



BDO TAX UPDATE

March 2010

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Domestic Tax

1. CIT v. Aimil Ltd [2010-TIOL-125-HC-DEL-IT]

Contribution toward provident fund and ESIC by employer and employee is allowable if it is deposited before due date of filing of the return.

Aimil Ltd, ('the assessee'), filed its return of income on 30.10.2002 for assessment year ('A.Y.') 2002-2003. During the A.Y. 2002-03, the assessee failed to deposit employer contribution and employees contribution towards provident fund and ESI within due date stipulated in the relevant enactment, but the same has been deposited by the assessee in the exchequer of the Government before the due date of filing of return of Income under section 139(1) of the Income-tax Act.

During the assessment proceedings, the Assessing Officer ('AO') observed the delay and made an addition on account of employer contribution under section 43B of the Act as well as employees contribution under section 36(1)(va) of the Act. The assessee preferred an appeal against the order of the AO before the Commissioner of Income-tax -(Appeals) (CIT-(A))

CIT(A), on production of evidentiary proof of payment of employer contribution and employees contribution towards provident fund and ESI, allowed the claim of the assessee on the ground that the same has been deposited before due date of filing of return. The AO preferred an appeal against the order of the CIT(A) before the income tax appellate tribunal ('the tribunal').

The Tribunal placed a reliance on the order of the apex court in case of CIT v. Vinay Cement Ltd¹, and held that disallowance cannot be made, if the employer and employee contribution toward provident fund and ESIC is deposited before due date of filing of the return. Aggrieved with the order of the Tribunal, the department filed an appeal before the High Court.

The High Court observed that the deduction in respect of employee's contribution to Provident Fund or ESI Fund under section 36(1)(va) of the Act is subject to the restriction contemplated by the second proviso to section 43B of the Act which *inter alia* allows the deduction of employee contribution to provident fund or ESI fund unless it has not been deposited into Provident fund or ESI fund within due date specified in relevant Act.

The second proviso to section 43B of the Act has been deleted by Finance Act 2003 with effect from A.Y. 2003-2004. Consequently, the payment of employee contribution to Provident fund or ESI fund would be treated at par with other items of section 43B of the Act. Accordingly, the High Court observed that the deduction in respect of payment of employee contribution to Provident fund or ESI fund will be allowed if it has been deposited into the relevant fund on or before the due date of filing of return. The High Court further observed that amendment is curative in nature and would apply retrospectively w.e.f 1.4.1988 (A.Y. 1988-89).

2. TRF Limited vs CIT [2010-TIOL-15-SC-IT]

For claiming deduction in respect of bad debt under section 36(vii) of the Income-tax Act there is no requirement to establish that the debt has become irrecoverable.

The apex court in its landmark ruling has held that after 1st April 1989, it is not for the assessee to establish that the debt has become irrecoverable.

¹ 213 CTR 268 (SC)

International Taxation

1. BBC Worldwide Ltd vs Dy.DIT [2010-TIOL-59-ITAT-DEL]

Where an agent is compensated on arm's length basis for its agency services in India nothing more is to be taxed in the hands of the foreign enterprise.

BBC Worldwide Ltd ('the assessee') is incorporated under laws of England and Wales and is part of the BBC Group. It is operating as an international consumer media company in the areas of television, publishing and licencing program. It also operates BBC World News (BBCWN).

The assessee nominated its indirect subsidiary, namely BBC Worldwide (India) Pvt. Ltd (BW IPL), as an authorized agent and entered into dollar denominated agreement, called airtime sales agreement, with it to solicit order for the sale of advertising airtime on the channel for which it directly received payment from Indian advertiser at the predetermined rates. BW IPL received commission @ 15% from the assessee for providing the said services. It also entered into another agreement, airtime sales agreement- rupee denominated, to enable BW IPL to collect payments from Indian advertisers on sale of airtime and remit the proceed, after deducting commission @ 15%.

The assessee filed nil tax return and subsequently it revised return of income disclosing income as royalty income. The assessee contended that the income earned by it for the sale of air time is in the nature of business income and in absence of the permanent establishment in India the income is not taxable in India. It further contended that even if BW IPL is considered to be a business connection / (Permanent Establishment) PE of the assessee the commission paid to it constituted adequate consideration for its activities in India and no further income of the assessee is liable to be taxed in India. In this regard the assessee placed reliance on Set Satellite (Singapore) Pvt. Ltd v. DDIT², DIT v. Morgan Stanley and Company Inc.³, and CBDT Circular no.23 of 1969.

On the other hand, the AO contended that the assessee had a business connection in India in terms of section 9(1) of the Income Tax Act ("the Act") and BW IPL constitutes PE of the assessee under Article 5 of India-US tax treaty. Accordingly, AO estimated an adhoc rate of 20% of the total advertisement revenue attributed to India.

The CIT-(A), placing reliance on CBDT circular No. 742 dated 2.5.1996 confirmed the assessment order and estimated the assessee's profits @10% of the total advertisement revenues allocable to India.

The Tribunal observed that the TPO has accepted the rate of 15% as being on an arm's length prices. It further observed that rate of commission is fairly uniform and almost everyone was charging the rate of commission in sale of airtime on TV channels and FM channels and therefore price determined by the assessee for the marketing services is at arm's length.

The Tribunal observed that CBDT Circular No.23 of 1969 clearly provides that if the value of the profit attributable to the services rendered by the agent is fully represented by the commission paid, it should, prima facie, extinguish the assessment. Applying the decisions of Set Satellite (Singapore) Pvt. Ltd v. DDIT⁴, DIT v. Morgan Stanley and Company Inc.⁵. The tribunal observed that since BW IPL is remunerated on arm's length nothing further would be attributable in the hands of the assessee in India.

Note: Please note that circular no.23 of 1969 has been withdrawn by the CBDT in October 2009 vide circular no. 7/2009 dated: 22nd October, 2009

² 307 ITR 205 (Bom)

³ 292 ITR 416 (SC)

⁴ 307 ITR 205 (Bom)

⁵ 292 ITR 416 (SC)



2. Seagate Singapore International Headquarters Pvt. Ltd [2010-TIOL-08-ARA-IT]

Demarcated space in the warehouse constitutes a fixed place permanent establishment of foreign supplier in India within the meaning of Article 5 of India Singapore tax treaty.

Seagate Singapore International Headquarters Pvt. Ltd ('the applicant') is non-resident Singapore based company and is engaged in the business of manufacture and supply of Hard Disk Drive (HDD). The applicant supplies HDD to Original Equipment Manufacturer's (OEM). The applicant proposed to enter into an agreement with Independent Service provider (ISP) in India who would stock the HDD on behalf of the applicant and deliver the same to the OEM on a 'Just-in Time' basis. The ultimate ownership of the goods lies with the applicant till the goods are in the possession of ISP.

The applicant, on the basis of purchase order of OEM, supplied the goods to ISP and who in turn supplied the goods to OEM and intimated the supply of the same to the applicant. The payment for the supply of goods was directly made by OEM to the applicant, and the services rendered by the ISP were remunerated by the applicant on an arm's length basis.

The applicant contended that ISP does not constitute its fixed place Permanent Establishment (PE) or agency PE in India within the meaning of Article 5(1) of India-Singapore tax treaty and hence not liable to tax in India for the activities carried by it through ISP.

On the other hand the revenue contended that demarcated space in the warehouse of ISP constitutes the fixed place of business within the meaning of Article 5(1) of India-Singapore tax treaty, and accordingly, the warehouse of the ISP constitutes PE.

Authority for Advance Ruling (AAR) observed that outsourcing the operation leading to supply of goods does not mean that applicant is not carrying on any business activity in India through a PE. It observed that demarcated space of warehouse of the ISP constitutes fixed place PE within the meaning of article 5 of the India-Singapore tax treaty. In regard to attribution of profit to the PE, the AAR observed that for the computing profits of the PE in relation to sales activity in India, PE should be treated as distinct enterprise wholly independent of the enterprise of which it is a PE and for computing profits the amount paid to ISP's by the applicant and other expenses, if any, incurred should be allowed as deduction.



Transfer Pricing

1. CA Computer Associates Pvt. Ltd v. DCIT [2010-TIOL-68-ITAT-MUM]

Arm's length price (ALP) of any international transaction is to be determined in accordance with the methods prescribed under Transfer Pricing Regulation (TPR). The TPO is not allowed to determine the ALP from the method which is not prescribed in TPR.

Bad debt incurred by the assessee can not be the determining factor for making an adjustment to the royalty which is the international transaction.

CA Computer Associates Pvt. Ltd ('the assessee') is 100% subsidiary of Computer Associate International Inc USA, and is engaged in the business of licencing mainframe and midrange, and system infrastructure product of parent company, it also provides support services to the end user of the software product on behalf of its parent.

The assessee paid royalty (at arm's length, applying CUP method) to associated enterprise (AE) for distribution of software product. The assessee had written off some of the receivable's from third party customer as bad debt.

The TPO accepted method adopted by the assessee, at the same time disallowed portion of the royalty corresponding to sales which were written off as bad debt by the assessee on the following grounds:

- The bad debt written off and the invoice raised pertains to the same financial year and accordingly no royalty is payable.
- The assessee does not have any documents seeking the waiver/ write off of royalty on the amount invoice and written during the financial year. Any independent entity in similar circumstances would have sought for a waiver of royalty.
- The assessee could not realize the amount from the customer, then royalty could not be considered as payable. The Independent entities would enter into an agreement for payment of royalty, on the basis of collection made and not on the basis of invoicing.

The assessee contended, under section 92CA(3) the jurisdiction of TPO is restricted to determine the ALP of any international transaction, and the bad debt written off cannot subject matter of powers of TPO. Further, it contended that royalty payment relates to sale of goods, and therefore the irrecoverable sale proceed could not consideration for deterring ALP of any international transaction.

It also contended that TPO is bound to determine 'ALP' of any international transaction within the framework of the methods prescribed by the TPR. CIT-(A) confirmed the addition made by the AO.

The Tribunal observed that the bad debt written off cannot be the factor used to determine the arm's length price of any international transaction. The TPO should adjudicate the arm length price within the parameters of TPR by adopting method prescribed therein. Accordingly, the tribunal set aside the order passed by the TPO and directing AO to accept ALP as declared by the assessee.

* Reliance was placed on CIT vs. KRMTT Thiagaraja Chetty & Co [24 ITR 525 (SC)]

Service Tax

Notifications

Electronic payment of Service Tax and electronic filing of return

Notification No. 01/2010 Service Tax dated February 19, 2010

Effective from 01-04-2010

The assessee, who has made payment of total Service Tax of rupees ten lakh or more (through CENVAT and/or Cash) in the preceding financial year shall pay Service Tax electronically through internet banking as well as shall file the return electronically.

Judicial Rulings

Tribunal Decisions

Service tax on Goods Transport Agency Service paid by the job worker

Status: In favour of assessee

The materials procured by the assessee are directly supplied at the job worker premises for processing. For this purpose, services of goods transport agency are procured by them and Service Tax liability on such services is discharged by the job worker (as 'consignee'). The tribunal observed that since the Service Tax has been discharged by the job worker on such services of Goods Transport Agent, there is no liability of the principal manufacturer to pay Service Tax on the said services.

CCE vs Elgi Ultra Industries Ltd

[2010-TIOL-332-CESTAT-MAD]

Construction Services v. Works Contract services

Status: In favour of assessee

The appellant provided construction services to NTPC for the period 10-9-2004 – 31-3-2006 and paid sales tax on the material component and service tax on the labour component. The Tribunal observed that a demand of service tax on the material component could not be avoided merely on the ground that the services were later covered under the category of 'Works Contract Services' w.e.f. 1-6-2007 and hence not under construction services prior to that date. However, the Tribunal extended the benefit of Notification No. 12/2003 dated 20.6.2003 which exempts value of goods 'sold' in the execution of taxable service and dismissed the revenue's contention that there was no sale of goods which were used in the works contract.

Sunil Hi-Tech Engineers Ltd v CCE

[2010(17) STR 121 (Tri-Mum)]



Central Excise & Customs

Notifications

Electronic payment of Central Excise duty and electronic filing of return

Notification No. 04/2010 – CE (N.T.) dated February 19, 2010

Effective from 01-04-2010

The assessee, who has made payment of total Central Excise duty of rupees ten lakh or more (through CENVAT and/or Cash) in the preceding financial year shall pay Central Excise duty electronically through internet banking as well as shall file the return electronically.

Circulars

Valuation of free samples of the products

Circular No. 915/05/2010-CX dated February 19, 2010

The Circular clarifies that the valuation of samples which are freely distributed as a part of marketing strategy or as gifts or donations shall be determined under the Rule 4 of Central Excise Valuation as clarified in the *Circular No. 813/10/2005 – CX dated April 25, 2005*. It has also been clarified that in respect of free physician samples covered under MRP based assessment valuation will be determined as per Rule 4 of the Central Excise Valuation (Determination of Price of excisable goods) Rules, 2000 and as per above mentioned circular.

Export warehousing-Extension of facility at Gautam Budh Nagar in the state of Uttar Pradesh and Nagpur in the state of Maharashtra

Circular No. 917/07/2010-CX dated March 4, 2010

The export warehousing facility for export purposes stated in Circular No. 581/18/2001 – CX dated June 29, 2001, to facilitate trade and industry has been extended to Gautam Budh Nagar district in the state of Uttar Pradesh and Nagpur district in the state of Maharashtra.

Judicial Rulings

High Court Decisions

Maintenance of separate accounts regarding goods manufactured out of imported raw material and goods produced from indigenous raw material by an EOU

Status: In favour of assessee

The Hon'ble High court observed that, when there is separate maintenance of accounts regarding goods manufactured out of imported raw material and goods produced from indigenous raw material and there is no evidence on record to show that the assessee had utilized any part of imported raw material and got cleared in the DTA and accordingly he cannot be held liable to pay duty.

CCE, Ludhiana v. M/s Malwa Cotton Spinning Mills Ltd (PB)

[2010-TIOL-148-HC-P&H-CX]

Tribunal Decisions

CENVAT Credit - for manufacture of dutiable and exempted goods

Status: In favour of assessee

Tribunal observed that in case of manufacture of dutiable product and by-product, the provisions of Rule 6 of the CENVAT Credit Rules, 2004 are not attracted and there is no requirement of the reversal of CENVAT Credit.

***M/s Madras Vanaspati Ltd CCE Pondicherry v. CCE Pondicherry
[2010-TIOL-334-CESTAT-MAD]***

CENVAT Credit on furnace oil used for manufacture of goods cleared under job-work

Status: In favour of assessee

The assessee manufactures final product known as rough steel forgings, the said goods are manufactured by job worker on behalf of them under Notification no. 214/86 - CE. The final products were cleared without payment of duty under the said notification by the job-worker. However, for manufacturing such final products, furnace oil was used. The Tribunal observed that CENVAT Credit of duty paid on such furnace oil is admissible as the final products are cleared without payment of duty under Notification no. 214/86 and such goods cannot be considered as exempted goods.

***Elforge Ltd v. CCE Chennai
[2010-TIOL-344-CESTAT-MAD]***

Supplementary invoices raised for variation of price and differential duty paid

Status: In favour of revenue

The Tribunal observed that interest will be payable on differential amount of duty in case of supplementary invoices raised for variation of price along with differential amount of duty.

***M/s GNA Udyog Ltd, M/s GNA Axels Ltd v. CCE Jalandhar
[2010-TIOL-249-CESTAT-DEL]***

CENVAT Credit – admissible on plates, angles and steel straps

Status: In favour of assessee

CENVAT Credit will be available of the duty paid on plates, angles and steel straps which were used in the repair and maintenance of pipes and furnace.

***CCE, Visakhapatnam v. M/s Hindustan Zinc Ltd
[2010-TIOL-294-CESTAT-BANG]***

Scrap generated during manufacture of excisable goods exempted- chargeable to duty

Status: In favour of revenue

The assessee is engaged into manufacture of sugar, molasses etc. It has a workshop where manufacture of excisable goods takes place which are used for repair & maintenance of machinery installed in the factory. The said activity of manufacture of excisable goods in the workshop is exempt under Notification no. 65/95 as the goods are used within the factory. While manufacture of these excisable goods, scarp is generated which is cleared outside the factory of production. In view of the above circumstances, it has been observed by the Tribunal that as the scarp is cleared outside the factory of production, it is chargeable to duty of excise.

***M/s Vithal SSK Ltd vs CCE, Pune-III
[2010-TIOL-316-CESTAT-MUM]***

Customs

Circulars

Carriage of domestic cargo on international flights

Circular No.4/2010 dated February 15, 2010

The facility of carriage of domestic cargo in international flights between two domestic airports is allowed to domestic private airlines as well as Air India and Indian Airlines. The said facility is made available subject to fulfillment of conditions:

1. Separate space to be assigned by the airlines or custodian in cargo area of the airport for receipt and storage of domestic cargo till they are delivered or dispatched.
2. Domestic cargo will be received by the airlines in the designated area during normal working hours of Customs at the respective airport.
3. The containers/ unit load devices (ULDs) used for carrying the domestic or international cargo shall be clearly marked or colored or strapped for identification at the time of loading/ unloading & transportation
4. Domestic tags shall be prepared for identification of domestic cargo with separate color coding
5. Loading or unloading of domestic cargo in any international flight/ aircraft shall be carried under the supervision of Customs officers.
6. Domestic and international cargo will be loaded separately.
7. On arrival of domestic cargo, at the destination airport, the airlines shall make necessary arrangements to deliver the domestic cargo.
8. In respect of transshipment of international cargo by airlines, it is required to be execute necessary bond and bank guarantee as prescribed vide Circular No. 78/2001 -Customs dated December 7, 2001, and for those who fulfill the threshold limit of annual transshipment volume specified, shall be exempted from furnishing the bank guarantee vide 45/2005 – customs dated November 24, 2005.

In case of any violation of the conditions prescribed above, necessary action will be taken against the person including the withdrawal of facility and imposition of penalty.

All India Value Added Tax

Maharashtra

Area	Description
E-payment of VAT/CST <i>Circular No.VAT/AMD1009/IB/ADM-06 dated February 6, 2010</i>	Presently e-payment of MVAT/CST is optional. The new rule provides that the State Government may issue Notification and specify the classes of dealers required to make mandatory payment of tax and interest or penalty if any, payable by or under the act electronically. The dealers liable to pay may make the payment of MVAT/CST through net banking.
Challan MTR-6 prescribed for E-Payment of MVAT/CST <i>Notification No.VAT/CR6 Taxation -1 dated February 5, 2010-02-16</i>	Rule 45A inserted to prescribe class or classes of dealers who shall pay tax, interest, penalty or any amount due & payable under the Act in electronic form through "Challan MTR-6".

Kerala

Area	Description
Online issuance of statutory forms (C/F/H/EI/EII)	For the month of January 2010 (to be filed in February, 2010), all dealers shall issue the forms obtained through only the procedure as prescribed in the Circular.
<i>Circular No.1/2010 No.C1-2526/2010/CT dated February 1, 2010</i>	All dealers shall surrender on or before 31-03-2010 stock of any unused declaration forms held with them along with an account of declarations used by them. After 31-03-2010, all such physical forms shall be deemed to be invalidated.

Madhya Pradesh

Area	Description
Applicability of Form 10 (Return) <i>Notification No. F-3-19/2009/1/5/37 dated February 1, 2010</i>	Form 10 (Return) shall be applicable from "first quarter of the financial year 2010-11" instead of "third quarter of the financial year 2009-10".

Punjab

Area	Description
Levy of surcharge/additional tax @ 10% <i>Punjab Ordinance of 2010</i>	Surcharge or Additional Tax @ 10% is levied on all goods other than those specified as declared goods w.e.f 05-02-2010 and for liquor it will be charged effective from 01-4-2010.

Uttar Pradesh

Area	Description		
Levy of additional tax on some goods <i>Notification No. KA. NI.-2-307/XI-9(10)/08-U.P. Act.-5-2008-Order-(42)-2009 dated February 19, 2010</i>	Every dealer liable to pay tax, shall with effect from 19-02-2010, pay in addition to the tax payable, an additional tax on the taxable turnover of sale or purchase or both as the case may be, of goods specified in table below at the rates specified against each of the said table :		
	Serial Number	Description of goods	Rate
	1	Goods described in Schedule-II to the said Act other than declared goods.	1 percent
	2	Natural Gas	5 percent
	3	Cement	3 percent
	4	Motor Vehicles of all kinds including chassis thereof but excluding Tractors	2 percent
	5	Tyres and Tubes excluding Tyres and tubes of cycles, cycle rickshaw and animal driven vehicle.	3 percent
	6	Goods described in Schedule-V to the said Act other than the goods described in serial number 3, 4 and 5 above.	1 percent



Assam

Area	Description
<p>Amendment of Rules</p> <p><i>Notification No. FTX.29/2003/Pt/25 dated February 22, 2010</i></p>	<p>Clause 10(b) is omitted</p> <p>The amount paid to sub-contractors as price for entire sub-contract will not be deducted from value of entire contract for determination of sale price for goods involved in execution of works contract.</p> <p>Amendment to Rule 11(2)(c)</p> <p>In calculation of input tax credit sales relatable to goods imported from outside Assam shall be excluded from taxable turnover and shall be included in gross turnover.</p> <p>Amendment to Rule 13(17)</p> <p>If dealer is engaged in different kinds of business activities and has obtained TIN for one kind of activity as well as separate and distinct GRN for each type of business activity is qualified for separate composition scheme(s) notified under the Act.</p> <p>Insertion of "Rule 13(18)"</p> <p>Where any dealer sets up additional new industrial unit(s) of production and intends to avail tax concession as per scheme announced by Government, he shall have to file application for registration in Form-2 and shall be allotted distinct TIN by concerned authority. Dealer shall keep separate sets of accounts and shall submit separate returns in respect of each unit.</p> <p>Amendment to Rule 28(2)(a)</p> <p>Application for grant of certificate of TDS for lower amount or no deduction of tax shall be made by the contractor as and when a running bill for any completed portion of works contract becomes due for payment by contractee.</p> <p>Amendment to Rule 29(1)(a)</p> <p>Application for refund shall be made within 180 days "from the date of assessment or reassessment", as the case may be instead of "from the end of relevant tax period".</p>



Andhra Pradesh

Area	Description
<p>Amendments to the Schedule I & IV</p> <p><i>Notification G.O Ms. No.138 dated 17th February, 2010</i></p>	<ul style="list-style-type: none"> In Schedule I: Textile made-up, bed sheets, pillow covers, towels, blankets, curtains, travelling rugs, Zari and embroidery articles are exempted from tax and this shall be effective from 07-05-2009. In Schedule IV: the Sl.No.9 after the words, "Bamboos" the words "Cane (Rattan)" shall be inserted. This shall be effective from 02-12-2009. In Schedule IV: "Diesel power Generators" is inserted as new entry and this shall be effective from 06-10-2009.

Gujarat

Area	Description
<p>Refund in case of units in processing area or SEZ</p> <p><i>Notification No.(GHN-02) VAR2010-(25)-TH</i></p>	<p>The refund may be granted for the amount of tax on the purchase of capital goods made during the period from 1st April, 2006 to 31st March, 2008 which remains unadjusted in case of the units in the processing area or in the demarcated area of Special Economic Zone and approved by the Approval Committee as defined in the Gujarat Special Economic Zone Act, 2004 (Guj. 11 of 2004).</p>

Uttranchal

Area	Description
<p>Levy of Additional Tax</p> <p><i>Notification No. 234/2010/TC 294 /XXVII(8)2007</i></p>	<p>Additional Levy of tax on goods under Schedule II(B) other than declared goods will be levied at 0.5% and on unclassified goods will be at 1% w.e.f 1st April, 2010</p>

Rate Changes

State	Notification No.	Commodity(s) / Schedule(s)	Existing Rate	Revised Rate	Effective Date
Haryana	Notification No.S.O. H.A.6/2003/S.7/2010 dated February 15, 2010	Schedule "C"	4%	5%	15-02-2010
Jharkhand	Notification No.S.O.61	High Speed Diesel Oil, Light Diesel Oil	14.5%	20%	10-02-2010
Uttar Pradesh (Entry Tax)	Notification No. KA. NI.-2-246/XI-9(10)/08-U.P. Act.-30-07-Order-(56)-2010 Dated 19th February, 2010	Natural Gas Cement Motor vehicles of all kinds including chassis thereof but excluding tractors Tyres and tubes excluding tyres and tubes of cycles, cycle-rickshaw and animal driven vehicles	5% 2% 1% 2%	Nil Nil Nil Nil	19-02-2010

Judicial Rulings

Supreme Court

Sales tax exemption under the industrial policy cannot be withdrawn

Status: In favour of assessee

An appeal was filed by the Bihar State Government challenging the decision of the High Court that allowed the writ petition filed by the assessee wherein a sales tax exemption was granted under the industrial policy, 1995 to the assessee. The Government contended that the assessee was not entitled to the exemption as the policy had lapsed. The Supreme Court observed that the assessee was entitled to the benefit of the sales tax exemption as part of the rehabilitation package designed for the assessee, and the same could not be withdrawn on the ground of promissory estoppel.

State of Bihar vs Kalyanpur Cements Ltd.

[2010-VIL-01-SC]

High Court

Exemption from sales tax does not qualify for exemption from entry tax

Status: In favour of revenue

An assessee was granted an exemption from payment of sales tax on sale of finished goods manufactured. On the basis of same, assessee has not levied entry tax on raw material purchased from another state. Held, that entry tax is not a tax on sale of goods but a tax on entry of goods from one state to another state for purpose of sale, consumption or use. Unless an exemption has been granted specifically, the exemption of sales tax cannot be extended to exemption from entry tax

Amba Carbonisation Pvt. Ltd. vs State of Bihar

[27VST220] (Patna High Court)

Notification No.RBI/2009-10/322**DBOD.No.Dir.BC 77/13.03.00/2009-10****RBI directs banks to pay interest on Saving Bank Account on Daily Product Basis**

1. Hitherto, banks calculate interest (on the saving account) on the lowest available balance from 11th and the last date of a month. Further, if one withdraws certain amount from savings accounts on the last day of the month, account holder will lose interest on that amount for the whole month.
2. In order to remove hardship caused to saving account holder, the RBI has directed banks to pay interest on saving bank account on a daily product basis with effect from 1st April 2010.
3. In order to ensure a smooth transition banks are further advised to work out the modalities in this regard.

Press Information Bureau, Government of India, Dated 11th February 2010**Review of cases requiring prior approval of the Foreign Investment Promotion Board (FIPB)**

1. Hitherto, Finance Minister was authorized to approve the proposal which involves project cost up to Rs.600 crores on the recommendation of the FIPB. Further, where proposals which involves project cost more than Rs. 600 crores were put up to the Cabinet Committee of Economic Affairs (CCEA). It may be noted that the project cost including the foreign equity inflow, is taken into consideration in deciding whether the proposal is to be put up for the consideration of CCEA.
2. With the view to expedite the foreign investment inflow into the country and save time & efforts of the FIPB/CCEA, it has been decided that the proposal involving total equity inflow up to Rs. 1200 crores will be approved by Finance Minister on the recommendation of FIPB. Further, the proposal involving total equity inflow of more than Rs. 1200 crores will be put up for consideration before CCEA.
3. Cases where prior approval FIPB/CCEA for making initial investment has already been taken, then the following types of cases would not take further approval from FIPB/CCEA :
 - a. Activities which were earlier covered by approval route for their initial foreign investment but subsequently such activities have been placed under automatic route;
 - b. Activities which attracted sectoral cap requires prior approval for their initial foreign investment but subsequently sectoral caps were removed or increased and the activities are placed under automatic route;
 - c. Activities for which prior approval has been obtained due to requirement of the provision of Press Note 18/1998 or Press Note 1 of 2005.

Notification No.RBI/2009-10/333 A.P. (DIR Series) Circular No. 38 Dated: 2nd March, 2010**External Commercial Borrowing (ECB) Policy****RBI widens the scope of definition of Infrastructure sector to include Cold Storage or Cold Room Facility.**

Hitherto, cold storage and cold room facility was not covered within the definition of infrastructure sector for availing of ECB.

In view of para 54 of Union Budget 2010-2011, RBI has widen the scope of definition of infrastructure sector so as to cover cold storage or cold room facility, including for farm level pre cooling, for preservation or storage of agriculture and allied produce, marine products and meats.

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