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RBI & FEMA -

- *A.P. (DIR Series) Circular No. 110, dated 4th March, 2014:* RBI has decided that, subject to certain conditions, foreign inward remittances received by the bank acting as Indian Agent under MTSS (termed as 'Partner Bank'), may be electronically (such as NEFT, IMPS etc.) credited directly to the account of the beneficiary (KYC compliant beneficiary bank account), held with a bank other than the Indian Agent Bank (termed as 'Recipient Bank').
- *RPCD. CO. Plan. BC 91/04.09.01/2013-14, dated 12th March, 2014:* RBI has decided that banks have to ensure MFIs comply with the cap on individual loans and margin cap, as mentioned in the circular, in order to be eligible to classify these loans under priority sector.
- *A. P. (DIR Series) Circular No. 111, dated 13th March, 2014:* RBI reviewed the norms for permitted transactions under the Rupee Drawing Arrangements (RDAs) and decided to increase the limit of trade transactions from Rs. 2 lakh per transaction to Rs. 5 lakh per transaction, with immediate effect.
- *DNBS (PD) CC. No. 37/SCRC/26.03.001/2013-2014 & DNBS (PD) CC. No. 36/SCRC/26.03.001/2013-2014, dated 19th March, 2014:* RBI has permitted asset reconstruction companies (ARCs) to buy bad loans from their sponsor banks, provided these loans are auctioned "in a transparent manner, on arm's length basis, at prices determined by the market factors. ARCs have also been allowed, subject to certain conditions, to use a part of their funds raised from qualified institutional buyers (QIBs) to 'restructure' financial assets.
- *DNBS (PD) CC.No.371/03.05.02/2013-14, dated 21st March, 2014:* The Framework for Revitalising Distressed Assets in the Economy (Framework) issued by the RBI on January 30, 2014 which covered in the guidelines, which would be fully effective from April 1, 2014, has outlined a corrective action plan that will incentivize early identification of problem account, timely restructuring of accounts which are considered to be viable, and taking prompt steps by lenders for recovery or sale of unviable accounts. In the background of the above, the guidelines are issued to NBFCs to the extent it is applicable to NBFCs.
- *UBD CO BPD PCB Cir No.51/09.18.201/2013-14, dated 25th March, 2014:* RBI notified that urban cooperative banks (UCBs) may issue Long Term Deposits subject to compliance of the Co-operative Societies Acts and with the approval of the RBI and the concerned Registrar of Co-operative Societies /Central Registrar of Cooperative Societies, whichever applicable. LTDs may be issued to members and non-members, including those outside the area of

operation of the UCB concerned. The amounts raised through LTDs complying with the following terms will be eligible to be treated as lower Tier II capital.

- *UBD CO BPD (PCB) Cir. No.52/12.05.001/2013-14, dated 25th March, 2014:* RBI has advised that all UCBs including tier I UCBs should disclose the information as detailed in Annex I as 'Notes on Accounts' to their Balance-Sheet effective from the year ending March 31, 2014.
- *A.P. (DIR Series) Circular No.112, dated 25th March, 2014:* In order to attract investments, RBI has reviewed the extant guidelines for Portfolio Investment Scheme for Foreign Institutional Investor (FII) and Qualified Foreign Investor (QFI) and has decided to put in place a framework for investments under a new scheme called 'Foreign Portfolio Investment' scheme. Salient features of this new scheme are as follows –
 - The portfolio investor registered in accordance with SEBI guidelines shall be called Registered Foreign Portfolio Investor (RFPI). The existing portfolio investor class, namely, FII and QFI registered with SEBI shall be subsumed under RFPI.
 - RFPI may purchase and sell shares and convertible debentures of Indian company through registered broker on recognised stock exchanges in India as well as purchases shares and convertible debentures which are offered to public in terms of relevant SEBI guidelines.
 - Such investors may also acquire shares or convertible debentures in any bid for, or acquisition of, securities in response to an offer for disinvestment of shares made by the Central Government or any State Government.
 - These entities would be eligible to invest in government securities and corporate debt subject to limits specified by the RBI and SEBI from time to time.
 - All investments made by that FII/QFI in accordance with the regulations prior to registration as RFPI shall continue to be valid and taken into account for computation of aggregate limit.
 - Such investors would be permitted to trade in all exchange traded derivative contracts on the stock exchanges in India subject to the position limits as specified by SEBI from time to time.
 - RFPI may offer cash or foreign sovereign securities with AAA rating or corporate bonds or domestic Government Securities, as collateral to the recognised Stock Exchanges for their transactions in the cash as well as derivative segment of the market.

- *A.P. (DIR Series) Circular No.113, dated 26th March, 2014:* RBI has decided that the scheme of raising ECB for working capital for Civil Aviation Sector in terms of A.P. (DIR Series) Circular No. 113 dated April 24, 2012, will continue till March 31, 2015.
- *DBOD.No.BP.BC.102/21.06.201/2013-14, dated 27th March, 2014:* RBI has extended the transitional period for full implementation of Basel III Capital Regulations in India upto March 31, 2019, instead of as on March 31, 2018. The revised transitional arrangements along with other modifications have been furnished in the Annex to this circular. These guidelines become applicable with immediate effect.
- *A.P. (DIR Series) Circular No.115, dated 28th March, 2014:* In view of suggestions received from merchanting traders and trade bodies, RBI has issued revised guidelines relating to merchanting trade transactions.

FOREIGN TRADE

- *Notification No 74 (RE-2013) / 2009-2014, dated 13th March, 2014, (DGFT):* It has been decided to grant exemption to import of steel and steel products from the applicability of Steel and Steel Products (Quality Control) Second Order, 2012. Also appropriate body to certify quality of steel has been modified. Earlier it was recognized Quality Certifying Body of the country of origin. Now it shall be international standard certifying body.
- *Public Notice No.55/(RE 2013)/2009-14, dated 14th March, 2014, (DGFT):* Online system for Export Obligation Discharge Certificate / Redemption for Advance Authorization / Duty Free Import Authorization is being introduced with effect from 1.6.2014. This will reduce processing time and transaction cost.
- *Notification No 75 (RE-2013) / 2009-2014, dated 27th March, 2014, (DGFT):* Export of the quantities of River Sand with the annual ceiling indicated in Export Licencing Note 2(i) (2 lakh for 2014-2015, 2.5 lakh for 2015-2016 and 3 lakh for 2016-2017) has been permitted for export to the Republic of Maldives under Bi-lateral Trade Agreement between Government of India and Government of the Republic of Maldives.
- *Notification No 76 (RE-2013) / 2009-2014, dated 27th March, 2014, (DGFT):* Export of the quantities of Stone Aggregate with the annual ceiling indicated in Export Licencing Note 1(i) (5 Lakh for 2014-2015, 5.5 Lakh for 2015-2016 and 6 Lakh for 2016-2017) has been permitted for export to the Republic of Maldives under Bi-lateral Trade Agreement between Government of India and Government of the Republic of Maldives.

- *Notification No 77 (RE-2013) / 2009-2014, dated 27th March, 2014, (DGFT):* Export of pulses to the Republic of Maldives has been permitted for the years 2014-15 to 2016-17 (87.85 for 2014-15, 96.63 MT for 2015-16 and 106.29 MT for 2016-17).
- *Notification No 78 (RE-2013) / 2009-2014, dated 31st March, 2014, (DGFT):* Prohibition on export of pulses has been extended till further orders. But, there are two exceptions to this. One is export of Kabuli Chana. Second is export of Organic Pulses and lentils; but with a ceiling of 10,000 MTs per annum and subject to certain conditions mentioned in the notification.

CORPORATE

- *General Circular No. 04/2014, dated 25th March, 2014 (MCA):* Clarification with regard to Section 180 of Companies Act, 2013 issued. It is clarified that the resolution passed under Section 293 of the Companies Act, 1956 prior to 12.09.2013 with reference to borrowings (subject to the limits prescribed) and / or creation of security on assets of the company will be regarded as sufficient compliance of the requirements of Section 180 of the Companies Act, 2013 for a period of one year from the date of notification of Section 180 of the Act.
- *File No 1/15, dated 26th March, 2014 (MCA):* The Central government has appointed 1st April, 2014 as the date on which certain sections of Companies Act, 2013 (mentioned in the circular) shall come into force.
- *General Circular no 6/2014, dated 28th March, 2014 (MCA):* In order to facilitate the completion of notified sections of Companies Act, 2013 MCA has planned a staggered roll out of various forms. It has been decided to waive fees for all event based filing whose due date falls between 01/04/2014 to 30/04/2014.
- *General Circular 05/2014, dated 28th March, 2014 (MCA):* The Ministry has enabled payment of Stamp duty as well as court fees online through MCA portal. This will enable the respective ROCs to send certified documents without awaiting for physical stamp papers and any formal application (with court fee stamp) in this regard.
- *M/s. Delhi Stock Exchange Association Ltd. v. Shri Hari Om Maheshwari, dated 4th March, 2014, (High Court of Delhi):* The question was relating to whether terms of a compromise order recorded by court could be modified. The plaintiff had deposited margin money with the Delhi Stock Exchange, being its member, and which was demanded on exiting from the membership. Under the compromise order, the DSE was to pay the plaintiff 18,00,000/- after the plaintiff furnished a bank guarantee for the sum of 7,00,000. The purpose of the bank

guarantee was to secure the possible amount awarded by an arbitral tribunal in the dispute between MGC and the plaintiff; but owing to the DSE's failure to initiate arbitration under its own bye-laws, and its opposition of the plaintiff's arbitration, this purpose was vitiated. Thus the furnishing of bank guarantee had become infructuous. The present request for modification, it was held, was not an example of reneging from the compromise. The court accordingly agreed to modify the compromise order.

- *Grant Thornton India LLP v. Resolution Capital Global Pvt. Ltd., dated 14th March, 2014, (High Court of Delhi)*: A notice which is refused is deemed to have been duly served. The claim made on behalf of the applicant that since the premises were being used by several persons it cannot be ascertained as to who refused to accept the notice and whether such a person was duly authorised to accept or refuse notices, is not acceptable. The fact that the corporate office was shifted to Mumbai and that was within the knowledge of the petitioner is no excuse since the statute requires that the statutory demand notice ought to be served at the registered office of the company.
- *Phatu Rochiram Mulchandani v. Karnataka Industrial Areas Development Board & Ors., dated 12th March, 2014, (Supreme Court of India)*: The Board had allotted plots of lands to the Company for the purpose of establishing a factory to manufacture radio and TV sets. The construction work could not be completed. The company was unable to pay its debt and was running in losses. A winding up petition was filed and all assets and liabilities got transferred to OL. The Board terminated the agreement in respect of two industrial plots. An application was preferred seeking resumption of these plots of land. While the company judge directed handing over the possession to board, when this order was appealed by promoter/shareholder of company, the division bench refused to interfere on the ground that court cannot go into merits of the case at the instance of promoter/shareholder which lacks bonafides. The court held that agreement was a lease-cum-sale agreement which did not culminate into sale and there was breach of covenant as construction on land could not take off, thus giving right to the Board to terminate the lease. Further, no prior permission was required by the Board for cancelling the lease.
- *Gati Ltd. v. Atcom Technologies Ltd., dated 26th March, 2014, (High Court of Bombay)*: The issue was winding up petition and question that arose was regarding limitation. Here the petition was based on decretal debt and not underlying cause of action. It was held that limitation would be governed not by Article 137 of Limitation Act but by Article 136, and that provides a period of 12 years from the date when the decree is enforceable. Atcom is commercially insolvent, deduced from its failure to comply with the demand in the statutory notice and also its reply containing vital admission of financial inability. Gati has a valid decree

in its favour which is unchallenged and has attained finality. Thus company petition was admitted.

- *Prominent Advertising Services v. Koutons Retail India Ltd., dated 26th March, 2014 (High Court of Delhi)*: A breach of clear undertaking given to the court amounts to contempt of court as the contemner by making a false representation to the court obtains a benefit for himself and if he fails to honour the undertaking, he plays a serious fraud on the court itself and thereby obstructs the course of justice and brings into disrepute the judicial institution. Accordingly respondent was held guilty of contempt of court.

SECURITIES

- *CIR/MIRSD/1/2014, dated 12th March, 2014, (SEBI)*: With reference to SEBI master circular dated 31st December 2010 on Anti-Money Laundering/Countering the Financing of Terrorism, the present circular brings in consequential modification and additions to this circular, in view off amendment to Prevention of Money Laundering Act, 2002 and amendments to Prevention of Money Laundering Rules, 2005.
- *CIR/CFD/DIL/1/2014, dated 25th March, 2014, (SEBI)*: The format for auditor's certificate required under Clause 24(i) of the Equity Listing Agreement is appended to the circular.
- *Paresh Pramodrai Vadodaria v. SEBI, dated 11th March, 2014, (SAT)*: The tribunal by majority deemed it proper to give benefit of doubt to the appellant and held that the imposition of penalty for non-compliance of summons is unwarranted especially when WTM of SEBI on completion of investigation had passed an order specifically recording therein that the trading pattern in the trades in question do not establish any manipulative or circular/synchronised trades. Thus impugned order was quashed and penalty set aside.
- *Usha (India) Limited v. SEBI, dated 19th March, 2014, (SAT)*: The contention that appellant company has been taken over by the employees of the appellant company and that the factory premises along with plant and machinery are in possession of the auction purchaser since does not in any way absolve the company from its obligation to redress the investor grievances. So long as the company exists as a juristic person it is obliged to redress grievances of the investors from time to time. Failure to redress investor grievances inspite of repeated letters/reminders issued by SEBI from time to time would entail penal consequences.
- *Saumil Bhavnagari v. SEBI, dated 21st March, 2014, (SAT)*: Appellant executed trades by placing orders higher than the Last Traded Price. Although the scrip was available for a lower

price, it was bought at a higher price by the appellant only with a view to give false impression to general public about the rise in price of the scrip. . From the nature of the trading, it is clear that the appellant had sought to create a misleading impression that a large number of persons were trading in the scrip. Analysis of the trade and order logs establishes the *malafide* intention of the appellant.

COMPETITION

- *Dish TV India Limited v. Hathway Cable & Datacom Limited & Ors., dated 6th March, 2014, (CCI)*: The case involves the question whether Section 4 of the Act, covers abuse of collective dominance. In this regard it was observed that the Indian law does not recognize collective abuse of dominance as there is no concept of “collective dominance” which has evolved in jurisdictions such as Europe. The word “group” referred to in Section 4 of the Act does not refer to group of different and completely independent corporate entities or enterprises. It refers to different enterprises belonging to the same group in terms of control of management or equity.
- *M/s Bull Machines Pvt. Ltd. v. M/s JCB India Ltd. & Ors., dated 11th March, 2014, (CCI)*: The Commission directed the DG to cause an investigation as the Opposite Party prima facie appears to be abusing its dominant position in the relevant market for manufacturing and sale of backhoe loaders in India and denying market access and foreclosing entry of ‘Bull Smart’ in contravention of provisions of Section 4 of the act.
- *M/s GHCL Limited v. M/s Coal India Limited, dated 11th March, 2014, (CCI)*: The informant company is *inter alia* engaged in the business of manufacture and sale of soda ash and requires coal for running its captive power plant. Further, the informant appears to be aggrieved by the conduct of the opposite parties in requiring the informant to sign MOU and addendum to FSA, the effect of which is stated to dilute the conditions relating to quantity and quality of coal to be supplied as provided under FSA. Considering the facts of the case commission directed the DG to undertake an investigation in the matter.
- *In Re: Bengal Chemist and Druggist Association, dated 11th March, 2014, (CCI)*: The commission agreed that Bengal Chemist & Druggists Association (BCDA) engaged in anti-competitive practice of directly or indirectly determining the sale price of drugs and controlling the supply of drugs in a concerted manner in violation of Section 3(3)(a) and 3(3)(b) of the Competition Act, 2002 (the Act). Accordingly a penalty @10% on BCDA and @7% on executive committee members (on the average turnover of last three years) was directed to be imposed.

INDIRECT TAXES**– CUSTOMS**

- *Circular No 06/2014 - Customs, dated 6th March, 2014:* Under notification 12/2012-Customs an eligible passenger as defined in the notification may import up to one kilogram of gold in the form of bars or ornaments at a concessional rate of duty of ten per cent on a value that is notified from time to time by the CBEC. The duty is to be paid in foreign currency. The CBEC is concerned that there has been a spurt in the import of gold by eligible passengers in the recent past, and has cautioned the field formations on the need for vigilance to prevent misuse of the facility by unscrupulous elements who may hire such eligible passengers to carry gold for them and use the documents as cover for circulation of smuggled gold. Accordingly it has instructed that –
 - In the case of gold bars, the engraved serial number must invariably be mentioned in the baggage receipt issued by customs;
 - In the case of ornaments, an itemized inventory should be taken from the passenger and signed by the passenger as well as the customs officer; this should be attached to the baggage receipt;
 - The antecedents of passengers may be verified to find out the source of funding for gold and customs duty, and the person who booked the tickets.
- *Instruction F. No.450/37/2014 - Customs, dated 5th March 2014:* Considering the sensitive nature of import/export of Ammonium Nitrate, CBEC has reminded its customs formations that guidelines contained in Ammonium Nitrate Rules, 2012 be scrupulously followed. According to these rules, ammonium nitrate can be imported only in bagged form, and never in loose form. Specifications of the kind of packing, and restrictions on transportation, delivery and dispatch are also prescribed. Ammonium nitrate can be used to make fertilizer and can also be used to make explosives.
- *Notification No. 10/2014 - Customs (ADD), dated 11th March, 2014:* Anti-dumping duty levied on imports of Acetone, originating in, or exported from, EU, South Africa, Singapore and USA has been extended for a further period of five years.
- *Notification No. 11/2014 - Customs (ADD), dated 11th March, 2014:* Provisional anti-dumping duty had been imposed on Meta Phenylene Diamine imported from or originating in the People's Republic of China, vide notification 2/2013-Customs (ADD). Thereafter the DG Anti-dumping notified his final findings in the matter, recommending imposition of the duty.

Accordingly it has been decided to impose anti-dumping duty for a period of five years from the date on which the provisional anti-dumping duty was levied.

- *Notification No. 12/2014 - Customs (ADD), dated 12th March, 2014*: Anti-dumping duty levied under Notification 116/2009-Customs on plain medium density fibre board of thickness 6 mm or more, imported from the People's Republic of China, Malaysia, Thailand and Sri Lanka has been extended till 26 February 2015.
- *Notification No. 13/2014 - Customs (ADD), dated 19th March, 2014*: Anti-dumping duty levied on imports of 'Red Phosphorous, excluding red phosphorous used in electronic applications', originating in, or exported from, the People's Republic of China for a period of five years.
- *Notification No. 14/2014 - Customs (ADD), dated 19th March, 2014*: Anti-dumping duty levied on imports of 'Sodium Nitrate', originating in, or exported from, the European Union, the People's Republic of China, Ukraine and Korea RP , for a period of six months.
- *Pacific India Trade Concern v. CC, dated 21st February, 2014 (Delhi HC)*: Court while dismissing the appeal as there was no substantial question law involved held that whilst the Court has the power to answer substantial questions of law, at the same time, a mere error in the findings of one or the other lower authorities would be insufficient to invoke the restricted nature of jurisdiction conferred under Section 130 of the Act. What the appellant/assessee is urging this Court to do is convert itself into a third court of appellate review.
- *M/s Zeenath International Supplies v. CC, Visakhapatnam, dated 3rd March, 2014 (Madras HC)*: Cause of action and not location of the Tribunal determine the jurisdictional High Court.
- *CC, New Delhi v. M/s Chandra Prabhu International Ltd, dated 10th March, 2014 (Delhi HC)*: Issue involved refund of anti-dumping duty when Original Assessment Order not challenged. In the present case, the duty became refundable as a consequence of the order of the Supreme Court; the refund application, therefore, must be filed by the assessee within one year from the date of the order. Held that Section 27 not applicable and Section 9AA of the CTA will be applicable. This is because, Section 9AA appears to be a complete code for refund claims after final determination, given that the Central Government is empowered to make rules regarding the manner and the time within which claims for refund may be made, under Section 9AA(2) of the CTA. Thus, Section 9A(8) would operate to incorporate Section 27 of the Customs Act only as far as may be applicable, in absence of rules on limitation, until they are made/alongside the rules once made.

– **CENTRAL EXCISE**

- *Notification No. 12/2014 - Central Excise (N.T.), dated 3rd March, 2014:* CBEC has notified the procedures, safeguards, conditions and limitations for grant of refund of CENVAT Credit under rule 5B of CENVAT Credit Rules, 2004. Rule 5B provides for refund of credit lying unutilized with a provider of service that is taxable on reverse charge basis. The notification names the following categories of service providers as eligible for refund under Rule 5B:
 - i. Renting of motor vehicle designed to carry passengers on non-abated value, to persons not engaged in similar business. (If the service provider opts for abated value, the entire service tax on abated value is payable by the recipient of service;
 - ii. Supply of manpower;
 - iii. Security service;
 - iv. Works contract. These are the partial reverse charge services. Further, the notification gives a formula for calculation of the amount of refund, and also prescribes a form in which application is to be made.
- Rule 12CCC of the Central Excise Rules 2002 and Rule 12AAA of the CENVAT Credit Rules 2004 provide for certain sanctions against an assessee (manufacturer or dealer) who has been involved in evasion of excise duty or misuse of CENVAT credit. Hitherto the officer vested with power to impose these sanctions was notified as the Member holding the central excise portfolio in the CBEC. The central government has made certain changes in the sanctions and also empowered the jurisdictional Chief Commissioner for their imposition. The changes have been notified as follows:
 - (a) *Notification No. 13/2014 - Central Excise (N.T.), dated 21st March, 2014:* Notification 6/2012-CE (NT), which notified the Member (CE) of the CBEC as the officer authorised under Rule 12CCC of the Central Excise Rules 2002 and Rule 12AAA of the CENVAT Credit Rules 2004 has been rescinded. The empowerment of the Chief Commissioner has been incorporated in the rules themselves, so that there is no need for a notification.
 - (b) *Notification No. 14/2014 - Central Excise (N.T.), dated 21st March, 2014:* Rule 12CCC of the Central Excise Rules 2002 has been substituted with a new version, in which the central government will specify the nature of restrictions that can be imposed to prevent evasion or default in payment of excise duty, and the procedure to be followed for issue of an order imposing such restrictions, and the Chief Commissioner will issue the necessary order.
 - (c) *Notification No. 15/2014 - Central Excise (N.T.), dated 21st March, 2014:* Rule 12AAA of the CENVAT Credit Rules 2004 has been substituted with a new version, in which the central government will specify the nature of restrictions that can be imposed to prevent

misuse of CENVAT credit, and the procedure to be followed for issue of an order imposing such restrictions, and the Chief Commissioner will issue the necessary order.

(d) *Notification No. 16/2014 - Central Excise (N.T.), dated 21st March, 2014*: Supersession of the earlier Notification 5/2012-CE (NT), to prescribe the sanctions that can be imposed and the circumstances that will attract the imposition of these sanctions.

- *M/s Ashok Kumar Tiwari v. CCE, Allahabad, dated 11th March, 2013 (CESTAT)*: Where a limitation period is stipulated in terms of "month", it connotes 30 days and not a calendar month, liberal view must be taken while considering an application for condonation of delay. Appellate court is not denuded of the discretion to condone the delay but on the terms as to costs.

– SERVICE TAX

- *Indian School of Business, Hyderabad v. CC & CCE, Hyderabad, dated 26th February, 2014 (Andhra Pradesh HC)*: Held that for deciding waiver of Pre-deposit, prima facie case is not the only criterion, but financial hardship has also to be considered side by side. Tribunal has gone wrong on the preposition of law holding that the financial difficulty is a subordinate criteria; financially undue hardship is also another criteria. The judicial pronouncement enables the Tribunal and Court of law to decide the *prima facie* case for granting stay and waiver of pre-deposit in a fit case.
- *M/s Gap International Sourcing (India) Pvt Ltd v. CST, dated 28th February, 2014 (CESTAT)*: Held that when the service provided by a person in India is consumed and used by a person abroad, it is treated as export. In this case, M/s GAP, U.S.A., does not have any branch or project or business establishment in India. The service in relation to procurement of goods being provided by the appellant are entirely meant for M/s GAP, U.S.A. and the service in question, - business auxiliary service, covered by Rule 3 (1) (iii) of the Export of Service Rules, 2005 have obviously been used by M/s GAP, U.S.A. in relation to their business located abroad. Therefore these services have to be treated as delivered outside India and used outside India and since payment for the service has been received in convertible foreign exchange, the same would have to be treated as exported out of India.
- *CC & CCE, Meerut v. M/s Doon Institute Of Information & Technology Pvt Ltd, dated 12th March, 2014 (Uttarakhand HC)*: Computer training is a Vocational training and hence a Computer Training institute is entitled for exemption from Service Tax in terms of Notification 24/2004-ST till its amendment by Notification 19/2005-ST. It cannot be said that the Notification 24/2004-ST made any distinction between a vocational training institute and a

computer training institute. Held - ST exemption available for the period 10.09.2004 to 15.06.2005.

- *M/s Panchamahar Steel Ltd v. CCE & CST, Vadodara, dated 18th March, 2014 (CESTAT)*: No legal bar to the utilization of CENVAT credit for the purpose of payment of service tax on the GTA services. The dispute in this case pertains to the period prior to 01.3.2008 when there is no bar for such utilization.
- *Frankfinn Aviation Services Pvt Ltd v. Asstt Commissioner, Designated Authority, VCES, Service Tax, dated 27th March, 2014 (Delhi HC)*: Existence of a dispute before the Tribunal on taxability for previous period (period 10.09.2004 - 27.02.2010 in the present case), is no bar for allowing benefits of Voluntary Compliance Encouragement Scheme, 2013.\

INTELLECTUAL PROPERTY RIGHTS

- *Venkatraman Das v. VNS Innovations Pvt Ltd, Hyderabad & Ors., dated 19th March, 2014 (Madras HC)*: In a case under patent law, the right to patent comes to end after 20 years of registration and in instant case, it has come to an end in 2013. Claim of plaintiff was that the new invention was an improvement to use in tight fitting garments, which were useful in tropical countries, however, usefulness or utility was not been stated. A comparison showed that there was nothing new in the plaintiff's patent. Plaintiff was merely camouflaging a product whose discovery was known throughout the world and trying to enfold it in their specification. In any event, period of patent was also already over and the claim of plaintiff becomes infructuous. Defendant no. 1 claimed damage of Rs.1,00,000/-. Held that when the suit was filed, the patent was registered and thus, the suit filed by plaintiff could not be said to be malicious or abuse of process of court. Thus, counter claim of damages could not be granted to the defendant.
- *IREO Pvt Ltd v. Genesis Infratech Pvt Ltd., dated 14th March 2014 (Delhi HC)*: In an action for infringement the plaintiff can succeed not only when he proves that the whole of his registered trade mark has been copied but can also succeed if he shows that the defendant's mark is similar to the plaintiff's mark as it would be remembered by persons possessed of an average memory with its usual imperfections or that its essential particular or the distinguishing or essential feature has been copied. Held that defendant's mark "Genesis SKYON" is deceptively similar to the Plaintiff's registered mark "IREO SKYON". The essential features have been copied. Merely because the word SKYON is the only word copied by the defendant, does not change the legal position.

- *Philip Morris Products S. A. & Anr v. Anil Kumar Singh & Ors., dated 10th March, 2014 (Delhi HC)*: Once the goods have been lawfully acquired i.e. purchased in accordance with the law of sale and purchase of goods, whether in India or any other country, the sale of such goods in India would not infringe the registered trademark in India. Therefore, importer of grey market goods/person representing him/subsequent purchaser would not be liable for infringement under section 29, if the imports/subsequent dealings fall under the purview of section 30(3). The importer/defendant has to prove that the impugned goods, bearing a particular trademark, were placed in any market worldwide by the registered proprietor of the said trademark or with its consent and thereafter, the defendant lawfully acquired them therefrom.

CONSUMER

- *Sagar Kumar v. United India Insurance Company Ltd, dated 3rd March, 2014, (NCDRC)*: Since there was delay of about six months in informing the respondent about the theft of vehicle, it is a clear cut violation of the mandatory terms and conditions of the insurance policy. The claim of petitioner was rejected.
- *Baljeet Singh Brar v. M/s Birla Sun Life Insurance Co. Ltd., dated 7th March, 2014, (NCDRC)*: About three years had elapsed since the time the First Appeal was filed. Advocate of petitioner should have filed revision petition immediately. Negligence of a litigant's agent is negligence of the litigant himself and is not sufficient cause for condoning delay.
- *Reliance General Insurance Co. Ltd v. Shivakumara S, dated 7th March, 2014, (NCDRC)*: In the instant case, the driver of the vehicle was not having an endorsement authorising him to drive a transport vehicle. The driver only had an effective driving licence authorising him to drive a Light Motor Vehicle other than a transport vehicle. Driving licence of the driver of the subject vehicle at the time of accident was not having endorsement authorising him to drive a transport vehicle and this was held to be a breach of terms and conditions of the policy. Impugned order of foras below set aside and complaint dismissed.
- *National Insurance Co. Ltd. v. Mr. Abraham M.P. Mascarenhas, dated 13th March, 2014, (NCDRC)*: The case involves complainant who is the owner of a bus insured with the appellant. The bus met with an accident and a claim was lodged with the appellant. Surveyor was appointed and submitted its report stating the bus could be repaired and made an estimate. Dissatisfied, complaint knocked at the doors of state commission which agreed there is a total loss and directed the payment of 22 lakh (approx.). However, National commission gave an opportunity to insurance company to repair the vehicle at its own cost and hand it over after

getting it approved by technical authority within 3 months. In case of default, the order of state commission shall prevail.

- *The Regional Commissioner, CMPF v. Anant Sethi, dated 13th March, 2014, (NCDRC)*: The case involves a pension dispute of an erstwhile employee of Bharat Cooking Coal of Limited. Since he was not one of the absorbed employees, his demand for pension @50% of basic pay was not considered right and National commission held the decision of state commission as erroneous.
- *Radha Verma v. Ghaziabad Development Authority, dated 14th March, 2014, (NCDRC)*: The question of pricing of flat by a housing Authority or Board is not a consumer dispute. The petitioner/complainant has not been able to prove anywhere that the respondent had no right to fix the price of the flat.
- *Anshu Sanjay Sharma v. M/s Royal Sundaram, dated 24th March, 2014, (NCDRC)*: The revisional powers of the National Commission are derived from Section 21 (b) of the Act, under which the said power can be exercised only if there is some prima facie jurisdictional error appearing in the impugned order, and only then, may the same be set aside. In view of the concurrent findings of facts given by both the fora below, no jurisdiction or legal error had been shown to call for interference in the exercise of power under section 21 (b) of the Act.
- *Harshita v. Dr Aruna Kulkarni, dated 25th March, 2014, (NCDRC)*: While deciding an application filed in such cases for condonation of delay, the Court has to keep in mind that the special period of limitation has been prescribed under the Consumer Protection Act, 1986 for filing appeals and revisions in consumer matters and the object of expeditious adjudication of the consumer disputes will get defeated if this Court was to entertain highly belated petitions filed against the orders of the Consumer Foras. Since there existed no sufficient cause to condone the delay of 7 months the petition was dismissed.
- *The Union of India v. Bakshi Ram Ahuja, dated 27th March, 2014, (NCDRC)*: The complainant/respondent made an investment for a period of five years and on maturity was paid the principal amount and not the interest, as the he OP relied on a Ministry of Finance notification, stating the ground that the investment had been made beyond the permissible time limit of three months. The commission observed in such scenario the investment could have been refused at the first instance and at the time of making investment the contents of notification were not known to the complainant. Revision petition was dismissed and order of state commission directing full interest was sustained.

ENVIRONMENT

- *The Times of India, dated 6th March, 2014:* Taking a serious view, NGT has ordered the Bhopal Municipal Corporation and the state government to expedite survey of encroachments around Siddique Hassan Khan Talab and also to draft a rehabilitation policy for encroachers around the water body.
- *The Times of India, dated 7th March, 2014:* To increase the survival rate of plants translocated for development works like road construction and others, NGT has directed Indore Municipal Corporation (IMC) to purchase a special machine which will cost Rs 2.5 crore. Normally, only half of the translocated plants survive due to unscientific methods used.
- *The Hindustan Times, dated 8th March, 2014:* In order to safeguard river Bandi and Nehra Dam from pollution caused by the effluent, NGT ordered suspension of work in more than 500 textile dying and printing units in Pali district that were operating without Consent to Operate from the Rajasthan Pollution Control Board.
- *The Hindu, dated 21st March, 2014:* NGT has directed the Assam government not to permit traffic on six sections along the 54-km stretch of National Highway 37 passing through the Kaziranga landscape. These are used by the animals as corridors from/to the Kaziranga-Karbi Anglong landscape during peak animal activity hours from 5-7 a.m. and 4-7 p.m.
- *The Hindu, dated 25th March, 2014:* NGT has cancelled the clearance given by the then Union Environment and Forests Minister, Jairam Ramesh, to the Parsa East and Kante-Basan captive coal blocks in the Hasdeo-Arand forests of Chhattisgarh, overruling the statutory Forest Advisory Committee. The Forest Advisory Committee and the Ministry has been asked to revisit the proposal from scratch based on all factors, including questions that the tribunal put down in its order.
- *The Times of India, dated 26th March, 2014:* The Supreme Court has stayed its 2012 earlier order directing transfer of all environment cases to NGT since its formation in 2010. The SC said the directions in the Bhopal gas leak case require reconsideration. In August 2012, the SC, in a 1998 petition filed by the Bhopal Gas Peedit Mahila Udyog Sangathan, had directed that all matters covered under the National Green Tribunal Act after it came into force shall stand transferred and can be instituted only before such green tribunal.
- *The Hindu, dated 27th March, 2014:* NGT issued show cause notices to the DMRC, AIIMS, DJB, Batra Hospital, Saket City Hospital, NDMC, CPWD, Forest Department and Irrigation asking them why “they be not ordered and directed to pay compensation varying from Rs.5 to 10 lakh for not harvesting rainwater, polluting the environment and not discharging their duties in relation to environment and maintaining the wholesomeness of water on the basis of “Polluter pays” principle depending upon their activity.

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