Tax & Corporate News Bulletin

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Corporate, Tax and Business Advisory Law Firm

Inside...

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INCOME TAX

Delhi ITAT order on Business Connection and Permanent Establishment

The Income Tax Appellate Tribunal (the "Tribunal" or the "ITAT"), Delhi Bench, has recently passed an order in the matter of *Amadeus Global Travel Distribution S A v. Dy Commissioner of Income tax, Non-Resident Circle, New Delhi, 2008-TIOL-22-ITAT-DEL,* dealing with the complex issue of presence of permanent establishment ("PE") and attribution of income to the PE, in relation to the Computer Reservation Services ("CRS") rendered by a Spanish country.

The brief facts of the case are that **Amadeus,** a tax resident of Spain, developed a fully automatic computer reservation and distribution system, with the ability to perform comprehensive information, communications, reservations, ticketing, distribution and related functions on a worldwide basis for the travel industry, particularly participating airlines, hotels etc.

Various airlines, hotels etc. all over the world entered into 'Participating Carriers Agreements' ("PCA") with Amadeus for display of their information/ products, etc. through the CRS. Amadeus received payments from the airlines, hotels etc. in the form of 'booking fee', which was computed on the basis of the 'net booking' made through use of CRS by the travel agents who were provided connectivity to the CRS by Amadeus.

In order to augment its revenues, Amadeus was required to advertise and promote the use of CRS amongst the travel agents. In order to promote the use of CRS in India, Amadeus had entered into a Distribution Agreement (DA) with Amadeus India Pvt. Ltd (AIPL). As per the DA, AIPL was required to seek subscribers to the CRS (normally travel agents) and enter into Subscribers Agreement (SBA) with them. As per the provisions of the SBAs, AIPL configured the computers, etc. installed at the premises of the travel agents and carried out certain programming/ modification and other activities in order to provide connectivity/access to the travel agents to the CRS. AIPL was also required to train the travel agents regarding the use of the CRS. In lieu of the aforesaid services, Amadeus paid AIPL a 'distribution fee' on the basis of the segments booked through the CRS by the subscribers/travel agents.

Amadeus's mainframe was located in Germany and the travel agents were connected to the mainframe through leased telecommunication lines. Amadeus paid for such telecommunication lines and also provided computer hardware, free of cost, to some of the travel agents as an incentive to subscribe to Amadeus' CRS.

The Indian Revenue held that Amadeus had a business connection in India and AIPL constituted dependent agency PE of Amadeus in India. Further, the computer hardware/software provided by Amadeus to travel agents was also held to constitute fixed place PE of Amadeus in India.

Decision of the Tribunal

Whether Amadeus had business connection in India?

The Tribunal observed that the CRS extends to Indian Territory in the form of connectivity in India. But for the request generated from the subscriber's computer' situated in India, the booking was not possible, which is the source of revenue for Amadeus. The Tribunal further observed that the income will accrue to Amadeus only when the booking is completed at the desk of the subscriber's computer and that *there existed a continuous seamless process, at least part of which was in India* and since, the computers along with the configuration had been supplied either by Amadeus or through its agent, AIPL, there existed a business connection in India.

Whether Amadeus had a Permanent Establishment in India?

On behalf of Amadeus, it was contended that the computers installed at the premises of the travel agents were not Amadeus' proprietary computers and were standard IBM computers given as an incentive to subscribe to the Amadeus's CRS. It was also submitted that the

booking made through the Amadeus's CRS was only a measure of remuneration paid by the airlines to Amadeus and the ticket got booked once the airlines inventory systems, connected to Amadeus's mainframe in Germany, accepted the booking and reduced the seat inventory. The revenue generating activity of processing the request and booking the seat were carried out in Germany. Therefore, no part of the revenue generating activity could be said to have taken place in India.

It was also submitted that the main function of AIPL vis-à-vis Amadeus was to canvass with travel agents about the use of the system, assist/train them for using CRS, and provide incentives to the travel agents by way of providing computers and connectivity/access to the mainframe in Germany. The activities of Amadeus in India were restricted to the aforesaid which, at best, can be described as preparatory and auxiliary in nature. It was also submitted that AIPL had no authority to conclude contracts on behalf of Amadeus and that the SBAs were not the revenue generating agreements. Therefore, AIPL could not be held to be a dependent agency PE of Amadeus.

However, the Tribunal observed that the CRS, which is the source of revenue was partially existent in the machines namely various computers installed at the premises of the subscribers The computers so connected and configured could perform the function of reservation and ticketing which was an integral part of the CRS. In view of the above, the Tribunal concluded that Amadeus had a fixed place PE in India, in the form of the computers installed at the site of the travel agents.

The Tribunal further observed that the entire business of AIPL was to provide data processing and software development services together with distribution of Amadeus products' to the subscribers in India. AIPL also had the authority to entry into agreements with the subscribers. Thus, functionally as well as financially AIPL was dependent entirely on Amadeus. Therefore, AIPL was held to be a dependent agent of Amadeus.

Attribution of income to the PE

In this regard, the Tribunal observed that the computer at Erding in Germany processed various data like schedule of flights, timings, pricing, the availability, connection, meal preference, special facility, etc., outside India. The computers at the desk of travel agent in India by no means were capable of processing the data of all the airlines together at one place. The major part of the work or to say a lion's share of such activity, was done on the host computer in Erding in Germany. In view of the above, and on the basis of the FAR analysis, the Tribunal attributed 15% of the revenue accruing to Amadeus in respect of bookings made in India as relatable to the activities of the PE in India.

However, since the remuneration paid to AIPL was more than the revenue attributed by the Tribunal to the activities of the PE in India, no tax was held leviable on Amadeus in India.

The aforesaid decision is significant as it lays down important principles for constituting PE and the controversial issue of attributing income to the PE.

Taxation of Non Compete Fee (prior to 1st April, 2003)

The Special Bench of the Income tax Appellate Tribunal (ITAT) in the case of *Saurabh Srivastava vs. DCIT: 113 TTJ 7* held that the amount received by the assessee, Managing Director of an Indian company for restrictive covenant not to compete directly or indirectly with the business of the foreign company, which took over the Indian company constituted capital receipt not liable to tax in the hands of the assessee. It was observed that the aforesaid payment could not be considered as 'profits in lieu of salary', notwithstanding that the assessee was the Managing Director of the Indian company prior to its takeover by the foreign company and continued to be employed in the same position after the takeover, though pursuant to a fresh service agreement entered into with the Indian company.

It was further observed, that the non-compete fee was not directly or indirectly linked to termination of management, as the assessee continued to be the Managing Director of the Indian company even after its takeover by the foreign company and such payment did not constitute business income under section 28(ii) of the Act. It was also

observed, that the non-compete fee did not arise to the assessee from carrying on any business or profession and, therefore, the same was not taxable even under the provisions of section 28(iv) of the Act.

The Special Bench further held that the non-compete fee has been specifically made taxable under clause (va) of section 28 of the Act w.e.f. 1st April, 2003 and non-compete fee received by the assessee could not be taxed under the aforesaid clause as the same did not have retrospective effect and, therefore, did not apply to the assessment year under consideration, i.e. 1998-99.

The Tribunal also held that the aforesaid non-compete fee did not result in any capital gain tax as there was no transfer of any capital asset by the assessee.

The aforesaid decision is of far reaching consequence and would help settle appeals pending before various appellate forums, on the aforesaid vexed legal issue.

Powers of the Commissioner of Income Tax to revise assessments

In a far reaching judgment on the scope of section 263 of the Act relating to the powers of the Commissioner of Income Tax (CIT) to revise assessments, the Supreme Court in the case of *Commissioner of Income tax, (Central) Ludhiana v. M/s Max India Ltd.: 213 CTR 266,* held that if at the time of exercise of jurisdiction by the CIT under section 263 of the Act, two views are possible in respect of the matter on which the assessment is sought to be revised by the CIT, it cannot be said that the order of the assessing officer was erroneous insofar as it was prejudicial to the interests of the Revenue.

All the above three cases were represented by our Firm.

TDS on cooling charges

The Central Board of Direct Taxes ('CBDT') has clarified that the provisions of section 194-I of the Income Tax Act, 1961 (the "Act") vide its Circular 1 of 2008 dated 10th January 2008 requiring tax deduction at source ('TDS') on rent would not be applicable in respect of cooling charges paid by customers to cold storage owners. The main function of cold storage is to preserve perishable goods by means of a mechanical process and storage itself is only incidental. Further, since the customer does not have right to a demarcated space or machinery in the cold store, the customer does not become a tenant of the cold storage owner.

It has, however, been clarified that since such transactions are basically contractual in nature, provisions of section 194-C of the Act regarding TDS on payment to contractors would be applicable in respect of cooling charges.

The above rationale can, in our view, be extended to various situations where storage is only incidental to composite services being provided by the recipient. For instance, warehousing charges or storage by C&F agents in the course of their normal activities. In such cases a lower rate of tax under section 194C of the Act would become applicable.

However, in our opinion, whether preservation of items through mechanically controlled temperature process amounts to "carrying out any work" as contemplated in section 194-C of the Act itself requires deliberations as the activity is purely in the nature of specialized services.

SERVICE TAX

Exemption of Service Tax to two more Services

CBEC has issued Notification No. 42 of 2007 dated 29th November, 2007 (amending Notification No. 41 of 2007 dated 6th October, 2007) to extend the exemption of service tax to two more taxable services provided to the exporters of goods for specified taxable services, received and used for exports of goods, namely-

(i) *Specialized cleaning services namely disinfecting, exterminating, sterilization or fumigating of containers used for export of said goods provided to an exporter;*

(ii) *Services provided for storage and warehousing of said goods.*

Service Tax Exemption in relation to Business Exhibition Services

- The taxable service provided by the organizer of a business exhibition in relation to business exhibition to an exhibitor, has been exempted from whole of the service tax, where the exhibitor is a manufacturer of goods falling under Chapters 57 (Carpets and Other Textile Floor Coverings), 61 (Articles of Apparel and Clothing Accessories, Knitted or Crocheted), 62 (Articles of Apparel and Clothing Accessories, Not Knitted or Crocheted), 63 (Other Made up Textile Articles; Sets; Worn Clothing and Worn Textile Articles; Rages) of the Central Excise Tariff Act, 1985.
- The exemption under the notification can be availed subject to the conditions given under the notification. Further, the exemption shall be provided by way of refund where the said manufacturer claiming the exemption has actually paid the service tax on the said service and no CENVAT credit has been taken under the CENVAT Credit Rules, 2004.
- This notification comes into effect from 29th November 2007 and will be valid up to 31st March, 2009

[Source: Notification No. 43 of 2007 dated 29th November, 2007]

Amendment with respect to furnishing of list of service tax related records and access to registered premises

- The Service Tax Rules have been amended, requiring all the assesses filing returns for the first time, to submit in duplicate, (i) all the records prepared or maintained by the assessee for accounting of the transactions as provided under the notification and; (ii) all other financial records maintained by him in the normal course of business.
- All the existing assessee will submit the same latest by the 31st January, 2008.
- Sub-rule 4 of rule 5 has been omitted and rule 5A has been inserted which provides for the right to access the registered premises of the assessee, to every officer authorised by the Commissioner.

[Source: Notification No. 45 of 2007 dated 28th December, 2007]

Clarification in respect of Renting of Immovable Property Service and Works Contract Service

CBEC vide Circular No. 98/1/2008-ST dated 4th January, 2008 has amended Circular No. 96/7/2007-ST dated the 23rd August, 2007. The said circular clarifies the issue of Cenvat Credit for the purpose of payment of service tax on

(i) Renting of Immovable Property [096.01/04.01.08]

(ii) Execution of Works Contract [097.02/04.01.08 & 097.03/04.01.08]

- **Renting of Immovable Property**

  The Department has clarified that the **commercial or industrial construction service** [section 65 (105) (zzq)] or *works contract service* [section 65 (105) (zzzza)] used for the construction of an immovable property could not be treated as an input service for the output service namely *renting of immovable property* under the CENVAT Credit Rules, 2004. The output service for the input service of commercial or industrial construction service or works contract service will be the Immovable Property which is neither a 'good' liable to Excise duty nor a 'service' liable to Service tax.

- **Execution of Works Contract**

  The Department clarified that the value for the purposes of levy of service tax under works contract service does not include the value pertaining to transfer of property in goods involved in the execution of a works contract leviable to VAT/ sales tax. Accordingly, works contract service provider is, not eligible to take credit under the CENVAT Credit

Rules, 2004, of the excise duty paid on goods subjected to levy of VAT/ sales tax involved in the execution of the works contract service.

The Department has issued a clarification that where any service provider prior to 1st June, 2007 classified his taxable service under *Erection, commissioning or installation service* [section 65 (105)(zzd)], *commercial or industrial construction service* [section 65(105)(zzq)], or *construction of complex service* [section 65(105)(zzzh)] and thereby discharged a part of his liability to pay service tax prior to 1st June, 2007 then in that case the benefits provided under the composition scheme of the works contract cannot be availed for the payment of the balance of service tax after the 1st June, 2007 and thereby the service provider is not entitled to change the classification of the single composite scheme for the purpose of payment of service tax.

[Source: Circular No. 98/1/2008-ST dated 4th January, 2008]

FEMA/RBI

Issue of shares under FDI and refund of advance remittances

As per the provisions of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 ("FEMA Regulations"), a person resident outside India can purchase equity shares/ compulsorily convertible preference shares and compulsorily convertible debentures (equity instruments) issued by an Indian company under the FDI policy and the Indian company is allowed to receive the amount of consideration in advance towards issue of such equity instruments, subject to the terms and conditions laid down therein.

The RBI vide Notification No. FEMA 170 /2007-RB Dated 13th November, 2007 has amended the FEMA Regulations to include that the equity instruments should be issued within 180 days of the receipt of the inward remittance.

In case, the equity instruments are not issued within 180 days from the date of receipt of the inward remittance or date of debit to the NRE/FCNR(B) account, the amount of consideration so received should be refunded immediately to the non-resident investor by outward remittance through normal banking channels or by credit to the NRE/FCNR (B) account, as the case may be.

In cases where 180 days have elapsed since receipt of funds and the equity instruments have not been issued, the companies are required to approach the Foreign Exchange Department of the Regional Office concerned of the Reserve Bank through their AD Category I bank with a definite action plan either for allotment of equity instruments or for refund of the advance, with full details, for specific approval.

[Source: RBI/2007-08/213 A.P. (DIR Series) Circular No. 20 dated 14th December, 2007]

Permission for short selling of Equity Shares by SEBI registered FIIs

RBI has permitted Foreign Institutional Investors (FIIs) registered with SEBI and sub-accounts of FIIs to short sell, lend and borrow equity shares of Indian companies subject to the following conditions:

- The FII participation will be subject to the current FDI policy and short selling of equity shares by FIIs shall not be permitted for equity shares which are in the ban list and / or caution list of Reserve Bank.
- Borrowing of equity shares by FIIs shall only be for the purpose of delivery into short sale.
- The margin / collateral shall be maintained by FIIs only in the form of cash. No interest shall be paid to the FII on such margin/collateral.

[Source: RBI/2007-08/219 A. P. (DIR Series) Circular No. 23 dated 31st December, 2007]

Risk Management and Inter-Bank Dealings- Commodity Hedging

RBI has decided to permit domestic oil marketing and refining companies to hedge their commodity price risk to the extent of 50 per cent of their inventory (based on the volumes in the quarter proceeding the previous quarter). The hedging may be undertaken through AD Category I banks authorized by the Reserve Bank .The hedges may be undertaken using over-the-counter (OTC) / exchange traded derivatives overseas with the tenor restricted to a maximum of one-year forward.

Approval should be given by the banks only after ensuring that the approval of Board of Directors of the Company has been obtained for hedging of inventories and also for dealing in OTC markets. The Board approval must include explicitly the mark-to-market policy, the counterparties permitted for OTC derivatives, etc. The entities must put up the list of OTC transactions to the Board on a half yearly basis, which must be evidenced by the banks before permitting continuation of hedging facilities under this scheme.

[Source: RBI/2007-2008/180 A.P. (DIR Series) Circular No. 17 dated 6th November, 2007

Direct Receipts of Import Bills/ Documents- Liberalization

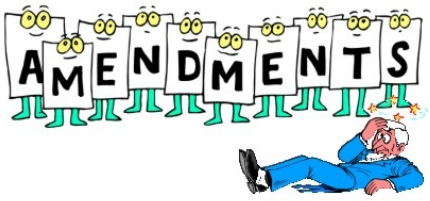
AD Category I banks (the "banks") are permitted to make remittances for imports, where the import bills / documents have been received directly by the importer from the overseas supplier and the value of import bill does not exceed USD 100,000.

In case of import of rough diamonds, the banks have been permitted to allow remittance for imports up to USD 300,000. All such transactions shall be subject to the prescribed conditions.

[Source: RBI/2007-08/181 A.P. (DIR Series) Circular No.18 dated 7th November, 2007]

SEBI & CORPORATE LAWS

Amendments to SEBI (Disclosure and Investor Protection) Guidelines, 2000



The Securities and Exchange Board of India ("SEBI") has decided to amend the SEBI (Disclosure and Investor Protection) Guidelines, 2000 (the "SEBI (DIP) Guidelines").

(i) Introduction of Fast Track Issues (FTIs)

The amendments seek to enable well established and compliant listed companies to proceed with follow-on public offering/ rights issue by filing a copy of the Red Herring Prospectus (in case of book built issue) / Prospectus (in case of fixed price issue) with the Registrar of Companies or the letter of offer filed with the designated Stock Exchange, as the case may be, with SEBI and stock exchanges.

(ii) Amendments to Guidelines on Issue of Indian Depository Receipts (IDRs)

Presently, SEBI (DIP) Guidelines provide that only Qualified Institutional Buyers ('QIBs') can apply in an IPO of IDRs. It has been decided to amend SEBI (DIP) Guidelines to allow all categories of investors to apply in IDR issues, subject to (i) at least 50% of the issue being subscribed by QIBs, and (ii) the balance being made available for subscription to other categories. Further, it has been decided to reduce the minimum application value in IDR from Rs. 200,000/- to Rs. 20,000/- and to carry out certain consequential amendments to SEBI (DIP) Guidelines pursuant to amendments to IDR rules by the Ministry of Corporate Affairs.

(iii) Quoting of PAN mandatory

It has been decided to extend the requirement of quoting PAN/GIR to all applicants in public and

rights issues in the application form irrespective of the application value.

(iv) Discount in issue price for retail investors / retail shareholders

It has also been decided to introduce a provision in SEBI (DIP) Guidelines, permitting companies making public issues to issue securities to retail individual investors / retail individual shareholders at a discounted (differential) price, provided that such discount does not exceed 10% of the price at which securities are issued to other categories of public.

(v) Definition of "Retail individual shareholder" for listed companies

Presently, listed companies making public issues can make reservation on competitive basis for its existing shareholders who, as on the record date, are holding shares worth up to Rs.50,000/-. However, no limit has been set on the value of the application that can be made by such shareholders. It has now been decided to define the term "Retail Individual Shareholder" to mean a shareholder (i) whose shareholding is of value not exceeding Rs. 1,00,000/- as on the day immediately preceding the record date, and (ii) who makes application or bids in a public issue for value not exceeding Rs 1,00,000/-.

(vi) Clarification on the term CEO/CFO

It is now clarified that the terms "CEO" and "CFO" in SEBI (DIP) Guidelines shall have the same meaning as assigned to them in clause 49 of the Equity Listing Agreement.

(vii) Deletion of the chapter on "Guidelines for Issue of Capital by Designated Financial Institutions (DFIs)"

SEBI had introduced separate guidelines in 1992 for primary issuances by DFIs, to place companies/ corporations/ institutions engaged mainly in financing of developmental activities and playing a catalytic role in the infrastructure development of the country on a different footing. It has now been decided to remove the special dispensations given to DFIs by deleting the chapter on "Guidelines for Issue of Capital by DFIs" from SEBI (DIP) Guidelines.

(viii) Monitoring of issue proceeds

Presently, as per SEBI (DIP) Guidelines, every issuer making an issue of more than Rs. 500 crores is required to appoint a monitoring agency, which is required to file a monitoring report with SEBI for record purpose. It has been decided that this provision shall not apply to (i) issues by banks and public financial institutions and (ii) offers for sale. Further, it has been decided that the monitoring agency shall henceforth be required to file the monitoring report with the issuer company and not with SEBI, so as to enable the company to place the report before its Audit committee.

(ix) Amendments to Guidelines for Preferential Issues

It has been decided that listed companies intending to make preferential allotment shall be required to obtain PAN of each of the applicants of the preferential issue before making the preferential allotment.

(x) Miscellaneous amendments

SEBI issues standard observations as a supplement to issue-specific observations on each and every draft offer document filed with SEBI. It has been decided to amend SEBI (DIP) Guidelines to incorporate certain clauses from the standard observations, essentially those pertaining to confirmations, undertakings, documents, information, etc., to be submitted by the Lead Manager/s to the Issue while filing an offer document with SEBI. Lead Managers shall also be required to file as an annexure to the due diligence certificate, a detailed check list indicating compliance of each of the clauses of the relevant chapters of SEBI (DIP) Guidelines.

[Source: SEBI Circular No. SEBI/CFD/DIL/DIP/28/2007/29/11 dated 29th November, 2007]

Amendments in the SEBI (DIP) Guidelines with respect to debt instruments

In order to facilitate development of a vibrant primary market for corporate bonds in India, SEBI has amended certain provisions of the SEBI (Disclosure and Investor Protection) Guidelines, 2000.

- For public/ rights issues of debt instruments, SEBI DIP Guidelines presently stipulate credit rating to be obtained from not less than two credit rating agencies. With a view to reduce the cost of issuance of debt instruments, it has now been decided that credit rating from one credit rating agency would be sufficient.
- SEBI DIP Guidelines at present require that the debt instruments issued through a public/rights issue shall be of at least investment grade. In order to develop market for debt instruments, it has been decided to allow issuance of bonds which are below investment grade to the public to suit the risk/return appetite of investors.
- Further, in order to afford issuers with desired flexibility in structuring of instruments to suit their requirements, it has been decided that structural restrictions currently placed on debt instruments such as those on maturity, put/call option on conversion, etc. shall be removed.

[Source: SEBI Circular no. SEBI/CFD/DIL/DIP/29/2007/03/12 dated December 3, 2007]

Amendments to Listing Agreement

In order to bring more transparency in the governance of a listed company with regard to utilization of issue proceeds and to enhance availability of and accessibility to the continuing disclosures by listed companies, it has been decided to amend equity listing agreement to provide for the following:

- Presently, clause 49 of equity listing agreement requires the audit committee of an issuer company to monitor the utilization of issue proceeds and to make appropriate recommendations to the Board of Directors of the issuer company. It has been decided to amend clause 49 of listing agreement, requiring the issuer company to place the Monitoring Report before its Audit Committee. Further, every issuer company shall be required to inform material deviations in the utilization of issue proceeds to the stock exchange and to simultaneously make the material deviations/ adverse comments of the audit committee/ monitoring agency, public, through advertisement in newspapers.
- SEBI had, vide circular no. SMD/POLICY/Cir-13/02 dated June 20, 2002, introduced a clause in equity listing agreement, which, inter-alia, mandated electronic filing of certain corporate information through the Electronic Data Information Filing and Retrieval ("EDIFAR") system. It has been decided to phase out EDIFAR gradually in view of a new portal, viz., Corporate Filing and Dissemination System ("CFDS") put in place jointly by BSE and NSE at the www.corpfiling.co.in.

[Source: SEBI Circular No. SEBI/CFD/DIL/LA/4/2007/27/12 dated 27th December, 2007]

Export to SEZ- No restriction on Currency

The Director General of Foreign Trade (DGFT) has amended *Conditions for Fulfillment of Export Obligation (para 5.7)* with respect to the Export Promotion Capital Goods (EPCG) Scheme (Chapter 5) in the Handbook of Procedures (Vol. I) Foreign Trade Policy. The amendment provides that *export to SEZ Units/ supplies to Developers/ Co-developers, irrespective of currency of realization, would also be counted for discharge of Export Obligation.*

[Source: Public Notice No. 94 (RE-2007) / 2004-2009, dated 1st January, 2008]

IMPORTANT DATES WITH REGULATOR (S)

COMPLIANCE CHECKLIST

February 2008

Sr. No	PARTICULARS	Sections/ Rules Clauses, etc	Acts/Regulations, etc.	Compliance Due Date	To whom to be submitted
	INCOME TAX				
1	TDS from Salaries for the previous month[1]	Section 192	Income-tax Act, 1961	7th February	Income-tax Authorities
2	TDS on Contractor's Bill/ Advertising/ Professional service Bill TDS collected in the previous month	Section 194C Section 194J	Income-tax Act, 1961	7th February	Income-tax Authorities
3	TDS on Rent	Section 194I	Income-tax Act, 1961	7th February	Income-tax Authorities
4	Issue a certificate of tax deduction at source for tax deducted during the previous month in respect of contractor's bill/rent/ advertising/ professional service bill[2]	Rule 26	Income-tax Rules, 1962	28th February	Payee in respect of whom tax has been deducted
	CENTRAL EXCISE & SERVICE TAX				
5	Pay Service Tax in Form TR-6 collected during the previous month	Rule 6	Service Tax Rules, 1994	5th February	Service Tax Authorities
6	Submission of CENVAT Return	Rule 9(7)	CENVAT Rules, 2002	10th February	Excise Authorities
	LABOUR LAWS				
7	Monthly payment of Provident Fund dues	Paragraph 38 of Employees' Provident Funds Scheme, 1952	Employees' Provident Funds and Misc. Provisions Act, 1952	15th February	Provident Fund Authorities
8	Payment of ESI contribution for the previous month (Form S-III cash challans & S-IV cheque challans)	Regulation 31	Employees' State Insurance Act, 1948 Employees' State Insurance (Gen) Regulations, 1950	21st February	ESIC Authorities

1 For amount credited as on the date up to which accounts are made, the payment can be made within two months following such date.

2 If the amount is credited to the payee's account as on the date up to which the accounts are made, then the certificate may be issued within one week after the expiry of two months from the end of the month in which such amount is credited.

ACCOLADES

The Tax Directors Handbook 2008 listing of Vaish Associates

The Tax Directors Handbook 2008 (supported by KPMG) cites about the Vaish Tax Practice in the following words:

"Ajay Vohra's tax group at Vaish Associates remains at the top of its game and comes highly recommended for its direct tax practice and 'nationwide delivery capability'. Recent activity includes appeals before the income tax authorities, salary structuring assignments for overseas employees, various transfer-pricing matters and complex tax-structuring transactions. The Firm has also been building up its indirect tax capabilities, particularly in the sphere of service tax. Clients include Amadeus IT Group, Hyundai Heavy Industries and PanAmSat International Systems. 'These lawyers know their subject very well, they take pains to go through all the documents in detail and always give sufficient time to discuss matters with clients'; says one client."

http://www.taxdirectorshandbook.com/

Chambers Asia 2008 ranks Vaish Associates

Tax Practice

The Firm: The Delhi office of this full-service firm houses a 20-lawyer tax team that is well versed in advising on the tax implications of cross-border transactions. Many members of the team have dual lawyer and accountant qualifications and were highlighted for their 'business-minded advice'. Typical work includes advising on the structuring of complex corporate transactions, representation of clients in tax disputes and handling some tax assessment work for multinationals.

The Lawyers: Chartered Accountant and Lawyer **Ajay Vohra** is a leading light for tax advice and heads up the firm's operations in Delhi.

Corporate/M&A Practice

The Firm: Although this thriving firm is best known for its niche tax expertise, it enters the corporate/M&A table this year on the back of enthusiastic client feedback for its "outstandingly clear and business-minded" corporate advice. Recent highlights include advising Hindustan Lever on the sale of its shares in Unilever India Shared Services to Capgemini. The team also advised Religare Enterprises on its joint venture with AEGON International for the purpose of setting up an asset management company in India. The full-service, 50-lawyer firm operates out of offices in Delhi, Mumbai and Gurgaon.

The Lawyers: "Brilliant gem" **Bomi Daruwala** won hearty client praise for his "tremendous knowledge of the Indian legal framework, ability to think on his feet and take command of negotiations, and effectiveness in communicating his point to the other side in a deal ." He maintains a busy transactional practice advising on real estate, M&A, private equity and financing matters. His recent highlights include advising Citigroup on the regulatory aspects of its investment in Housing Development Finance.

Clients/Work Highlights: Kuoni Travel; ABN AMRO; Larsen & Toubro; Fujitsu and Hindustan Lever.

http://www.chambersandpartners.com

Presentations at various Forums

- **Ajay Vohra** was invited to make a presentation on *"Shares & Securities-Investments vs. Stock-in-trade"* at Seminar on Taxation of Income from Shares & Securities jointly organized by PHDCCI and the Chamber of Tax Consultants, Mumbai (Delhi Chapter) on 19th January 2008 at New Delhi.
- **Hitender Mehta** was invited to make a presentation on *"SEZ Policy: Recent Trends & Role of Professionals"* at Rajasthan State Conference of the Northern India Regional Council of the Institute of Company Secretaries of India held on 12th January 2008 at Udaipur, Rajasthan.

- **Hitender Mehta** was invited to make a presentation on *"SEZ as an Attractive Business Proposition"* at **Pravasi Bhartiya Divas** in an event organized by OIFC (Overseas Investment Facilitation Centre), a joint initiative of Ministry of External Affairs and Confederation of Indian Industry (CII) held on 8th January 2008 at Vigyan Bhawan, New Delhi.
- **Satwinder Singh** was invited to make a presentation on *"Corporate Restructuring"* at U.P. State Conference of the Northern India Regional Council of the Institute of Company Secretaries of India held on 4th January 2008 at Kanpur, Uttar Pradesh.

CONGRATULATIONS

Hitender Mehta has been elected as Chairman of the Northern India Regional Council of the Institute of Company Secretaries of India for the year 2008.

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