The Chartered Accountant World

A JOURNAL OF
ALL INDIA CHARTERED ACCOUNTANTS' SOCIETY

AICAS

ESTD. - 1989 VOLUME XV No. 6 June, 2004

Annual Subscription for C.A.'s Rs. 200/-, Single Copy Rs. 25.00
Annual Subscription for Others Rs. 250/-, Single Copy Rs. 25.00

EDITORIAL | VINOD JAIN*

Proposed Reservation in Private Sector-A Critical Review

The new UPA Government have proposed to provide reservation for scheduled casts,

scheduled tribes and other backward classes for jobs in the private sector. This would be in addition to the currently prevailing reservation in the Government Sector. Maharashtra Govt. has gone one step further by passing necessary legislation providing reservation for these classes in the private sector.

The proposal for compulsory reservation of jobs in the private sector has brought tremendous opposition in the private sector and more particularly by the multi-national companies operating in India. The private sector has been vigorously following up for a complete freedom on employment, promotion and termination of employment. The argument of the private sector has been based on increase in competitive pressure in a globalised economy, it is necessary for the private sector to have best personnel manning their organization and to have a thin, lean and smart organization. The increase in pressure to reduce the cost of operation had also persuaded the private sector as well as the Government sector to introduce voluntary retirement schemes.

In this backdrop the proposal to introduce compulsory reservation of jobs in private sector for specific castes will be completely a retrograde step and will not only harm the efficiency, competiveness and viability of the Private Sector. The Service Sector including BPO, information technology, biotech and professional firms and highly technical manufacturing sector will be worst sufferers. It will adversly impact Indian economy substantially and may also affect the creation of further jobs.

The VP Singh Government announced a large scale reservation in the public sector arising out of Mandal Report recommendations. The policy announcement in this regard divided Indian public across the caste lines. The castes, which were provided additional reservation supported the move actively. On the other hand the students who saw a dent in their career options started a move to the last of their hilt. A very large number of students undertook self-immolation and burnt themselves to death to oppose Mandalization of Indian society. The chaos all across India could be addressed by Supreme Court intervention.

The constitution of India, when it was promulgated in 1950, provided for a 10 year period for reservation for scheduled castes and scheduled tribes. The overall reservation percentage has increased to about 50% in the Government sector. The political compulsion of every political party has ensured continued extension of time period of these reservations. The time has really come to do away with caste-based reservation completely even from the public sector and government sector.

The thinking of the UPA Government to promote and uplift the downtrodden is well understood and is highly acclaimed. It may however be necessary to not to divide India on the caste line but to actually think of promoting the cause of economically weaker section who are living below poverty line. The political leadership has not taken any concrete steps to promote economic and social status of these castes and has satisfied them with the illusion of reservation. In fact the government should take sincere and serious steps in the following direction:

- To introduce high level free education for weaker section of the society.

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1 Income Tax Decisions

1.1 Legal Expense on amalgamation of co's

Hon'ble Gujarat High Court in the matter of ***CIT Vs. Akme Electronics and Control Pvt. Ltd.*** held that Legal expenses incurred by the assessee company in connection with the amalgamation of the assessee company with another company were revenue expenses and allowable as deduction. **[267 ITR 396]**

1.2 Compulsory Audit of Accounts u/s 142(2A) of the Income tax Act, 1961

Hon'ble Calcutta High Court in the matter of ***West Bengal State Co-operative Bank Limited Vs. JCIT*** held that order under section 142(2A) is discretionary. Assessing officer must examine books of accounts and form opinion that accounts are complex and require special audit. Commissioner while according approval for special audit should apply his mind and nor accord approval mechanically. Any order for special audit under section 142(2A) without examining books of accounts is invalid. **[267 ITR 35]**

1.3 Income of Business Center is Business Income or Property Income

Controversy as to whether income from business center should be treated as business or property income was resolved by Hon'ble Gujarat High Court in the matter of ***CIT Vs. Saptarshi Services Ltd.*** Hon'ble Court found after review of the case law on the subject, that the income of a sub-lessee developing a property as a business center and providing various services like provision of lifts, receptionist, secretarial services, conference room services etc. with many facilities has necessarily to be assessed as business income. **[265 ITR 332]**

1.4 Interest u/s 234B and 234C in case of Minimum Alternative Tax

Hon'ble Bombay High Court in the matter of ***CIT Vs. Kotak Mahindra Finance Ltd.*** has held that when there was a short fall in payment of advance tax in the context of computation of income u/s 115J (now 115JB) and income computed under the Act is less then 30% of the book profit and consequent upon this there is non payment or short payment of advance tax then, the provisions of section 234B and 234C are automatically attracted. **[265 ITR 119]**

1.5 Contribution to a trust created for the benefit of dealers

Hon'ble Madras High Court in the matter of ***CIT Vs Dynavision Ltd.*** disallowed the amount paid by the assessee company to a trust created for dealers of stokists. Hon'ble High Court took the view that by forming a trust the assessee company is trying to get deduction in respect of various disbursements, some out of which capital in nature, some revenue in nature and some not at all related to business. **[25 ITR 289]**

2 NSDL launches PAN Services

National Securities Depository Limited (NSDL) has launched Permanent Account Number (PAN) operations from June 3, 2004. This service will be available through a chain of TIN-Facilitation Centres (TIN-FCs) established by NSDL across the country.

NSDL will also be launching web-based facility for PAN application in the near future.

3 FIIs & Mauritius Veil

As soon as the recently issued Common Minimum Programme (CMP) promised to stop the misuse of double taxation (avoidance) treaties, the heat turned on investments routed through Mauritius.

That's because the Indo-Mauritian DTAT has been the favourite launch pad for foreign institutional investors (FIIs) and overseas corporate bodies (OCBs) to put their money into India.

4 Introduction of OLTAS

The current Tax Accounting System (TAS) created for reporting of taxes collected by banks on behalf of the Income-tax Department is being modified to introduce On Line Tax Accounting System (OLTAS), w.e.f. 1-6-2004. The main changes being introduced through the new Online Tax Accounting System (OLTAS) include the following:-

(i) The following three challans will replace seven different types of challans being presently used for depositing direct taxes in government account.
- A common single copy challan ITNS 280 for payment of income-tax, corporation tax and wealth tax (other than TDS)
- A common single copy challan ITNS 281 for depositing TDS from corporates and non-corporates.
- A common single copy challan ITNS 282 for depositing Gift Tax, Estate Duty & Expenditure Tax & other Direct Taxes.

(ii) The Single copy challan will have a main portion on the top and a 'taxpayer's counterfoil' at the bottom. The Bank will retain the main portion of the challan and return the 'taxpayer's counterfoil' to the taxpayer after stamping it with a unique Challan Identification Number comprising of a seven digit BSR code of the bank branch, the date of deposit (dd/mm/yy i.e. Six digit) and the Challan serial number in five digit. This number will be unique for each challan throughout the country.

The challan will be identifiable in the system by Challan Identification Number (CIN) i.e. BSR code, followed by the data, followed by the Sarial Number.

(iii) The collecting branch will capture the entire data of the challan and will electronically transmit it online to the Tax Information Network (TIN) presenty hosted by NSDL at Mumbai TIN will in turn transmit it to the Regional Computer Centers (RCCs) through the National Computer Center (NCC) at Delhi.

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TAXATION

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(iv) The information thus received from banks through TIN will be used by the Department to give credit for the tax paid on the basis of Challan Identification Number (CIN).

(v) Information regarding refund data will also follow the same route. The two banks handling income-tax refunds ie. RBI & SBI will electronically report refund data to TIN from where it will flow to RCCs through NCC as described above.

Since there will be only one copy of challan, the tax payers are advised:

- to fill in the challan correctly.
- to indicate PAN of the tax payers and PAN/TAN of the deductor as the case may be, correctly in the challan.
- to tick/fill the right columns in the the challan and
- to collect a proper stamped acknowledgement from the banks indicating the Challan Identification Number (CIN).

As the taxpayer will have only a counterfoil, the requirement to enclose proof of payment of pre-paid taxes with the return of income as contained in 'Explanation' to Section 139(9) shall stand fulfilled if CIN of the challan for payment of self-assessment tax is indicated in the return of income.

(Source: Press Note issued by CCIT MUMBAI)

AUDIT

1 Bank NPA Norms

In terms of directives issued under RBI's credit policy, Banks are required to make a graded higher provisioning for NPAs, which are 'held as doubtful for more than three years'.

SERVICE TAX

1 Activities of Erection and Commissioning

The Central Board of Excise & Customs (CBEC) has vide Circular No. 79/9/2004 - ST dated 13th May, 2004 clarified that charges for erection, installation & commissioning are not covered under the category of Consulting Engineer Services. Commissioning or installation service will be separately taxable under relevant entry and are not chargeable under Consulting Engineer Services.

"Erection, installation & commissioning are not covered under the category of Consulting Engineer Services."

This clarification is issued to correct the anomaly arisen in view of Circular No. 49/11/2002- ST dated 18th December, 2002 in which it was clarified that work of erection and commissioning is in the nature of services provided by a Consulting Engineer and hence taxable under the head Consulting Engineer's Services.

It is to be noted that service tax on Installation & Commissioning Services has been introduced in the Finance Act of 2003.

(Source: F. No. 137/38/2003-CX. 4)

2 No Service Tax on Mutual Fund Agents

The Delhi High Court has quashed a circular issued by the finance ministry in November, 2003 making mutual fund distributors liable to pay service tax.

- **Distributors exempted from paying service tax.**
- **Therefore, no extra burden on investors.**
- **But High Court Verdict based on technical grounds; appeal can be filed.**

The order implies that the status quo is maintained and there is no additional burden on investors in the form of service tax, which, if implemented, would have been passed on to them by distributors.

EXCISE

1 Electronic filing of Central Excise Returns

Central Board of Excise & Customs (CBEC) vide Circular No. 791/24/2004-CX dated 1st June, 2004 proposes to provide the facility of filing the monthly/quarterly excise returns, namely, ER -1, ER-2, ER-3 under Central Excise Rules and dealers return prescribed under sub rule (6) of rule 7 of the CENVAT Credit Rules, 2002 electronically to all manufacturers of excisable goods, EOUs and registered dealers.

This facility of e-filing of excise returns will be available with effect from 30th June, 2004. The monthly returns pertaining to the month of June, 2004 and quarterly returns pertaining to April-June, 2004 can be filed electronically by availing this facility.

All assessees and registered dealers who have been allotted 15 digits Excise Control Code (ECC) are entitled to avail the facility of e- filing.

The facility of e-filing is optional and does not bar in anyway the manual filing of the return by the central excise assessees and the registered dealers.

(Source: F. No. 206/8/2004-CX-6)

2 Computer software exempt from Excise Duty

In a recent decision, the Custom Excise and Service Tax Appellate Tribunal (CESAT) has once again stated that a clear distinction exists between software that is part of a computer such as EEPROM and software that is additional.

Windows and other optional software cannot be treated as apart of a computer and cannot be subject to central excise duties.

For this issue to be resolved once and for all, it is required on the part of Central Board of Excise and Customs to issue necessary clarification on the matter.

1 Dissemination of Credit Information / Defaulter's List

With effect from March 2003, Credit Information Bureau (India) Ltd. (CIBIL) is undertaking dissemination of credit information covering data supplied on suit-filed defaulters in the financial system. Accordingly, such data can now be accessed on CIBIL's website.

The development of an efficient credit information system is considered critical for the development of a sound financial system. Hence, RBI has advised that the Boards of banks/FIs should review the measures put in place by their banks/FIs for furnishing credit information in respect of all borrowers and not only defaulters to CIBIL and report compliance to RBI.

(Source: DL.BC.88/20.16.002 dt. May 28, 2004)

2 Processing Charges waived under ECS & EFT Scheme

RBI has decided that the service charges on banks for ECS and EFT transactions would be waived for the period upto March 31, 2006.

- No ECS / EFT processing charges would be levied by the RBI. This would be applicable to ECS (Credit and Debit Clearing), Centralised ECS, the normal EFT as well as to the Special EFT Schemes.
- The waiver would be effective from June 1, 2004 i.e. in respect of data submitted by banks from June 1, 2004 and would be in vogue upto March 31, 2006.
- Banks are required to pass on this benefit to the customers in the form of a reduction in the charges being levied for such transactions.

(Source: 11 /09.63.99/2004 dt. May 20, 2004)

3 Banks to keep Customer Information Confidential

Wherever banks desire to collect any information about the customer for a purpose other than "Know Your Client" (KYC) requirements, it should not form part of the account opening form. Such information may be collected separately, purely on a voluntary basis, after explaining the objectives to the customer and taking his express approval for the specific uses to which such information could be put.

(Source:83/ 14.01.001 dated May 12, 2004)

4 Bank financing of equities and investments in shares

The margin on all advances against shares / financing of IPOs / issue of guarantees was earlier raised to 50 percent and a minimum cash margin of 25 per cent (within the margin of 50 percent) was also required to be maintained in respect of guarantees issued by banks.

It has now been decided by RBI to reduce the above said margin requirement to 40% and the minimum cash margin to 20%.

(Source:86 /13.07.05/2003-04 dated May 18, 2004)

5 Rupee Export Credit Interest Rates

In respect of the interest rates on post shipment rupee export credit, it has been decided that with effect from May 18, 2004, the rate of interest on post-shipment rupee export credit upto 90 days may be extended to exporters under the Gold Card Scheme announced by the Reserve Bank of India for a maximum period upto 365 days.

(Source: 13 /04.02.01/2003-04 dated May 18, 2004)

6 Introducer not responsible for frauds by accountholder

In a significant judgment the Supreme Court has held that an introducer, without other evidence, could not be held liable for a fraud played on the bank by an accountholder.

Following this judgment introduction will only be a necessary condition but not sufficient to open an account.

7 NOC of lenders must before Opening of Current Accounts by other banks

Banks are instructed to scrupulously ensure that their branches do not open current accounts of entities which enjoy credit facilities (fund based or non-fund based) from the banking system without specifically obtaining a No-Objection Certificate from the lending bank(s). Banks are also advised to note that non-adherence to the above discipline could be perceived to be abetting the siphoning of funds and such violations which are either reported to RBI or noticed during our inspection would make the concerned banks liable for penalty under Banking Regulation Act, 1949.

(Source:84 /09.07.005/2003-04 dated May 15, 2004)

8 SBI - MID Corporate Credit Wing

The SBI is streamlining its loan sanction process to pare the time for sanctioning loans to 30 days. For this, the state-owned bank has eliminated the discretionary powers of its executives and has set up a centralised loan processing cell for all credit proposals involving over Rs. 2 crore.

- Mid- corporate wing to cater to Rs. 10 crore - Rs. 99 crore loan proposals.
- Centralised Loan Processing cell to vet all proposals.
- Standardised credit sanctioning format eliminates the exercise of discretionary powers.
- All loan proposals to be cleared in 30 days.
- The State Bank of India to go the whole hog in lending to 39 industries, to slow down lending to 3 industries.

Nearly eight years after the State Bank of India created a corporate accounts group to deal with high value (over Rs. 100 crore) corporate loans, the bank is also setting up a mid-corporate wing to tackle loan proposals worth Rs. 10 crore and above, but below Rs. 100 crore.

Unlike the corporate accounts group, which operates from five centres (four metros and Ahmedabad), the mid-corporate wing will be set up in at least 12 cities in the country.

9 RBI Financial Market Initiatives

The highlights of various Financial Market Initiatives taken by RBI are as follows:

- Bank Rate kept stable at 6.0 %
- Repo Rate unchanged at 4.5 %
- Revised Liquidity Adjustment Facility scheme operationalised.
- The entire export credit refinance was made available at reverse repo rate.
- Almost all banks have adopted the new system of BPLR and the rates are lower from their earlier Prime Lending Rates.
- Banks are encouraged to align the pricing of credit to assessment of credit risk to improve credit delivery and credit culture.
- RBI accepted some recommendations of the interim Report of Vyas Committee for implementation, e.g., loans for storage facilities under priority sector, securitised agricultural loans as priority sector lending, waiving margin/security requirements for certain agricultural loans up to a limit, NPA norms for crops loans aligned to crop seasons.
- Development of mechanism for debt restructuring for medium enterprises on the lines of corporate debt restructuring.
- Definition of infrastrucutre lending broadened.
- Working Group constituted on Credit Enhancement by State Governments for financing infrastructure.
- A Gold Card Scheme for creditworthy exporters drawn up.
- Various restructuring options being considered by the Government and other stakeholders for rationalising the structure of RRBs - Vyas Committee is also looking into restructuring of RRBs.
- Limit on the lending of non-bank participants in the call/notice money market reduced to 45 percent effective June 26, 2004.
- Automated value-free transfer of securities proposed between market participants and the CCIL under Collateralised borrowing and lending obligation (CBLO).
- RBI constituted Working Group to review the performance of negotiated dealing system (NDS).
- Clearing of OTC derivatives through CCIL being considered.
- CCIL to work out arrangement for settlement of trades in non-SLR debt instruments for NDS members.
- Discussion paper on Capital Indexed Bonds being put in public domain.
- The ECB limit already enhanced to US $ 500 million under the automatic route for investment in the real sector.
- Resident individuals already permitted to remit freely up to US $ 25,000 per calendar year.
- Indian corporates and partnership firms allowed to invest overseas upto 100 per cent of their net worth.
- Banks allowed to raise long-term bonds to finance infrastructure.
- The extant limit on unsecured exposures for banks withdrawn.
- Exposures on all public financial institutions (PFIs) to attract a risk weight of 100 per cent.
- Banks required to maintain capital charge for market risk in a phased manner.
- Banks to draw a road map for migration to Basel II.
- Banks to make higher provisioning according to the age of NPAs.
- Banks/FIs to provide credit information to CIBIL.
- Banks to fully adhere to the know your client policy for opening new accounts.
- Report of the Working Group on Financial Conglomerates is being put in public domain.
- Risk based supervision extended to more banks.
- Fresh licences to UCBs only after a comprehensive policy.
- Report of the Working Group on Development Finance Institutions is being put in public domain.
- Technical Group to evaluate the regulatory and supervisory systems deployed by refinancing institutions.
- Waiver of service charges on banks for electronic funds transfer and electronic clearing services.
- RBI sets up a Board for Payment and Settlement Systems.
- RBI expects most commercial banks to join the Real time gross settlement (RTGS) system by June 2004.
- A Working Group on Electronic Funds Transfer for Capital Market constituted.
- Single window services for all transactions in RBI cash department.
- Operationalisation of On-line Tax Accounting System by June 2004.
- Standing Committee on Procedures and Performance Audit on Public Services has submitted four Reports, being put in the public domain.

10 RTGS goes live in 10 cities

Real time gross settlement (RTGS) has now gone live in eight to 10 cities including Bangalore, Ludhiana, Delhi and Jaipur. RTGS was first made operational in Mumbai at the end of March. The RBI had decided to start operations in Mumbai before moving onto other zones.

Twenty-two banks have successfully implemented RTGS - SBI, ICICI Bank, HDFC Bank, Standard Chartered Bank, Saraswat Bank, IDBI Bank, Canara Bank, UTI Bank, IndusInd Bank, ING Vysya, Punjab National Bank etc. The central bank is also preparing a roadmap and timeframe for all banks to graduate to the RTGS platform in order to ensure smooth customer and interbank transactions.

With 22 banks transacting on the RTGS, the daily turnover has crossed Rs. 3,000 crore. On an average 15 to 25 inter-bank transactions are concluded daily. This is a major achievement for the Indian banking industry as funds are transferred in a matter of seconds, which otherwise would have taken at least two days.

LATEST IN FINANCE

11 SIDBI focusing on Direct Finance

SIDBI is also trying to shed its image of being largely a re-financier and has decided to concentrate on direct financing to borrowers. SIDBI was keen to cover the maximum number of units under the SME fund announced in the interim Budget that has provided a corpus of Rs. 10,000 crore assistance to the SMEs over the next two years. The major advantage is that the interest rate has been fixed at 9.5 per cent under this scheme and promoting it will be the 'in-thing' for SIDBI during the current year.

12 Easier Norms for Farm Sector Loans

An RBI advisory committee on flow of credit to agriculture headed by Prof. VS Vyas has suggested that RBI should advise banks to waive margin/security norms for agricultural loans up to Rs.50,000/- and in case of agri-business and agri-clinics, the limit can be pegged at Rs. 5 lakh.

EXIM / FEMA

1 Repayment of Housing Loan by Indian Relatives

Banks are allowed to provide housing loan to a non-resident Indian or a person of Indian origin resident outside India, for acquisition of a residential accommodation in India.

The instalment of such loans, interest and other charges, if any, are required to be paid by the borrower either by way of inward remittance through normal banking channel or by debit to his NRE/FCNR (B)/ NRO/NRNR/NRSR account or out of rental income derived from renting out the property acquired by utilisation of the loan.

As a further measure of liberalisation, it has been decided to allow the close relatives (as defined under Section 6 of the Companies Act, 1956) of the borrower in India to repay the instalment of such loans, interest and other charges, if any, through their bank account directly to the borrower's loan account with the authorised dealer/ housing finance institution.

(Source: A.P.(DIR Series) / 93 dated May 25, 2004)

2 Acquisition of Foreign Securities by Resident Individual under ESOP

A resident individual who is an employee or director of an Indian office or branch of a foreign company in which the foreign holding is not less than 51% is permitted to acquire foreign securities under ESOP Scheme, without any monetary limit, provided the shares under ESOP are offered at a concessional price.

As a measure of further liberalisation, it has now been decided to dispense with the condition that the shares should be offered at a concessional price.

It has also been decided to permit sale of the shares so acquired, without obtaining prior permission of the Reserve Bank, provided the proceeds thereof are repatriated to India.

(Source: A.P. (DIR Series) / 90 dated May 3, 2004)

3 RBI announces Gold Card Scheme for Exporters

All credit worthy exporters, including those in small and medium sectors, with good track record will be eligible for Gold Card. Individual banks will lay down the eligibility criteria for issue of Gold Card. Reserve Bank has asked banks to clearly specify the following benefits they would be offering to the Gold Card holders:

- Gold Card holder exporters, depending on their track record and credit worthiness, will be granted better terms of credit including rates of interest than those extended to other exporters by the banks.
- Applications for credit will be processed at norms simpler and under a process faster than for other exporters.
- The `in-principle' limits will be sanctioned for a period of 3 years with a provision for automatic renewal subject to fulfilment of the terms and conditions of sanction.
- Gold Cardholders will be given preference for grant of packing credit in foreign currency (PCFC).
- Gold cardholders, on the basis of their track record of timely realization of export bills, will be considered for issuance of foreign currency credit cards for meeting urgent payment obligations, etc.
- The charges schedule and fee-structure in respect of services provided by banks to exporters under the Scheme will be relatively lower than those provided to other exporters.
- Since the bonafides of the Gold Card holder is already established based on credit worthiness and track record, the norms in respect of security and collaterals may be relaxed while granting export credit under the Gold Card Scheme.
- The banks may consider any other facility/benefit to the exporters subject to the fulfilment of extant rules and regulations applicable to export finance.

(Source: 12/04.02.02/Gold Card/May 18, 2004)

1 Buy Back of Securities - SEBI Guidelines

In terms of SEBI Guidelines in respect of the disclosures to be made in the Letter of offer in respect of buy back of securities in terms of SEBI (Buy Back of Securities) Regulations, 1998, SEBI has issued a standard format of the letter of offer alongwith the general instructions/guidelines. The said format is available on SEBI's web site at www.sebi.gov.in

Merchant Bankers have been advised to follow the said format while preparing the draft letter of offers and to ensure filing the same in terms of regulation 8 (4) of the Regulations.

(Source: 02/8859/04 dated May 07, 2004)

2 India to host IOSCO 2007 Annual Conference

The annual conference of the International Organisation of Securities Commissions (IOSCO) will be held in India in the year 2007. IOSCO is an international body of securities markets regulators that was created in 1983, with headquarters in Madrid, Spain and has 181 member agencies.

(Source: PR No.110/2004 dt. May 18, 2004)

3 Cancellation of Sub Broker Registration

SEBI has advised Stock Exchanges to ensure that the sub-broker seeking registration is recognised by the exchange before the application is recommended to SEBI for registration as sub-broker. Similarly, the applications for cancellation of sub-broker registration must be forwarded to SEBI only after the sub-broker seeking cancellation is de-recognised by the exchange.

(Source: SEBI/-21/04 dt. May 26, 2004)

4 Amendments to the SEBI Public Issue Guidelines

The SEBI Board has recently approved certain modifications to be incorporated in the SEBI (DIP) Guidelines, the highlights of the same are as follows:

(i) Restriction on splitting of shares

The amendments inter alia provide for a floor face value of Re.1 per share, the face value to necessarily be Rs.10 per share for issue price below Rs.500/- per share, and permit issuer companies to fix the face value below Rs 10/- per share only in cases where the issue price is Rs 500/- or more.

(ii) Lot Size

It has been decided to replace provision relating to minimum application size / tradeable lot in terms of number of shares based on offer price, by the minimum application value, which shall fall within the range of Rs.5000/- to Rs.7000/-. The applications can be made in multiples of such value. The same has been explained along with an illustration in the guidelines.

(iii) Proportionate Allotment Process

It has been decided to introduce allotment on proportionate basis within the specified categories, rounded off to the nearest integer subject to a minimum allotment being equal to the minimum application size as fixed and disclosed by the issuer. The same has been explained alongwith an illustration in the guidelines.

(iv) Shelf Prospectus Issue

The guidelines have been amended to provide that once the issue size and over subscription limits are disclosed in the shelf prospectus, issuers can raise and retain any amount through the tranche issues subject to the same being within the respective limits specified in shelf prospectus and also subject to the condition that the issuer has to disclose the minimum amount proposed to be raised and the maximum over subscription proposed to be retained in the information memorandum / prospectus filed in respect of issues under a shelf prospectus.

(v) Definition of Employees

The guidelines have been amended to define the term employee as follows:

"employee" means

a) a permanent employee of the company working in India or out of India; or

b) a director of the company, whether a whole time director or not; or

c) an employee as defined in sub-clauses (a) or (b) of a subsidiary, in India or out of India, or of a holding company of the company.

(vi) Reservation for shareholders

The guidelines has been amended to permit reservation on competitive basis, in further public issue by a listed company, for the retail shareholders i.e those shareholders who are holding shares worth Rs 50,000/- subject to the allotment being on proportionate basis as is the case while allotting shares in public category.

(vii) Green Shoe Option (GSO) facility

It is clarified y that this facility is available in all public issues, viz. Initial public offers (including fresh issue or offer for sale), follow - on offerings, public issues either through book building or fixed price route.

SEBI has also permitted all pre IPO shareholders (including promoters) in case of IPOs and pre issue share holders holding more than 5% shares, (including promoters) in case of follow on offerings, to lend their shares for the purpose of GSO as per the conditions specified.

(Source: SEBI/13/2004/28/5 dated May 28, 2004)

5 RBI mulls blanket approval to companies for International commodity hedging

The Reserve Bank of India is understood to be considering a proposal to grant blanket approval to Indian Companies having exposure in commodities to freely hedge in the international exchanges.

Currently, companies do take permission on a case-to-case basis from the RBI to hedge their price risk in overseas exchanges. Over 100 firms including Hindalco and Sterlite have been taking cover in the overseas exchanges. Of late, the list of companies requesting for this facility is said to be mounting.

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Reservation in Private Sectors.....

- The education orientation should be shifted to vocational and specialized training providing promotion of specialized technical skills and capabilities of self-employment.
- Suitable financial institutions, self-help group, micro-financing schemes and co-operative movement are to be promoted. Similar other steps are to be undertaken to provide for creation of self-employment opportunities in the food processing, cottage industry, handicraft and even in highly specialized technical products.
- An environment is to be created to provide enough career opportunities.
- The Government can incubate large employment creation projects in partnership with pvt. sector, to provide for more and more employment opportunities across the country. These projects may relate to infrastructure development, land improvement, barren land cultivation, cold storage chain, transport projects, forestry development, agro processing, handicraft, job processing, OE equipment supplies and similar other ventures. The Govt. can provide for venture capital funds and minority participation in the management in such new ventures to be brought in with the help of private sector.

We would like to whole-heartedly support any initiative of the government to promote the cause of economically weaker section of the society including scheduled castes and scheduled tribes and other backward classes but let us not play with their emotions and should plan some concrete job promotion activities and should provide enough impetus to promote their capabilities to win on merit.

"A sincere attempt to actually promote backward classes, scheduled castes and scheduled tribes capabilities by a comprehensive education, training, financial support (cheaper loans) and providing guidance would really result into overall development and growth of these communities as well as the country".

The cause of the backward classes, scheduled castes and scheduled tribes can never be overlooked by anyone in the interest of overall development and growth of the nation. Let us not belittle them by showering mercy on them.

Dr. Manmohan Singh, the Honourable Prime Minister had initiated liberalization exercise in 1991. Mr. P. Chidambaram, Finance Minister has been an architect of a dream budget for economic growth activity. Let us not bring reservation in private sector, which will be seen as a recommencement of controls in the private sector and give a feeling of backward marching of the economy. We are quite sure that all the parties will also support the sincere moves of the government to take real steps which will support the down-trodden as well as simultaneously promote the economic growth of the country significantly.

Let us all together build a strong developed India in next 10 years and all efforts should be taken in that direction.

The Chartered Accountant World

A JOURNAL OF
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The Chartered Accountant World

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PUBLISHED & PRINTED
At New Delhi by Satish Chandra, Administrative Officer, on behalf of **All India Chartered Accountants' Society**, 4696, Brij Bhawan, 21A, Ansari Road, Darya Ganj, New Delhi - 110 002 Phone : 23265320, 23288101 E-mail: aicas@vsnl.net Printed at : EIH Limited, Unit: Printing Press, No. 7, Sham Nath Marg, Delhi-110054. For address change/queries: Dharampal - 2622 6933 / 2622 8410.

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