

Tax & Corporate

News Bulletin



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For Private Circulation

From the Editor's Desk...

With this issue, we enter the fourth year of uninterrupted editions of our Newsletter. We hope, our news bulletin continues to keep you abreast of important corporate legal updates.

In recent months, the Government has demonstrated its intention in making the reform process quick and progressive.

In April 2008, there have been some welcome announcements in the Annual Supplement (2008) to Foreign Trade Policy viz., extension of 1-year tax holiday to EOU's, refund of service tax on large number of export related services, continuing with DEPB scheme till May 2009, proposal to reduce import duty under EPCG scheme from 5% to 3% with an objective to promote modernization of manufacturing and service exports, etc.

In the Annual Policy Statement for the Year 2008-09, the RBI continued to demonstrate its resoluteness to lend credibility to the financial system by taking bold measures. Bank rate kept unchanged at 6.0 per cent. Reverse Repo Rate and Repo Rate kept unchanged at 6.00 per cent and 7.75 per cent, respectively. Scheduled banks are now required to maintain CRR of 8.25 per cent w.e.f. May 24, 2008. Further, GDP growth projection for 2008-09 has been in the range of 8.0- 8.5 per cent. Inflation to be brought down to around 5.5 per cent in 2008-09 with a preference for bringing it close to 5.0 per cent as soon as possible.

The Finance Bill 2008 received the assent of the President on 10th May 2008 and got enacted. Besides other amendments, the extension of 1-year tax holiday for STP Units and EOU's is indeed a welcome step, as there existed lots of uncertainty amongst the exporters fraternity.

In yet another development, on 1st May 2008, the Cabinet approved the Limited Liability Partnerships Bill, 2008, which is now set to be tabled before the Parliament.

Lastly, we would be glad to have your suggestions and feedback. Please do write to us.

Warm regards,

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INCOME TAX

ITAT's decision on the scope of Supreme Court's judgment in Goetze's case

The Delhi Bench of the Tribunal in the recent case of *JCIT v. Hero Honda Finlease Ltd.*, ITA No. 99/Del/2004, (Third Member), held that the decision of the Supreme Court in the case of *Goetze (India) Limited v. CIT: 284 ITR 323*, only puts an embargo



on the assessee from making a fresh claim in the assessment without filing a revised return and does not prohibit an assessee from altering/enlarging a claim made in the return originally filed. It was observed, that the assessee having made a claim for depreciation under the original return of income was not prevented from claiming a higher rate of depreciation through a letter filed before the assessing officer and it was not necessary to claim the same by filing a revised return.

In that case, the assessee claimed depreciation @ 20% in the original return of income and without revising its return the assessee sought to enhance its claim of depreciation to 40% through a letter filed with the assessing officer during the assessment proceedings. The assessing officer, however, disallowed the claim of the assessee for higher depreciation on the ground that the letter claiming higher depreciation was non-est in the eyes of law, as the assessee in law was required to revise the return to claim higher depreciation. The assessing officer also disallowed the assessee's claim for higher depreciation on merits.

On appeal, the CIT(A) did not specifically go into the question whether the claim made by the assessee though a letter can be entertained by the assessing officer or not and allowed the claim of the assessee on merits relying upon the order of his predecessor.

Before the Tribunal, the Revenue argued that the CIT(A) ought to have dealt with the legal issue regarding the claim for higher depreciation having been validly made in the assessment proceedings before deciding the appeal on

merits. The Judicial Member found force in the argument advanced on behalf of the Revenue whereas the Accountant Member was of the view that the assessing officer having himself given a finding on merits, it was not incumbent upon the CIT(A) to deal with the legal issue. On merits, the Judicial Member upheld the order of the CIT(A) whereas the Accountant Member restored the matter to the file of the assessing officer. The matter was, therefore, referred to the Third Member both on the legal issue and on merits.

The Third Member held that the decision of the apex Court in *Goetze supra* was distinguishable on facts because in that case, the claim was made for the first time in the letter filed during the assessment proceedings whereas in the present case there was only a claim for enhancement of depreciation already made in the return of income. Therefore, the Third Member was of the view that the *Goetze's* case did not come in the assessee's way and the claim for higher depreciation made by way of a letter without revising the return was a valid claim.

The aforesaid decision is of far reaching consequence and would help clear the air of uncertainty which had got created in view of the decision in *Goetze's* case, on the vexed issue of legal admissibility of a revised claim made before the assessing officer without revising the return.

The above case was represented by our Firm.

Cross border payment for website hosting whether subject to tax withholding?



The Delhi Bench of the Tribunal in the case of *Millennium Infocom Technologies Ltd. v. ACIT: (2008) 21 SOT 152* has, inter alia, held that in terms of the provisions of the Income-tax Act ('the Act') as they stood upto the assessment year 2001-02, payments made to a

non-resident on account of rentals for hosting website on servers were not in the nature of "royalty" or "fees for technical services" and, consequently, no tax was required to be deducted at source from such payments under section 195.

The Tribunal observed that the facility of web-hosting provided by the non-residents was not in the nature of “fees for technical services” in terms of Explanation 2 to section 9(1)(vii) of the Act which defines ‘fee for technical services’ to mean payment for rendering of services of managerial, consultancy and technical nature, because such services could not be considered technical in nature. The Tribunal further observed, that in terms of section 9(1)(vi), as it stood prior to the amendment vide Finance Act, 2001, the payments for web-hosting could not even be held to be royalty. It may be relevant to point out that the definition of “royalty” in Explanation 2 to section 9(1)(vi) of the Act, prior to its amendment, with effect from assessment year 2002-03, did not include within its ambit payment for the use of industrial, commercial or scientific equipment.

In this regard, the Tribunal referred to the OECD Model Tax Convention Commentary to hold that the server on which the website was stored/hosted and through which such website was accessible, constituted a piece of equipment. The Tribunal also noted that the definition of “royalty” was enlarged, w.e.f. April 1, 2002 to include the use or right to use any commercial, industrial or scientific equipment within the ambit of “royalty”. However, placing reliance upon the memorandum explaining the aforesaid amendment, the Tribunal held that the aforesaid amendment would be applicable from assessment year 2002-03 and, therefore, payments for the use of such equipment could not be characterized as royalty for the relevant assessment year.

The other related issue before the Tribunal was, whether the provisions of section 40(a)(i) of the Act, which seek to disallow payment made to a non-resident on which tax was deductible under the Act but was not deducted, could be applied in the present case. The Tribunal noted that in terms of the provisions of section 40(a)(i) of the Act, as they existed prior to the amendment by Finance (No. 2) Act, 2004, with effect from, April 1, 2005, and subsequent amendment by the Taxation Laws (Amendment) Act, 2006, with retrospective effect from April 1, 2006, disallowance could be made only in respect of payments made to a non-resident where tax was not deducted at source at the time of remittance. However,

similar payment to a resident did not result in a disallowance for non-deduction of tax at source. Thus, to this extent, the Tribunal held, the non-resident was being discriminated against and that such a treatment was in contravention of Article 26(3) of the Indo-US Treaty which provided for equal treatment of similarly situated residents and non-residents.

The Tribunal endorsed similar view expressed in the case of *Herbalife International India Ltd. v. Asstt. CIT*: [2006] 101 ITD 450, by the Delhi Bench of the Tribunal.

The Tribunal further relying upon the decision of the Supreme Court in *UOI v. Azadi Bachao Andolan*: 263 ITR 706, held that the law favourable to the assessee was to be applied. Consequently, the Tribunal observed that the rigours of section 40 of the Act were neutralized by Article 26(3) of the Treaty in the present case and, therefore, no disallowance could be made due to the operation of the said Article.

The aforesaid decision would be helpful in construing the scope and meaning of the term ‘royalty’ and ‘fee for technical services’ as referred to in the Act and various Double Tax Treaties and determining the applicability of the same in relation to various cross border payments made by Indian enterprises to foreign entities for e-commerce related services.

Whether Liaison Office results in creation of Permanent Establishment?



The Delhi Bench of the Tribunal in the case of *Mitsui & Co. Ltd. v. Asstt. Commissioner of Income Tax*: (2008) 114 TTJ (Del) 903, re-affirmed its earlier decision in the case of the same assessee, that the liaison office (“LO”) of the

non-resident assessee could not be held to be permanent establishment (“PE”) of such assessee in the absence of any cogent material produced by the Revenue to exhibit such LO has transgressed the limitations imposed upon by it by the Reserve Bank of India (“RBI”).

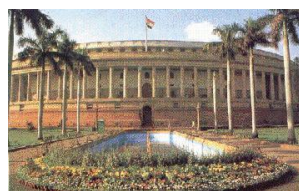
The Tribunal further observed that in terms of Article 5(6)(e) of the Indo-Japan Double Taxation Avoidance Agreement (“the Treaty”) if a fixed place of business is maintained by an enterprise in the other State solely with the purpose of carrying out activities of preparatory or auxiliary in character, then such a fixed place of business shall not constitute a PE.

The Tribunal noted on perusal of the orders of the lower authorities and the material on record that there was no evidence to suggest that any of the business contracts had been concluded by the LO on its own or that the LO was authorized to transact and conclude business on behalf of the head office. It was further noted by the Tribunal that there was nothing on record to suggest that any employee of the LO was authorized to solicit, negotiate or conclude agreements on behalf of the non-resident assessee and that any of the funds received by the LO were expended for trading activities.

The Tribunal held that no doubt the documents brought on record by the assessing officer would exhibit that the staff and infrastructure of the LO was dedicated to collecting information pertaining to the business of the non-resident assessee but there was nothing on record to suggest that the activities undertaken by the LO were anything beyond preparatory or auxiliary in nature. Consequently, the Tribunal held that there was no reason to depart from the findings of the Special Bench in the case of the assessee for assessment years 1980-81 and 1981-82.

The Tribunal decisions on this issue have been consistent that since LO is prohibited from doing any business in India as per RBI guidelines, it cannot, therefore, be held to be PE of the foreign enterprise in India. Of course, the LOs shall have to ensure that they do not transgress the limits imposed on them by the RBI in terms of the approval letter and do not in actuality carry out activities, which may lead to PE exposure for the foreign enterprise. The Revenue is known to have in the recent past conducted surveys on the LOs of foreign companies and having regard to the extent of activities actually being carried out, sought to hold them as PE of the foreign enterprise in India.

Finance Bill, 2008 receives Presidential assent



With the assent of the President of India on May 10, 2008, the Finance Bill, 2008 has become the Finance Act, 2008, and thereupon the following provisions become effective:

(i) Amendment to sections 10A and 10B

Sections 10A and 10B have been amended to extend the exemption allowable thereunder to 100% EOU's and STPI units until assessment year 2010-11. The benefit under the above section was earlier limited up to the assessment year 2009-10

(ii) Amendment to section 40(a)(ia)

Section 40 (a)(ia) has been amended with retrospective effect from April 1, 2005 to provide that the specified expenses may be disallowed in case the tax has been deducted but has not been paid:

- A. before the due date specified under section 139 (1), in case tax was deducted during the last month of the previous year,
- B. before the last day of the previous year, in any other case.

The amendment has liberalized the provisions of section 40(a)(ia) of the Act, and thereby enabling the assessee to claim deduction of the expense, from which tax has been deducted at source in the last month of the previous year, in the same year, even if such tax has been deposited after the due date prescribed in law, provided the payment of tax is made before the due date of filing the return of income of the assessee for that year.

iii) Amendment to section 44AB

For assessee's whose accounts are required to be audited under section 44AB of the Act, the deadline for such audit has been changed to September 30 of the relevant assessment year instead of October 31.

iv) Amendment to section 251

Powers of the Commissioner (Appeals) have been widened in respect of appeals from assessments made after the Settlement proceedings have abated.

Now, in an appeal against the order of assessment in respect of which the proceeding before the Settlement Commission have abated under section 245HA, the Commissioner (Appeals) may on the evidence before him or on his record, confirm, reduce, enhance or annual the assessment.

v) Clarificatory amendment to proposed Section 292BB

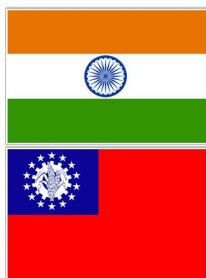
A new section 292BB has been added to provide that where an assessee has appeared in any proceeding or cooperated in any inquiry relating to an assessment or reassessment, it shall be deemed that any notice under any provision of the Act has been duly served upon him in time in accordance with the provisions of this Act and such assessee shall be precluded from taking any objection in any proceeding or inquiry under this Act in respect of the validity of such notice.

A new proviso has been appended to the section to restrict the operation of the section in case the assessee has raised an objection in respect of the validity of such notice before the completion of such assessment or reassessment.

India signs Treaty with Myanmar

India has signed a Double Taxation Avoidance Agreement ('DTAA') with the Government of Myanmar. The DTAA signed on April 2, 2008 aims at avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

The DTAA will cover income-tax and surcharge in the case of India and income-tax and profit tax in the case of Myanmar. The Agreement provides that business profits will be taxable in the source State if the activities of an enterprise constitute a permanent establishment in the source State.



TDS on rental incomes after excluding service tax, says CBDT

Taxpayers can now exclude the service tax component, levied on the rentals for commercial space, from payments in the nature of rent for the purposes of deducting tax at source under section 194-I of the Income tax Act, 1961. Section 194-I provides for deduction of tax at source from payment of income by way of rent. The CBDT has explained that service tax paid by the tenant does not partake the nature of income in the hands of the landlord, who only acts as an agent on behalf of the Government for collection of service tax. The CBDT has, therefore, clarified that tax would be required to be deducted at source in respect of the rent paid / payable under section 194-I of the Act after excluding the service tax component, if any, included therein.

[Source: Circular No. 4/2008 dated April 28, 2008]

SERVICE TAX

Central Government has issued seven notifications relating to service tax so as to give effect to various provisions of the Finance Act, 2008.

Transaction between associated enterprises



Actual realization not necessary for payment of service tax

Section 67 has been amended to require payment of service tax by the person liable to pay service tax on the taxable services provided even if the consideration for the taxable services provided is not actually received. In such cases, service tax is required to be paid immediately after crediting/ debiting of the amount in the books of accounts or receipt of payment, whichever is earlier. However, this provision is restricted to transaction between associated enterprises and shall come into force w.e.f. May 10, 2008.

Explanation to Rule 6(1) of the Service Tax Rules, 1994 has been added as removal of doubts stating that any payment received towards the value of taxable service shall include any amount credited or debited, as case may be, to any account, whether called 'Suspense account' or by any other name, in the books of account of a person liable to pay service tax.

Sub rule 7 (B) has been inserted to Rule 6 of the Service Tax Rules, 1994 to provide for an optional scheme for payment of service tax on purchase or sale of foreign currency: Service tax is leviable on purchase or sale of foreign currency, including money changing, provided by an authorized dealer in foreign currency or an authorised money changer, or a foreign exchange broker. The person liable to pay service tax has been given the option to pay service tax calculated at the rate of 0.25% of the gross amount of currency exchanged.

[Source: Notification No.19/ 2008-Service Tax dated May 10, 2008].

Refund of service tax extended to six more taxable services attributable to export of goods

Central Board of Excise and Customs ('CBEC') vide original Notifications No.41/2007- ST dated October 6, 2007 and 43/2007-ST dated



November 29, 2007 and other subsequent notifications, notified thirteen taxable services providing refund of service tax paid. The refund of service tax has now been extended on the following six more taxable services, which are though not in the nature of "input services" but could be related to exports-

- (i) Services by a foreign exchange broker other than those brokers in relation to banking and other financial services [section 65(105)(zzk)];
- (ii) Services of purchase or sale of foreign currency, including money changing provided to an exporter in relation to export goods [section 65(105)(zm)];
- (iii) Services of supply of tangible goods for use, without transferring the right to possession and effective control of tangible goods [section 65(105)(zzzz)];
- (iv) Custom House Agent service [section 65(105)(h)];
- (v) Banking and other financial services [section 65(105)(zm)] in relation to collection of export bills and export letters of credit;

- (vi) Commission agent service under business auxiliary service [section 65(105)(zzb)] provided by a commission agent, located outside India subject to the conditions prescribed.

[Source: Notification No. 24/2008 dated May 10, 2008 and 17/ 2008 dated April 1, 2008- Service tax]

CBEC issues instructions for timely payment of refund claims to exporters

CBEC has issued instructions to ensure timely and expeditious disposal of refund claims of service tax paid on specified taxable services used by exporters for export of goods. A monitoring system to ensure timely payment of refund claim has also been put in place.

[Source: Clarification F No. 341/15/ 2007-TRU dated April 17, 2008]

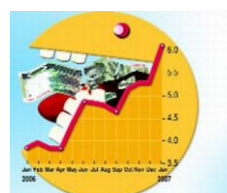
Cut off time for e-Payment transactions (Service Tax and Central Excise)

In consultation with CBEC, the Reserve Bank of India ("RBI") has clarified the cut off time to determine the date of payment by an assessee in respect of e-Payment. As per the clarification, e-Payment received upto 8.00 p.m. may be treated as received on that day and payment received after this time will be treated as received on the next working day.

[Source: Circular No. RBI/2007-2008/ 256 DGBA GAD No. H9561/ 41.07.003/ 2007-08 dated March 5, 2008]

FEMA/ RBI

RBI Norms for Branch/Liaison Offices set up in India by Foreign Entities



RBI has sought public comments on the proposed Norms to be introduced for Branch Office ("BO") and Liaison Office ("LO") in India by Foreign Entities. Presently, the RBI approves applications made for setting up of a

BO/ LO on a case-to-case basis subject to their meeting certain eligibility criteria.

With a view to streamline the process, the RBI has proposed to delegate certain powers to Authorized Dealer ("AD") with respect to the opening and closing of a BO/ LO.

Additionally, to achieve greater transparency, the RBI is also seeking to make public, the eligibility criterion that needs to be satisfied by a foreign entity for setting up a BO/ LO in India. The RBI has published the notification for delegation of powers as well as the eligibility criteria for public comments.

The following changes are proposed w.e.f. July 1, 2008:

1. BO and LO have to submit an Annual Activity Certificate to their AD instead of RBI. The said Certificate has to be provided within one month of the date of finalization of the accounts.
2. AD have been permitted to extend the validity period of an approval for a LO for a further period of three years subject to fulfillment of certain conditions by the LO. It may be noted that there can be no extension of the validity period of an approval for LOs of entities which are NBFCs and those engaged in construction and development sectors. Upon expiry of the validity period, these entities have to either close down or be converted into a full-fledged Joint Venture (JV)/ Wholly Owned Subsidiary (WOS), in conformity with the extant FDI policy.
3. RBI will allot a Unique Identification Number (UIN) to both the existing as well as the new BO/ LO which is required to be quoted in all correspondence to the RBI and AD.
4. An entity with a LO/ BO has the option of submitting an undertaking, along with a certificate from the Chartered Accountant for closure of LO/ BO instead of having to submit an Income Tax Clearance Certificate obtained from Income tax authorities.

[Source: Press Release dated May 6, 2008- RBI]

Customer charges for use of ATMs for cash withdrawal and balance enquiry

The following framework of service charges would be implemented by all banks as under:

[Source: RBI/2007-2008/318 RPCD.CO.RFBC.No. 69 / 07.06.00 / 2007-08 dated May 13, 2008]

Service	Service Charges
For use of own ATMs for any purpose	Free (with immediate effect)
For use of other bank ATMs for balance enquiry	Free (with immediate effect)
For use of other bank ATMs for cash withdrawals within India	<ul style="list-style-type: none"> Banks which are charging more than Rs.20 per transaction shall reduce the charges to a maximum of Rs.20 per transaction with immediate effect. Free with effect from April 1, 2009

Record FDI inflows into India

FDI equity capital inflow during the year 2007-08 till February 2008 has reached a record level of US \$ 20.1 billion. This is the highest FDI into equity in the country during any year. FDI inflows received in the month of February 2008 are an unprecedented US \$ 5.671 billion. The inflows in the month of February, 2008 have surpassed the inflows received in any single year since 1991 barring last year i.e. 2006-07.

[Source: PIB Press Release dated April 4, 2008]

SEBI & CORPORATE LAWS

Introduction of Direct Market Access Facility



SEBI has introduced Direct Market Access ("DMA") which is a facility that allows brokers to offer clients direct access to the exchange trading system through the broker's infrastructure without manual intervention by

the broker. Some of the advantages offered by DMA are direct control of clients over orders, faster execution of client orders, reduced risk of errors associated with manual order entry, greater transparency, increased liquidity, lower impact costs for large orders, better audit trails and better use of

hedging and arbitrage opportunities through the use of decision support tools/ algorithms for trading..

[Source: Circular no. MRD/DoP/SE/ Cir-7/2008 dated April 3, 2008]

Exemption from Mandatory Requirement of PAN

SEBI vide circular Nos. MRD/DoP/Dep/Cir-09/06 and MRD/ DoP/SE/Cir-13/06 dated July 20, 2006 and September 26, 2006 exempted investors residing in the state of Sikkim from the mandatory requirement of PAN for the purpose of opening/ operating beneficial owner accounts with depository participants and for the purpose of trading in cash market respectively. It has been now decided to exempt them from the mandatory requirement of PAN for their investments in mutual funds also. However, this would be subject to the mutual funds verifying the veracity of the claim of the investors that they are residents of Sikkim, by collecting sufficient documentary evidence.



[Source: Circular No. MRD/DoP/MF/ Cir-08/ 2008 dated April 3, 2008]

Introduction of Bond Index

The SEBI has appointed Derivatives Market Review Committee which has recommended the introduction of Bond Index (both corporate and GOI) and futures and options on this Index.

[Source: Circular No. SEBI/DNPD/ /Cir-36/2008 dated April 4, 2008]

Overseas Investments by Mutual Funds

SEBI has, in consultation with the Government of India and the RBI, decided to enhance the aggregate ceiling for overseas investment to US\$7 billion by making an amendment to this effect in its Circular No. SEBI/IMD/CIR No.7/104753/08 dated September 26, 2007 pertaining to overseas investments by



mutual funds. All other conditions specified in the said circular shall remain unchanged.

[Source: Circular No. SEBI/IMD/CIR No.2/122577/08 dated April 8, 2008]

Amendment to Clause 49 of the Listing Agreement

On receipt of various requests/ suggestions to bring about clarifications on certain provisions of the Clause 49 of the listing agreement, SEBI has revised Clause 49 of the Listing Agreement. The relevant extracts of the amendments introduced by SEBI are given below:

Mandatory provisions

1. If the non-executive Chairman is a promoter or is related to promoters or persons occupying management positions at the board level or at one level below the board, at least one-half of the board of the company should consist of independent directors.
2. Disclosures of relationships between directors inter-se shall be made in specified documents/filings.
3. The gap between resignation/ removal of an independent director and appointment of another independent director in his place shall not exceed 180 days. However, this provision would not apply in case a company fulfils the minimum requirement of independent directors in its Board, i.e., one-third or one-half as the case may be, even without filling the vacancy created by such resignation/ removal.
4. The minimum age for independent directors shall be 21 years.

Non-mandatory provisions

The company shall ensure that the person who is being appointed as an independent director has the requisite qualifications and experience which would be of use to the company and which, in the opinion of the company, would enable him to contribute effectively to the company in his capacity as an independent director.

[Source: SEBI/CFD/DIL/CG/1/2008/08/04 dated April 8, 2008]

Revision in filing fees for Offer Documents

SEBI has amended paragraph (1) of Schedule IV of the Securities and Exchange Board of India (Buy Back of Securities) Regulations, 1998, clause (1) of Schedule IV of the Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992 and sub-regulation (3) of regulation (4) and sub regulation (3) of regulation (18) of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, thereby revising the fees payable on offer documents filed with SEBI. The amendments have come into force on April 1, 2008.

[Source: Circular No. SEBI/CFD/MB/ IS/2/2008/07/04 dated April 7, 2008]

SEBI mandates reporting in electronic forms

(i) Debenture Trustees

Beginning from the quarter ending June 30, 2008, the debenture trustees shall submit the quarterly reports to SEBI in electronic form only and the submission of such reports in hard copy shall be dispensed with.



(ii) Registrars and Share Transfer Agents

The existing format for reporting the activities by Registrars to Issue/Share Transfer Agents has been modified. Henceforth for every calendar quarter beginning with the quarter April-June, 2008, the report will be sent in the modified form prescribed by the SEBI circular within 15 days of the expiry of the quarter. With effect from quarter ended June 30, 2008, the quarterly reports to SEBI shall be in electronic form only and the submission of such reports in hard copy shall be dispensed with. The quarterly reports in the revised format shall be submitted to e-mail id rta@sebi.gov.in in PDF and EXCEL format.

(iii) Bankers to the Issue

With effect from the quarter ending June 30, 2008 and from the financial year 2008-09, the Bankers to the Issue shall submit the quarterly and annual reports respectively to SEBI in electronic form only in accordance with the format prescribed in the aforesaid circulars and the submission of such reports in hard copy shall be dispensed with. The quarterly report and annual report in the prescribed format shall be submitted to e-mail id bti@sebi.gov.in in PDF and EXCEL format.

(iv) Merchant Bankers

With effect from the half year ended September 30, 2008, the Merchant Bankers shall be required to submit the half-yearly reports of their merchant banking activities to SEBI in electronic form only and the submission of such reports in hard copy shall be dispensed with. Henceforth, the half-yearly reports for the period ended March 31 and September 30 shall be submitted in the prescribed format to e-mail id mb@sebi.gov.in in PDF and EXCEL format.

The details of this circular may be viewed at www.sebi.gov.in

Cabinet approves Limited Liability Partnership Bill



The Union Cabinet has recently approved the introduction of Limited Liability Partnership Bill 2008, replacing the previous Bill introduced in 2006. The draft of the new Bill would

now be finalized based on the changes and suggestions given by the Standing Committee and introduced in the Parliament. The new Bill proposed by the Ministry of Corporate Affairs, seeks to introduce in India the most preferred business models by professionals world over. The proposed Bill will facilitate creation of a new corporate structure that will boost formation of limited liability partnerships in professional advisory services in accounting, legal, insurance and other fields. LLPs make it easier for investors and professionals to do business involving greater risk.

IMPORTANT DATES WITH REGULATOR (S)

COMPLIANCE CHECKLIST

May - June 2008

Sr. No	PARTICULARS	Sections/ Rules Clauses, etc	Acts/Regulations, etc.	Compliance Due Date	To whom to be submitted
A. SEBI & CORPORATE LAWS					
1	Submit limited review report for the quarter ended March 31	Clause 4I	Listing Agreement	May 31, 2008	Stock Exchange(s)
2	Submission of audited results for last quarter	Clause 4I	Listing Agreement	June 30, 2008	Stock Exchange(s)
3	Intimation of Board Meeting date for taking on record the audited annual financial results	Clause 4I	Listing Agreement	7 clear days in advance	Stock Exchange(s)
B. INCOME TAX					
4	Deposit of TDS on payments/ credits to Contractors/ Advertising/ Professional service on March 31, 2008	Section 194C, Section 194H, Section 194J	Income-tax Act, 1961	May 31, 2008	Income-tax authorities
5	Deposit of TDS on credit for rent made on March 31, 2008	Section 194I	Income-tax Act, 1961	May 31, 2008	Income-tax authorities
6	Issue certificate in prescribed form for TDS from amounts credited as on the date up to which accounts are made (If the amount is credited to the payee's account on last day of the financial year, i.e., March 31, 2008)	Section 194C, Section 194J	Income-tax Act, 1961 and Income-tax Rules, 1962	Within one week after the expiry of two months from the end of the month in which such amount is credited (i.e., 7th June 2008)	Payee in respect of whom tax has been deducted
7	Deposit TDS on Salaries paid for the previous month (May-2008)	Section 192	Income-tax Act, 1961	June 7, 2008	Income-tax authorities
8	Deposit TDS on payments made to/for Contractor's / Advertising/Professional service [TDS collected in the previous month]	Section 194C, Section 194J	Income-tax Act, 1961	June 7, 2008	Income-tax authorities
9	Payment of TDS on Rent paid during May 2008	Section 194I	Income-tax Act, 1961	June 7, 2008	Income-tax authorities
10	First Installment of advance income-tax and fringe benefit tax in case of a company for the assessment year 2009-2010 (Jan-March 2008)	Section 208	Income-tax Act, 1961	June 15, 2008	No statement/ estimate is required to be submitted
11	Quarterly return for TDS on salaries in Form 24Q (if computer media is used then Form No. 27A) for quarter ended on March 31, 2008	Section 192	Income-tax Act, 1961	June 15, 2008	No statement/ estimate is required to be submitted

C. EXCISE & SERVICE TAX					
12	Payment of service tax collected during May 2008 (in TR-6 challan)	Rule 6	Service Tax Rules, 1994	June 5, 2008	Service tax authorities
13	Payment of excise duty for May 2008 (Non SSI Units)	Rule 8	Central Excise Rules	June 5, 2008	Excise authorities
14	Submission of monthly CENVAT Return for May 2008	Rule 9(7)	CENVAT Rules, 2004	June 10, 2008	Excise authorities
D. LABOUR LAWS					
15	Payment of monthly Provident Fund dues	Paragraph 38 of Employees' Provident Funds Scheme, 1952	Employees' Provident Funds and Misc. Provisions Act,	Within 15 days of the close of every month	Provident Fund authorities
16	Payment of ESI contribution for the previous month	Regulation 3 I	Employees' State Insurance Act, 1948 read with Employees' State Insurance (Gen) Regulations, 1950	Within 21 days of the last day of the calendar month in which the contribution fall	ESIC authorities

ACCOLADES

• TAX DIRECTORS' HANDBOOK rankings 2008

Ajay Vohra has been recognized and ranked as one of only 8 tax advisers as the best in India, in the upcoming edition TDH250 of the Tax Directors Handbook- compiled as a result of 12 months research by the Legal 500 series and the Tax Directors Handbook

• ASIALAW Leading Lawyers Survey 2008

Ajay Vohra has been adjudged as one of the most highly-acclaimed legal experts in the Asia-Pacific region for the third year in a row by "ASIALAW Leading Lawyers Survey 2008". This prestigious endorsement is in recognition of his work in the practice area of taxation.

- **Ajay Vohra** has been appointed as an Independent Director on the Board of Yes Bank.

Professional Seminars & Conferences

• WLG Spring 2008 Conference at Athens, Greece

Vinay Vaish and **Hemant Puthran** represented the Firm at the Spring 2008 Conference of the World Law Group (WLG) in Athens, Greece during May 8-10, 2008. They participated and deliberated along with participants from other countries on wide ranging issues concerning law firms relating to recruitment titled "Breakout: Winning the Talent Wars" and client interactions titled "Innovative Client Inter-

Actions: 100 Ideas in 90 Minutes". **Vinay Vaish** made a presentation at the Joint Meeting on 'Employee Benefits, Labour, Employment and Privacy Matters' on "Data Breaches & Enforcement" in the Indian jurisdiction.

• NLU Jodhpur organizes Special Lecture on SEZ

Hitender Mehta was invited by National Law University, Jodhpur to deliver a special lecture on 'Special Economic Zones' on April 7, 2008.

• ICAI-NIRC program on Private Equity

Satwinder Singh was invited by the Northern India Regional Council (NIRC) of the Institute of Chartered Accountants of India (ICAI) to address on the topic on the topic "Private Equity - The Corporate Storytelling" at its two days program on "Private Equity: India's Growth Catalyst" on April 6, 2008 at Manesar, Gurgaon.

• PHDCCI Seminar on Tax Deduction at Source

Ajay Vohra chaired Seminar on Tax Deduction at Source organized by PHD Chamber of Commerce jointly with the Chamber of Tax Consultants, Mumbai on March 15, 2008.

• ICSI-NIRC seminar on Finance Bill 2008

Ajay Vohra was invited as a Guest Speaker in the budget seminar organized by the Northern India Regional Council (NIRC) of the Institute of Company Secretaries of India (ICSI) on March 1, 2008 at New Delhi.

VAISH EVENTS

Annual Overseas Trip to Dubai

To celebrate yet another rewarding year, Vaish Associates took all its professional associates to Dubai for a vacation from April 11 to April 14, 2008. The associates had a great time at doing touristy ventures at Jumeriah beach, Dhow Cruise at Dubai Creek, Snow Park (Mall of Emirates), Desert Safari, Wild Wadi apart from having shopping extravaganza.



Desert Safari followed by dance and dinner evening

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Disclaimer:

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