Tax & Corporate News Bulletin

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VAISH ASSOCIATES ADVOCATES
Corporate, Tax and Business Advisory Law Firm

From the Editor's Desk...

Dear Reader,

India Inc. rejoices the formation of the new Government with fairly comfortable majority and hopefully, lesser complications. This not just brings hope of a faster turnaround of the slowdown process, but also sends a message that the development and growth would further accelerate. Investment climate in India ought to be more favourable in the time to come.

Infrastructure reforms assume top priority for the incumbent Government. In a recent move to further liberalize the policy relating to Special Economic Zones (SEZs), on May 20, 2009, the Ministry of Commerce & Industry introduced the SEZ (Second Amendment) Rules, 2009 allowing the amalgamation of adjacent SEZs, resulting in exceeding the maximum ceiling of 5000 hectares. Further, the term 'vacant land' has been defined to put all confusion at rest. Further, a notification has also been issued by the Ministry of Finance to exempt the services consumed with the SEZ from the levy of service tax and to provide for refund with respect to services availed outside SEZ, for authorised operations.

In yet another important development, the law of Limited Liability Partnership (LLP) finally saw the light of the day. The LLP Act and the LLP Rules were notified on March 31, 2009 and April 1, 2009 respectively. The LLP Act is expected to facilitate formation of large number of business associations with the benefits of limited liability, incorporated entity, flexible business structure, lesser complications, lesser regulatory compliances and easy exit options.

During last week of April, 2009, Vaish Associates released its book titled 'Think Business Think India' (CCH India publication), a compilation of laws applicable to establishing presence, and doing business, in India. Besides, the publication contains write-ups on investment framework, special schemes for export promotion, important considerations for expats working in India, setting-up a non-profit entity in India, and the likes.

This issue of our News Bulletin marks the beginning of fifth year of our endeavour to keep you updated on various amendments and contemporary corporate issues. We hope that you find the same useful and of practical relevance.

Yours truly,

Hitender Mehta
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For Private Circulation

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VAISH ACCOLADES

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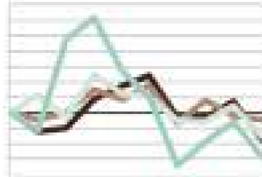
INCOME TAX

Foreign Exchange Fluctuation losses are allowable on accrual basis

CIT vs. Woodward Governor: 223 CTR 1 (SC)

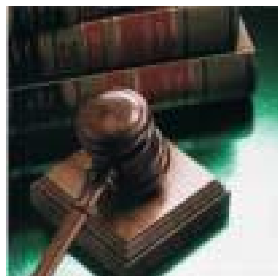
The Supreme Court laid down the following important principles regarding additional liability on account of foreign exchange fluctuation as at the year end:



- In respect of loans taken for revenue purposes, the additional liability arising on account of fluctuation in the rate of exchange is allowable deduction under section 37(1) of the Income-tax Act (the 'IT Act') in the year of fluctuation in the rate of exchange and not in the year of repayment of such loans. For that purpose, the accounts and the accounting method followed by an assessee continuously for a given period of time needs to be presumed to be correct till the assessing officer comes to the conclusion for reasons to be given that the system does not reflect true and correct profits.
- The actual cost of imported assets acquired in foreign currency is entitled to be adjusted under section 43A (prior to the assessment year 2003-04), on account of fluctuation in the rate of exchange at each balance sheet date, pending actual payment of the varied liability.
- The amendment to section 43A, w.e.f. April 1, 2003, providing for varying the actual cost of asset with reference to the liability arising on account of foreign exchange fluctuation only at the time of payment, is not clarificatory and applies from assessment year 2003-04.

Power of the Tribunal to enhance the assessment

Mcorp Global v. CIT: 309 ITR 434 (SC)



The important proposition of law laid down by the Supreme Court reiterating the principle laid down earlier in *Hukumchand Mills Limited Vs. CIT : 63 ITR 232,* is that the Tribunal has no power of enhancement and could not vary the stand taken by the assessing officer, to the detriment of the assessee. The Supreme Court has observed that the Tribunal was not empowered to take away the benefit granted by the assessing officer. In the aforesaid case, the assessee lessor had leased soft drink bottles and claimed depreciation thereon. The assessing officer allowed depreciation with respect to bottles delivered to the lessee before the end of the previous year and disallowed the claim of depreciation with respect to balance bottles which were delivered to the lessee after the close of relevant previous year.

The Tribunal for the first time held that the arrangement was not one of lease but a financial arrangement, disregarding that the assessing officer had accepted the transaction to be a lease arrangement, by allowing part depreciation. The finding of the Tribunal was confirmed by the High Court.

Reversing the order of the High Court, the Supreme Court held that once the assessing officer had accepted the lease arrangement as genuine by allowing depreciation in part, it was not open to the Tribunal to hold the very same transaction to be in the nature of finance arrangement.

Deduction of Tax at Source

CIT v. Eli Lilly & Company Pvt. Ltd.: 223 CTR 20 (SC)

In the above case, the issue before the Supreme Court was with regard to liability of Indian employer to withhold tax due on payment of salary received by the expatriate employees outside India from another legal entity. In addition the Supreme Court was also concerned with the levy of penalty under section 271C for the alleged default of non-deduction of tax at source under section 192 of the IT Act out of the foreign salary.

The Supreme Court held that the provisions relating to chargeability of tax contained in section 9(1)(ii) and the deduction of tax at source ('TDS') provisions under section 192 of the IT Act relating to income under the head "salaries" are not independent of each other; the charging provisions and the computation provisions go hand in hand.

It was held where the expatriate employee is exclusively working in India and the salary received abroad is only for the services rendered in India, then, the employer is obliged to take into account the salary received for computing TDS under section 192 of the IT Act. Failure to do so will trigger consequences under sections 201(1) and 201(1A) of the IT Act.

With regard to levy of penalty under section 271C of the IT Act, the Supreme Court upheld that the order of the High Court deleting the penalty, observing that since the issue involved was

nascent, the employer could harbour a *bona fide* belief that tax was not required to be deducted at source on the foreign salary.

From the Chambers, Mr. Ajay Vohra argued before the Hon'ble Supreme Court in the above matters. He was assisted by Ms. Kavita Jha and Mr. Sandeep Karhail, Advocates.

MAT credit to be reduced while charging interest under section 234B/ 234C

In the case of *CIT v. Jindal Exports Ltd., NIS Sparta Ltd. & Others : 222 CTR 8 (Del.)*, it was argued whether credit of tax paid under section 115JAA can be given before computing interest under sections 234B and 234C of the IT Act. The High Court held that interest under the said section is to be charged after the tax credit (MAT credit) available under section 115JAA is set off against tax payable on the total income of the year in question.

The Court further held that rectification under section 154 could not be made by the assessing officer as the issue regarding charging of interest under section 234B of the IT Act without giving set off of MAT credit to the assessee was highly debatable.

From the Chambers, Mr. Ajay Vohra argued before the High Court in the above matters. He was assisted by Ms. Kavita Jha and Mr. Sriram Krishna, Advocates.

Penalty for concealment under section 271(1)(c) of the IT Act, 1961 – Ratio of Dharmendra Textiles Processors and Others explained

Union of India vs. Rajasthan Spinning & Weaving Mills

(Civil Appeal Nos. 3527 & 3525 of 2009)

Penalty under section 271(1)(c) of the IT Act, 1961 is charged where the assessing officer in the course of assessment proceedings under the IT Act is satisfied that the assessee has concealed particulars of income or furnished inaccurate particulars of income. Explanation 1 to section 271(1)(c) of the IT Act provides for a deeming fiction whereby for levy of penalty under that section, burden is cast on the assessing officer to demonstrate that either (a) the assessee failed to offer an explanation or (b) he offered an explanation which was found to be false, or (c) he offered an explanation which cannot be substantiated or shown to be *bona fide*.

The Supreme Court in the case of *Dalip N. Shroff vs. ACIT: 291 ITR 519* interpreting Explanation 1 to section 271(1)(c) of the IT Act, held that the order imposing penalty is quasi-criminal in nature and, thus, the primary burden of proof rests on the Department. It was held that despite insertion of Explanation 1, the primary onus still continues to be on the assessing officer and that the Explanation was inserted merely to obviate the difficulty on the part of the assessing officer in proving positive element for concealment, as required prior to the amendment. It was also held that in order to take recourse to Explanation 1 to section 271(1) of the IT Act, the Department must first place on record primary evidence of satisfaction in terms of the said Explanation.

However, the larger bench of the Supreme Court in the case of *Dharmendra Textiles Processors and others: 306 ITR 277*, disapproving the decision of the division bench in the case of *Dalip N. Shroff* (supra), held that penalty under section 271(1)(c) of the IT Act is a civil liability and that "willful concealment" and "mens rea" are not essential ingredients for imposing penalty. It was held that the Explanations appended to section 271(1)(c) of the IT Act indicate the element of strict liability on the assessee for concealment or for giving inaccurate particulars while filing the return and the section has been enacted to provide for a remedy for loss of revenue.

The said decision was rendered in the context of penalty under section 11AC of the Central Excise Act, 1944 (Central Excise Act) which did not have an element of discretion inbuilt therein. The said decision was extensively being relied upon by the Revenue to hold the levy of penalty under section 271(1)(c) of the IT Act to be automatic.

The Apex Court in the recent decision in the case of *Union of India vs. Rajasthan Spinning & Weaving Mills* held that… "the decision in *Dharmendra Textiles Processors and Others* cannot be said to hold that section 11AC would apply to every case of non-payment or short payment of duty regardless of the conditions expressly mentioned in the section for its application………. The decision in *Dharmendra Textiles* must, therefore, be understood to mean that though the application of section 11AC would depend upon the existence or otherwise of the conditions expressly stated in the section, once the section is applicable in a case the concerned authority would have no discretion in quantifying the amount and penalty must be imposed equal to the duty determined under sub-section (2) of section 11A. That is what *Dharmendra Textiles* decides."

The Supreme court further held in paragraph 24 that "it must, however, be made clear that what is stated above in regard to the decision in *Dharmendra Textiles* is only in so far as section 11AC [of the Central Excise Act] is concerned. We make no observations (as a matter of fact there is no occasion for it) with regard to the several other statutory provisions that came up for consideration in that decision".

The decision in the case of *Dharmendra Textiles* did not make radical change in the law relating to penalty under section 271(1)(c) of the IT Act, which cannot be read to mean that in all cases where addition or disallowance is made or confirmed, levy of penalty shall mechanically follow. It would still be open to the assessee to contend that the claim in respect of which addition or disallowance is made, was bona fide having no element of concealment and the onus to demonstrate that the requirements of Explanation to section 271(1)(c) of the IT Act were satisfied so as to levy penalty under that section would be on the assessing officer. The decision of the Supreme Court in the case of *Dharmendra Textiles Processors and others* (Supra) is to be understood in the correct perspective and the Supreme Court in the later decision in the case of *Rajasthan Spinning & Weaving Mills* has substantially diluted the rigors of the said decision.

New Rules for TDS and TCS payment and information reporting system introduced

The Finance Act, 2008 inserted a new sub-section (1A) in section 143 of the IT Act empowering the Central Board of Direct Taxes (the 'Board') to make a scheme for centralised processing of returns for expeditiously determining the tax payable by, or the refund due to, the assessee. Such processing of returns would envisage no interface with the taxpayer and would be required to be done in an automated jurisdiction-less manner. In pursuant of this scheme, the Board has decided that, henceforth, claim for TDS and tax collection at source ('TCS') shall be allowed only if:

- The amount has been deposited by the deductor/ collector;
- The information relating to the deductee has been furnished by the deductor/ collector; and
- The claim matches the information furnished by the deductor/ collector.

The following are some of the salient features of the new TDS and TCS payment and information reporting system-

- The new system has harmonised all deductors (including Central and State Government and non- governmental tax deductors) making them responsible for direct payment of TDS in the bank.
- Rule 30 and 37CA of the Income Tax Rules, 1962 have been substituted to provide, inter alia, for
    - All sums of tax deducted at source under Chapter XVII-B and Chapter XVII-BB to be paid to the credit of the Central Government within one week from the end of the month in which the deduction, or collection, is made.
    - All deductors mandatorily to pay the amount by electronically remitting it into the RBI, SBI or any authorised bank.
    - All deductors mandatorily to make the payment by electronically furnishing an income tax challan in Form No. 17.
- Form 16 and 16A used to issue TDS certificates and Form 27D used to issue TCS certificates have now been substituted by the new Forms 16, 16A and 27D wherein it is mandatory for the deductor/ collector to quote, inter alia, a Unique Transaction Number (UTN). The UTN shall be assigned to every deduction record upon successful remittance of the TDS/ TCS to the Central Government account and uploading of basic information i.e., PAN, name of the deductee and amount of TDS/ TCS, while electronically furnishing the income-tax challan in Form No. 17.
- Every person who has obtained a Tax Deduction or Collection Act Number (TAN) shall electronically furnish a quarterly statement in the newly introduced Form 24C. It is mandatory for all TAN holders to furnish this form irrespective of whether any payment liable TDS has been made or not. Such form has to be furnished electronically at http://incometaxindiaefiling.gov.in. The first quarter in respect of which Form No 24C is required to be furnished is the quarter ending on 30th June, 2009.

This new system shall be effective for all tax deducted at source or tax collected at source on or after April 1, 2009. However, any TDS or TCS effected on or after April 1, 2009 but not later than May 31, 2009 shall continue to be paid to the credit of the Central Government by using an old challan form. The TDS or TCS effected on or after June 1, 2009 shall be required to be paid electronically by furnishing income tax challan in Form No. 17.

However, where the certificate is required to be issued in respect of deduction or collection made before April 1, 2009, the deductor/ collector may adopt any of the following courses of action-

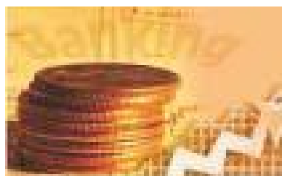
- The deductor/ collector may issue certificate of deduction or collection in Forms 16, 16A or 27D, as the case may be, as it existed prior to April 1, 2009 and send a consolidated statement of UTNs to the deductee/ buyer lessee etc., as soon as the same is received by him; or
- The deductor/ collector may issue certificate of deduction or collection in the new Forms 16, 16A or 27D, as the case maybe.

The new TDS and TCS payment and reporting system will enable faster payment, accurate accounting and uniformity across deductors. It will facilitate accurate, quicker and full credit for taxes paid enabling faster refunds to taxpayers. It will also minimise interface of tax administration with taxpayers and intermediaries, thereby eliminating any opportunity for rent seeking behavior.

[Source: Notification no. S.O. 858(E) dated March 25, 2009 and Circular no. 02/2009 dated May 21, 2009]

FEMA/ RBI/ FDI

Buyback/ Prepayment of FCCBs



Reserve Bank of India (RBI) has increased the total amount of permissible buyback of Foreign Currency Convertible Bonds (FCCBs), out of internal accruals, from USD 50 million of the redemption value per company to USD 100 million, under the approval route by linking the higher amount of buyback to larger discounts. Accordingly, Indian companies may henceforth be permitted to buyback FCCBs up to USD 100 million of the redemption value per company, out of internal accruals, with the prior approval of the RBI, subject to:

i) Minimum discount of 25% of book value for redemption value up to USD 50 million;

ii) Minimum discount of 35% of book value for the redemption value over USD 50 million and up to USD 75 million; and

iii) Minimum discount of 50% of book value for the redemption value of over USD 75 million and up to USD 100 million.

The change shall come into force with immediate effect and the entire procedure of buyback should be completed by December 31, 2009 as specified in A.P. (DIR Series) Circular No. 58 dated March 13, 2009.

[Source: RBI/2008-09/461 A. P. (DIR Series) Circular no. 65, dated April 28, 2009]

ECB Policy liberalisation

The RBI had vide A.P. (DIR Series) Circular No. 46 dated January 2, 2009 decided to dispense with the requirement of all-in-cost ceilings on External Commercial Borrowings (ECB), under the approval route, until June 30, 2009. Accordingly, eligible borrowers, proposing to avail of ECB beyond the prescribed all-in-cost ceilings could approach the RBI, under the approval route. It has now been decided to extend the relaxation in all–in-cost ceilings, under the approval route, until December 31, 2009. This relaxation will be reviewed in December 2009. The modifications in the ECB guidelines shall come into force with immediate effect.

[Source: RBI/2008-09/460 A.P. (DIR Series) Circular no. 64, dated April 28, 2009]

Reporting mechanism modified in relation to transfer of shares/ preference shares/ convertible debentures by way of sale

To capture comprehensive details of investment received by way of transfer of existing shares/ compulsorily and mandatorily convertible preference shares/ debentures (hereinafter 'equity instruments'), of an Indian company to a non resident/ non-resident Indian and vice versa, by way of sale, the RBI has revised Form FC-TRS.

The sale consideration in respect of equity instruments purchased by a person resident outside India, remitted into India through normal banking channels, shall be subjected to a KYC check in a prescribed format by the remittance receiving AD Category–I bank at the time of receipt of funds.

In case of transfer of equity instruments where the non-resident acquirer proposes deferment of payment of the amount of consideration, prior approval of the RBI would be required.

The form FC-TRS should be submitted to the AD Category–I bank, within 60 days from the date of receipt of consideration, or as the case may be, full and final amount of consideration in case of deferment scheme. The onus of submission of FC-TRS will be on the transferor/ transferee, resident in India.

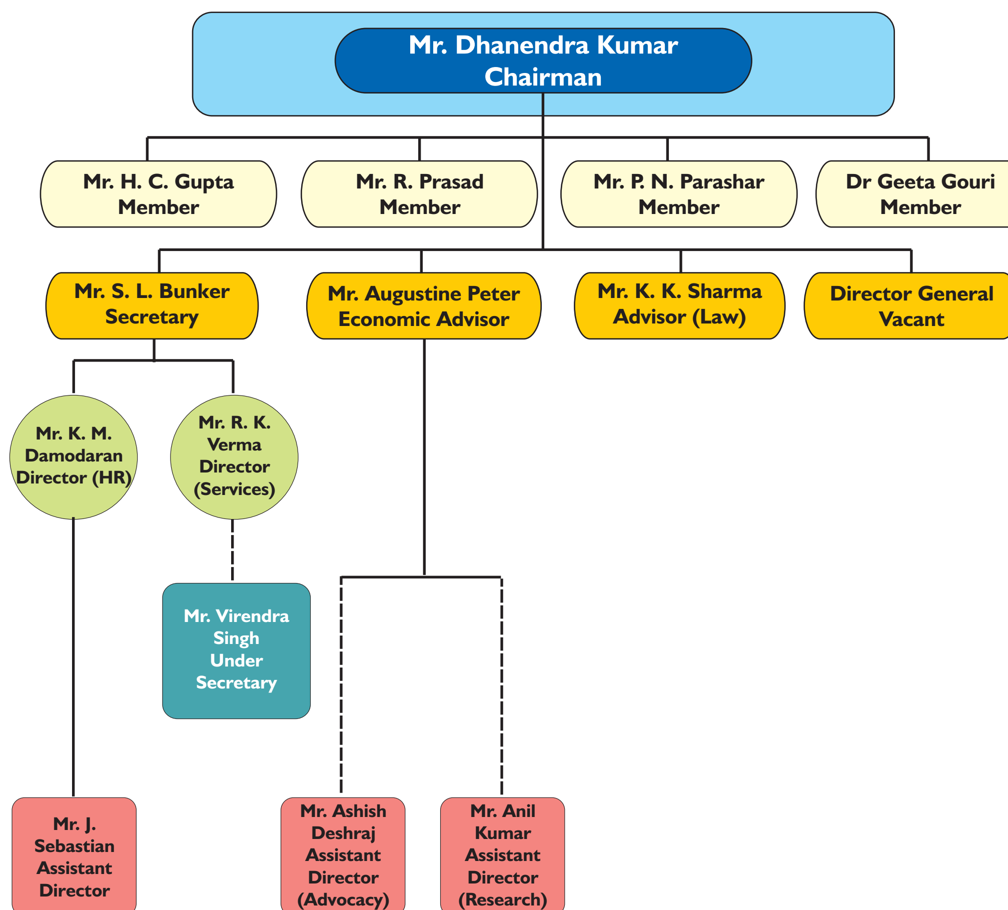
The above will become operative with immediate effect.

[Source: RBI/2008-09/447 P. (DIR Series) Circular no.63, dated April 22, 2009]

SEBI & CORPORATE LAWS

Establishment of Competition Commission of India

The Central Government has appointed the Chairman and Members of the Competition Commission of India (CCI). The present organisational structure of the CCI is as follows:



Notification of Section 3 & 4 of the Competition Act, 2002

The Central Government has notified, w.e.f. May 20, 2009, the provisions of the Competition Act, 2002 relating to anti-competitive agreements (section 3) and abuse of dominant position (section 4) along with other related and miscellaneous provisions, to enable the CCI to enforce these provisions of the Competition Act, 2002.

Establishment of Competition Appellate Tribunal

The Central Government has notified, w.e.f. May 20, 2009, the establishment of Competition Appellate Tribunal headed by Dr. Justice Arijit Pasayat, Judge (Retd.), Supreme Court of India, to deal with the appeals against the decisions of the CCI and also adjudicate on compensation claims.

CCI notifies Regulations

The CCI has notified following Regulations under the Competition Act, 2002 :

i) The CCI (Procedure for Engagement of Experts and Professionals) Regulations, 2009 (No.1 of 2009) [Notified on May 15, 2009]

ii) The CCI (General) Regulations, 2009 (No. 2 of 2009) [Notified on May 21, 2009]

iii) The CCI (Meeting for Transaction of Business) Regulations, 2009 (No. 3 of 2009) [Notified on May 21, 2009]

For futher details, please refer CCI website at www.cci.gov.in

Simplified Listing Agreement for Debt Securities

Securities and Exchange Board of India (SEBI) has simplified the Listing Agreement with respect to debt securities, which provides that –

i) where equity of the issuer is listed and such issuer is seeking listing of its debt securities, minimal incremental disclosures would be sufficient; and

ii) where equity of issuer is not listed and such issuer is seeking listing of its debt securities, detailed disclosures, but fewer than those made under equity Listing Agreement needs to be made.

The Listing Agreement for debt securities shall come into force with immediate effect for all 'debt securities', as defined under regulation 2(1)(e) of the SEBI (Issue and Listing of Debt Securities) Regulations, 2008, seeking listing on the Stock Exchange.

[Source: Circular no. SEBI/IMD/BOND/1/2009/11/05 dated May 11, 2009]

Amendments to the Equity Listing Agreement

✧ **Uniform procedure for dealing with unclaimed shares (Clause 5A):** To deal with shares which could not be allotted to the rightful shareholder due to insufficient/ incorrect information or any other reason, newly inserted clause 5A *inter alia* provides that –

- Unclaimed shares, corporate benefit in terms of securities, accruing on unclaimed shares such as bonus shares, split, etc., to be credited to a demat suspense account opened by the issuer.
- Details of shareholding of individual allottee whose shares have been credited to such suspense account shall be properly maintained by the issuer.
- The allottee's account credited as and when he/ she approaches issuer, after proper verification of identity of the allottee.
- The voting rights of these shares remain frozen till the rightful owner claims shares.
- Details (in aggregate) of shares in the suspense account including freeze on their voting rights, shall be disclosed in the Annual Report as long as there are shares in the suspense account.

✧ **Notice period for Record Date & Board Meeting- Amendments to clause 16 and clause 19:** The notice period for record date and board meeting has been reduced to 7 working days and 2 working days respectively.

✧ **Uniformity in dividend declaration- Insertion of clause 20A:** Listed companies shall declare their dividend on per share basis only.

✧ **Shareholding pattern for each class of shares and voting rights pattern –Amendment to clause 35:** Format given for disclosures of shareholding pattern in clause 35 is required to be given for each class of security, separately. Additional format is provided for disclosures of voting rights pattern in the company.

[Source: Circular no. SEBI/CFD/DIL/LA/1/2009/24/04 dated April 24, 2009]

Amendment to the Companies (Issue of Indian Depository Receipts) Rules, 2004

The Central Government has amended the rules pertaining to issue of Indian Depository Receipts (IDRs), which *inter alia* provide that–

✧ In case, the period between the year-ending date and the opening date is more than 180 days, the

Issuer must submit financial statements for the period ending on a date less than 180 days before the opening of the issue.

- Where the period between the ending date and the opening date is less than 180 days, a statement disclosing changes in the financial position in the interim period may suffice.
- Where the issuer is a foreign bank and which is regulated by a member of the bank for International settlements/ International organization of Securities Commission which is a signatory to the Multilateral Memorandum of Understanding with India, the requirement of financial statements may be dispensed with on provision of limited review report of statutory auditor.

[Source: Circular no. GSR 251(E) dated April 15, 2009]

Limited Liability Partnership Act comes into force

The Ministry of Corporate Affairs ("MCA") has notified March 31, 2009 as the date on which 71 sections out of 81 sections of the Limited Liability Partnership (LLP) Act, 2008 have come into force. Further, the LLP Rules, 2009 have been notified on April 1, 2009 for carrying out the provisions of the LLP Act, 2008.

[Source: Notification nos. S.O. 891(E) dated March 31, 2009 & G.S.R. 229 (E) dated April 1, 2009]

SPECIAL ECONOMIC ZONES

Special Economic Zone (Second Amendment) Rules, 2009

The Ministry of Commerce and Industry has introduced the Special Economic Zone (Second Amendment) Rules, 2009, which *inter alia* provides as under -

1. Insertion of clause (zf) to Rule 2 (1):

   "Vacant Land" has been defined to mean the land where there are no functional ports, manufacturing units, industrial activities or structures in which any commercial or economic activity is in progress.

2. Insertion of Proviso to Rule 5 (2)(a):

   The limit of 5,000 hectares shall not apply to cases where two or more contiguous existing notified SEZs are merged.

3. Provisos to Rule 19 (2) shall be substituted by the following:

   "Provided that the Approval Committee may also approve proposals for broad-banding, diversification, enhancement of capacity of production, change in the items of manufacture or service activity, if it meets the requirements of rule 18:

   Provided further that no such approval shall be granted by the Approval Committee in those cases which fall within the competence of the Board of Approval:

   Provided also that the Approval Committee may also approve change of the entrepreneur of an approved unit, if the incoming entrepreneur undertakes to take over the assets and liabilities of the existing Unit".

[Source: Notification no. S.O. 1293(E)- SEZ dated May 20, 2009]

Refund of service tax on taxable services provided in relation to the authorized operations of a SEZ

The Central Government has provided unconditional exemption from service tax with respect to services relating to the authorized operations, which are consumed within the Special Economic Zone (SEZ). However, with respect to taxable services relating to authorized operations but consumed outside SEZ (partially or wholly), exemption from service tax has been provided by way of refund.

The Central Government has simultaneously prescribed the following conditions for claiming refund of service tax:

- Following documents have to submitted to the Assistant/ Deputy Commissioner to prove that the services have been

actually used in relation to authorized operations in the SEZ:

- Copy of the list of specified services required in relation to the authorized operations in the SEZ as approved by the Approval Committee;
- Documents evidencing payment of service tax

- The end-use of services consumed for which the refund claim is filed may be verified by the Assistant/ Deputy Commissioner in certain cases, where significant amount is involved.
- Where the individual refund claim amount exceeds Rs.5 lakh under this notification, the procedure relating to sanction and pre-audit of refund/ rebate claims shall apply *mutatis mutandis*.
- 80% of the due refund amount is to be sanctioned as *adhoc* interim refund to the Developer or the Unit within 15 days of filing of a refund claim.
- The refund claims should be finalized within a maximum period of 30-days from the date of filing of refund claim and in any case, not beyond 45-days from the date of filing of refund claim.

[Source: Notification no. 15/2009 dated May 20, 2009 and Circular no. 114/08/2009 dated May 20, 2009]

SERVICE TAX

Clarifications relating to refund of service tax paid on specified services used for export of goods

- Central Board of Excise and Customs ('CBEC') has issued several clarifications to resolve procedural matters arising in implementation of refund scheme, prescribed under Notification No. 41/2007- ST, which allows refund of service tax paid on specified services used for export of goods. For details, please refer www.cbec.gov.in

[Source: CBEC Circular no. 112/06/2009- ST dated March 12, 2009]

VAISH ACCOLADES

Ajay Vohra nominated as Co-Chairman, FICCI Direct Tax Committee

Ajay Vohra has been nominated as Co-Chairman of the Direct Taxes Committee of Federation of Indian Chamber of Commerce and Industry (FICCI). He is also the Chairman, Direct Taxes Committee, PHD Chamber of Commerce & Industry.

Presentations / Academic contributions

- **Amit Sachdeva** made a presentation on *"Legal Issues in Entry Tax Statutes"* on May 22, 2009 at the India Habitat Centre during the *Advance Training in VAT Policy* and Administration for senior officers (Commissioner level) from the Sales Tax Department. The program was attended by about 45 officers from 7 different States in India.
- **Amit Sachdeva** contributed an article titled *'The Indian LLP Law: Some Concerns for Lawyers and Chartered Accountants'* in *(2009) 92 SEBI & Corporate Laws 6 (Mag.)*.
- **Gaurav Jain** contributed an article titled *"Investment Companies–Always dealer in shares?"* featured on www.taxindiaonline.com in May 2009.
- **Hitender Mehta** made presentations on *"Limited Liability Partnerships"* on May 22, 2009 at Hisar and Rohtak branch of the Institute of Chartered Accountans of India ('ICAI'). Present amongst others were Mr. Amarjeet Chopra, Vice President, ICAI, Mr. Bhagwan Das Gupta, Chairman, ICAI-NIRC and other senior Chartered Accountants.
- **Rohit Garg** contributed an article titled *'Tax treatment of Pre-Operative expenses'* in April 2009 issue of the *"The Chartered Accountant"*, a journal of the ICAI.

Latest Publications

Master Guide to Limited Liability Partnerships

- **Hitender Mehta,** Head–Gurgaon Office, Vaish Associates authored a book titled **"Master Guide to Limited Liability Partnerships".** The book was launched by Ms. Justice Gita Mittal, Hon'ble Judge, Delhi High Court on May 23, 2009 at ICSI-NIRC seminar held at New Delhi.

Mr. Hitender Mehta seen with Hon'ble Justice Gita Mittal on the occasion of launch of his book on LLP

Vaish publication titled "Think Business Think India"

In the last week of April, 2009, **Vaish Associates Advocates** released its publication titled **"Think Business Think India".** The publication is a compendium of laws, rules and regulations that govern Indian businesses, and seeks to give discerning investors, foreign and domestic, a kaleidoscopic idea of establishing presence in India and importantly, doing business in India. The publication contains information relating to general understanding of India, governance structure, the foreign trade policy, special schemes for export promotion (SEZs/ STPs/ EOUs/ EHTPs/ BTPs), tax laws, labour and industrial laws, intellectual property laws, important considerations for expatriates working in India, etc. This edition has been published by **CCH India** (a Wolters Kluwer business).

Vaish CSR Initiatives

Scholarship Programme

Vaish Associates Public Welfare Trust organized its quarterly Scholarship Meet on May 2-3, 2009, where the benefit was extended to more than 50 students. Mr. Dinesh Tyagi, Client Solutions Director – India Futurestep, a Korn/ Ferry Co. was invited to address a career guidance session with the children studying in IXth standard or above.

Health & Dental Check-up Camp

A health and dental check up camp at Jaunapur village, Mehrauli, New Delhi on March 31, 2009 was organized for children of Tarang, chain of *Balwadis* (preschools) run by **Vaish Associates Public Welfare Trust** at Jaunapur. About 70 children and 20 women from the village were screened.

[Children at the health and dental check-up camp]

17th Rotary India Award

17th Rotary India Award on ***"Child Mortality/ Child Survival"*** organized by the Rotary Awards for Service to Humanity (India) Trust, under the chairmanship of Mr. O. P. Vaish was organized at PHDCCI, New Delhi, on April 13, 2009. The award was conferred on **Child In Need Institute,** West Bengal for their outstanding contribution in reducing the incidence of child mortality and promoting child survival, by former Chief Justice of India Mr. M. N. Venkatachaliah.

From L-R: Hon'ble Justice Mrs. Leila Seth, DG Dr. Sushil Khurana, PRID O. P. Vaish, RID Ashok Mahajan, Hon'ble Justice M. N. Venkatachaliah, RI PRE John Kenny, Mr. Rajib Haldar and PRIP R. K. Saboo

IMPORTANT DATES WITH REGULATOR (S)

COMPLIANCE CHECKLIST

May - June, 2009

Sr. No	PARTICULARS	Sections/ Rules Clauses, etc	Acts/Regulations, etc.	Compliance Due Date	To whom to be submitted
A.	**INCOME TAX**				
1	Deposit TDS on salaries paid for the month of May 2009	Section 192	Income-tax Act, 1961	June 7, 2009	Income-tax Authorities
2	TDS on payments made to/ for contractors/ advertising/ professional services/ rent/ commission or brokerage in May 2009	Section 194C/ 194-I/ 194J/ 194H	Income-tax Act, 1961	June 7, 2009	Income-tax Authorities
B.	**CENTRAL EXCISE & SERVICE TAX**				
3	Payment of service tax collected during May 2009	Rule 6	Service Tax Rules, 1994	June 5, 2009	Service Tax Authorities
4	Submission of monthly CENVAT Return for May 2009	Rule 9(7)	CENVAT Credit Rules, 2004	June 10, 2009	Excise Authorities
5	Payment of excise duty for May 2009 (Not SSI Unit)	Rule 8	Central Excise Rules, 2002	June 5, 2009	Excise Authorities
C.	**SEBI & CORPORATE LAWS**				
6	Submission of limited review report for the quarter ended March 31, 2009	Clause 41	Listing Agreement	May 31, 2009	Stock Exchange(s)
7	Intimation of board meeting date for taking on record the annual financial results	Clause 41	Listing Agreement	7 days in advance	Stock Exchange(s)
D.	**LABOUR LAWS**				
8	Payment of monthly Employees' Provident Fund (EPF) dues	Para 38	EPF Scheme, 1952	Within 15 days of the close of every month	Provident Fund Authorities
9	Monthly return of Provident Fund for previous month w.r.t. international workers	Para 36	EPF Scheme, 1952	Within 15 days of the close of every month	Provident Fund Authorities
10	Monthly return of Provident Fund for previous month	Para 38	EPF Scheme, 1952	Within 25 days of the close of every month	Provident Fund Authorities
11	Payment of Employee State Insurance (ESI) Contribution for the previous month	Regulation 31	ESI Act, 1948 read with ESI (Gen) Regulations, 1950	Within 21 days of the last day of the calendar month for which the contribution is made	ESI Corporation

Vaish Team Annual offsite at Switzerland in April 2009

Mr. Hitender Mehta with Mr. Rafael A. Morales, President, IPBA and other delegates at 19th Annual IPBA Conference at Manila, Philippines

Disclaimer:

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