dutch company to another non-resident

Opening sentence of para 5 of art. 13 of the DTAA mandates that the gains from the alienation of any property (other than that referred to in the following paras) are liable to be taxed only in the State of which the alienator is a resident. Property in the form of shares is not excluded from the purview of the opening provisions in para 5. Thus, the Government of India is precluded from subjecting to tax the gains on account of transfer of shares of the Indian company PG by the applicant to another non-resident. Assuming that the concept of beneficial ownership which finds specific mention in arts. 10 to 12 of the DTAA can be transposed into art. 13, there is no factual or legal basis to hold that the German company P, the ultimate holding company, is the real beneficial owner of the shares of PG held by the applicant and the capital gains that would accrue.

Applicant, though a subsidiary of P, is a distinct legal entity having its own board of directors and management systems. It has made significant investments in the Indian company. Suggestion of the Revenue that the applicant is a sham entity or a conduit company deliberately set up to avoid the tax liability relating to the capital gains is wholly misconceived. Therefore, applicant is not liable to pay tax on the capital gains by virtue of the opening sentence of art. 13.5 of the DTAA

Maintainability of application for Proposed transaction of buy back of shares by Indian subsidiary from applicant company

Proposed transaction of buy-back of shares by the Indian subsidiary company from the applicant company as and when it takes place, would be an altogether different transaction from the impugned transfer of shares being made by the applicant to another non-resident entity and, therefore, it would not be proper and appropriate to give an advance ruling on the question of taxability of the capital gains that may accrue from the proposed buy-back of shares on this application.

Amiantit International Holding Ltd., In Re (2010) 35 DTR (AAR) 178

Chargeability of Capital gains on transfer of shares in Indian group company without consideration

Applicant, a Bahraini company, proposes to transfer shares held by it in an Indian group company in favour of its subsidiary in Cyprus without stipulating any consideration therefor, as a part of reorganization of business of the group. Viewed from any angle, it cannot be perceived as to how any profit or gain would accrue or arise to the applicant by virtue of transfer of shares to its subsidiary company. It is not possible to identify or pinpoint anything which has the characteristic of profit or gain or any consideration which is capable of being valued in presenti. Possibility of the applicant improving its overall business by virtue of reorganization and making better returns in near or distant future can hardly be regarded as a consideration accruing or arising to the applicant when he has no right to receive a definite or an ascertainable amount or benefit from the transferee. It is not explained by the Revenue as to how the overall objectives of reorganization and the resultant changes in investment can be evaluated in terms of money. Nothing in the form of money or money's worth or capable of being turned into money will accrue or arise to the applicant on the date of transfer. If the 'consideration' is incapable of being valued in definite terms or it remains unascertainable on the date of occurrence of taxable event, question of applying s. 45 r/w s. 48 does not arise. Therefore, applicant is not liable to tax in India in relation to contribution of shares. Consequently, the transferee company would not be obliged to withhold tax under s. 195.

Transfer pricing - Applicability of provisions of Chapter X

Transfer pricing provisions in Chapter X would not be attracted to the contribution of shares of an Indian company by the applicant, a Bahraini company, to its subsidiary in Cyprus without any consideration as no capital gains would be chargeable to tax in India on such transfer of shares.

Laird Technologies India (P) Ltd., In Re (2010) 35 DTR (AAR) 110

Payment for assignment of rights and obligations in respect of supply agreement to Indian company - Agreement between India and USA

Consideration received by a US company from the applicant, an Indian company of the same group, for irrevocably assigning to Indian company all its beneficial rights, title, interest, obligations and duties in respect of the agreement to supply electronics products to another company NI in India is in the nature of business profit; US company had no fixed place PE in India as the applicant never acted as an agent much less as a dependent agent of the US company and is carrying on its business operations by itself without any direction or instruction from the latter, supplying goods to NI on a principal to principal basis as per the terms of the assignment agreement and, therefore, the business profits of the US company were not taxable in India in view of art. 7.2 of the Indo-US DTAA, and accordingly, applicant is not required to withhold tax under s. 195.

Seagate Singapore International Headquarters ,(P) Ltd., In Re (2010) 35DTR (AAR) 242

Agreement between India and Singapore - Permanent establishment

Applicant, a Singaporean company, is engaged in the business of manufacture and supply of hard disk drives to original equipment manufactures (OEMs) in India. It has entered into agreements with independent service providers (ISPs) including YCH, an Indian company, who would stock disks in India on behalf of the applicant and deliver the same to the OEM on a 'just in time' basis. Thus, the applicant does have a fixed place of business which is the focal point of its business operations in India. Fact that the fixed place of business is owned or possessed by the logistic service provider does not detract from the position that the applicant has a distinct, earmarked and identified place which caters to its business. As per the agreement, YCH has to provide warehouse space at a specified location and also necessary systems to facilitate electronic data interchange so that the products can be pulled from the warehouse promptly and necessary business information is exchanged. Agreement also speaks of inventory control apart from storage, handling, repacking etc. Applicant's agent or representative has a right to enter the warehouse for the purposes of physical inventory, inspection, audit, repackaging, etc. Security requirements as stipulated by the applicant are also required to be provided at the place. Merely because the operations are outsourced, it cannot be said that the applicant does not carry on any business in India from a fixed place. Therefore, the demarcated space in the warehouse of ISP constitutes the fixed place of business and the applicant has a PE in India within the meaning of art. 5.1.For the purpose of computation of profits of the PE in relation to the sales activity in India as per art. 7, it has to be treated as a separate and distinct enterprise and the amounts paid to ISP/YCH and other expenses, if any, incurred should be deducted

ADIT (Int'l Taxation) v. Federal Express Corporation (2010) 35 DTR (Mumbai)(Trib) 425

Agreement between India and USA - Income from operation of aircraft in international traffic

Assessee was engaged in the business of transportation of cargo by air in the international traffic. Inland transportation is an integral part of the main activity of transportation of cargo in the international traffic provided there is live link between inland transportation and the main transportation in the international traffic. Benefit of art. 8 cannot be denied to the assessee merely on the ground that the assessee was collecting cargo from its customer's place and transporting the same to the airport for the purpose of further transportation in the international traffic and vice versa. Profits attributable to the transportation of cargo, mail, etc. by the aircrafts owned, chartered or leased by the assessee cannot be taxed in India. However, transportation in the international traffic through other airlines would be outside the scope of art. 8(2). Contention of the assessee that it has made reciprocal arrangement with other airlines and that transportation through reciprocal arrangement would amount to pool arrangement described under para 4 of art. 8 was neither raised before the AO nor before the CIT(A). Accordingly this aspect of the issue is restored to the AO for fresh adjudication. As regards profits from inland transportation, same is not taxable in India. However, profits from inland transportation not connected with the main activity of transportation would be outside the scope of art. 8. Profits from airline business falling outside the scope of art. 8 would have to be treated as business profits under art. 7 and, therefore, the claim of the assessee would have to be examined under art. 7 of the treaty.

Real Resourcing Ltd., In Re (2010) 230 CTR (AAR) 1020

Agreement between India and UK - Referral fee received for referring potential clients and candidates

Referral fee received by the applicant, a UK company from India based recruitment agency for referring potential Indian clients and candidates to the latter even if it is in the nature of consultancy services, cannot be considered to be ancillary and subsidiary to the enjoyment/application of the right or information referred to in para 3(a) of art. 13 of the Indo-UK DTAA, nor the activity of providing information would fall within the ambit of making available the technical knowledge and experience of the service provider; in the absence of PE, the receipts in the nature of referral fee are not taxable even as business profits.

CIT Vs. Dr. Percy Batlivala (ITA No. 1308/2008)

Hypothetical tax – Not taxable as salary income

The Delhi High Court has in respect of the expatriate employee sent on deputation to India held that the amount of hypothetical tax representing the difference between the tax liability in the home country of the expatriate and in India should not be added to the salary income of such expatriate taxable in India.

Royal Bank of Canada (A.A.R No 816 of 2009)

The AAR has once again ruled that the profits / losses on futures and options contracts (derivative transactions) would be in the nature of 'Business Income'

The AAR has held that the profits / losses on futures and options contracts (derivative transactions) carried out by Canadian entity would be in the nature of 'Business Income'. Further since the entity did not have a Permanent Establishment (PE) in India, as per Article 5 of the India-Canada tax treaty (the tax treaty), the Business Income of the applicant would not be taxable in India.

While pronouncing the ruling, the AAR has also made following important observations on the taxation of income earned by Foreign Institutional Investors (FII) in India:

- Tax department's contention that there is a prohibition of trading in Derivatives under the FEMA or SEBI Regulations is unsustainable.
- Investment in Derivatives does not necessarily exclude trading transactions.
- Giving an undertaking for abiding by SEBI Rules and Regulations, would have no bearing on the characterization of income.
- The purpose and purport of section 115AD of the Act is to provide for special or concessional rate of taxation in relation to securities received or arising from the income of FIIs. The contention of the tax department that for FIIs there cannot be any income outside section 115AD is not sustainable.
- The observation of AAR in Fidelity North Star that there was no prohibition in law as far as the exchange traded derivatives were concerned cannot be faulted.
- Irrespective of the provisions of the Act, the applicant can seek the benefit of tax treaty provisions. If the income derived can be characterised as business income, such income cannot be taxed in the absence of a PE in India.
- A special provision in the Act cannot be pressed into service to deny the benefit which is otherwise due to FII under the tax treaty provisions notwithstanding their conflict with the domestic law of income tax.

ACIT vs Harashima Naoki Tashio (ITA No. 4634/Del/09)

Employer's contribution towards overseas social security – not taxable

The bench has held that the employer's contribution towards the social security in the home country of the employee is not taxable in the hands of the employee as a perquisite.

Portescap India P. Limited v. DCIT (ITA No. 1015/Mum/2008)

Manufacturing of a new product with a new technology at the same place after taking a fresh approval from SEZ authority does not amount to 'splitting up or reconstruction' of an existing business for the purpose of section 10A of the Act

Hon'ble Bench has held that the manufacturing of a new product with a new technology at an existing place after taking a fresh approval from SEZ authorities does not amount to 'splitting up or reconstruction' of an existing business for the purpose of section 10A of the Income-tax Act, 1961. Therefore, the taxpayer was eligible to claim benefits provided under section 10A of the Act.

M/s Hyundai Rotem Co., Korea, In re (AAR/798/2008) and M/s Mitsubishi Co., Japan, In re (AAR/799/2008)

Consortium partners would not be taxed as AOP, but would be taxed individually

The Consortium, along with two other companies, namely Mitsubishi Electric Corporation, Japan (MELCO) and BEML Limited, India (BEML), was formed for providing design, manufacturing, supply, testing, commissioning, training and transfer of technology of Standard Gauge Electrical Multiple under a contract awarded by the Delhi Metro Rail Corporation (DMRC).

The AAR after extensive comparison between the facts of its earlier rulings in case of Van Oord (248 ITR 399) and GeoConsult (304 ITR 283) and the case under consideration has held that the Consortium formed could be assessed as independent companies under Section 2(31)(iii) of the Income Tax Act, 1961 but cannot be treated as an AOP.

Circulars / Notifications

Instruction No. 03/2010, dated 23-3-2010

Foreign Exchange derivative transactions entered into by the corporate sector in India have witnessed a substantial growth in recent years. This combined with extreme volatility in the foreign exchange market in the last financial year is reported to have resulted in substantial losses to an assessee on account of trading in forex-derivatives. A large number of assesses are said to be reporting such losses on 'marked to market' basis either suo motu or in compliance of the Accounting Standard or advisory circular issued by the Institute of Chartered Accountants. The issue whether such losses on account of forex-derivatives can be allowed against the taxable income of an assessee has been considered by the Board. In this connection, I am directed to say that the Assessing Officers may follow the guidelines given below:

2. 'Marked to Market Losses':

"Marked to Market" is in substance a methodology of assigning value to a position held in a financial instrument based on its market price on the closing day of the accounting or reporting record. Essentially, 'Marked to Market' is a concept under which financial instruments are valued at market rate so as to report their actual value on the reporting date. This is required from the point of view of transparent accounting practices for the benefit of the shareholders of the company and its other stakeholders. Where companies make such an adjustment through their Trading or Profit/Loss Account, they book a corresponding loss (i.e the difference between the purchase price and the value as on the valuation date) in their accounts. This loss is a notional loss as no sale/conclusion/settlement of contract has taken place and the asset continues to be owned by the company.

A 'Marked to Market' loss may be given different accounting treatment by different assesses. Some may reflect such loss as a balance sheet item without making any corresponding adjustment in the Profit and Loss Account. Other may book the loss in the Profit and Loss Account which may result in the reduction of book profit. In cases where no sale or settlement has actually taken place and the loss on Marked to Market basis has resulted in reduction of book profits, such a notional loss would be contingent in nature and cannot be allowed to be set off against the taxable income. The same should therefore be added back for the purpose of computing the taxable income of an assessee.

3. Treatment of loss from actual transactions in forex-derivatives

In a case where a loss on a forex-derivative transaction arises on actual settlement / conclusion of contract and is not a notional or marked to market book entry, a further question will arise as to whether such a loss is on account of a speculative transaction as contemplated in Section 43(5) of the Income tax Act. For determining whether loss from a transaction in respect of a forex-derivative is a speculation loss or not, the Assessing Officers may refer to Proviso (d) below sub-section (5) of Section 43 inserted by the Finance Act, 2005, with effect from 1.4.2006. It lays down that any 'eligible transaction' in respect of trading in derivatives referred to in clause (ac) of section 2 of the Securities Contracts (Regulation) Act, 1956, that has been carried out in a recognized stock exchange shall not be treated as a speculative transaction. Further, an 'eligible transaction' for this purpose would be one that fulfils the conditions laid down in Explanation to Section 43 (5)(d). Any loss in a peculative transaction can be set off only against profit from speculative transactions.

As the revenue implications of such transaction are large, the Assessing Officers need to examine the statements of accounts and the notes to accounts with a view to find out any reference to any loss on account of forex-derivatives. In some cases, these losses may be camouflaged under the 'financial charges' 'foreign exchange loss' or some similar head which may make it difficult to detect them. In such cases, the Assessing Officers should make a specific query asking the assessee to give a break up of any 'Marked to Market' loss on a forex-derivatives included in the Profit and Loss Account and examine whether such transactions are 'eligible transaction' in terms of Sec.43(5)(d). An adjustment to the taxable income may therefore be made, if necessary, keeping in view the provisions of law referred to above.

OTHER LAWS

OTHERS

Press Note No. 1 (2010 Series), dated 25-3-2010

Guidelines for review of cases which require prior approval of the Government of India for making foreign investment

Proposals for foreign investment under Government route i.e. requiring prior approval from the Government of India as laid down in the FDI policy from time to time, are considered by the Foreign Investment Promotion Board (FIPB) in Department of Economic Affairs (DEA), Ministry of Finance.

2.0 Present Position

2.1 Presently, the recommendations of the FIPB on these proposals with total investment up to Rs. 600 crore are considered by the Finance Minister and those exceeding this amount, by the Cabinet Committee on Economic Affairs (CCEA). Prior to 18.2.2003, proposals of more than Rs. 600 crore were to be approved by the Cabinet Committee on Foreign Investment (CCFI).

2.2 The FIPB has also been considering proposals the following types of cases:

(a) Cases of entities whose activities had earlier required prior approval of FIPB/CCFI/ CCEA and who had, accordingly, earlier obtained prior approval of FIPB/CCFI/CCEA for their initial foreign investment but subsequently such activities/ sectors have been placed under automatic route;

(b) Cases of entities whose activities had sectoral caps earlier and who had, accordingly, earlier obtained prior approval of FIPB/CCFIICCEA for their initial foreign investment but subsequently such caps were removed or increased and activity placed under the automatic route;

(c) Cases where prior approval of FIPB/CCFI/CCEA had been obtained due to requirements of Press Note 18/1998 or Press Note 1 of 2005 and are now proposing additional foreign investment. These proposals related to foreign investment/ technical collaboration where the foreign investor has or had any previous joint venture or technology transfer/trademark agreement in the same or allied field in India.

3.0 Revised Position

3.1 The Government of India has reviewed the extant policy and it has been decided, with immediate effect, that the following approval levels shall operate for proposals involving FDI under the Government route i.e. requiring prior Government approval:

(a) The Minister of Finance who is in-charge of FIPB would consider the recommendations of FIPB on proposals with total foreign equity inflow of and below Rs.1200 crore.

(b) The recommendations of FIPB on proposals with total foreign equity inflow of more than Rs. 1200 crore would be placed for consideration of CCEA. The FIPB Secretariat in DEA will process the recommendations of FIPB to obtain the approval of Minister of Finance and CCEA.

(c) The CCEA would also consider the proposals which may be referred to it by the FIPB/ the Minister of Finance (in-charge of FIPB).

3.2 It has also been decided that companies may not require fresh prior approval of the Government i.e. Minister in-charge of FIPB/CCEA for bringing in additional foreign investment into the same entity, in the following cases:

(a) Cases of entities whose activities had earlier required prior approval of FIPB/CCFIICCEA and who had, accordingly, earlier obtained prior approval of FIPB/CCFIICCEA for their initial foreign investment but subsequently such activities/ sectors have been placed under automatic route;

(b) Cases of entities whose activities had sectoral caps earlier and who had, accordingly, earlier obtained prior approval of FIPB/CCFIICCEA for their initial foreign investment but subsequently such caps were removed/increased and the activities placed under the automatic route; provided that such additional investment alongwith the initial/ original investment does not exceed the sectoral caps; and

(c) The cases of additional foreign investment into the same entity where prior approval of FIPB/ CCFIICCEA had been obtained earlier for the initial/original foreign investment due to requirements of Press Note 18/1998 or Press Note 1 of 2005 and prior approval of the Government under the FDI policy is not required for any other reason/purpose.

A.P. (DIR Series) Circular No. 44 (RBI/2009-10/367) dated March 29, 2010

Buyback / Prepayment of Foreign Currency Convertible Bonds (FCCBs)

Attention of Authorised Dealer Category – I (AD Category – I) banks is invited to the A.P. (DIR Series) Circular No. 39 dated December 08, 2008 and A.P. (DIR Series) Circular No. 65 dated April 28, 2009 on the captioned subject. In terms of A.P. (DIR Series) Circular No. 58 dated March 13, 2009, Indian companies were allowed to buyback their Foreign Currency Convertible Bonds (FCCBs) both under the automatic route and approval route until December 31, 2009. The Scheme was discontinued with effect from January 1, 2010.

2. In view of the representations made by the issuers of FCCBs, it has been decided to consider applications, under the approval route, for buyback of FCCBs until June 30, 2010, subject to issuers complying with all the terms

and conditions of buyback/prepayment of FCCBs, as mentioned in A.P. (DIR Series) Circular No.39 dated December 08, 2008 and A.P. (DIR Series) Circular No.65 dated April 28, 2009. Accordingly, applications complying with the conditions may be submitted, together with the supporting documents, through the designated AD Category - I bank to the Chief General Manager-in-Charge, Reserve Bank of India, Foreign Exchange Department, External Commercial Borrowings Division, Central Office, 11th Floor, Central Office Building, Shahid Bhagat Singh Road, Mumbai-400 001.

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

4. 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 is without prejudice to permissions / approvals, if any, required under any other law.

India signs extradition treaty and a few other agreements with Saudi Arabia

India and Saudi Arabia have vowed to jointly combat terrorism and money laundering as they signed an extradition treaty and several agreements to raise their cooperation to a strategic partnership covering security, economic, energy and defence areas. The extradition treaty enhances existing security cooperation and will help in apprehending wanted persons in each other's country.

Prime Minister Manmohan Singh and Saudi King Abdullah signed the Riyadh Declaration outlining the contours of a new era of strategic partnership between the two countries. Both sides emphasised the importance of strengthening the strategic energy partnership in line with the Delhi Declaration of 2006, including meeting India's increasing requirement of crude oil supplies and identifying areas of new and renewable energy.

India and Saudi Arabia also signed four other agreements relating to transfer of sentenced persons, cultural cooperation, memorandum of understanding between Indian Space Research Organisation and King Abdulaziz City for Science and Technology for cooperation in peaceful use of outer space and joint research and information technology.

Due Dates of key compliances pertaining to the month of April 2010:

7th April	***TDS/TCS Payment for March except amount credited on 31st March***
10th April	***Excise Return ER1 / ER2 /ER6***
15th April	***PF Contribution for March, Excise payment by SSI***
20th April	***Excise return ER3 for quarter ended March***
21st April	***ESIC Payment for March***
25th April .	***Half yearly return of service tax***

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