

# Tax & Corporate News Bulletin

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## From the Editor's Desk

Dear Reader,

India investment outlook continues to be buoyant. India continues to draw the world's attention as one of the most preferred investment destinations.

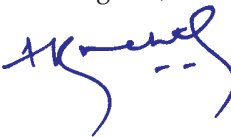
To give a further fillip to the growth momentum, the Indian Government has been proactively tooling progressive statutory adjustments. The Government has recently undertaken a comprehensive review of the Foreign Direct Investment (FDI) policy and related procedures. A number of rationalisation and simplification measures have been undertaken which include, dispensing with the need of multiple approvals from Government and/ or regulatory agencies that exist in certain sectors (i.e., single window clearance), extending the automatic route to more sectors, and allowing FDI in new sectors.

On the other hand, the Indian capital market regulator SEBI continues to take strong action against the errant market operators involved in the recent scam and thereby protecting the real retail investors. This demonstrates ongoing progressive efforts to change the Indian legal landscape.

Keeping pace with the rapidly changing scenario, Vaish Associates hosted World Law Group (WLG) Spring Conference at New Delhi on March 23 - 26, 2006, which was attended by over 100-delegates from leading member law firms from 36-countries. The WLG Conference deliberated on various India centric issues like doing business in/ with India, joint ventures and FDI, Indian Legal System, etc., besides discussions on wide ranging issues of international importance such as governance, corporate restructuring, cross-border transactions, arbitration, etc. A detailed account of the Conference deliberations follows in the ensuing pages.

In our continued endeavour to update you on contemporary issues, we bring forth this Issue and solicit your valued feedback.

With regards,



Hitender Mehta



Vaish News Bulletin Team congratulates Mr. Ajay Vohra, Managing Partner, Vaish Associates for being voted as 'one of the most highly acclaimed legal experts in the

Asia Pacific Region' in the practice area of Taxation by '2006 Asia Law Leading Lawyers Survey' (News on Page 6)

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## SEBI & CORPORATE LAWS

### IPOs GRADING

In furtherance to its earlier decision approving introduction of optional “grading” of Initial Public Offers (IPOs), the Securities and Exchange Board of India (SEBI) has made relevant amendments in the disclosure guidelines vide circular number SEBI/CFD/DIL/DIP/21/2006/24/4 dated April 24, 2006. An unlisted company making an IPO of equity shares or any other security which may be converted into or exchanged with equity shares at a later date may opt for IPO grading from one or more credit rating agencies, as per the newly inserted clause 5.6B.1. However, clause 5.6.B.2 makes it mandatory to disclose all grades so obtained, including the unaccepted grades, in the prospectus and abridged prospectus. Furthermore, the name of the credit rating agency shall also be disclosed. The disclosure should also include rationale/description of the grading/s so obtained.

### LISTING AGREEMENT UPDATES

#### [Amendment to Clause 40A and Clause 35 of the Equity Listing Agreement]

##### Minimum Public Shareholding

SEBI has amended Clause 40A of the Equity Listing Agreement relating to minimum public shareholding norms for listed companies vide circular number SEBI/CFD/DIL/LA/2006/13/4 dated April 13, 2006. The amendment will take effect from May 1, 2006.

The minimum public shareholding is 25 percent of the total paid up capital of the company. However, in the following cases, the minimum public shareholding shall be 10% of the total paid up capital of the company:

- A. the companies which, at the time of initial listing, had offered less than 25% but not less than 10% of the total number of issued shares of a class or kind; or the companies desiring to list their shares by making an IPO of at least 10% of the total number of issued shares of a class or kind; in terms of Rule 19(2)(b) of the Securities Contract (Regulations) Rules, 1957.
- B. the companies which have (i) reached a size of twenty million or more in terms of number of listed shares, and (ii) market capitalization of INR 10-Billion or more.

Further, the non-compliant companies would be provided a transparent mechanism to enable them to graduate them to the level of compliant companies. The mechanism for increasing the public shareholding to the minimum level will *inter alia* provide for various modes of issuing shares in domestic market and also a reasonable time period for achieving the same as specified by the specified Stock Exchange.

##### Revision in Reporting Format

SEBI has also revised the reporting format of shareholding pattern for the listed companies by amending Clause 35 of the Equity Listing Agreement, which comes into force with immediate effect.

Accordingly, the shareholding pattern will now be indicated under three categories, namely – “shares held by promoter and promoter group”, “shares held by public” and “shares held by custodians and against which Depository Receipts have been issued”. It is also clarified that for the purpose of Clause 40A, percentage of “public shareholding” shall be computed as “shares held by public” as a percentage of “total number of shares held by promoters, promoter group and public”.

### SEBI ACTS STRONGLY TO PROTECT RETAIL INVESTORS

Righteously living up to the expectations of a tough market regulator, SEBI has sent a strong message across the capital markets vide an interim order issued on April 27, 2006 against the prime suspects in the demat scam unearthed by SEBI recently. SEBI has barred 24 ‘key operators’ to buy, sell or deal in the securities market including in the IPOs, directly or indirectly till further directions.



SEBI, while examining off-market transactions in the IPOs of Yes Bank Limited and Infrastructure Development Finance Company Limited, had noticed that certain entities had cornered shares reserved for retail applicants by making applications in the retail category through thousands of beneficiary accounts in the name of fictitious/benami entities with each of the application being made under retail category. After the allotment, most of these shares were off-loaded on listing.

SEBI conducted investigations in respect of all the IPOs during the period from January 2003 to December 2005. The findings of investigations so far, prima facie, reveal violations of serious nature by 'key market operators', their financiers, concerned Depository Participants (DPs) and the Depositories including violation under SEBI Act, 1992 and Depositories Act, 1996 and the rules and regulations made there-under. SEBI has issued directions against the concerned entities vide an interim Order number WTM/GA/60/ISD/04/06 dated April 27, 2006 issued ex-parte in the matter of IPOs (P.R No. 127/2006 dated April 27, 2006).

Subsequently, SEBI vide P.R. No. 128/2006 dated April 28, 2006 clarified that the directions 'not to buy, sell or deal in the securities market including in IPOs, directly or indirectly, till further directions' in its interim order of April 27, 2006, in so far as they relate to brokers who are SEBI registered intermediaries, would apply only in respect of transactions in the proprietary account of brokers. The transactions on behalf of clients would however remain unaffected. The same clarifications apply to DP operations wherever they are Depository Participants.

#### **E-GOVERNANCE PROJECT OF MINISTRY OF COMPANY AFFAIRS [MCA 21]**

As discussed in our earlier communiqué, MCA 21 envisages e-filing of all documents related to company matters through Ministry of Company Affairs (MCA) website [www.mca.gov.in](http://www.mca.gov.in). Some general guidelines for the companies, their representatives and the professionals assisting the companies towards implementation of MCA-21, are provided herein below:

#### **Director Identification Number**

Director Identification Number (DIN) will be a pre-requisite for electronic filing of certain company related documents. DIN is a unique identification number allotted by 'MCA DIN Cell' for an existing director or a person intending to become the director of a company. As such, all directors should immediately apply for DIN on-line. On submission of online application for DIN, a 'Provisional DIN' is generated by the system, a copy of which along with requisite enclosures should be sent to 'MCA DIN Cell'. After scrutiny MCA DIN Cell will sent DIN confirmation and activation letter to the

applicant. Persons other than directors, e.g. company secretaries are, however, not required to obtain identification number in the manner as directors are required to get DIN. There is no charge/ fee for this service.

#### **Digital Signature Certificate**

All signatories of a company including Managing Director, Directors, Manager or Secretary authorized to sign the various forms to be filed with Registrar of Companies (ROC), Regional Director or MCA are required to obtain digital signature certificate (DSC). A class-2 Digital Signature Certificate is a mandatory requirement for this purpose. There are seven authorised certification agencies recognised by the MCA for the purpose of allotment of digital signature certificate. Keeping in view that all the stakeholders may not have acquired Digital Signatures and to provide assistance in e-filing to the stakeholders, location of Facilitation Centres, also known as Physical Front Offices (PFOs) at 53 places throughout the country has been envisaged. In the process, the hard copy of the notified e-form filled and signed manually is scanned as an attachment to the e-form. MCA21 system provides for the facility of payment of statutory fees through multiple modes, i.e. (i) off-line payment through a challan generated by the system and payment of fees at the counter of the notified bank branches through DDs/ Cash; (ii) on-line payments through Internet Banking and Credit Cards [MasterCard/VISA]. MCA will facilitate e-filing through Facilitation Centres without these Digital Signatures only till June 30, 2006 after which the filings will be accepted only through use of Digital Signatures.

#### **Certified Filing Centres (CFCs) Scheme**

In addition to Facilitation Centers/ Physical Front offices (PFO's), MCA has decided to set up Certified Filing Centers to ensure that e-filing should be made available with a greater out-reach. These Certified Filing Centers shall be operated by Professional Institutes (ICSI, ICAI, ICWAI), their Regional Councils/ chapters, individual practicing members and firms of professionals or bodies corporate registered under the MCA21 e-Governance Programme. While the services available at the Facilitation Centers set-up by the Ministry will be without any charge, services provided by these Certified Filing Centers will entail payment of service charges. This arrangement is formalized

through "Scheme for CeFiling Centers (CFCs)". The Scheme came into effect from April 20, 2006 and shall remain valid for a period of three years unless renewed/ revised further.

### Correction of Company Master Data

MCA has scanned and digitised the permanent records and Annual Returns/ Balance Sheets for the last two years in respect of all active companies. However, a situation cannot be ruled out where the information captured in respect of a company in the database is inaccurate or missing in certain respects.

Accordingly, all the companies are advised to view the basic company information provided in 'Company Master Data' by visiting MCA website. In case the data provided therein is correct, Company should intimate the concerned ROC confirming the data as correct. However, in case the information is not correct/ missing in respect of any field, company should inform the ROC in an application form along with copy of the proof evidencing the filing of such information with the ROC. This facility for data updation/ correction is being carried out as a priority and is time-bound. Hence, all the companies/ professionals advising the companies may do the needful latest by June 30, 2006.

## FEMA/RBI/ FOREIGN TRADE POLICY

### LIBERALISING OFF-SHORE INVESTMENTS

In a significant step to grant more operational flexibility to the corporates in India, Reserve Bank of India (RBI) has issued a circular number 29 (RBI/2005-06/338) dated March 27, 2006 where in reference has been made to notification number FEMA 120/RB-2004 dated July 7, 2004 (the "FEMA Notification").

With a view to further liberalise and simplify the existing regulations, the scope of guarantees covered under the automatic route has been enhanced. Presently, only promoter corporates are permitted to offer guarantees on behalf of their

Wholly Owned Subsidiaries (WOSs)/ Joint Ventures (JVs) via automatic route whereas the issue of personal, collateral and third party guarantees require prior approval of RBI and is considered by it on a case by case basis. RBI has now decided that Indian entities may offer any form of guarantee, corporate or personal; primary or collateral; guarantee by the promoter company; or guarantee by the group company, sister concern or associate company in India, under the automatic route, provided that:

- a) All 'financial commitments' including all forms of guarantees are within the over all prescribed ceiling for overseas investment of the Indian Party i.e. currently within 200% of the net worth of the investing company (Indian Party),
- b) No guarantee is open ended i.e., the amount of the guarantee is specified upfront, and
- c) In the case of corporate guarantees, all guarantees are required to be reported to RBI, in the ODR Form.

However, guarantees issued by the banks in India in favour of WOSs/JVs outside India shall fall outside this ceiling and would be subject to prudential norms issued by RBI from time to time.

Another important decision taken is to further liberalise the automatic route of disinvestment. As of now, Regulation 16 of the FEMA Notification provides that all disinvestments that involve a "write off" i.e., where the amount repatriated on disinvestment is less than the amount of the original investment will require a prior approval from RBI. In order to enable companies to have an operational flexibility according to their commercial judgment, the Indian Parties falling within the under noted categories may disinvest without prior approval of RBI:

- a) where the JV/WOS is listed in the overseas exchange,
- b) where the Indian promoter company is listed on a stock exchange in India and has a net-worth of not less than Rs.1000 million, and
- c) where the Indian promoter is an unlisted company and the investment in overseas venture does not exceed USD 10 million.

However, the Indian party is required to submit details of the disinvestment through its designated authorized dealer bank within 30 days from the date of disinvestment.

Finally, the eligibility criteria for an Indian entity to invest in a JV/WOS abroad has now been extended to the established proprietary /unregistered partnership firms, satisfying the guidelines provided in the Annexure to the circular. It is clarified that the application in Form ODI by the eligible parties may be made through their authorized dealer bank who in turn may forward it to the RBI with their comments/ recommendations. Approval of such investments would be subject to the usual reporting mechanism.

## INVESTMENT OUTSIDE INDIA

### Liberalization under ESOP Scheme

RBI has issued circular number 30 dated April 5, 2006 with a view to rationalize the regulations for investment outside India. In the said circular, a reference has been made to notification number FEMA 120/RB-2004 dated July 7, 2004 which deals with regulations relating to transfer or issue of any foreign security by a person resident in India. RBI has decided to bring about certain changes to the existing regulations:

As a measure of rationalization, authorized dealer banks are now permitted to allow remittance for acquiring shares under ESOP scheme, where the shares under the scheme are offered directly by the issuing company or indirectly through a trust/SPV/step down subsidiary, provided that -

- ✧ the company issuing the shares effectively, directly or indirectly, holds in the Indian company not less than 51% of its equity,
- ✧ the shares under the ESOP scheme are offered by the issuing company globally on uniform basis, and
- ✧ an annual return is submitted by the Indian company, on its letterhead, to RBI through the authorized dealer bank(s) giving details of remittances/ beneficiaries/etc.

It has been further decided to grant general permission to foreign companies to repurchase shares issued to residents in India under any ESOP scheme subject to the following conditions-

- ✧ the shares were issued in accordance with the rules/regulations framed under Foreign Exchange Management Act, 1999.
- ✧ the shares are being repurchased in terms of the initial offer document and

- ✧ an annual return is submitted, on the letterhead of the company, through the authorized dealer banks giving details of remittances/beneficiaries/ etc.

Further, in order to keep the designated branches of authorized dealer banks aware of the progress in the investment/disinvestment outside India routed through them, it has been decided that all communications from the Indian parties, to RBI, relating to the investment outside India should be routed through the branch of the authorized dealer bank that has been designated by the Indian investor for the investment. The authorized dealer banks while forwarding the request from their customers to RBI, shall also forward its comments/ recommendations on the request.

## SERVICE TAX

The Government has notified various changes in service tax provisions on April 25, 2006. The important changes are:

- ✧ New service tax rate (12%+2% Education Cess =12.24% effectively) has been made applicable w.e.f. April 18, 2006.
- ✧ Service tax levied on 15 new services and changes made in the existing services by the Budget 2006 has been made effective from May 1, 2006 vide Notification number 15/2006-ST dated April 25, 2006.
- ✧ Notification number 10/2006 to 13/2006-ST dated April 19, 2006 relating to changes in service tax rules, import of services rules, valuation rules and export of service rules respectively. These notifications have come into force w.e.f. date of publication in the Official Gazette.
- ✧ Earlier, Air travel agents have been given option to pay service tax at the rate of 0.5% of the basic fare in the case of domestic bookings and at the rate of 1% of the basic fare in the case of international bookings. Consequent on the increase in the rate of service tax from 10% to 12%, the above mentioned rates have been increased from 0.5% to 0.6% in the case of domestic bookings and from 1% to 1.2% in the case of international bookings, with effect from May 1, 2006. Corresponding changes have been made in the Service Tax Rules, 1994 vide notification number 17/2006-Service Tax dated April 25, 2006.

## INCOME TAX

Vaish Associates added another feather in its cap by successfully contesting a very high tax demand case before the Income Tax Appellate Tribunal (ITAT), New Delhi.

A search was carried out at various premises of HCL Group. Thereafter, block assessments were framed in the name of investment companies of the HCL Group wherein the Tax Department had raised an income tax demand of more than INR 8-Billion.

After hearing the arguments advanced, the ITAT recently set aside the entire income tax demand raised.

## ACCOLADES

### ASIA LAW CONFERS PRESTIGIOUS RECOGNITION ON AJAY VOHRA

Vaish Associates takes pride to announce that Mr. Ajay Vohra has been recognized by *2006 Asia Law Leading Lawyers Survey*, as one of the most highly acclaimed legal experts in Asia Pacific Region. This prestigious endorsement is in recognition of his work in the practice area of **Taxation**. The Asia Law Leading Lawyers Survey has been conducted annually since 1995 by Asia Law & Practice, a specialist division of Euro-money Institutional Investor (Jersey) Limited. In this year's survey, over 16,000 law firm clients and legal professionals were invited to nominate lawyers who, in their opinion, have consistently excelled in particular fields of legal practice.

## VIJAY PAL DALMIA BOLSTERS VAISH IPR PRACTICE

Vaish Associates welcomes Mr. Vijay Pal Dalmia, Advocate, who has joined hands with the Firm from 24.05.2006. Earlier, Mr. Dalmia was heading the Everest IP & IT Law Firm (established since 1947) and has now merged his practice with Vaish Associates. Mr. Dalmia is a member of the Supreme Court and the Delhi High Court Bar Associations. He has over 20-years' extensive experience in Intellectual Property Rights (IPR), Information Technology and Cyber Laws. His experience encompasses not only in registration of Trademarks, Patents, Copyrights and Industrial Designs, but also enforcement of IP Laws in courts all over India. He is a registered Patent Agent with the Government of India. He has been Additional Public Counsel for the Government for NCT of Delhi and handling legal matters concerning Union of India for about five years.

He has extensive Court trial experience. He has also been actively involved in anti-piracy Police raids and criminal prosecution in the field of software, audio and video piracy. He has actively participated in conducting on-the-site raids. He is Chief Editor of online legal magazine [www.indianlegalguide.com](http://www.indianlegalguide.com)

## Readers' feedback

I must commend the editors for an excellent topical overview of important legal developments. I found the RBI guidelines on outsourcing quite informative and also the statutory checklist sufficiently comprehensive.

*-Ashok Nambissan, General Counsel, Philips Electronics India Limited*

Thanks for your precious information which is valuable for us to understand recent tax structure.

*-Y. Asada, General Manager, Mitsui & Co. India Private Limited*

In March 2006, Vaish Associates hosted World Law Group (WLG) Spring Conference, held for the first time in India. The four day Conference was an electrifying experience. The gracious presence of legal luminaries like Justice R C Lahoti, Former Chief Justice of India, Dr. H R Bhardwaj, Union Law Minister, Diplomats and WLG members from over 36-countries lent a unique appeal and aura to the event. The incisive debates and experience sharing led to cross-fertilisation of ideas. The intellectual enlightenment was accompanied by an exposure to India's rich and varied cultural and social landscape. Some of the highlights of the event are captured in the ensuing pages:

## Opening Plenary

The WLG Spring Conference began with the chanting of hymns and lighting of lamp-two great traditions of India-marked the opening of the three day cerebral sessions, with focus on wide ranging issues of international importance, such as, corporate restructuring and governance, cross-border transactions, litigations, arbitration etc. The Conference agenda included discussion on India-centric issues like IT success, Doing Business with India, Joint ventures and foreign direct investment. Mr. Robert Vineberg, President, WLG explained the strategic focus of the organisation for enhancing awareness and expanding membership base. He laid emphasis on the forthcoming leadership seminar, refocus of the Newsletter, Internship Program, activities of Practice Groups, etc.

On behalf of the host law firm -Vaish Associates, Advocates, Mr. O. P. Vaish, founder of the firm, said that the Indian companies are gearing up not only for attracting foreign direct investment into the country but also are investing in countries like the US, Germany, France, Switzerland etc. "We wonder whether our WLG associates can track such investment and acquisition opportunities for us to work together," he added. He hoped that against the backdrop of the fast pace of economic development that are taking place in India and the implementation of pragmatic reform policies like Competition Law, WLG would consider repeat hosting of the Conference in two to three years.

Mr. Ajay Vohra, Managing Partner, Vaish Associates made a presentation of the host firm giving detailed description of firm's areas of practice in sectors like aviation, banking, education, information technology, real estate, infrastructure, telecommunications, power, insurance, etc. He also appraised the Corporate Social Responsibility Projects of the firm.



Lighting the lamp to mark the opening of the World Law Group Spring Conference 2006



Seen from L to R Mr. B. S. Saluja, Secy. Gen., ICADR, Mr. Hitender Mehta, Mr. Robert Vineberg, Mr. Justice R C Lahoti, Former Chief Justice of India, Dr. H R Bhardwaj, Union Minister of Law and Justice, Govt. of India and Mr. O P Vaish

## Plenary Session 1

Practice Management Session: Spotlight India  
Outsourcing Industry in India  
What Law Firms are already Doing and What they can Do in the Future



Mr. Raman Roy  
Founder, Raman Roy & Associates

Chaired by Mr. O. P. Vaish with panelists Mr. Raman Roy, Raman Roy & Associates and Mr. Ganesh Natarajan, President & CEO, Mindcrest Inc., This session had very interesting presentation on Legal Process outsourcing (LPO). According to Raman Roy's reckoning, outsourcing world over is growing at CAGR 10 per cent and is presently valued at US\$ 173 billion. Yet, only one per cent of the business is outsourced, the BPO turnover will be a mind-boggling figure. India has a high value proposition in the LPO because of its quality and skilled manpower, intellectual capital and competitive costs. The present institutions and infrastructure can be upgraded to suit the needs of the overseas clients. India has the cutting edge in tapping the emerging opportunities in LPO in view of its excellent IT infrastructure and capability to assimilate technology.



Mr. Ganesh Natarajan  
President & CEO, Mindcrest Inc.

Mr. Ganesh Natarajan said that by 2010 India can bag US\$ 600 million revenue in LPO, which will account for more than 13 per cent of the total legal process outsourcing. He also said that presently, legal spending globally is estimated at US\$ 250 billion. Of that, the US accounts for US\$ 160 billion. Like in the IT enabled services, US could be the major market for India in LPO as well. The type of activities that will be outsourced offshore in future, include patent drafting, billing and collection, word processing, litigation documentation and legal business research.

## Plenary Session II

An overview of the Indian Judicial System



Dr. H R Bhardwaj  
Union Minister of Law & Justice  
Govt. of India

Presence of Dr. H. R. Bhardwaj, Union Minister of Law and Justice, Government of India and Mr. Justice R C Lahoti, former Chief Justice of India lent considerable importance to this session. Dr. Bhardwaj explained about the recent initiatives undertaken by Government of India in settling commercial disputes expeditiously and in strengthening arbitration procedures and laws. India is now a hot destination for investment and trade. He called on the legal fraternity to create awareness among the international investing community about investment opportunities in India. Judicial independence and Rule of Law are hallmark of the Indian Judicial System, he said. The Minister also mentioned about the efforts being made by the Government in upgrading the judicial system such as, large scale computerization for which allocation of approx. INR 10 billion have been made.



Mr. Justice R C Lahoti  
Former Chief Justice of India

Mr. Justice Lahoti, while giving an overview of the Indian judicial system said that the three-tier judicial system in the country-Supreme Court, High Courts and Subordinate Courts - dispose a large number of cases. Precisely, subordinate courts dispose off about 13 million cases, High courts 1.5 million cases and Supreme Court 48,000 - 50,000 cases every year. Yet, there are backlogs which need to be attended to. Both the Government and the Judiciary are taking continuous steps to address to the backlog in a time bound manner, evolving innovative methods.

## Plenary Session III

The Indian IT Success Story

IT Industry is knowledge driven. With the presence of a large reservoir of talent pool, India had a head start in this segment. It is widely held that India would continue to enjoy the leadership in IT in the coming years. The purpose of the session was to apprise the delegates about the growth of the Indian IT industry, its future potential and how the synergies could be drawn between IT and Legal Process Outsourcing (LPO).



Mr. Saurabh Srivastava  
Chairman, Xansa India Ltd.

Mr. Saurabh Srivastava, Chairman, Xansa India Ltd., a pioneer in the IT field, dissected the success of the IT industry, which was a nascent industry till 1989. The need of digital equipment suppliers to develop software locally led to its later proliferation, which had a considerable impact on India's services exports and talent pool. He gave the future scope of the industry by underlining that in the next five years, exports would leap frog to US \$100 billion, creating a large number of gainful employment. India is moving up in the IT value chain. Many important policy decisions were taken to tap the enormous IT potential, such as, strengthening of the IPR regime, creation of a global environment for accelerated growth, focusing on quality etc. In this regard, he mentioned that over 200 Indian companies have bagged the CMM - 5 level certification, the highest grade given for benchmarking the quality credentials of software companies.



Mr Arun Kumar, MD, Flextronix Software Systems, said that software exports accounted for 4.6 per cent of India's GDP and 45 per cent of the total exports. Some of the global developments, such as, Y2K, focus on ERP etc have had their positive impact on IT exports. Coupled with cost arbitrage, particularly in the labor front, India had emerged as a sought out destination for BPO. Touching upon the initial problems of the IT industry in India, he said that the IT fraternity had to convince the Government about the potential of the sector and to create a global environment for the industry to grow.



Mr. Arun Kumar  
MD, Flextronix Software Systems

There was also a pressing need for sensitizing the offshore venture capitalists for funding IT start-ups. Lacing the challenges before the industry, he said that trans-border business activities, low internet penetration especially in the rural areas, stringent labor laws, weak laws governing IPR and data protection etc. are still some of the issues that have to be addressed to.



Mr Sanjeev Bikhchandani  
CEO, naukri.com

Mr Sanjeev Bikhchandani, CEO, Naukri.com said that the internet penetration in India is a mere 4 per cent, (catering too 40 million people) as against 65 per cent in the US. But, in absolute terms, IT penetration matches up with the US because of the higher population in India. But the mobile space in India is very large so also the SMS, which is a mental past time of Indians. As against China, where the internet penetration has caught up mainly because of the usage local language as a medium for content creation and for communication, India's internet usage is mainly confined to English. He hoped that in the coming years, local language will be used for internet communication, which would in turn, will increase the penetration. second dot com boom in India, though only a few companies could survive the dot com bust experienced in the nineties. He also said that the second phase of the IT revolution in India would focus on products rather than services. Bottlenecks in the urban transportation system, protracted litigation, governance issues, limited number of higher school of learning, which focuses on quality etc are some of the problems that India faces

## Plenary session IV

Marketing session 1: Spotlight India-Doing Business in India- Opportunities and Pitfalls; Joint Ventures and Direct Investment

Undeniably, India and China are countries to be watched for their development dynamism. Now, the debate is focused on when these two economies of continental size would be joining the rank of developed world. Mr Munish Dayal, President- Business Banking, Yes Bank Ltd, avers, " the good thing is that there is a paradigm shift in the Indian investment climate with more and more companies looking beyond the shore for investment. Sooner or later, they would emerge as global companies having operations globally." That is definitely a plus point, given the fact that India has a sizeable foreign exchange reserves and the macro economic fundamentals are more or less stable, which has emboldened the government to consider preparing a roadmap for capital account convertibility.



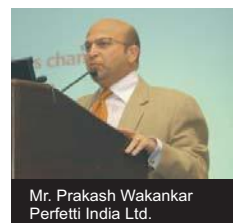
Mr. Adit Jain  
International Market  
Assessment (IMA), India

Mr Prakash Wakankar, Director, Perfetti India Ltd has a different take. Power sector reforms in India have to be put into the centre stage. A lot more has to be done in this regard. Initial experiments with power reforms did not pay off, except in materializing a small 250 MW power plant in down South. Enron had left deep scars on the foreign participation in the power sector. Experience in the road sector was not rewarding till the Government had innovated the Oil Cess of Re one per litre, which has to go into a dedicated account exclusively for financing the road projects.



Mr. Munish Dayal  
Yes Bank Ltd.

Mr Bharat Kaushal, India Country Head & Head of South Asia, International Finance Department, Sumitomo Mitsui Banking Corporation has somewhat similar views. Quoting a recent paper report, he says, it is widely perceived India is chaotic on the surface and stable underneath unlike China, which demonstrates calmness on the surface and chaotic underneath. He quickly adds, "India still will have to learn a lot from China, how she has steered the manufacturing sector to excellence and the pace of innovation." Far from that, what could be a potential worry to the developed world is the growing synergy between the two continental economies. It will not be a soothing proposition for many developed countries to hear that India and China have started looking at a common strategy for bidding oil from the CIS countries.



Mr. Prakash Wakankar  
Perfetti India Ltd.

Mr Adit Jain M D, International Market Assessment (IMA), India concedes, "in the initial years of reforms, euphoria around joint ventures were built more on the gut feeling and not on crass commercial considerations based on market surveys and intelligence reports. Soon there was a cultural backlash and incompatibility between the partners crept in that rocked many ventures." Happily, there is a paradigm shift. Replacement of press note 18, which stipulated a No Objection Certificate from Indian partner in a joint venture to the foreign stakeholder, before the latter can embark on a new joint venture with another partner or 100 per cent subsidiary, has been made flexible. That apart, there are several success stories that lent credence to the fact that India is fast becoming a destination, where one can do business like in any other part of the developed world governed by Rule of Law and strong and transparent business practices. That, of course, is a good news.



Mr. Bharat Kaushal  
Sumitomo Mitsui Banking  
Corporation

## Plenary Session V

Marketing Session II: Spotlight India-Best Practices for Your Indian Clients  
Indian Companies Acquiring Assets and Raising Capital Abroad



Mr. Bomi Daruwala  
Partner, Vaish Associates

Chaired by Mr. Bomi Daruwala, Partner, Vaish Associates, with panel speakers Mr. Ajit Yadav, PepsiCo and Mr. Murali Neelakantan, Arnold & Porter, London, the session assumed importance against the backdrop of more and more Indian companies scouting for investments abroad. One point that was made amply clear was India Inc is very price sensitive and their attitudes and cultural moorings to strike a business deal can be essentially different from businessmen, lawyers, financial experts, etc. from other countries. Ajit Yadav concurred, "Passion to save cost is there in the Indian psyche in all aspects be it manufacturing or determining professional fees and that is most often demonstrated in a professional manner. This could be more pronounced in the case of Small and Medium Enterprises (SMEs), which are presently in a mode to globalize their operations."



Mr. Ajit Yadav  
PepsiCo



Mr. Murali Neelakantan  
Arnold & Porter

However, there could be perceptual differences. It depends as to how one looks at India. Cultural differences, sometimes, can lead to lack of understanding of each other. Mr. Murali Neelakantan spelled out some of them. Attitude to striking a deal and the negotiating tactics of Indian companies need to undergo a transformation. It should be based on trust and not driven by finance. All risk factors have to be properly addressed and all the stakeholders should be taken into confidence before holding hands. For that there should be proper channels of communication and if there is any difference between the parties, that should be properly explained to the counsel.

Mr. Bomi Daruwala made it a point to read out the observations of General Counsel of a large business house detailing how one should go ahead with selecting an overseas counsel for facilitating the business deals. Functional capabilities, value addition, easy accessibility etc are some of the criteria that India Inc. is looking forward. Mr. Ajay Vohra, Managing Partner, Vaish Associates asserted, "the bottomline is understanding the client and his perceptions and acting accordingly."

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## Spiritual Discourse

Indians are spiritual and invoke God for His blessings. Religious Scriptures are sources of strength for the Indian mind, which absorbs and assimilates quintessence of all religions and faiths. More so, Indians take great interest in sharing their cultural legacies and teachings to



Swami Nikhilananda  
Head of Chinmaya Mission, Delhi

people who seek and appreciate. The spiritual discourse by Swam Nikhilananda, Head of Chinmaya Mission, Delhi on Yoga, was a revealing exercise to the visiting delegates. Yoga techniques helps ones mind and body and bring the two in perfect harmony with each other. Yoga opens up ones intuition that helps you to feel the cosmic energy and achieve divine bliss in harmony with the world around you. For quieting the mind, one has to follow a value system, which enunciates non-violence, truthfulness, non-stealing, sense control and non-hoarding. These values are universal and cut across nations, religions and faiths.



Mr. Robert Vineberg,  
President, WLG

World Law Group Spring Conference 2006 is a grand success. We couldn't have asked for more... credit goes to Mr. Vaish and his able team

We are beholden to your active support and good words. I'm sure you will return to India very soon for your business purposes and leisure travel. India holds great promise for both.



Mr. O.P. Vaish  
Founder, Vaish Associates

## Valedictory Session

The WLG fraternity had once again got an opportunity to hold their hands, discuss the emerging issues and challenges, and importantly travel down the memory lane. The delegates bid farewell to each other with a pious wish to meet at WLG Fall Conference at Minneapolis, USA in September 2006.

