

TECHNICAL UPDATE

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The amendments introduced in statutes, policies and procedures in respect of Direct Tax, Indirect Tax, Company Law & Accounting Standards, FEMA / EXIM Policy & SEBI related matters are summarized hereunder

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DIRECT TAX

1. Extension of Tax Holiday for STP and EOU Units

The tax holiday available under sections 10A & 10B of the Income Tax Act, 1961 to STPI, EHTP, FTZ and EOU units are now been extended by one more year through the Finance Act, 2008. Consequently, the tax holiday shall now be available to eligible units upto March 31, 2010 i.e. Assessment Year 2010-11. Source – Finance Act, 2008.

2. Amendment in the Scheme of Disallowance for Withholding Tax Defaults

The provisions of section 40(a)(ia) of the Income Tax Act has been amended to provide relief from disallowance on withholding tax defaults in case of payments relating to last month of a financial year. Accordingly, there would be no disallowance in respect of tax to be withheld during the month of march, as long as tax has been deposited on or before the due date of submission of return of income (i.e. September 30th of the immediately following financial year).

Source – Finance Act, 2008.

3. Revision of Monetary Limits for Filing Appeals by Tax Department

With a view to reduce litigation, the Central Board of Direct Taxes has revised the monetary limits for filing appeals by the Department before Income Tax

Appellate Tribunals ('Tribunal'), High Courts and Supreme Court. Accordingly, appeals would henceforth be filed in the Tribunal, High Courts and Supreme Court only if the tax effect exceeded Rs.2,00,000, Rs.4,00,000 and Rs.10,00,000 consecutively.

Source – CBDT Instruction No. 5 dated May 15th, 2008.

INDIRECT TAX

1. Revised rates of exchange for imported and exported goods

The Central Board of Excise and Customs (CBEC) revised the foreign exchange rates for imported and exported goods. The revised rates of exchange will be effective June 1, 2008 as per Schedule I and Schedule II of the notification.

Source: Customs Notification No. 45 –, Dated: May 28, 2008

2. Monthly return for 100% EOU's in respect of goods manufactured, cleared and receipt of inputs and capital goods

The CBEC has specified the following form for the purpose of filing monthly return by 100 % export oriented undertakings in respect of goods manufactured and cleared and in respect of inputs and capital

Source: Central Excise Notification No. 24 – Dated: May 23, 2008.

3 Procedure for sanction of refund / rebate claims of excise duty

The CBEC has laid down the procedure for sanction of refund and rebate of excise duty

Source: Central Excise Circular No. 869-07-2008-CX - Dated: May 16, 2008.

4 Applicability of service tax provisions of the Finance Act 2008

The Central Government has appointed May 16, 2008 as the date on which the provisions of the said Act shall come in force.

Source: Service Tax Notification No. 18 – Dated May 10, 2008.

CORPORATE & OTHER LAWS

1. SEBI simplified Offer Document (OD) and Key Information Memorandum (KIM)

SEBI, with a view to simplify the Offer Document (OD) and Key Information Memorandum (KIM) and to make it more reader friendly revised its formats. The offer Document (OD) is split in to two parts, i.e. Statement of Additional Information (SAI) and Scheme Information Document (SID). The revised formats of Offer Document and Key Information Memorandum would come in to effect from 1 June 2008.

Source: SEBI Circular IMD-No. 5-126096-08 dated 23 May 2008

2. Application money to remain in the investors account till finalization of basis of allotment- SEBI.

SEBI gave an in-principle approval to the concept of providing an alternative mode of payment in issues whereby the application money would remain in the investors' account till finalization of basis of allotment in the issue. The modalities of the process of "Applications Supported by Blocked Amount" (hereinafter referred as ASBA process) were worked out and the same was placed on SEBI's website for public comments. The comments are to be sent latest by 6 June 2008.

Source: SEBI Press Release No. 109-2008 dated 21 May 2008

3. Separate petition for convening the meeting and for sanction of the proposed scheme not required

An application for sanction of a scheme of amalgamation between a subsidiary and holding company was not necessary when the proposed amalgamation neither affected the rights of the members or creditor of the transferee-company nor involved re-organization of its share capital. Consequently, a separate petition for convening the meetings of the shareholders and creditors and for sanction of the proposed scheme was not required.

Source: Punjab Chemicals and Crop Protection Ltd., In re

4. National Advisory Committee constituted

The Central Government constituted an advisory committee called the National Advisory Committee

on Accounting Standards, to advise the government on the formulation and to lay down the accounting standards for adoption by companies or class of companies under the Companies Act 1956. The notification would come to effect from the date of publication in the Official Gazette.

Source: Company Affairs Notification No. S.O.901(E) dated 22 April 2008

5. No condonation allowed if delay is more than statutorily prescribed period

An application for condonation of delay caused in filing an appeal to the High court was dismissed in absence of merit and the fact that the delay was more than the statutorily prescribed period of 120 days. The facts revealed that the delay was due to pursuance of said appeal before an inappropriate forum. The said appeal was against refusal of the CLB to grant an ad interim order restraining the directors of the respondent company from acting as directors during the pendency of a company petition.

Source: Pawan Goel vs KMG Milk Food Ltd. and Ors.

FEMA

1. Establishment of Branch/Liaison Offices in India by foreign entities

With the objective of achieving transparency, RBI has decided that the application for establishing branch/liaison office in India would now be forwarded to the RBI, Mumbai through the route of Authorised Dealer Category I. Further, the power to extend the validity period of liaison offices of foreign entities and closure of their branch/ liaison offices in India has been delegated to the Authorised Dealers with effect from July 01, 2008.

Source: Press Release 2007-2008/1419 dated May 06, 2008

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