



INDIA UPDATE

A monthly Newsletter on business intelligence and opportunities in India

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ADB PROJECTS 7.6% GDP GROWTH FOR INDIA

India's growth which has averaged more than 8% over the past three years driven by broad-based domestic demand and expansive business dynamics, is projected by Asian Development Bank (ADB) to grow 7.6% in FY2006 and 7.8% in FY 2007. This is on account of slight hold back in consumption and investment demand, price adjustments to reduce domestic petroleum subsidies and somewhat higher interest rates. According to ADB, India faces two key policy challenges as it continues its structural transformation. First, it must maintain consolidation of its fiscal position while ensuring spending on infrastructure improvements to support industry and services development, and investment to advance rural productivity and human development. Second, it needs to improve the investment environment by lowering the cost of doing business.

OECD: EXPECTED HIKE IN INTEREST RATE & LOWER SPENDING BY GOVERNMENT TO SLOW DOWN INDIA 'S GROWTH

India's economy may slow down in the current fiscal year with the central bank poised to hike rates and government spending limited by law, the Organization of Economic Cooperation and Development (OECD) said in a report released on 23rd May 2006. The country's economy grew an estimated 8.1% in 2005-06, led by rising incomes and higher industrial and farm growth.

The OECD said consumers were expected to continue to spend as the economy opens to more foreign investment and import duties are cut. "Private consumption growth may only slacken marginally as income growth remains high. At the same time the economy continues its integration into the world economy helped by further tariff reductions."

According to OECD, the biggest risk to the economy is the massive subsidies the government pays to keep fuel prices low. India last raised fuel prices in September 2004, while crude oil has risen more than \$20 to record levels above \$70 since then. The finance ministry recently estimated fuel subsidies costs \$51 million a day. Left parties have stymied plans to raise fuel prices that threaten to bring the subsidy level to unsustainable levels, the OECD warned.

OECD pointed out that a risk to prices and real incomes is the possibility that the current high level of off-budget subsidies for petroleum product prices will be unsustainable, as already some state-owned companies are running at a loss, thereby limiting their ability to borrow to cover losses and to invest in new refining and distribution capacity. It further observed that aligning domestic prices to world market prices is likely to reduce consumer demand and may also remove some of the temporary advantage gained through the implicit subsidy to exports.

MOODY UPGRADES OUTLOOK ON INDIA'S DOMESTIC CURRENCY DEBT RATING

International rating agency Moody's Investors Service has upgraded the outlook on India's domestic currency debt rating to 'stable' from 'negative' due to the country's improved debt profile. The move on India's Ba2-rated domestic currency debt brought its outlook in line with those of other Indian ratings. India's foreign currency debt is assigned an investment grade Baa3 rating by Moody's.

"The main explanation for the shift in the trajectory of the debt ratios, after many years of deterioration, is the combination of robust nominal gross domestic growth and cost savings achieved as lower interest rates mitigated the costs of servicing an ever-higher debt," Moody's said.

It added that these factors are likely to keep the public debt high, but at worst, the trend is likely to flatten out even in the absence of reinforcing structural adjustment. Local investors such as commercial banks and life insurers are the biggest investors in federal bonds. Total foreign investment in federal bonds is limited to \$2bn. The government mainly uses the domestic market to fund nearly 70% of its fiscal deficit, which it aims to reduce to 3.8% of GDP in the current fiscal year to the end of March '07 from 4.1% a year earlier.

Moody's outlook upgrade comes two weeks after S&P raised the outlook on India's sovereign credit rating to 'positive' from 'stable', and raised the prospect of a possible rating upgrade to investment grade if public finances improved further.

RBI LIBERALIZES LIMITS FOR REMITTANCE OF INITIAL & RECURRING EXPENSES FOR OVERSEAS BRANCH OFFICES

The Reserve bank of India (RBI) had earlier permitted Authorised Dealer (AD) Banks to allow remittance up to two and one percent of average annual sales/income or turnover during last two accounting years of the Indian entity for initial and recurring expenses respectively of the branch or office or representative abroad.

RBI has increased the aforesaid limits and has now permitted AD Banks to allow remittance up to ten percent for initial and up to five percent for recurring expenses of the average annual sales/income or turnover during last two accounting years subject to the existing terms and conditions which are summarized hereunder.

A firm or a company or a body corporate registered or incorporated in India (hereinafter referred to as 'the Indian entity') may open, hold and maintain in the name of its office (trading or non-trading) or its branch set up outside India or its representative posted outside India, a foreign currency account with a bank outside India by making remittances from India for the purpose of normal business operations of the office/branch or representative;

Provided that -

- the overseas branch/office has been set up or representative is posted overseas for conducting normal business activities of the Indian entity;
- the overseas branch/office/representative shall not enter in any contract or agreement in contravention of the Act, Rules or Regulations made thereunder;
- the account so opened, held or maintained shall be closed,
 - if the overseas branch./office is not set up within six months of opening the account, or
 - within one month of closure of the overseas branch/office, or
 - where no representative is posted for six months.

and the balance held in the account shall be repatriated to India ;

Provided further that the aforesaid limits of 5% and 10% shall not apply in a case where -

- the remittances to the account maintained under this sub-Regulation are made out of funds held in EEFC account of the Indian entity, or
- the overseas branch/office is set up or representative posted by a 100% EOU or a unit in EPZ or in a Hardware Technology Park or in a Software Technology Park , within two years of establishment of the Unit.

For the purpose of this sub-Regulation,

- Purchase or acquisition of Office equipments and other assets required for normal business operations of the overseas branch/office/representative will not be deemed as a capital account transaction;
- Transfer or acquisition of immovable property outside India, other than by way of lease not exceeding five years, by the overseas branch/office/representative will be subject to the Foreign Exchange Management (Acquisition and Transfer of Immovable Property outside India) Regulations, 2000.

EXTENSION OF PERIOD OF REALIZATION IN RESPECT OF EXPORT OF GOODS & SERVICES

The Reserve bank of India (RBI) had earlier permitted Authorised Dealer (AD) Banks to grant extension of time for realization of export proceeds beyond the prescribed period from the date of export (i.e. within six months from the date of exports), where invoice value does not exceed US\$ 100,000 subject to certain conditions. As a measure of further liberalization, RBI has now been decided to increase the invoice value limit to US\$ 1 million from existing US\$ 100,000. Accordingly, AD banks may henceforth grant extension of time for realization of export proceeds beyond prescribed period of six months from the date of export up to the invoice value of US\$ 1 million subject to existing terms and conditions which are summarized hereunder.

- the AD is satisfied that the exporter has not been able to realise export proceeds for reasons beyond his control;
- the exporter submits a declaration that he will realise the export proceeds during the extended period;
- the extension may be granted upto a period of 3 months at a time and while considering the extension beyond one year from the date of export, the total export outstandings of the exporter should not be more than 10% of the average of export realisations during the preceding three financial years.

INTEREST RATE CEILING ON RUPEE EXPORT CREDIT

At present, the ceiling on interest rates on pre-shipment rupee export credit up to 180 days and post-shipment rupee export credit up to 90 days is stipulated at BPLR minus 2.5 per cent. This dispensation is valid up to April 30, 2006 . RBI has decided to extend the validity of the above dispensation up to October 31, 2006.

POLICY ON TRANSFER OF AIRPORT INFRASTRUCTURE IN CASE OF MERGER/TAKE OVER OF AIRLINES

The Aircraft Acquisition Committee (ACC) of the Ministry of Civil Aviation had in its meeting held on 28th March 2006 considered the issue of policy on transfer of Airport Infrastructure in case of merger/take over of airlines. It was been decided that only the user rights over such infrastructure that are given to an airline on non-payment basis eg. Parking bays, landing slots etc. may be allowed to be used by the airline that takes over the aircraft. For all other rights, the terms of lease/sale agreement between airport operator and airline will apply.

User rights may be allowed to be used by the airlines that take over the aircraft only in respect of those rights, which are actually under use by the airline that transfers the aircraft. All other rights will be taken over by Government/airport operator. The user rights will be available with the airlines that takes over the aircraft only till such time that the infrastructure concerned is under actual use.

The recommendations of the Aircraft Acquisition Committee have been accepted by the Government and accordingly, these Regulations will apply in case of merger, acquisition or take over of airlines

SEBI GUIDELINES FOR QUALIFIED INSTITUTIONS PLACEMENT (QIP)

The Securities & Exchange Board of India (SEBI) has issued the following Guidelines for issue of securities to Qualified Institutional Investors:

1. Applicability

These Regulations shall apply to any issue of equity shares / fully convertible debentures (FCDs) / partly convertible debentures (PCDs) or any securities other than warrants, which are convertible into or exchangeable with equity shares at a later date (hereinafter referred to as "specified securities"), made to Qualified Institutional Buyers (QIBs) pursuant to this chapter, by a listed company which fulfills the following conditions:

- its equity shares of the same class are listed on a stock exchange having nation wide trading terminals; and
- it is in compliance with the prescribed minimum public shareholding requirements of the listing agreement.

Explanation:

- The term "Qualified Institutional Buyers" shall mean:
 - Public financial institution as defined in section 4A of the Companies Act,1956;
 - Scheduled commercial banks;

- Mutual funds;
- Foreign institutional investor registered with SEBI;
- Multilateral and bilateral development financial institutions;
- Venture capital funds registered with SEBI;
- Foreign venture capital investors registered with SEBI;
- State industrial development corporations;
- Insurance companies registered with the Insurance Regulatory and Development Authority (IRDA);
- Provident funds with minimum corpus of Rs. 250 million;
- Pension funds with minimum corpus of Rs. 250 million
- For the purpose of above clause, securities that are convertible into or exchangeable with securities which are listed on a stock exchange having nation wide trading terminals, shall be deemed to be securities of the class into which they are convertible or with which they are exchangeable.

2. Investors

Only QIBs shall be eligible for allotment of specified securities issued pursuant to these regulations.

- Minimum of 10 per cent of specified securities issued pursuant to this chapter shall be allotted to mutual funds.
- If no mutual fund is agreeable to take up the minimum portion mentioned hereinabove or any part thereof, such minimum portion or part thereof may be allotted to other QIBs.
- No allotment shall be made under this chapter, either directly or indirectly, to any QIB being a promoter or any person related to promoter/s.

Explanation:

For the purpose of this clause, QIB who has all or any of the following rights shall also be deemed to be a person related to promoter/s:

- rights under a shareholders' agreement or voting agreement entered into with promoters or persons related to the promoters;
- veto rights; or
- right to appoint any nominee director on the board of the issuer.

Provided that a QIB who does not hold any shares in the issuer and who has acquired the aforesaid rights in the capacity of a lender shall not be deemed to be a person related to promoter/s.

Investors shall not be allowed to withdraw their bids after the closure of issue.

3. Pricing

3.1 An issue of specified securities made under this Chapter shall be made at a price not less than the higher of the following:

- The average of the weekly high and low of the closing prices of the related shares quoted on the stock exchange during the six months preceding the relevant date;

OR

- The average of the weekly high and low of the closing prices of the related shares quoted on the stock exchange during the two weeks preceding the relevant date.

Explanation:

"relevant date" for the purpose of this clause means the day which is thirty days prior to the date on which the

meeting of general body of shareholders is held, in terms of sub-section (1A) of Section 81 of the Companies Act, 1956 or other applicable provision to consider the proposed issue.

"stock exchange" for the purpose of this clause means any of the recognised stock exchanges in which the equity shares of the issuer of the same class are listed and in which the highest trading volume in such shares has been recorded during the six months immediately preceding the relevant date.

3.2 Pricing of shares on conversion

- Where securities which are convertible into or exchangeable with equity shares at a later date are issued pursuant to this Chapter, the issuer shall determine the price of the resultant shares in terms of clause 13A.3.1 above, subject to clause 13A.3.2.2.
- The relevant date for the above purpose may, at the option of the issuer, be either the one referred in Explanation (a) to clause 13A.3.1 or a day thirty days prior to the date on which the holder of the securities which are convertible into or exchangeable with equity shares at a later date becomes entitled to apply for the said shares.
- The specified securities allotted pursuant to this Chapter shall be made fully paid up at the time of their allotment.

4. Adjustments in price

The prices considered for determination of issue price of specified securities as provided in clause 13A.3.1 and 13A.3.2.1 shall be subject to appropriate adjustments if the issuer company:

- makes an issue of shares by way of capitalization of profits or reserves (other than by way of a dividend on shares);
- makes an issue of shares on rights basis
- consolidates its outstanding shares into a smaller number of shares;
- divides its outstanding shares (including by way of stock split);
- re-classifies any of its shares into other securities of the company;
- is involved in such other similar events or circumstances, which in the opinion of the concerned Stock Exchange, requires adjustments.

5. Currency of the Security

In case of a security which is convertible into or exchangeable with equity shares at a later date, the same may be converted/ exchanged in to equity shares at any time after the date of allotment of the security, no later than sixty months from the date of allotment.

6. Shareholders' Resolution

- Allotment of specified securities issued pursuant to this Chapter shall be completed within twelve months from the date of passing of the resolution in terms of sub-section (1A) of Section 81 of the Companies Act, 1956 or any other applicable provision.
- The resolution passed at the meeting of shareholders referred to in clause 13A.6.1 above shall specify that the allotment is proposed to be made to QIBs pursuant to this Chapter and shall also specify the relevant date on the basis of which price of the resultant shares as specified under clause 13A.3.2.2 shall be determined.
- The placements made pursuant to authority of the same shareholders' resolution shall be separated by at least six months between each placement.

7. Placement Document

- Specified securities shall be issued pursuant to these Regulations on the basis of a placement document.
- The placement document shall contain all material information, including the information specified in Schedule XXIA issued by SEBI.
- The placement document shall be a private document provided to select investors, through serially numbered copies.
- The placement document shall also be placed on the website of the concerned stock exchange and of the issuer with a disclaimer to the effect that it is in connection with an issue to QIBs under this Chapter and that no offer is being made to the public or to any other category of investors.
- A copy of the placement document shall be filed with the Board for record purpose within 30 days of the allotment of specified securities.

8. Number of allottees

The minimum number of allottees for each placement of specified securities made pursuant to this Chapter shall not be less than:

- two, where the issue size is less than or equal to Rs. 2.50 billion;
- five, where the issue size is greater than Rs. 2.50 billion.

Provided that no single allottee shall be allotted more than 50% of the issue size. Provided further that QIBs belonging to the same group or those who are under common control shall be deemed to be a single allottee for the purpose of this clause.

Explanation:

For the purpose of this clause –

- The expression 'QIBs belonging to the same group' shall derive meaning from the concept of 'companies under the same group' as provided in sub-section (11) of Section 372 of the Companies Act, 1956;
- "Control" shall have the same meaning as is assigned to it by clause (c) of Regulation 2 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997.

9. Restrictions on amount raised

The aggregate of the proposed placement and all previous placements made in the same financial year pursuant to these Regulations shall not exceed five times the net worth of the issuer as per the audited balance sheet of the previous financial year.

10. Transferability of specified securities

Specified securities allotted pursuant to these Regulations shall not be sold by QIB for a period of one year from the date of allotment, except on a recognised stock exchange.

Explanation:

For the purpose of this clause, it is clarified that any sale by way of a bulk or block transaction in accordance with the procedures prescribed by the Board and the stock exchange, shall also be treated as a sale on a recognised stock exchange.

11. Obligations of Merchant Bankers

Any issue and allotment of specified securities pursuant to this Chapter shall be managed by Merchant Banker(s) registered with SEBI.

- The merchant banker shall exercise due diligence.
- The merchant banker shall furnish to each stock exchange on which the same class of shares or other securities are listed, a due diligence certificate stating that the issue is being made pursuant to this Chapter and complies with its requirements, along with the application made for seeking in-principle approval for listing of the specified securities.
- The merchant banker shall also furnish to each stock exchange on which the same class of shares or other securities are listed, the documents, undertakings, etc, if any, specified in the listing agreement for the purpose of seeking in-principle approval and final permission from Stock Exchanges for listing of the specified securities.

12. Issuer Certification

The issuer shall furnish a copy of the placement document to each stock exchange on which the same class of shares or other securities are listed.

- The issuer shall also furnish to each stock exchange on which the same class of shares or other securities are listed, a certificate stating that the issue is being made pursuant to this Chapter and complies with its requirements, along with the application made for seeking in-principle approval for listing of the specified securities.
- The issuer shall also furnish to each stock exchange on which the same class of shares or other securities are listed, the documents, undertakings, etc, if any, specified in the listing agreement for the purpose of seeking in-principle approval and final permission from Stock Exchanges for listing of the specified securities.

13. Non-applicability of Chapter XIII

Nothing contained in Chapter XIII of shall apply to an issue of specified securities made pursuant to these Regulations.

PATENTS (AMENDMENT) RULES NOTIFIED – A MAJOR STEP FORWARD IN DEVELOPING USER-FRIENDLY IPR REGIME

The Patents (Amendment) Rules 2006 have been notified by the Government of India on 5th May 2006 with a view to introduce transparency, decentralize the functioning of Patent Offices, simplify the procedures and to make them user-friendly.

In order to decentralize as well as facilitate the patent administration, all patent related activities can now be performed by all the Patent Offices at Kolkata, Chennai, Delhi and Mumbai.

Patent applications are now to be mandatorily published within one month after expiry of the statutory period of 18 months and, in case of request for an early publication, the application is to be published within one month from the date of request. This step will introduce an element of certainty regarding the date of publication which was hitherto not available.

With a view to enforcing transparency and ensuring time bound disposal of patent applications, definitive time frames have been prescribed for various activities by the Patent Offices. A patent application now has to be referred to an Examiner within one month of a request for its examination. Further, the Controller will now be required to take a decision on the report of the Examiner within one month of its submission and the First Examination Report has also to be issued within six months of the date of request for examination of a patent application. The time for granting permission to file patents abroad has also been reduced to just 21 days.

In order to make the system user-friendly, timelines available for applicants and the public have also been extended. Accordingly, the time frame for making a request for examination has been extended from 36 to 48 months; time for filing a pre-grant opposition extended from 3 to 6 months; time for filing reply to pre-grant opposition extended from 1 to 3 months; and time for meeting the requirements of the First Examination Report increased to 12 months.

CBDT- DRAFT INSTRUCTIONS: TESTS FOR DISTINGUISHING BETWEEN SHARES HELD AS STOCK-IN-TRADE AND SHARES HELD AS INVESTMENT

The Central Board of Direct Taxes (CBDT) in its instruction no.1827 dated 31-08-1989 had laid down certain tests to distinguish between shares held as stock-in-trade and shares held as investment. The draft instructions issued by CBDT inviting comments from all stakeholders lays down the following supplementary instructions in this regard to provide further guidelines for determining whether a person is a trader in stocks or an investor in stocks:

- Whether the purchase and sale of securities was allied to his usual trade or business / was incidental to it or was an occasional independent activity.
- Whether the purchase is made solely with the intention of resale at a profit or for long term appreciation and/or for earning dividends and interest.
- Whether scale of activity is substantial.
- Whether transactions were entered into continuously and regularly during the assessment year.
- Whether purchases are made out of own funds or borrowings
- The stated objects in the Memorandum and Articles of Association in the case of a corporate assessee
- Typical holding period for securities bought and sold
- Ratio of sales to purchases and holding
- The time devoted to the activity and the extent to which it is the means of livelihood.
- The characterization of securities in the books of account and in balance sheet as stock in trade or investments.
- Whether the securities purchased or sold are listed or unlisted.
- Whether investment is in sister/related concerns or independent companies.
- Whether transaction is by promoters of the company.
- Total number of stocks dealt in.
- Whether money has been paid or received or whether these are only book entries.

The Assessing Officers are also advised by CBDT that no single criterion listed above is decisive and total effect of all these criteria should be considered to determine the nature of activity.

This circular is bound to have significant impact since distinction as to whether the income arising from sale of shares would be capital gains (when shares are held as investment) or business income (when shares held as stock-in-trade) would determine the taxability of the investor. If it is capital gains, then the long term capital gains is exempt under the Income Tax Act, 1961 provided the applicable Securities Transactions Tax is paid by the buyer and the seller. The short term capital gains tax on listed securities on which applicable Securities Transactions Tax is paid is 11.22%, (inclusive of surcharge and education cess). However, if the income is treated as business income, then, the same would be subject to tax at the rate of 41.82% in the hands of a foreign investor or at the rate of 33.66% in the hands of a resident investor

APEX COURT: SALES TAX CANNOT BE IMPOSED ON SALE OF LOTTERY TICKETS

The Supreme Court (SC) has held that the state governments cannot levy tax on the sale of lottery tickets. A five-judge Constitution Bench, headed by Justice Ruma Pal, overruling a 1986 judgment of the apex Court, said that sale of lottery tickets cannot be equated with sale of goods and hence tax cannot be imposed. Delivering the judgment on a bunch of petitions challenging the levy of sales tax on lottery tickets, the Bench said that its order would be effective prospectively from the date of its judgment.

The SC in 1986 had held in H.Anraj Vs. Government of Tamil Nadu that tax could be levied on sale of lottery tickets. This judgment was based on the premise that a lottery ticket essentially involved transfer of two rights viz., the Right to participate in the lottery draw and the Right to win the prize depending on chance. It held that while the right to win the prize was an actionable claim and hence not 'goods' for the purposes of Sales Tax, the right to participate was held not to be an actionable claim and hence liable to sales tax.

A five-judge Constitution Bench of the SC in *Sunrise Associates Vs. Government of NCT of Delhi & Others* has overruled the above decision by holding that sale of lottery is essentially a sale of a “chance to win” and distinction between chance to win and right to participate is unwarranted since neither of the rights can stand without the other as they are inseparable. SC also observed that a ticket being a physical article may not necessarily be a “good”. The lottery ticket is essentially an evidence of a contract and in some cases (like a railway ticket or a cinema ticket), the contract between the vendor and buyer of the ticket. Its true character and hence its taxability would depend on what it represents.

ITAT : FOREIGN ENTITIES SUPPLYING “SHRINK WRAP” SOFTWARE TO AN INDIAN COMPANY FOR RESALE NOT LIABLE TO PAY TAX IN INDIA

The Income Tax Appellate Tribunal, Delhi Bench (ITAT) has held that foreign entities supplying “shrink wrap” software — standard software to an Indian company for resale purposes were not liable to pay tax in India. The decision by ITAT on a case filed by Lotus Development (Asia Pacific) would make it easier for MNCs to supply such software without having to pay tax here as royalty income on it.

The decision is based on an earlier case involving Samsung, which was decided by the Bangalore bench of the Tribunal as to whether software supplied to the Indian distributors for resale to end users was in the nature of royalty income and so taxable in India. The case was decided in favour of Samsung, but the income tax department has appealed against the order in the High Court and the matter is yet to be heard.

In the present case, the company contended that the supply of the software did not grant any license to duplicate the software to the distributors or to end users. Accordingly, there was no intellectual property right or copyright transfer in the arrangement. However, the revenue department said the computer software was only licensed to end users in India for use. The sum paid, therefore, did not comprise a sale and was, instead, a consideration for grant of a license to use the product. It therefore qualified as a royalty income liable to be taxed in India .

The term shrink-wrap refers to the practice of software manufacturers, including a written agreement printed either inside or on the outside of the box the software comes in. It stipulates that opening the box, i.e. removing the shrink-wrap or opening a separate shrink-wrapped set of disks was explicit acceptance of the agreement.

This decision on top of the earlier decision will bolster the contention of MNCs that sale of “shrink wrap” software does not involve grant of any license so as to come within the meaning of the term “royalty”.

Source: Economic Times

ITAT: LONG TERM CAPITAL LOSSES CAN BE SET OFF AGAINST SHORT TERM CAPITAL GAINS (A.Y. 1988-89 TO 2002-03)

A special bench of the Income Tax Appellate Tribunal in Mumbai has ruled in a long pending income tax case that Foreign Institutional Investors (FIIs) could set off long-term capital losses against short-term capital gains. The ruling will have applicability to all cases until the Financial year ended on 31st March 2002 (i.e., up to Assessment Year 2002-03), as the Income Tax Act was silent on whether the losses could be set off in such a manner. FIIs are set to benefit considerably by this decision since this would ensure that long-term capital losses are set off against short term capital gains which suffer a higher tax rate of 30%. It is pertinent to note that while short-term capital gains were taxable at a higher rate of 30%, long term gains were taxed at 10%. The Income Tax department argued that this was not permissible and that FIIs should have set off the losses only against long term gains. The net effect of this decision is that the tax department stands to lose 20% in revenues, which runs into several millions of rupees.

ITAT: DETAILS OF EXPENSES INCURRED IN RESPECT OF ALLOWANCES NOT NECESSARY UNLESS SUCH ALLOWANCES ARE UNREASONABLE/DISPROPORTIONATE

The Income-Tax Tribunal, Mumbai (ITAT) has held in the case of an employee with the Shipping Corporation of India that if a salaried employee spends his allowance during the course of his duty, the I-T department is bound to accept the contention of the tax payer that he had spent the allowance in full, even if the claim is not backed by the necessary evidence. The allowance thus claimed should appear reasonable and should be in proportion to the salary.

In this case, the employee with the Shipping Corporation of India had claimed exemption for uniform making allowance and uniform washing allowance amounting to Rs 51,554. The tax authorities declined to exempt the allowance from taxation on the ground that the evidence produced to prove that he had actually spent the amount, was insufficient. Section 10 (14) (I) of the Income-Tax Act provides for allowances for the purpose of meeting expenses incurred for official duties, but the exemption is available only to the extent to which such expenses are actually incurred. The assessing officer disallowed the exemption only on the ground that there were insufficient proofs that the tax payer has actually spent the allowance.

The ITAT order says that the tax authorities cannot insist on details of expenses actually incurred unless the specific allowances are disproportionately high compared to the salary received by him or is unreasonable with reference to the nature of duties performed by the taxpayer. The ITAT, in its order, had also quoted from CBDT circular dated April 1 1955 that "Special allowance or benefit being reasonable and not disproportionately high — No details of expenses actually incurred need be asked for the purpose of granting exemption under section 4 (3) of 1922 Act", in support of its decision.

SNAPSHOT OF GLOBAL MARKETS - APRIL 2006 KEY STOCK MARKET INDICES

INDEX	OPENING (01/04/2006)	HIGHEST IN APRIL 2006	LOWEST IN APRIL 2006	CLOSING (30/04/2006)
BSE SENSEX	11342.96	12102.00	10008.43	12042.00
S&P CNX NIFTY	3403.15	3592.75	3290.35	3557.10
DOW JONES I.A.	11165.91	11468.16	11017.43	11367.14
NASDAQ COMPOSITE	2352.40	2378.32	2299.42	2322.57
FTSE 100	5988.50	6137.10	5974.50	6023.10
NIKKEI	17127.61	17563.37	16750.50	16906.23

PRICES OF KEY COMMODITIES (US\$)

COMMODITY	OPENING (01/04/2006)	HIGHEST IN APRIL 2006	LOWEST IN APRIL 2006	CLOSING (30/04/2006)
GOLD - SPOT (NY)	586.20	655.20	583.00	651.60
SILVER - SPOT (NY)	11.57	14.69	11.48	13.51
PLATINUM - SPOT(NY)	1068.00	1146.00	1061.00	1146.00
COPPER (COMEX)	2.525	3.415	2.518	3.336
ALUMINIUM (COMEX)	1.160	1.306	1.132	1.260
BRENT CRUDE (IPE)	67.04	74.79	66.06	72.02
NYMEX CRUDE OIL	68.50	75.35	67.05	71.88

KEY GLOBAL CURRENCY RATES AGAINST USD

CURRENCY	OPENING RATE (01/04/2006)	HIGHEST IN APRIL 2006	LOWEST IN APRIL 2006	CLOSING RATE (30/04/2006)
EURO/USD	1.2137	1.2639	1.2034	1.2638
GBP/USD	1.7416	1.8263	1.7248	1.8263
USD/JPY	117.56	113.66	118.89	113.88
USD/INR	44.66	45.24	44.34	45.00

MAJOR CURRENCIES AGAINST INR

CURRENCY	OPENING RATE (01/04/2006)	HIGHEST IN APRIL 2006	LOWEST IN APRIL 2006	CLOSING RATE (30/04/2006)
USD/INR	44.66	45.24	44.34	45.00
EURO/INR	54.20	56.87	53.90	56.87
GBP/INR	77.45	78.09	76.65	77.62
JPY/INR	37.99	39.55	37.68	39.55

INTEREST RATES

MIBOR (NSE)

PERIOD	OPENING RATE (01/04/2006)	HIGHEST IN APRIL 2006	LOWEST IN APRIL 2006	CLOSING RATE (30/04/2006)
OVERNIGHT	6.43	6.43	5.59	5.68
14 DAY	7.81	7.81	6.07	6.16
1-MONTH	5.70	5.70	5.37	5.55
3-MONTH	8.58	8.58	6.83	6.97

LIBOR - USD

PERIOD	OPENING RATE (01/04/2006)	HIGHEST IN APRIL 2006	LOWEST IN APRIL 2006	CLOSING RATE (30/04/2006)
1-MONTH	4.83	5.04	4.83	5.04
3-MONTH	5.00	5.15	5.00	5.13
6-MONTH	5.14	5.29	5.14	5.22
12-MONTH	5.29	5.42	5.28	5.33

LIBOR - EURO

PERIOD	OPENING RATE (01/04/2006)	HIGHEST IN APRIL 2006	LOWEST IN APRIL 2006	CLOSING RATE (30/04/2006)
1-MONTH	2.65	2.67	2.64	2.67
3-MONTH	2.82	2.85	2.76	2.85
6-MONTH	2.99	3.04	2.91	3.04
12-MONTH	3.25	3.32	3.16	3.32

LIBOR - GBP

PERIOD	OPENING RATE (01/04/2006)	HIGHEST IN APRIL 2006	LOWEST IN APRIL 2006	CLOSING RATE (30/04/2006)
1-MONTH	4.59	4.63	4.58	4.63
3-MONTH	4.61	4.67	4.61	4.66
6-MONTH	4.66	4.73	4.65	4.72
12-MONTH	4.78	4.87	4.74	4.87

LIBOR - JPY

PERIOD	OPENING RATE (01/04/2006)	HIGHEST IN APRIL 2006	LOWEST IN APRIL 2006	CLOSING RATE (30/04/2006)
1-MONTH	0.076	0.081	0.075	0.076
3-MONTH	0.113	0.114	0.112	0.113
6-MONTH	0.171	0.193	0.171	0.192
12-MONTH	0.343	0.384	0.343	0.384

US T-BILL

PERIOD	OPENING RATE (01/04/2006)	HIGHEST IN APRIL 2006	LOWEST IN APRIL 2006	CLOSING RATE (30/04/2006)
	Discount/Yield	Discount/Yield	Discount/Yield	Discount/Yield
1-MONTH	4.58/4.66	4.58/4.66	4.46/4.54	4.51/4.60
3-MONTH	4.55/4.67	4.67/4.79	4.55/4.67	4.65/4.77
6-MONTH	4.68/4.86	4.79/4.98	4.65/4.83	4.73/4.91

KEY CENTRAL BANK RATES

	30/04/2006	1 MONTH PRIOR	3 MONTH PRIOR	6 MONTH PRIOR	1 YEAR PRIOR
US FEDERAL RESERVE FUNDS RATE*	4.75	4.75	4.50	4.00	3.00
EUROPEAN CENTRAL BANK RATE	2.50	2.50	2.25	2.00	2.00
BANK OF ENGLAND RATE	4.50	4.50	4.50	4.50	4.75
RESERVE BANK OF INDIA - BANK RATE	6.00	6.00	6.00	6.00	6.00

* US FED Rate increased to 5.00% with effect from 10th May 2006

PRIME RATES

CURRENCY	RATE (30/04/2006)
USD	7.75
EURO	3.50
GBP	4.50
JPY	1.38
INR	10.25 to 10.75

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