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RBI/FEMA

• IMPLEMENTATION OF CHEQUE TRUNCATION SYSTEM POSTPONED

The Reserve Bank of India ("**RBI**") vide its circular DGBA. GAD. No. H - 1463/42.01.035/2014-15, dated September 30, 2014 had stated that the discontinuation of P2F (Paper to Follow) for government cheques was to be implemented with effect from 1st January, 2015. However, RBI has now postponed the implementation of discontinuation of P2F and the revised date for implementation would be declared shortly. - **[RBI/2014-15/375 DGBA. GAD. No. H-2887/42.01.035/2014 -15, dated 1st January, 2015]**

• ECB NORMS RELAXED

With a view to liberalising, expanding the options of securities and consolidating various provisions related to creation of charge over securities for External Commercial Borrowings ("**ECB**") at one place, RBI has advised that AD Category-I banks may allow creation of charge on immovable assets, movable assets, financial securities and issue of corporate and / or personal guarantees in favour of the overseas lender /

security trustee, to secure the ECB to be raised / raised by the borrower. However, the new rules are subject to certain conditions mentioned in the Circular. - **[A.P. (DIR Series) Circular No. 55, dated 1st January, 2015]**

• RBI DIRECTS PAYMENT FIRMS TO DISPLAY COMPANY NAME IN PRODUCTS

The Reserve Bank has directed entities offering services such as e-wallets, smart cards and White Label ATMs to prominently display their company name in products, whether as advertisements, on website, application form, etc., to ensure transparency. Further it said, all the authorised entities/companies should also regularly keep the RBI informed regarding the brand names employed or be employed for their products. - **[RBI/2014-15/381 DPSS. CO. AD. No. 1204/02.27.005/2014-15, dated 2nd January, 2015]**

• RESIDENTS THAT ARE SUBSIDIARIES OF MULTINATIONAL COMPANIES CAN ALSO HEDGE THEIR FOREIGN CURRENCY EXPOSURE THROUGH PERMISSIBLE DERIVATIVE CONTRACTS: RBI

At present, non-resident guarantee for non-funded facilities such as Letters of Credit/ guarantees/ Letters of Undertaking ("**LoU**")/ Letter of Comfort ("**LoC**") entered between two persons resident in India are allowed under the general permission route.

In view of that, RBI has clarified that, residents that are subsidiaries of multinational companies can also hedge their foreign currency exposure through permissible derivative contracts executed with an AD Category – I bank in India on the strength of guarantee of its non-resident group entity. - **[A.P. (DIR Series) Circular No. 56, dated 6th January, 2015]**

• **BULLET REPAYMENT OPTIONS FOR GOLD LOAN, QUANTUM OF LOAN INCREASED**

RBI has increased the quantum of loan that could be granted by all State / Central Cooperative Banks ("StCBs/CCBs") under the "Gold Loan - Bullet Repayment Scheme" from Rs.1 lakh to Rs.2 lakhs. However, the new rules are subject to certain conditions mentioned in the circular. - *[RBI/2014-15/395 DCBR CO. BPD (RCB) Cir. No.11/13.05.001/2014-15, dated 8th January, 2015]*

• **RBI RISK MANAGEMENT AND INTER BANK DEALINGS: Hedging under past performance route liberalisation of documentation requirements in the OTC market:**

RBI has further rationalised the documentation process for exporters and importers relating to hedging of probable exposures based on past performance, the extant guidelines in this regard have been revised. - *[A.P. (DIR Series) Circular No.58, dated 14th January, 2015]*

• **STANDING LIQUIDITY FACILITIES FOR BANKS AND PRIMARY DEALERS: Repo rate revised:**

RBI Repo rate under the Liquidity Adjustment Facility ("LAF") has been reduced by 25 basis points from 8.0 per cent to 7.75 per cent with immediate effect. Accordingly, the Standing Liquidity Facilities provided to banks under Export Credit Refinance ("ECR") and to Primary Dealers ("PDs") (collateralised liquidity support) from the RBI would be available at the revised repo rate, i.e., at 7.75 per cent with effect from January 15, 2015. - *[RBI/2014-15/402 REF. No. MPD. BC. 375/07.01.279/2014-15, dated 15th January, 2015]*

• **ENTRY OF BANKS INTO INSURANCE BUSINESS, BANKS PERMITTED TO ACT AS AN INSURANCE BROKER**

With a view to increase insurance penetration in the country, RBI has allowed banks to act as brokers for insurers, set up their own subsidiaries and also undertake referral services for multiple companies. The banks have also been allowed to set up subsidiaries and joint venture companies for undertaking insurance business with risk participation. They can also act as corporate agents without seeking prior approval from the RBI. However, they will have to comply with guidelines issued by Insurance Regulatory and Development Authority ("IRDA"). - *[RBI/2014-2015/409 DBR. No. FSD. BC. 62/24.01.018/2014-15, dated 15th January, 2015]*

• **RESTRUCTURING OF ADVANCES BY NBFCs, NORMS REVISED**

RBI has allowed the non-banking finance companies ("NBFCs") to restructure project loans and yet retain the 'standard' asset classification under certain specified scenarios. It has been notified that revisions of the date of commencement of commercial operations ("DCCO") and consequential shift in repayment schedule for equal or shorter duration (including the start date and end date of revised repayment schedule) will not be treated as restructuring, subject to certain conditions mentioned in the revision guidelines under the Notification. - *[RBI/2014-15/410 DNBR. CO. PD. No. 011/03.10.01/2014-15, dated 16th January, 2015]*

• **"NET-WORTH" COMPUTATION OF PAYMENT SYSTEM OPERATORS DEFINED**

In order to have uniformity and clarity in respect of the computation of net-worth for an entity authorised under the Payment and Settlement Systems Act, 2007 ("PSS Act"), it is advised that 'Net-worth' will consist of "paid up equity capital, free reserves, balance in share premium account and capital reserves representing surplus arising

out of sale proceeds of assets but not reserves created by revaluation of assets' adjusted for 'accumulated loss balance, book value of intangible assets and Deferred Revenue Expenditure, if any". This definition would apply for the purpose of all approvals under the PSS Act. - [RBI/2014-15/411 DPSS. CO. AD. No. 1344 02.27.005/2014-15, dated 16th January, 2015]

- **LONG TERM PROJECT LOANS TO INFRASTRUCTURE AND CORE INDUSTRIES, EXTENSION OF RBI GUIDELINES ON NBFCs**

RBI has extended the guidelines for flexible structuring and refinancing of fresh term loans to long term project loans to infrastructure and core industries (as issued on the announcement made in the Union Budget 2013-14) to the NBFCs who are engaged in financing of long term project loans to infrastructure and core industries . - [RBI/2014-15/413 DNBR. PD. CC. No. 012/03.10.001/2014-15, dated 19th January, 2015]

- **PAYMENTS INTO GOVERNMENT ACCOUNT THROUGH DEBIT / CREDIT CARDS AND NET BANKING, ADDITIONAL NORMS ADVISED BY RBI TO THE AGENCY BANKS**

RBI has advised Agency banks to adhere to the following additional norms for payment of government revenue through Debit / Credit cards and Net banking:

- (i) Remittance may permit norms of T + 1 working day, including the Put Through date should be strictly followed, where "T" is the day when money is available with the receiving bank branch.

- (ii) Penal interest will be levied on delayed remittances of e-receipt into government account, i.e., on delay beyond T+1 working day, if any, and

- (iii) The Bank settlement should conform to the provisions contained in the Payment and Settlement Systems Act 2007 and the rules and regulations framed thereunder.

-[RBI/2014-15/416 DGBA. GAD No. H-3203/42.01.011/2014-15, dated 21st January, 2015]

- **OVERSEAS DIRECT INVESTMENTS BY A PROPRIETORSHIP CONCERN/ UNREGISTERED PARTNERSHIP FIRM IN INDIA, POLICY FRAMEWORK REVIEWED**

RBI, keeping in view the changes in the definition / classification of the exporters as per the Foreign Trade Policy of the Ministry of Commerce and Industry issued from time to time, has reviewed the policy framework for Overseas Direct Investments ("ODI") by a proprietorship concern / unregistered partnership firm in India.

Accordingly, the following revised terms and conditions are required to be complied with for considering the proposal of ODI, by a proprietorship concern / unregistered partnership firm in India, by the Reserve Bank under the approval route:

- (i) The proprietorship concern / unregistered partnership firm in India is classified as 'Status Holder' as per the Foreign Trade Policy issued by the Ministry of Commerce and Industry, Govt. of India from time to time;
- (ii) The proprietorship concern / unregistered partnership firm in India has a proven track

record, i.e., the export outstanding does not exceed 10% of the average export realisation of the preceding three years and a consistently high export performance;

(iii) The Authorised Dealer bank is satisfied that the proprietorship concern / unregistered partnership firm in India is KYC (Know Your Customer) compliant, engaged in the proposed business and has turnover as indicated;

(iv) The proprietorship concern / unregistered partnership firm in India has not come under the adverse notice of any Government agency like the Directorate of Enforcement, Central Bureau of Investigation, Income Tax Department, etc. and does not appear in the exporters' caution list of the Reserve Bank or in the list of defaulters to the banking system in India; and

(v) The amount of proposed investment outside India does not exceed 10 per cent of the average of last three years' export realisation or 200 per cent of the net owned funds of the proprietorship concern / unregistered partnership firm in India, whichever is lower.

- **[A.P. (DIR Series) Circular No.59, dated 22nd January, 2015]**

• **FOREIGN EXCHANGE MANAGEMENT (TRANSFER OR ISSUE OF SECURITY BY A PERSON RESIDENT OUTSIDE INDIA) (SIXTEENTH AMENDMENT) REGULATIONS, 2014, NOTIFIED**

In terms of Schedule 1 to the Notification No. FEMA 20/2000-RB dated May 3, 2000, as amended from time to time, 100% Foreign Direct Investment ("**FDI**") is

permitted under Automatic route in Construction Development sector subject to conditions. RBI has since amended the Principal Regulations through the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Sixteenth Amendment) Regulations, 2014 notified *vide* Notification No. FEMA.329/2014-RB dated December 8, 2014, c.f. G.S.R. No. 906(E) dated December 22, 2014. Consequently, Authorised Dealer banks directed to bring the contents of this circular to the notice of their constituents and customers concerned. - **[A.P. (DIR Series) Circular No. 60, dated 22nd January, 2015]**

• **DEPOSITORY RECEIPTS SCHEME, 2014, NOTIFIED**

A new scheme called 'Depository Receipts Scheme, 2014' ("**DR Scheme, 2014**") for investments under ADR/GDR have been notified effective from 15th December, 2014 which provides for repeal of extant guidelines for Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 except to the extent relating to foreign currency convertible bonds. The salient features of the new scheme are:

- (i) The securities in which a person resident outside India is allowed to invest under Schedule 1, 2, 2A, 3, 5 and 8 of Notification No. FEMA. 20/2000-RB dated 3rd May 2000 shall be eligible securities for issue of Depository Receipts in terms of DR Scheme 2014;
- (ii) A person will be eligible to issue or transfer eligible securities to a foreign depository for the purpose of issuance of depository receipts as provided in DR Scheme 2014.

(iii) The aggregate of eligible securities which may be issued or transferred to foreign depositories, along with eligible securities already held by persons resident outside India, shall not exceed the limit on foreign holding of such eligible securities under the extant FEMA regulations, as amended from time to time;

(iv) The eligible securities shall not be issued to a foreign depository for the purpose of issuing depository receipts at a price less than the price applicable to a corresponding mode of issue of such securities to domestic investors under FEMA, 1999.

(v) It is to be noted that if the issuance of the depository receipts adds to the capital of a company, the issue of shares and utilisation of the proceeds shall have to comply with the relevant conditions laid down in the Regulations framed and Directions issued under FEMA, 1999.

(vi) The domestic custodian shall report the issue/transfer of sponsored/unsponsored depository receipts as per DR Scheme 2014 in 'Form DRR' (as given in Annex to this circular) within 30 days of close of the issue/ program.

- [A.P. (DIR Series) Circular No. 61, dated 22nd January, 2015]

• **TRANSPARENCY IN PRICING OF CREDIT, ADDITIONAL INSTRUCTIONS NOTIFIED**

In order to further enhance transparency in pricing of credit, RBI has advised the banks to adhere the following additional instructions:

(i) Banks should display on their website the interest rate range of contracted loans for the past quarter

for different categories of advances granted to individual borrowers along with mean interest rates for such loans.

(ii) The total fees and charges applicable on various types of loans to individual borrower should be disclosed at the time of processing of loan as well as displayed on the website of banks.

(iii) Banks should publish Annual Percentage Rate ("APR") or such similar other arrangement of representing the total cost of credit on a loan to an individual borrower on their websites.

(iv) Banks should provide a clear, concise, one page key fact statement/fact sheet (as per prescribed format in Annex of this notification) to all individual borrowers at every stage of the loan processing as well as in case of any change in any terms and conditions. The same may also be included as a summary box to be displayed in the credit agreement.

-[RBI/2014-15/422 DBR. Leg. No. BC. 64/09.07.005/2014-15, dated 22nd January, 2015]

• **REMITTANCE OF SALARY OUTSIDE INDIA, BY LLP/GROUP COMPANY EMPLOYEES ON DEPUTATION, CLARIFIED**

RBI has clarified that remittance of salary outside India can be affected for employees on deputation to a group company in India and for employees of limited liability partnership. It has further been clarified that the facility available to an employee of a company under Regulation 7(8) of Notification No. FEMA 10 (as amended from time to time) shall also be available to an employee who is deputed to a group company in India. In addition, the term 'company' referred to in the said regulation will include 'Limited

Liability Partnership' as defined in the LLP Act, 2008. -
[A.P. (DIR Series) Circular No. 62, dated 22nd January, 2015]

- **IMPORT AND EXPORT OF INDIAN CURRENCY FROM/TO NEPAL OR BHUTAN, UP TO RS. 25,000 PERMITTED**

With a view to mitigating the hardship of individuals visiting from India to Nepal or Bhutan, RBI has now permitted an individual to carry to Nepal or Bhutan, currency notes of Reserve Bank of India denominations above Rs.100/-, i.e. currency notes of Rs.500/- and/or Rs.1000/- denominations, subject to a limit of Rs.25000/- *[A.P. (DIR Series) Circular No. 63, dated 22nd January, 2015]*

- **ECB POLICY, PROCEDURE SIMPLIFIED**

As a measure of simplification of the existing procedure for rescheduling / restructuring of ECBs and in supersession of aforesaid provisions, RBI has decided to delegate powers to the designated AD Category-I banks (subject to certain conditions) to allow:

(i) Changes / modifications (irrespective of the number of occasions) in the draw-down and repayment schedules of the ECB whether associated with change in the average maturity period or not and / or with changes (increase/decrease) in the all-in-cost.

(ii) Reduction in the amount of ECB (irrespective of the number of occasions) along with any changes in draw-down and repayment schedules, average maturity period and all-in-cost.

(iii) Increase in all-in-cost of ECB, irrespective of the number of occasions.

- *[A.P. (DIR Series) Circular No. 64, dated 23rd January, 2015]*

- **LENDING BY BANKS, NO DUES CERTIFICATE DISPENSED WITH**

In order to ensure hassle free credit to all borrowers, especially in rural and semi-urban areas and keeping in view the technological developments and the different ways available with banks to avoid multiple financing, banks are advised to dispense with obtaining 'No Due Certificate' from the individual borrowers (including Self Help Groups & Joint Liability Groups) in rural and semi-urban areas for all types of loans including loans under Government Sponsored Schemes, irrespective of the amount involved unless the Government Sponsored Scheme itself provides for obtaining of 'No Dues Certificate'. Further, banks are encouraged to use an alternative framework of due diligence as part of credit appraisal exercise other than the 'No Due Certificate'.

- *[FIDD CO. LBS BC No. 49/02.01.001/2014-15, dated 28th January, 2015]*

FOREIGN TRADE

- **IMPORT POLICY ON RADIO NAVIGATION EQUIPMENT, POLICY CONDITIONS REVISED**

The Central Government has amended the Import Policy regime of Radio Navigation Equipment under ITC (HS) code 85269190 (Other) under Chapter 85 of ITC (HS), 2012 – Schedule – I (Import Policy). Accordingly, no license is required for import of GSM/CDMA based vehicle tracking system having a valid International Mobile Station Equipment Identity (IMEI) / Electronic Serial Number (ESN) / Mobile

Equipment Identifier (MEID) number. - **[Notification No. 105 / (RE-2013) / 2009-2014, dated 1st January, 2015, (DGFT)]**

• **REGISTRATION FOR IMPORT OF INSECTICIDES, POLICY PROVISIONS NOTIFIED**

Under Section 9 of the Insecticides Act, 1968 all chemicals intended to be used as 'insecticides' under the Act require mandatory registration for import. **In cases, where the 'insecticide' is imported for non-insecticidal purpose, an import permit is necessary from the Registration Committee under the Department of Agriculture and Cooperation.** The Registration Committee while granting registration or a permit for import of an insecticide spells out the conditions for import which inter alia, may include reference to the source of import. No 'insecticide' can be imported from a source other than that specified on the certificate of registration or the permit, as the case may be. In addition, the Registration Committee may issue regulatory guidelines from time to time with respect to safety, efficacy, quality etc. which warrant full compliance from importers. - **[Notification No. 106 / (RE-2013) / 2009-2014, dated 1st January, 2015, (DGFT)]**

• **IMPORTER EXPORTER CODE, OPERATIONALIZATION OF ONLINE APPLICATION SEEKING IEC POSTPONED**

The date of Operationalization, of Public Notice No. 76 (RE-2013)/2009-2014 dated the 27th of November, 2014, vide which amendments in ANF 2A of Handbook of Procedure Vol. I (Appendices and Aayat Niryat Forms), 2009-2014 were notified, has been postponed and the new date for the same will be notified at a later date. Till such time the new system is operationalised, applicants seeking IEC may submit

their applications in the earlier format as per the earlier procedure (existing prior to 01/01/2015), along with requisite documents and fees to the concerned jurisdictional RA. - **[Public Notice 80 / (RE-2013)/2009-2014, 6th January, 2015, (DGFT)]**

• **ADVANCE AUTHORIZATION /DFIA SCHEMES, EXPORT OBLIGATION PERIOD REDUCED RELATING TO NATURAL RUBBER**

It has been decided by the department to reduce Export obligation period to six months from the date of clearance of each consignment by customs authority, wherever Natural Rubber is allowed as an input under Advance Authorisation / DFIA Schemes. - **[Public Notice No. 81 (RE-2013)/2009-2014, dated 9th January, 2015, (DGFT)]**

• **IMPORT POLICY ON GSM MOBILE HANDSETS REVISED**

With the latest revision in the policy the "GSM mobile handsets" with duplicate IMEI or fake IMEI & "CDMA mobile handsets" with duplicate ESN/MEID or fake ESN/MEID are added to the list of 'Prohibited' items for import. - **[Notification No. 107 / (RE-2013) / 2009-2014, dated 16th January, 2015, (DGFT)]**

• **EPCG AUTHORISATION, ANNUAL AVERAGE EXPORT OBLIGATION RE-FIXED**

In view of the fact that, Para 5.11.2 of Hand Book of Procedure Volume 1 permits re-fixation of Annual Average Export Obligation, in case the export in any sector/ product group decline by more than 5%. The department has vide its circular has appended the list of such products with percentage decline and request Regional Offices to re-fix the annual average export obligation for EPCG Authorizations for the year 2013-

14 accordingly. - *[Policy Circular No.16 (RE-2013)/2009-14, dated 19th January, 2015, (DGFT)]*

• **IMPORTER EXPORTER CODE GUIDELINES FOR PROCESSING OF ONLINE IEC APPLICATIONS AND IEC CHECK LIST NOTIFIED**

The present circular lists out guidelines for processing of online IEC applications and IEC check list. Application forms with all “Yes” ticked would lead to an e-IEC being generated and emailed to the applicant. Applicant would also be informed of successful generation of IEC on his account through system-generated SMS. Application forms with one or more “No” ticked would lead to rejection of the application and a rejection letter (with reasons) would be emailed to the applicant. - *[Policy Circular No. 17 (RE-2013)/2009-2014, dated 30th January, 2015, (DGFT)]*

• **NEW DATE OF OPERATIONALIZATION OF ONLINE IEC APPLICATION NOTIFIED FOR IMPORTER EXPORTER CODE**

The new system of online applications for IEC as per the Public Notice No. 76 (RE-2013)/2009-2014 dated the 27th November, 2014 has been operationalized with effect from 01/02/2015. The facility of submission of application in manual mode will, however, continue for those applicants who do not have access to net banking facility with the ten notified banks. Applicants, applying for IEC in manual mode, may utilise the existing format (ANF 2A, as existing prior to 01/02/2015) and procedure to submit applications to RA's office with documents as prescribed therein. - *[Public Notice. 83/ (RE-2013)/2009-2014, dated 30th January, 2015, (DGFT)]*

• **CENTRAL GOVT. AUTHORIZES OFFICERS TO FILE COMPLAINT AGAINST PERSON HOLDING MORE THAN ONE DIN**

The Central Government has authorized certain officers in the office of the Regional Director (Northern Region) at Noida for the purposes of filing complaint under section 159 of the Act in respect of offences under section 155 of the Act. - *[Notification F. No. 1/6/2014-CL-V, dated 9th January, 2015, (MCA) published in the Gazette of India No. 72 on 12th January, 2015]*

• **COMPANIES ACCOUNTS RULES, 2014, AMENDED**

The Ministry of Corporate Affairs ("MCA") has issued further rules to amend the Companies Accounts Rules, 2014. Two additions have been made by the present amendment rules. Rule 2A has been added to specify that notice of address at which books of account are to be maintained shall be kept in Form AOC-5 (new form). Further, effect of rule 6 has been limited by insertion of proviso that nothing in rule 6 will apply in respect of consolidation of financial statement by a company having subsidiary or subsidiaries incorporated outside India only for the financial year commencing on or after 1st April, 2014. - *[MCA Notification F. No. 1/19/2013-CL-V-Part, dated 16th January, 2015, (MCA)]*

• **COMPANIES (APPOINTMENT AND QUALIFICATION OF DIRECTORS) RULES 2014 AMENDED**

By way of the latest amendment, a new proviso to rule 16 has been inserted stating that where Form DIR-12 has already been filed with registrar under rule 15, a foreign director of such company resigning from his office may authorize a CA, CS, cost accountant in whole time practice or any other resident director of

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the company to file Form DIR-11 on his behalf intimating the reasons for resignation. - **[MCA Notification F. No. 0 1/9/201 3-CL-V-(Part-II), dated 19th January, 2015, (MCA)]**

• COMPANIES (CORPORATE SOCIAL RESPONSIBILITY POLICY) RULES 2014 AMENDED

By way of the latest amendment, Rule 4 of the said Rules has been amended. Thus, now CSR activities can be undertaken by the company either singly or along with its holding or subsidiary or associate company, or along with any other company or holding or subsidiary or associate company of such other company or otherwise. - **[F. No. 1 /18/2013-CL,-V-Part, dated 19th January, 2015, (MCA)]**

SECURITIES

• DIRECTIONS ISSUED TO NSE-BSE TO HAVE INDEX BASED MARKET-WIDE CIRCUIT BREAKERS LIMITS

In order to strengthen the mechanism of index based market-wide circuit breaker (a) NSE and BSE shall compute their market-wide index (NIFTY and SENSEX respectively) after every trade in the index constituent stocks and shall check for breach of market-wide circuit breaker limits after every such computation of the market-wide index. (b) In the event of breach of market-wide circuit breaker limit, stock exchange shall stop matching of orders in order to bring about a trading halt; (c) BSE and NSE shall implement suitable mechanism to ensure that all messages related to market-wide index circuit breakers are given higher priority over other messages and such network shall not be used *for any other purposes.* - **[Circular No. CIR/MRD/DP/02/2015, dated 12th January, 2015, (SEBI)]**

• SEBI (PROHIBITION OF INSIDER TRADING) REGULATIONS, 2015 NOTIFIED

The Securities and Exchange Board of India ("SEBI") has notified the Prohibition of Insider Trading (PIT) Regulations, 2015 to replace a two-decade old SEBI (Prohibition of Insider Trading) Regulations, 1992. - **[Notification No. LAD-NRO/GN/2014-15/21/85 dated 15th January, 2015, (SEBI)]**

COMPETITION

• WIPRO GE DEAL GETS APPROVAL OF COMPETITION COMMISSION

Wipro GE Healthcare's proposed deal with its three employees related to medical equipment distribution services in the country has received nod from the Competition Commission of India ("CCI"). Wipro GE, a joint venture between General Electric Company and Wipro Enterprises Ltd, had entered into the deal with the three individuals in November 2014. The three individuals are engaged in Wipro GE's distribution services business. The deal involves incorporation of a new company by two of these individuals in the healthcare sector and subscription of shares of the new firm in agreed percentages by the parties. CCI, after due consideration granted its approval noting that as the new company is yet to be incorporated and does not have any business operations at present, there is no horizontal overlap or any vertical relationship between the business activities of Wipro GE and new company. - **[Combination Registration No. C-2014/11/222, dated 12th January, 2015, (CCI)]**

• CCI OKAYS STERLITE TECHNOLOGIES' DEAL WITH JAPANESE COMPANY VISCAS CORPORATION

CCI has granted its approval to the the deal between Sterlite Technologies and Japanese

Company, Viscas Corporation. Under the deal, Vedanta Group's firm Sterlite Technologies, a provider of transmission solutions for the telecom and power industries, will incorporate a company as its wholly-owned subsidiary and would transfer its power cable manufacturing facility at Haridwar to the newly formed firm. Following this, VISCAS would subscribe to 51 per cent stake in the new company. - *[(Combination Registration No. C-2014/10/219, dated 12th January, 2015, (CCI)]*

- **PROBE ORDERED AGAINST STATE OWNED REC POWER DISTRIBUTION COMPANY LTD**

Pursuant to a complaint the Competition Commission has ordered a probe against state-owned REC Power Distribution Company Ltd ("**REC**") for allegedly indulging in unfair business practices with respect to financing of rural electrification schemes. The CCI stated that it appears REC and its arm tried to use their dominant position in the market for financing of rural electrification schemes to distort/manipulate competition. As per the complainant there appeared a conflict of interest between REC Power Distribution Company and its parent company in implementation of Rajeev Gandhi Grameen Vidyutikaran Yojana (RGGVY) scheme. - *[XYZ v. REC Power Distribution Company, dated 13th January, 2015 (CCI)]*

- **CCI APPROVES DEAL BETWEEN LARSEN & TOUBRO LTD AND AUSTRALIAN FIRM BRADKEN LTD**

Larsen & Toubro Ltd's ("**L&T**") proposed sale of its iron manufacturing unit in Coimbatore to Australian firm Bradken Ltd has got CCI nod. Under the proposed deal, Bradken will acquire an undertaking of

L&T in Coimbatore. The undertaking is engaged in the manufacture and sale of grey iron and/or spheroidal graphite iron castings in India, and primarily caters to the requirements of entities engaged in wind energy industry. CCI noted that there is no horizontal or vertical overlap between the business activities of Bradken and target undertaking in the foundries market or in any other market in India. - *[(Combination Registration No. C-2014/12/229, dated 20th January, 2015, (CCI)]*

- **DUMPER OWNER'S ASSOCIATION OF PARADIP PORT PENALISED FOR ANTI-COMPETITIVE PRACTICES**

The Competition Commission imposed a penalty on dump ER Owners' association and its office bearers for indulging in unfair business practices with respect to rates for providing dumper services within Paradip Port, Odisha. The Competition Commission observed that the Association had indulged in the practices of determining the rates of the provision of dumper services for intra-port transport operations within Paradip Port restricted area which amounts to determination of sale price of the services of dumpers which is in violation of the provisions of the Act. The Commission also noted that the association's office bearers are equally responsible in the anti-competitive practices of controlling and limiting the provisions of dumper services for intra-port transportation of cargos inside the Paradip Port prohibited area. CCI has slapped penalty of Rs 2.60 lakh on the association and Rs 1.26 lakh on its five office bearers. - *[M/s Swastik Stevedores Private Limited Jobra, Cuttack, Odisha v. M/s Dumper Owner's Association Atharabanki, Paradip Port, Jagatsinghpur, Odisha, dated 21st January, 2015, (CCI)]*

INDIRECT TAXES

(A) SERVICE TAX

- **PROVISION OF SERVICES IN INDIA - WHAT CONSTITUTES 'SERVICES PROVIDED IN INDIA': CESTAT** In the instant case, On perusal of the facts on record, Hon'ble Tribunal found that Appellants' duty (as is ascertained from the agreement) indicated that he was supposed to procure the orders and pass the same on to the overseas manufacturers; on receipt of such orders, the overseas manufacturers executed the same on his own and the consideration for such supplies is directly paid to the overseas manufacturers by the person who has placed the order. And in the given facts, Hon'ble Tribunal held that since the entire transaction seems to be of only procurement of orders and the rendering of services, if any, by the appellant is towards the foreign or overseas manufacturers. Therefore, this activity though culminates in supplies to Indian Company, cannot be considered as services provided in India. - *[ATE Enterprises Pvt. Ltd v. Commissioner Of Service Tax, Mumbai, dated 7th January, 2015 (CESTAT)]*

- **WHAT CONSTITUTES "MANPOWER RECRUITMENT OR SUPPLY AGENCY SERVICES": BOMBAY HC**

The Hon'ble HC finding that in the instant case, the respondent was engaging labour for harvesting of sugarcane and loading the same in the vehicle at the farm and unloading the harvest at the factory site. In the facts, such services are not "Manpower Recruitment or Supply Agency Services". As the Agreement itself is eloquent enough to draw the above conclusion that the nature of work undertaken by the respondent must be understood in the context in which it was understood by the respondent and its principal. - *[Commissioner Of Customs, Central Excise And Service Tax v.*

Godavari Khore Cane Transport Company Pvt. Ltd, dated 27th January, 2015 (Bombay HC)]

- *[Commissioner Of Customs, Central Excise And Service Tax v. Godavari Khore Cane Transport Company Pvt. Ltd, dated 27th January, 2015 (Bombay HC)]*

(B) CENTRAL EXCISE

- **DEPARTMENT ISSUES INSTRUCTIONS REGARDING "ISSUE OF SUMMONS IN CENTRAL EXCISE AND SERVICE TAX MATTERS"**

The following guidelines have been issued by the Department, to be followed in both Central Excise and Service Tax matters:-

- (i) Summons by Superintendents should be issued after obtaining prior written permission from an officer not below the rank of Assistant Commissioner with the reasons for issuance of summons to be recorded in writing;
- (ii) Where for operational reasons it is not possible to obtain such prior written permission, oral/telephonic permission from such officer must be obtained and the same should be reduced to writing and intimated to the officer according such permission at the earliest opportunity;
- (iii) In all cases, where summons are issued, the officer issuing summons should submit a report or should record a brief of the proceedings in the case file and submit the same to the officer who had authorised the issue of summons.

(iv) Further, senior management officials such as CEO, CFO, General Managers of a large company or a PSU should not generally be issued summons at the first instance. They should be summoned only when there are indications in the investigation of their involvement in the decision making process which led to loss of revenue.

- *[Instruction No. F. No. 207/07/2014-CX-6 - Central Excise, dated 20th January, 2015]*

- ORDERS ISSUED BY AUTHORITIES, BEYOND THE SCOPE OF SHOW CAUSE NOTICE, DESERVE TO BE SET ASIDE: BOMBAY HIGH COURT**

The allegations in the Show Cause Notice, in the present case, pertained to wrongful avilment of credit or avilment of inadmissible credit. However, the orders by the authorities proceeded on the basis that the declaration under section 57G did not contain the reference to the finished products under Chapter 9306 and 3506. Thus, orders, as issued, by the authorities should have been based and founded the allegations in the show cause notice, which in the instant case was not done by the authorities. In the facts the Hon'ble HC held that the authorities have gone beyond the scope of SCN by referring to the declaration. It further held that, if the credit was inadmissible and therefore wrongfully availed of, then, that was required to be reversed/recovered. In such circumstances, the Tribunal rightly interfered with the concurrent orders and allowed the Assessee's Appeal. - *[Commissioner of Central Excise v. M/S Manish Rubber Enterprises, dated 28th January, 2015 (Bombay HC)]*

(C) CUSTOMS

- TARIFF CONCESSIONS APPLICABLE TO 'GOODS' UNDER THE COMPREHENSIVE ECONOMIC COOPERATION AGREEMENT (CECA) BETWEEN INDIA AND SINGAPORE**

The department vide Notification No. 10/2008-Customs, dated 15th January, 2008, has further deepened the tariff concessions in respect of goods covered under the Comprehensive Economic Cooperation Agreement (CECA) between India and Singapore, by bringing in requisite amendments to the notification in this regard. - *[Notification No. 01/2015 - Customs, dated 5th January, 2015]*

- BORDER HAATS (WEEKLY MARKETS) : EXEMPTION GRANTED TO COMMODITIES TRADED, FROM WHOLE OF THE DUTY LEVIABLE**

The department has amended the Notification No. 60/2011 – Customs, dated 14th July 2011, so as to include Srinagar, Tripura, on the India-Bangladesh Border, in order to extend exemption from the whole of the duty of Customs leviable thereon under the First Schedule to the Customs Tariff Act, 1975 to commodities traded in the Srinagar Border Haat, with effect from the 13th day of January 2015. - *[Notification No. 02/2015 - Customs, dated 6th January, 2015]*

- ANTI-DUMPING DUTY ON SYNCHRONOUS DIGITAL HIERARCHY TRANSMISSION EQUIPMENT: LEVY EXTENDED**

Anti-dumping duty on imports of all kinds of Synchronous Digital Hierarchy Transmission equipment, falling under CTH 8517 62 or 8517 70 of the Customs Tariff Act, originating in or exported from China PR and Israel, has been extended for a further period of one year i.e, upto and inclusive of 07.12.2015.

- [Notification No. 01/2015 - Customs (ADD), dated 5th January, 2015]

- **ANTI-DUMPING DUTY ON MELAMINE: - LEVY EXTENDED**

Anti-dumping duty on imports of melamine, falling under chapter 29 of the Customs Tariff Act, originating in or exported from China PR, has been extended for a further period of one year i.e, upto and inclusive of 18.02.2016. - [Notification No. 02/2015 - Customs (ADD), dated 7th January, 2015]

- **CUSTOMS PROCEDURES SIMPLIFIED: MERGING OF COMMERCIAL INVOICE AND PACKING LIST PERMITTED**

In order to simplify the customs procedures, importers/exporters has been provided with an option of filing a combined commercial invoice-cum -packing list, provided the same contains the specified fields of normal packing list. - [Circular No. 01/2015 - Customs, dated 12th January, 2015]

- **SIMPLIFICATION OF CUSTOMS PROCEDURES FOR SHIPPING - Streamlining the extant procedures at various ports:**

To avoid the delays on account of non-uniform Customs procedures adopted at some ports/Customs stations, it has been decided, by the department, to streamline the extant procedures at various ports, which includes:

- (i) taking into account the requirement of Customs as well the fact that an electronic version of IGM is already available, it has been decided that henceforth the number of hard copies of IGM required to be submitted by shipping lines / steamer agents at a Customs House shall be restricted to 2 (two) only.

- (ii) to give an option to the steamer agent to (a) give a continuity bond and (b) merge the guarantee with the continuity bond.

- (iii) Recognizing the need for reducing number of copies of Sub Manifest Transshipment Permit (SMTP), it has been decided that only 1 (one) copy of SMTP would be sufficient and Customs at ICD should not insist on more number of hard copies of SMTP.

- (iv) With a view to boost inter-modal transportation of trans-shipped cargo and simplify procedure, it has been decided that henceforth no separate permission is required from jurisdictional Customs in case of change of mode of trans-shipment under the Goods Imported (Conditions of Transshipment) Regulations, 1995. However, the carrier is required to intimate the change to the jurisdictional Commissioner of Customs who will ensure the bond covers both modes of transport.

- [Circular No. 02/2015 - Customs, dated 15th January, 2015]

- **IMPORT AND EXPORT OF INDIAN CURRENCY FROM/TO NEPAL OR BHUTAN- Maximum permissible limit -**

Vide Circular, the department has decided that any person resident in India:

- (i) may take outside India (other than to Nepal and Bhutan) currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding Rs.25,000; and
- (ii) who had gone out of India on a temporary visit, may bring into India at the time of his return from

any place outside India (other than from Nepal and Bhutan), currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding Rs.25,000.

- [Circular No. 03/2015 - Customs, dated 16th January, 2015]

- **RE-EXPORT OF GOODS IMPORTED UNDER BONA-FIDE MISTAKE: - CUSTOMS PROCEDURES SIMPLIFIED**

With a view to expedite decision-making in respect of re-export of such goods, it has been decided by the department that the permission for re-export may be granted on merit by the officer concerned as per the adjudication powers. At present, the permission for re-export of goods that are shipped contrary to instruction of the importer has to be granted by Commissioner of Customs. - [Circular No. 04/2015 - Customs, dated 20th January, 2015]

INTELLECTUAL PROPERTY RIGHTS

TRADE MARKS

IN CASES OF DISPARAGEMENT IT IS NECESSARY TO ESTABLISH MALICIOUS INTENTION AND SPECIAL DAMAGE: DELHI HC

In the instant case Plaintiff being a manufacturer of CFLs having a 30% share in the market, filed a case against the Defendant for launching an advertising campaign showing advantages of LEDs over CFLs. The Plaintiff filed a suit for false, misleading and disparaging representations. Hon'ble High Court of Delhi, after due consideration of the matter held that in cases of disparagement it is necessary to establish malicious intention and special damage. And therefore it further held that since there is no malicious intention or special damages, no *prima facie* ingredients of disparagement had been established by the

Plaintiff. - [Philips India Pvt. Ltd. v. Shree Sant Kripa Appliances Pvt. Ltd, dated 19th January, 2015 (Delhi HC)]

- **ESSENTIALS TO ENTERTAIN A PASSING OFF ACTION: BOMBAY HC**

The Hon'ble Bombay HC has held that any actual intention on the part of the defendant to pass off his goods as those of the plaintiff, is not an essential ingredient of a passing off action. The Hon'ble Bombay High Court observed that the defendant claims to have adopted the word "CEFDON" from the name of the principal drug contained in the product, namely, Cefpodoxime. This may *per se* be an honest adoption, but then there was the Plaintiff's trade mark "CEDON" already on the Register. The Defendant could only be said to have adopted its mark "CEFDON" at its own peril. Any actual intention on the part of the defendant to pass off his goods as those of the plaintiff is not an essential ingredient of a passing off action. It is sufficient if there is a likelihood of the goods being so passed off. Accordingly, Plaintiff has made out a case for interim relief even in the passing off action. - [Blue Cross Laboratories v. Rb Remedies Private Limited & Anr., dated 27th January, 2015 (Bombay HC)]

- **DECEPTIVE DOMAIN NAME MAY BE TREATED AS PASSING OFF: DELHI HC**

In this suit for permanent injunction against passing off/infringement of trademark, domain name, copyright and damages was preferred by the plaintiff against the defendant. Hon'ble Delhi High Court after due consideration of the arguments led held that on account of priority in adoption of the coined trademark "indiatimes.com", the plaintiff's trademark "indiatimes" for e-commerce and domain name have acquired extensive reputation. Further, the plaintiff has proved that the defendant had no right or interest in the mark

exclusively belonging to the plaintiff. It also established that the adoption and registration of the defendant's domain name "timebroadbandindia.com" and a website www.timebroadbandindia.com on the internet amounts to infringement of plaintiff's registered trademark and amounts to passing off. Consequently, a decree was passed in favour of the plaintiff and against the defendant for permanent injunction. - *[Times Internet Ltd. v. Time Broadband Services Pvt. Ltd., dated 29th January, 2015 (Delhi HC)]*

CONSUMER

- **RTI applicant is not a “consumer”: NCDRC**

When an RTI Applicant approach consumer forum seeking compensation for deficiency in services rendered by Public Authorities. The three member bench of National Consumer Disputes & Redressal Commission ("**NCDRC**") declared that RTI applicant cannot file a complaint before the Consumer Forum seeking redressal in case of any deficiency services rendered by a Public Information Officer ("**PIO**") or Central Public Information Officer ("**CPIO**"), in any public authority. The judgement clearly articulates that no RTI applicant can be considered as a “consumer”, and that the Consumer Forum is barred from intervening in any matters pertaining to the provisions under the RTI Act. - *[Sanjay Kumar Mishra v. Public Information Officer, dated 8th January, 2015, (NCDRC)]*

- **NO INSURANCE CLAIM, IF DRIVING LICENSE NOT AS REQUIRED: NCDRC**

The NCDRC has denied insurance claim to a man for his commercial vehicle, stating that at the time of accident the driver was holding a licence for only light motor non-transport vehicle. The commission allowed

the revision petition filed by the insurance company and observed that at the time of accident, driver of vehicle was not possessed with the valid driving licence and in such circumstances, Opposite Party (insurance company) has not committed any deficiency in repudiating claim and district forum committed error in allowing the complaint and state commission further committed error in dismissing appeal filed by the insurance company. - *[The Manager, M/s. ICICI Lombard General Insurance Co. Ltd v. Mainuddin, dated 5th January, 2015, (NCDRC)]*

- **MANUFACTURING DEFECT, GIVE A NEW CAR: NCDRC**

In the instant case the NCDRC observed that when a brand new car burns down, there could be no other reason except that there was a manufacturing defect. It directed the manufacturer firm to provide a new Ambassador car to the complainant department and ordered that in case it has stopped manufacturing it, it will pay the current price of the car to the claimant. The commission dismissed the argument of appellant in the revision petition that the car was selected after conducting the road test before buying and it was free from defect. - *[Hindustan Motors Limited v. Ashok Narayan Pawar, dated 9th January, 2015, (NCDRC)]*

ENVIRONMENT

- **NO ENVIRONMENTAL CLEARANCE, NO CONSENT: NGT**

The Chennai bench of the NGT directed the Kerala Pollution Control Board ("**PCB**") not to renew consent to quarries and crusher units at Mookunimala which haven't obtained environmental clearance. - *[The Times of India, dated 29th January, 2015]*

- **SHARP SPIKE IN AIR POLLUTION-NGT ISSUES NOTICE TO 8 CITIES:**

NGT has issued notices to New Delhi, Chennai, Kolkata, Mumbai, Bangalore, Allahabad, Hyderabad and Agra, over the sharp surge in air pollution levels due to increase in the number of privately-owned petrol and diesel-run vehicles. - *[The Times of India, dated 27th January, 2015]*

- **CHOP TREES AND PAY FINE: NGT**

NGT has ordered three persons *i.e.* the owner of the land, an hotelier and his agent to pay a fine of Rs. 10 lakh to the forest department, for chopping 477 trees in Shimla in private land and part of reserve forest land. The bench has also ordered Forest Department to plant 4770 trees on the land in question and the remaining trees that cannot be accommodated to be planted in plots close by. - *[The Times of India, dated 21st January, 2015]*

- **NGT Bans Parking on Roads in Delhi:**

The NGT has imposed complete ban on the parking of cars on the road surface in the National Capital and has

further directed that any violation would lead to a fine of Rs 1,000. - *[Business Standard, dated 19th January, 2015]*

- **NGT BANS VEGETABLE FARMING ON YAMUNA FLOODPLAINS**

NGT has prohibited cultivation of edible crop on the floodplains of Yamuna, stating that the vegetables grown there were "highly contaminated" and their consumption could lead to serious ailments like Cancer. - *[The Indian Express, dated 15th February, 2015]*

- **NGT DIRECTS ATTACHMENT OF ILLEGAL MARRIAGE GARDENS:**

NGT's central zone bench has directed the Bhopal Municipal Corporation ("**BMC**") and MP Pollution Control Board ("**MPPCB**") to seize and attach properties of marriage gardens and banquet halls which are running without valid authorization and permissions from civic body and pollution control board. - *[The Times of India, dated 9th January, 2015]*

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