India Update: May – June 2010

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Japanese companies to help India upgrade cities

India has an agreement with a group of Japanese companies including Toshiba Corp., Tokyo Gas Co., and Mitsubishi Heavy Industries Ltd. to upgrade and develop cities modeled on Japan's Yokohama and Kitakyushu towns.

The Japanese companies will study the possibility of using technology to reduce pollution, recycle industrial wastes and optimize energy supplies in Indian cities.

The Japanese companies will help develop cities in Haryana, Maharashtra and Gujarat states in the first phase, along an industrial corridor connecting the capital, New Delhi, and the financial hub of Mumbai. Other companies in the group are Hitachi Ltd., JGC Corporation. and Kyocera Corporation.

The proposal to upgrade cities is part of a plan to improve industrial infrastructure along the 1,483-kilometer (921-mile) Delhi-Mumbai freight corridor, which is partly being funded by the Japan Bank for International Cooperation. The plan aims to woo investment to factories and generate jobs.

FIIs without local office tax-exempt

In a ruling on April 29, 2010 the court held that the earnings of FIIs registered in India are business income and are not taxable if the FII does not have a permanent establishment in the country.

The ruling is significant as it included investors from countries such as the UK and the US. Unlike the Mauritius-based FIIs, which are covered by the double taxation avoidance agreement, the American and British-based funds do not enjoy tax exemption.

Permanent establishment refers to the legal entity set up by a fund to manage its operations. A fund can be registered with Sebi without having a permanent establishment.

The ruling came on a case involving the UK-based Prudential Assurance Company, a Sebi-registered sub-account of an FII. Prudential had obtained a ruling from the Authority of Advance Rulings (AAR) in 2001 saying that its income from buying and selling shares in India was business profit.

Since the company did not have a permanent establishment these profits were not taxable and so no tax was paid. However, the income-tax authorities issued a show-cause notice to Prudential in March 2010 citing a contrary AAR ruling on a similar issue involving Fidelity Northstar Fund. The AAR in the Fidelity case held its income was capital gains and hence subject to short-term capital gains tax.

The high court held that the ruling of the Authority of Advance Rulings, a quasi-judicial body set up to give opinion to guide foreign companies on their potential tax liabilities, is binding to that case and tax authorities cannot set it aside.

The ruling will also allow these FIIs that do not have a permanent establishment to seek a favourable advance ruling from the Authority of Advance Ruling (AAR) or argue their case before the tax authorities.

"The assessment order of the Authority of Advance Rulings gives effect to a binding precedent and cannot be regarded as being erroneous or as being prejudicial to the interests of the Revenue," the court said. However, this is unlikely to settle the debate over taxation of capital gains made by FIIs in India as the High Court's decision does not preclude the AAR from giving a contrary ruling again. Only a Supreme Court decision can provide a binding certainty on the issue. There are many such cases pending before the apex court.

Oversight body to plug breaches in FDI

The government is likely to subject all investments in sectors closed to foreign investments to greater scrutiny through a new oversight body to ensure that foreign capital does not slip into these sectors undetected.

There have been allegations that under the new foreign direct investment policy overseas investments could be routed into the sectors closed to such investments.

The prohibited sectors include multi-brand retail, gambling, betting, lottery, atomic energy and plantation.

The new FDI policy says that any company that has more than 50% local holding and has the right to appoint a majority of its board members will be considered an Indian company. All the investment such an Indian company makes into a subsidiary or a joint venture will be considered as Indian investment even if the company has foreign investments.

This means that an Indian company as per the new definition but having foreign investment could invest in sectors closed to foreign investment through a subsidiary structure. The government has tightened the rule to say that such a company will not be allowed to invest in sectors in which FDI is prohibited. Only an Indian company that has nil foreign direct investment can invest in these sectors.

The proposed oversight body will determine the foreign investment component in a company or essentially specify if an entity is completely Indian owned to invest in these sectors. The move will ensure that foreign investment does not enter in such sectors indirectly through layered corporate structures when the government has intentionally not opened them.

Experts, however, term such a move as retrograde and one that would create one more unnecessary layer of clearance.

Convertible notes may get FDI tag

The finance ministry wants to tighten the definition of foreign investments to include instruments that carry potential voting rights, such as convertible debentures.

This could be worrying for companies that have marginally less than 50% foreign investments and have such convertibles on their balance sheet, for they could be labelled a foreign company if the overseas stake in them crosses 50% after including these instruments.

The new FDI policy classifies a company as Indian if it has less than 50% foreign investment and the majority of directors on the company's board are resident Indians.

A number of companies have less than 50% foreign investment but have issued quasi-equity instruments such as convertible debentures with voting rights to foreign investors, allowing investor to effectively exercise control over the entity.

A company that is classified as a foreign one faces many restrictions under the new FDI policy. All investments by such a company in a subsidiary or joint venture are counted as foreign investment.

This limits ability of foreign companies from investing in sectors that are closed to foreign investments such as multi-brand retail or sectors that have low limits on foreign investments.

The new FDI circular has attempted to clear the ambiguity in this respect including convertible preference shares issued to overseas investors while calculating foreign investment in a company, but the finance ministry is still pushing for more clarity on the issue.

The ministry has also proposed stringent norms for companies having foreign investment of less than 50%. Such companies will be required to take an approval from the Foreign Investment Promotion Board to invest in a sector with cap on FDI, he said. A clarification in this regard may be issued as an amended guideline on FDI in the form of Press Notes.

Special purpose foods to come under government scanner

New guidelines to examine veracity of claims made by food companies

Are slimming cereals, rejuvenating sports drinks and tooth-whitening chewing gums for real? Consumers are about to find out.

Armed with a new set of rules, the government will take a long, hard look at the claims made by companies that make 'special purpose' foods.

The Food Safety and Standards Authority of India (FSSAI), an autonomous statutory body to ensure food safety, plans to regulate foods for special purposes as well as nutritional uses after an outpouring of complaints against misleading and false claims trumpeted by companies. The FSSAI, under the aegis of the health ministry, will frame new guidelines to examine the veracity of claims of all such foods in any form.

All claims made by foods companies on dietary supplements will come up for consideration by the authority - only products sold under medical advice will be exempted from the new rules. Special dietary supplements would include functional foods, nutraceuticals, anti-obesity foods, infant and sports foods.

The new guidelines are being drafted, but the FSSAI has already shown it means business. FMCG powerhouse Hindustan Unilever had to halt the production of its Kissan Amaze last month after the malted beverage for children was charged with misbranding and misleading claims.

Last December, the FSSAI also clamped

down on advertising claims by foods makers. It has since integrated its advertising code with that of industry watchdog Advertising Standards Council of India.

All foods will have to comply with vitamin stipulations, mineral and protein content and recommended portion sizes as laid down by the proposed Food Safety and Standards Act (FSSA) regulations. Products that are to be used under medical advice must carry prominent disclaimers.

The draft guidelines also stipulate that each of these foods will need to comply with specific requirements — "need to be labelled as food supplements and nutritional information will have to be given in a separate 'supplement panel' on packs". Claims on prevention or cure of diseases will be need the FSSAI's approval.

Defence door may be opened wider for FDI

India looks all set to open its doors further to foreign direct investment in the sensitive defence production. The commerce and industry ministry has put out a discussion paper that suggests an increase in FDI in defence to 74% from 26% to encourage greater local manufacturing and technology transfer. The proposal has received a mixed response with industry preferring an increase in the limit but only to 49% so that control remains in Indian hands.

The paper points out that the government can always reject any proposal as licencing requirements for the sector will continue to be in place. Leading industry chambers CII and FICCI had suggested FDI up to 49% allowing Indians to control the company.

The discussion paper also points out that raising the limit from 26% to 49% may not serve any purpose. "Established players in the defence industry should be encouraged to set up manufacturing facilities and integration of systems in India with FDI up to 74% under the government route," said the discussion paper unveiled by the Department of Industrial Policy and Promotion.

However, the paper does not also suggest local procurement obligation to make investments more attractive. Foreign manufacturers will have to, however, participate in the Request for Proposal called by defence ministry to technically qualify and also compete in the financial bids.

"For future RFP a condition may be imposed that the successful bidder would have to set up the system integration facility in India with a certain minimum percentage of value addition in India. The successful bidder should be allowed to bring equity up to the proposed sectoral cap," it said.

The discussion paper is silent on foreign direct investment in dual-use technology. Dual-use technology that has both civilian and defence use faces hurdles in imports as well as in investments.

Labour law overhaul to ease separation pain

Retrenched staff can access labour tribunals within 45 days, firms employing over 20 staff to have in-house grievance cell, BPO staff to gain

The government is planning a radical overhaul of a 63-year-old labour law, which, if adopted, could wipe out delays in resolving disputes between employees and employers that have long hobbled businesses.

Retrenched workers, in particular, are due to benefit from the several sweeping changes the government has proposed to effect in the Industrial Disputes Act, 1947, during the monsoon session of Parliament. Such workers will get direct access to labour tribunals where they can challenge their dismissals within 45 days against the current practice of waiting for years.

The new-look law will also attempt to settle the troubles of workers before moving court. Firms hiring at least 20 workers would have to set up an in-house grievance redressal mechanism to settle disputes within 30 days.

The new rules also have a direct bearing on services firms like BPOs and commercial enterprises that employ a large number of contract workers.

Likewise, labour courts will be given the same powers as civil courts to enforce their rulings effectively. Employers can now choose to ignore a labour court's order unless a labour commissioner moves a high court.

To address the manpower shortage at labour courts, the government is tweaking rules for appointing a presiding officer to allow central labour services officers to man the post.

Under the current setup, aggrieved workers must approach a government-appointed conciliation officer to take cognisance of a dispute with the employer. The officer tries to reconcile the two sides and if that doesn't work, submits a failure report to the state or central government under whose jurisdiction a firm falls. It is for the government then to refer the dispute to a labour court, which typically takes years.

The proposed rules will enable a worker to raise issues in a court just 45 days after applying to the conciliation officer, irrespective of the progress there.

The government's plans will help contract workers when employers terminate their services before the end of the contract period. If an aggrieved contract worker has been sacked after working for 240 days or more, he is due for retrenchment benefits under the Industrial Disputes Act. So, the amendment is expected to seed a rise in such grievances reaching labour courts.

When the law was last amended in 1982, it was proposed that companies with more than 50 workers set up an internal grievance settlement authority. But the government never implemented this provision.

Through the new rules, the government also plans to raise the wage limit for supervisors to Rs 10,000 a month from Rs 1,600. The ceiling is important as the law only applies to workmen and not supervisors.

In 2002, the Second National Commission on Labour had also suggested that the government define a salary limit as a buffer to laws aimed at workmen. Other labour laws like the Employees' Provident Fund Act and the Employees' State Insurance Act have similar thresholds for coverage, which dispel the ambiguity between workmen and supervisors.

More foreign suitors expected in pharma

The battle for more control in the Indian drug market, in which Japanese drug major Daiichi Sankyo's acquisition of the majority stake in Ranbaxy was a milestone, is expected to turn fiercer.

Following Abbott's decision to acquire Piramal Healthcare's domestic formulations business, multinationals based abroad occupy three of the top five slots in the pharma industry rankings.

Abbott has spent around Rs 17,000 crore to edge out Cipla from the top slot in the domestic sweepstakes. In the new ordering, Ranbaxy is at number three, followed by GlaxoSmithKline and Zydus Cadila. Before the deal, Abbott was not in the top 10.

The Indian pharma industry could be in for more reshuffle, with more multinationals eyeing it. Among the India-based companies, Wockhardt had already aborted a deal with Abbott and may look for a new buyer for its nutrition business.

Analysts say that acquisitions would become more expensive. The Abbott-Piramal deal sets benchmarks for future valuations. Abbott agreed to pay 9.2 times the revenues of Piramal.

DEAL BYTES

ABBOTT IN INDIA

- Abbott has been operating in India since 1910
- Sells pharmaceutical, nutritional and medical products, with a turnover of Rs 780 crore
- Employs more than 2,500 people in India, with headquarters in Mumbai
- Post-acquisition, it will become the leading domestic company, with close to 400 products
- Will now have largest field force of close to 5,000 medical representatives, domestic market share of over 7%

NEW TOP PLAYERS IN DOMESTIC DRUG MARKET

- Abbott
- Cipla
- Ranbaxy
- GlaxoSmithKline
- Sun Pharma/Lupin

Curbs on cash-&-carry may be eased

The government may relax restrictions on foreign investment in cash and carry operations, offering relief to a number of retail joint ventures such as Bharti Walmart.

The recent guidelines on cash and carry operations, or wholesale trading of goods, allowed ventures with foreign direct investment (FDI) to sell to group companies, but said such sales should not exceed 25% of the total turnover.

The restrictions meant that Indian retailers would be able to source only a small part of their wares from the cash and carry ventures they have set up with foreign partners.

The relaxation could involve a change in the definition of group companies. Only the cases of strong linkages will be included in the definition of group companies and subject to the 25% rule.

This will offer some relief to a number of Indian companies, which have formed joint ventures with foreign firms. The rules have upset the plans of business houses such as Sunil Mittal's Bharti and the Tatas and their partners, global biggies Wal-Mart and Tesco. Some of these ventures were structured in a way that cash & carry companies owned by foreign investors sell a large share of their goods to Indian-owned retailers.

The new rules also stipulated that the sale made to group companies should be for their internal use only, besides detailing the persons to whom sales could be made.

The detailed guidelines followed apprehensions that FDI-financed wholesale trade could give foreign retailers a foothold into the domestic retail market.

The government has allowed 100% foreign direct investment in wholesale trade, but no foreign investment is allowed in multi-brand retail.

Government can acquire land sans notice

Sections 9 & 18 guarantee enough protection for landowners, says Supreme Court

The state can acquire land even if owners have not been issued a notice, the Supreme Court has ruled. The apex court added that land acquisition will not be illegal even if there are discrepancies in the notice served to affected owners under the provisions of the Land Acquisition Act, 1894.

"Section 9 of the act (Land Acquisition Act, 1894) provides for an opportunity to the 'person-interested' to file a claim petition with documentary evidence for determining the market value of the land and in case a person does not file a claim under Section 9 even after receiving the notice, he still has a right to make an application for making a reference under Section 18 of the act."

"Therefore, scheme of the act is such that it does not cause any prejudicial consequence in case the notice under Section 9(3) is not served upon the person interested," said a vacation bench comprising Justice B S Chauhan and Justice Swatanter Kumar.

The court said: "The land vests in the state free from all encumbrances when possession is taken under Section 16 of the act. Once land is vested in the state, it cannot be divested even if there has been some irregularity in the acquisition proceedings. Inspite of the fact that Section 9 notice had not been served upon the person interested, he could still claim the compensation and ask for making the reference under Section 18 of the act. There is nothing in the act to show that non-compliance thereof will be fatal or visit any penalty."

The court rejected the plea which had said that the provisions of Section 9 of the act were mandatory in nature and non-compliance thereof would vitiate the award and all other consequential proceedings.

Zeroing in on Section 9 of the act, the bench said, whether the provision is mandatory or directory, depends upon the intent of legislature and not upon the language for which the intent is clothed.

It said, "failure of issuance of notice under Section 9(3) would not adversely affect the subsequent proceedings including the award and title of the government in the acquired land. So far as the person interested is concerned, he is entitled only to receive the compensation and therefore, there may be a large number of disputes regarding the apportionment of the compensation. In such an eventuality, he may approach the district collector to make a reference to the court under Section 30 of the act".

The court dismissed an appeal challenging a Madras High Court order. The appeal had challenged the award made under Section 11 of the act on the ground that no notice under Section 9(3) of the act was issued.
The Tamil Nadu government on January 7, 1976, had issued notification for acquiring 30.80 acres, part of different survey numbers and belonging to large number of persons in Seevaram, in Chingleput district, for development of electrical/electronics industrial estate.

Considering grave urgency, the state government dispensed with filing of objections under Section 5A of the act and resorted to provisions of Section 17 of the act. It made a declaration under Section 6 of the act on October 1, 1976, and award under Section 11 on November 16, 1979.

Foreign investors will have to take security pledge now

Foreign investors will be required to give a commitment that they will not do anything detrimental to India's interest as the government looks to tighten scrutiny of foreign direct investment.

The Department of Industrial Policy and Promotion (DIPP), the key government body for policy on foreign direct investments, has initiated discussions with concerned ministries including finance, law, home, and the RBI.

The seemingly harmless commitment could impose a burden on the investors in terms of due diligence of people they employ or technology they use.

The requirement could be equally difficult on joint ventures with foreign companies or companies that have foreign private equity investment in them.

India has attracted $131 billion in foreign investment since 1991, when it opened its economy to foreign investors. Over 40% of this has come from Mauritius, which means it is actually a third country investment, the origin of which may be difficult to trace.

Since enacting a new legislation will take time, the DIPP has proposed making a security declaration mandatory for all foreign investors irrespective of the sector they plan to invest in. The rule will apply to all sectors including those on the automatic route and not requiring Foreign Investment Promotion Board's approval.

Foreign investors could be asked to give an undertaking that they will comply with the provisions of the Prevention of Money Laundering Act and Unlawful Activities Prevention Act. The declaration will be on the lines of FC-GPR, a form an Indian company has to file with the RBI within 30 days of receiving foreign capital raised through shares or convertible debentures.

The declaration will have to be filed at the time of filing of FC-GPR - the exact modalities of the declaration are being worked out.

Payment made abroad taxable if deal has links with India

The Income-tax department can tax even a payment made to a foreign entity outside India, if the transaction has a business connection within the country, according to a verdict passed last week by the Income Tax Appellate Tribunal, Mumbai.

In this case, the ITAT gave an order favouring the I-T department's decision to levy tax on $1 million (about Rs 4.5 crore[1]) paid by an Indian company to a Chinese firm for services rendered in China.

In order to tax such payments, ITAT held, it is not necessary that the party has a business activity in India (territorial nexus). A division bench of ITAT, comprising Pramod Kumar and R S Padvekar, held that tax is payable in India on any income which is either sourced from India or which arises to a person domiciled in India.

The ITAT virtually dismissed the theory of territorial nexus, a concept of taxation by which tax is levied in the territory in which business activity took place.

The ITAT said that even if the business activity is not located in India, tax can be levied in India, the only prerequisite being a business connection.

In this case, the income being subject to tax is $1 million paid by Indian company Ashapura Minechem to China Aluminium International Engineering Corp. The payment was made for services rendered by the Chinese company for bauxite testing. The final report of the bauxite testing was prepared by the Chinese company in China.

The Indian company claimed before the ITAT, that since the Chinese company did not have any business activity within India, it is not liable to pay tax in India either under the Indian Income-Tax Act or under the Double Taxation Avoidance Agreement.

The Indian company claimed before the ITAT that to be liable to pay tax in India, the Chinese company should have a territorial nexus in the country.

The latter did not have a permanent establishment in India, the Indian company pointed out. The concept of territorial nexus merely means that tax can be levied in the territory where the business activity had taken place. In this case, the payment was made outside India for service rendered outside India.

Therefore, going by the theory of territorial nexus, the Chinese company is not liable to pay tax in India. And hence the Indian company is not liable to withhold tax from the payment made to the Chinese company.

[1] *1 crore = 10,000,000*

The ITAT negated the claim saying that India does not follow territorial taxation method in its income-tax. The ITAT said: "It is thus fallacious to proceed on the basis that territorial nexus to a tax jurisdiction being sine qua non to taxability, in that jurisdiction is a normal international practise in all tax systems."

The ITAT drew support for its decision from the amendment made in the relevant I-T laws in the Finance Act 2010.

Norms for foreign telecom gear companies may be eased

Indian government may change the new telecom sector norms that mandate foreign network vendors to make all core communication equipment locally or compulsorily transfer technology to Indian manufacturers within a three-year period.

The review comes after global network vendors as well as sections of the government, including the communications ministry, informed the home ministry, that the new rules are 'inconsistent with India's commitments on intellectual property rights in multilateral global forums such as WTO'.

Implemented in March this year, the norms say foreign vendors that failed to comply with the transfer of technology clause would be penalised and criminal proceedings would also be started against such firms.

The new rules, posted on the website of the telecom department also adds that global telecom equipment makers such as Ericsson, Nokia Siemens, Alcatel Lucent amongst others which maintain and manage mobile networks of cellphone companies here, must only employ Indian engineers.

Various sections within the government have also pointed to the home ministry that implementation of such norms could lead to other countries insisting on similar terms for Indian exports, especially software, officials linked with implementing these new rules said.

India is the world's largest market for telecom gear makers, offering a $100-billion opportunity

The new rules were issued partly to address home ministry concerns that equipment vendors may install back-door entries, remote logic facilities and also design Trojans in networks and hardware they sell to telcos in India. These could be used to remotely bring down the network or monitor the voice and data traffic on it, security agencies say. The authorities are particularly concerned about Chinese vendors such as Huawei and ZTE.

Warrants to foreign investors only if they pay 25% up front

Indian companies will be allowed to issue warrants, or option to buy shares in the company, to foreign investors but under stiff terms including a high 25% upfront payment, making the instrument less attractive for the investors.

The Department of Industrial Policy and Promotion (DIPP), the nodal body for foreign direct investment policy, will soon circulate a cabinet note to amend the FDI policy. The proposed move will clear the uncertainty created by the recent change in the FDI policy.

However, issue of warrants to foreign investors will require an approval of Foreign Investment Promotion Board, allowing the government to keep a tab on the funds raised.

Warrants are in the nature of options, instruments that entitle their holder to acquire a specific number of shares in a company at a pre-determined price by an agreed time. A number of mergers and acquisitions and private equity deals are structured using such financial instruments. India saw mergers and acquisitions and private equity deals worth $2.21 billion in April, 2010.

The new norms issued in April had disallowed issuance of warrants and preference shares to foreign investors over concerns on quasi debt instruments masquerading as equity.

Officials of both the finance ministry and DIPP held a meeting to resolve the issue that had turned out to be a big irritant for foreign investors. However, both sides have veered around to the view to keep the period of conversion at one year as against 18 months prescribed by market regulator Sebi its guidelines on issue of warrants by listed companies.

Although on the upfront payment, the provision of 25% is identical to the one prescribed by capital markets regulator Sebi for listed companies, the proposed norm will impact foreign investment in unlisted companies such as private equity.

The earlier norms did not prescribe any limit on the payment terms. The higher upfront amount would mean that for a given amount, the foreign investor will be able to buy an option on a fewer number of shares.

Essentially, the high initial payment will reduce the leverage available to investor and thereby make the instrument less attractive.

Mining bill to establish government as ‘natural’ owner

The government plans to update the draft legislation on mining to unequivocally establish it as the owner of all natural resources, incorporating the substance of a Supreme Court verdict last month in the dispute between the Ambani brothers over the price of gas from the KG basin.

The move is intended to facilitate, with state governments' cooperation, the allocation of mining leases to projects the government considers to be of national importance by cutting through procedural and legal snarls.

The new mining bill itself seeks to clean up one of the most unreformed sectors of the Indian economy, bringing in transparency and reducing the scope for discretion in the award of permission for reconnaissance, prospecting and development of mining blocks.

The Supreme Court judgment established the government's complete authority over all natural resources and gave the state the freedom to decide on contractors, pricing and allocation of natural gas.

The inclusion of the provision in the new mining law is expected to help fast-track large projects worth several billions of dollars and also check widespread illegal mining.

In the case of iron ore leases, several companies stake claim over resources in almost all explored blocks in the country. Differences between claimants often result in litigation, with state governments relegated to just being spectators.

An empowered state government could avoid this by awarding the resource in favour of a company that puts the mineral to best use, overriding claims of others.

In the case of Korean steelmaker Posco, the Kandahar iron-ore block that has been recommended for the company by Orissa government is under litigation over a decision by the state government in the 1980s freeing up a block reserved for PSUs for use by private companies. The proposed change may enable Posco to get faster access to the resource.

The government will get the right to determine the pricing of minerals, preventing private firms from making abnormal profits. State governments will be empowered to take quick decisions and initiate action against offenders.

Clarity about the role of the state could boost foreign investment in the mining sector, which is now at just $200 million. The Centre is aiming to increase this to over $20 billion through the reform measures proposed in the mining legislation.

Listed companies must have 25% public float

Mandatory 25% public holding for stock exchange listing has been enacted to curb stock price manipulation after years of debate, a rule that may trigger $34-billion share sales from companies such as Wipro, MMTC and Reliance Power.

But the absence of a penalty clause for non-compliance may make the change ineffective.

The implementation of the rule will be gradual, with companies having less than 25% float getting to sell at least 5% each year to attain the mandated level.

Those planning an initial public offering can sell just 10% of the company, provided it gets a market value of Rs 4,000 crore, but would have to raise it to 25% gradually.

The rule is a return to the position a decade ago before it was eased to 10% to feed the demands of companies in the technology and telecom sectors and extended to infrastructure, when these fads were running their course. The low floats led to inflated valuations of companies at the time of IPOs and ended in tears for many investors. Low stock supply also led to manipulation of prices in the secondary market.

There are at least 179 companies listed on the stock exchanges where the float is less than 25%. At current prices, these firms may have to raise Rs 1.6 lakh[2] crore if promoters sell their holdings, nearly double the funds raised via share sales in fiscal 2010. If they attempt to achieve the 25% limit through sale of new shares, they may raise Rs 2.1 lakh crore.

The biggest chunk of sale may come from the government through disinvestment in companies such as Hindustan Copper and trading firm MMTC, which have less than 1% traded on the stock exchanges.

The new rules provide for companies that have filed offer letters to sell under the current rules, but will have to comply with the 25% norm through a 5% offer every year. An already listed company can offer less than 5% shares if the lesser amount is sufficient for it to achieve the 25% limit.

These rules may lead to multinational companies reluctant to have a larger minority shareholders delisting from the exchanges, analysts say. The absence of penalty for violating the rules may make the rule ineffective.

Stiff penalty for spyware in telecom gear

Global equipment firms will need to furnish undertaking on products meeting global security standards

The government has decided to ask all international telecom equipment vendors to provide an undertaking that their products meet international standards and do not pose any security threat.

The move comes just after the Centre allowed telecom services providers to resume import of Chinese-made telecom gear.

After the undertaking, if any spyware, trojan horse or malware is detected in either the products or software supplied by the vendor, then it will not be allowed to sell any equipment in the country.

The Centre will also seize all equipment provided by a vendor if any malware is detected. The telecom department, in consultations with service providers and home ministry, will work out provisions for imposing financial penalties on such vendors.

All international vendors must make provisions for technical teams from India to visit and inspect their manufacturing facilities, if they desire to do so.

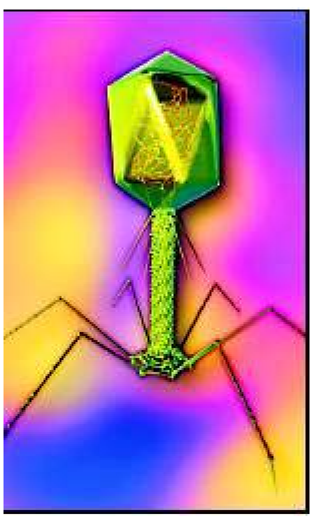
The government has agreed to allow import of Chinese-made telecom gear, certified by international security audit firms such as Canada's Electronic Warfare Associates, US-based Infoguard and Israel's ALTAL Security Consulting, till a

[2] *1 lakh = 100,000*

dedicated certification centre and test lab is in place.

The government has also decided to allow self-certification of imported telecom equipment by mobile operators against a bank guarantee given to the communications ministry. Here, operators will be liable for forfeiting their bank guarantee and can also face criminal proceedings, if any security threats are detected in 'the self-certified equipment' at a later stage.

This stop-gap solution, which will be in place for the next 12 months, will ensure that Indian telcos do not face project delays even as the domestic test lab is being set up. Once functional, NIC will study the software codes of all telecom hardware to address the government's security concerns.



Government scheme to give easy exit route to firms

In a major relief to over 500,000 unlisted companies across India that have stopped functioning according to government records, the Easy Exit Scheme 2010 (EES-2010) comes as a great relief.

The government has come up with two schemes: One, EES-2010, is for complete exit; and the other, Company Law Settlement Scheme (CLSS- 2010), is to grant amnesty to defaulting companies that wish to continue to be in business from violations of the Companies Act 1956 and criminal prosecution.

These schemes come after a long gap of five years, the last one being in 2005. EES-2010, under Section 560 of the Companies Act, 1956, comes into effect from May 30, and remains in force up to August 30. The rider in this scheme is that it is applicable to only those companies that are either not in operation since incorporation or not in business after April 1, 2008.

A salient feature of EES-2010 is that the scheme is absolutely free and filings can be made online. The last scheme, which came in 2005, required a company to first pay an application fee of RS 2,500, and then update its records and be ready to quit.

Prior to this, there was no scheme available for companies since 2005. Therefore, companies were first required to update their balance sheets for all the years in which they remained functional, even if they were not doing any business. There were penal fees, amounting to ten times the original fees, for every filing. Besides, the matter was referred to the court for criminal prosecution.

CLSS-2010 is aimed at giving defaulting companies, which have not filed their documents in a timely manner with the Registrar of Companies (RoC), or have not increased their paid-up capital under Section 3 of the Companies Act, 1956, an opportunity to continue business by updating returns, without attracting criminal prosecution.

Otherwise referred to as "condoning the delay", a company receives immunity from prosecution by paying 25 per cent of the actual additional fee payable for filing belated documents. It can avail of CLSS scheme till six months of the expiry, after which RoC will start criminal proceedings against the defaulting and defunct companies.

Among the formalities outlined in the notification to opt for EES, the primary requirement is that a company needs to be defunct and, if it is a government company, it needs "no objection certificate" issued by the administrative ministry concerned. The RoC gives thirty days' time to regulators concerned of the companies opting for EES-2010 for any objection.

The EES-2010 form and statement of account for last one month of the company need to be certified by a practising chartered accountant, company secretary or cost accountant, and the company needs to disclose pending litigation.

Every director of the company, individually or collectively, would have to submit an indemnity bond stating that losses, claims or liabilities would be met in full if they arise after exiting the business.

CLSS-2010, on the other hand, is applicable to all private and public companies and requires them to first raise their minimum paid-up capital to threshold level of Rs 1 lakh for private and Rs 5 lakh for public company under Section 3 of the Companies Act. The scheme does not apply to companies against which RoC has initiated action under Section 560 for declaring defunct.

Chinese auto companies queue up for Indian market

Chinese automobile and component manufacturers are queuing up to drive into the Indian market, second only to their own in pace of growth, with the intention of using it as a low-cost export base.

The Indian automobile industry posted its best ever performance in May with a 30% growth in car sales on new launches and increased consumer spending.

Chinese companies like SAIC, Foton, FAW, Chery, Geely and Great Wall have lined up everything from light minivans to cars, heavy-duty trucks and buses for the Indian market. While some of them, such as SAIC and FAW, are routing their India entry through their global alliance, others are on the lookout for Indian partners.

GM India, for instance, will introduce models from its three-way alliance in China with SAIC and Wuling. SAIC, which has a joint venture with General Motors in China, has bought 50% of the US company's Indian subsidiary, General Motors India.

Apart from minivans and light commercial vehicles from the Wuling range, GM is looking at introducing trucks from its other Chinese JV partner, FAW.

Foton is another Chinese company that is eyeing an opportunity and alliance in India. It intends to invest around $200 million for a 100,000-unit factory using locally-sourced components. In its proposal to Indian suppliers, Foton said it will introduce not just its tractor trailers and heavy duty trucks from the Auman and Aumark range but also pick-ups and SUVs. Medium-sized and small vans will be assembled locally.

Chery, Geely and Great Wall are in advanced talks with ICML, the car division of tractor maker Sonalika. The automobile companies, which have the advantage of low cost and scale, are looking at India as their Asian hub. The GM-SAIC alliance, which has expanded to include India, will also look at other important Asian markets to replicate the alliance model.

Global toymakers game for India

Simba, Fisher-Price & Hamleys formulate strategy for a slice of Rs 2,000-crore organised toy market

Global toymakers such as Simba Toys, Fisher-Price and Hamleys have burst into the Indian market, putting together a well-oiled sales strategy to target a largely unorganised, but thriving industry.

Hamleys launched its first store this April in Mumbai, one of the four stores that the British company has opened abroad, partnering Reliance Retail. Germany's Simba Dickie Group, which entered India last September, plans to set up a manufacturing unit in south India by 2011.

Likewise, Fisher-Price, the world's leading infant and pre-school brand, has allied with children's programme producer HIT Entertainment to launch a range of vehicles, preschool toys and motorised vehicles and play sets under the Thomas & Friends label.

Despite the presence of big players like Funskool Toys, Lego Toys and Leo Toys, the Indian toy market remains essentially fragmented, with hundreds of small manufacturers scattered across the country. It is still a fledgling market compared to big-box ones in the US, UK and Japan and saddled with marketing and distribution challenges.

The small-scale nature of the toy business in India has crimped innovation and investments in equipment and technology, which have in turn limited the market size. Toymakers also have to contend with the diverse tax structure among states. The value added tax on toys in Hyderabad is higher than in Mumbai or Bangalore.

Even so, the Rs 2,000-crore market offers tremendous scope to new players with a 20% annual growth. Sections of the market such as educational and developmental toys are yet to develop, which again opens new growth avenues to companies. And there is growing demand for plush or soft toys, remote-controlled models, action figures and dolls against the backdrop of India's booming retail industry.

And the entry of foreign companies comes at a time when the flooding of Chinese toys has eased considerably after the government's six-month ban last year.

Currently, Simba sells in 170 major retail outlets such as Pantaloons, Big Bazaar, Lifestyle, Shoppers Stop, Odyssey, Landmark and Mom and Me. The company has also roped in 20 distributors, with plans to scale the number to up to 50 across the country by the year-end. The company also plans to start manufacturing activities in the country.

Hamleys plans to open 20 stores in stages in the next few years across India, including two flagship stores in top 15 towns, by investing nearly Rs 150 crore.

Children's channel Nickelodeon recently tied up with Mattel to launch its popular cartoon characters such as Dora the Explorer, Sponge Bob Square Pants and Ninja Hattori in the form of toys.

The new entrants are also aware of the inherent challenges of the Indian toy market, notably its price consciousness. Almost every company is offering toys between Rs 50 and a few thousands of rupees, catering to every section of the market. Simba, whose marketing catchphrase is 'Something For Everyone', offers products between Rs 49 and Rs 20,000 while Nickelodeon toys start from Rs 499 and go up to Rs 5,999.

WSJ, Financial Times push content via digital channels

Even as government rules bar global newspaper giants from having a majority stake in Indian print editions, they are looking at the medium of the future.

The Wall Street Journal (WSJ) is working towards aligning its India strategy to the practices it follows globally, that is, to increase focus on digital distribution. WSJ, which publishes a facsimile edition of its Asian edition in India, has strategised to exploit the digital promise that the Indian market holds.

The company has launched a news and data browsing application compatible with Blackberry and other smartphones in March and in the past three months, has seen 60,000 downloads. Though WSJ has an Asian edition, it is not an India-centric paper. India is a priority market for WSJ and since it is a value conscious market, the company is working on strategies to have more users. The facsimile edition of WSJ Asia has a cover price of Rs 25 in India and at such a high price for a daily, it does not have many subscribers. The company is now investing a substantial amount in its digital initiative.

WSJ's mobile application can be downloaded for free and subscribers can access content for a monthly fee of Rs 99. However, the mobile subscription does not automatically allow users to view the WSJ's online content.

WSJ's biggest competitor, the Financial Times (FT), is also expanding its India product offerings and launched an India homepage for FT.com in March. FT's subscription charges across Asia is $5.75 per week (Rs 260). Though the fee is quite high, subscribing to FT.com enables customers to access FT content on all devices — PC, mobile or iPad.

Indian newspapers also have an online presence and those that have invested in technology are also capable of offering their content on mobile phones.

While domestic newspapers in the country, both English language and vernacular, are increasing the number of their editions, foreign newspapers do not have that flexibility. Government guidelines do not allow more than 26 per cent foreign direct investment in print media and that is one reason global giants are going full throttle to unleash the power of the digital medium.

India to get a National Business Register soon

The sixth economic census, set to take off next year, will provide the country with a National Business Register for the first time, containing the details of every business establishment in the country.

The creation and maintenance of a business register and directory are expected to be an economic data framework for various needed statistical surveys, including the Annual Survey of Industries and others of the National Sample Survey Organisation.

Currently, a fairly reasonable database exists for the agricultural sector, while much is lacking for the non-agricultural ones, particularly services. The move to create a directory will particularly benefit the latter. For, the services sector, contributing 62.5 per cent to the country's gross domestic product, does not have a comprehensive data bank.

The national accounts significantly understates the sector, even as it is the major contributor.

The business register is to keep an account of all business establishments with a workforce of 10 or more people - addresses, sectors, turnovers, number employed, *et al.*

The move is similar to that taken for the National Population Census 2010-11, under the ministry of home affairs, which will also collect data for a National Population Register.

Just as the NPR will record the name and address of every individual in the country, the NBR will have a record of every business establishment in the country.

An attempt was made during the previous Economic Census in 2005 to create a directory or register of business enterprises, but it could not succeed due to gaps in data collection during the operations.

Independent director selection may get easier

The government is planning to reform rules guiding the selection and appointment of independent directors in state-owned companies, a move aimed at instilling greater transparency and haste into a ponderous process.

A parliamentary panel of experts studying the new Companies Bill is likely to come up with suggestions in this regard. The development assumes significance in the wake of the government's renewed efforts to quicken the share sales of many state-owned firms that are hamstrung by the lack of a requisite number of independent directors on boards. Market regulator

Sebi's guidelines require that 50% of a company board should be stuffed with independent directors. Sebi also does not recognise government nominee directors on PSU boards as independent directors.

A search committee steers the selection of independent directors from a list of experts handed over by the ministry running a public enterprise, a process that often moves at a snail's pace. The ministry makes appointments based on the committee's recommendations. The process, even for listed firms, is also hobbled by intense tussles between ministers concerned and search committees selection.

The move also comes as state-owned blue-chip firms SAIL, ONGC and IOC have reportedly asked the administrative ministries concerned to the fast-track the appointment of independent directors so that they can enjoy their newly-acquired Maharatna status. Only NTPC has been able to enjoy the enhanced financial powers that come with the status.

The new norms, apart from handing greater autonomy in the selection process for the company concerned, will look to devise a policy towards identifying positives such as integrity, expertise and managerial abilities in independent directors.

RBI permits zero-coupon NCDs

The Reserve Bank of India (RBI) has allowed companies to issue zero-coupon non-convertible debentures (NCD) at a discount to the face value, according to the final guidelines for issuance of the debt instruments.

It released final guidelines for the issuance of the debt instruments with original maturity of up to one year. These directions will become effective from August 1.

In addition, no corporate with a tangible net worth of less than Rs 4 crore will be permitted to issue an NCD. The company will also have to ensure that it has sanctioned working capital limit or term loan by banks or financial institutions and that its borrowal account is classified as a standard asset.

The central bank had released draft guidelines in November 2009 for public comment. As proposed in the draft guidelines, RBI has barred companies from issuing NCDs with a maturity period of less than 90 days.

An eligible corporate intending to issue NCDs will have to obtain a credit rating for issuance of the NCDs from a rating agency and the minimum credit rating shall be P-2 of CRISIL or the equivalent rating by other agencies.

The total amount of NCDs proposed to be issued will have to be completed within a period of two weeks from the date on which the corporate opens the issue for subscription.

An additional clause that was not present in the draft guidelines is the auditors of the corporate will have to certify to the investors that all the eligibility conditions are met by the corporate.

RBI permitted any entity that is registered as a trustee with the Securities and Exchange Board of India (Sebi) to act as a DT for the NCD issue.

Foreign VCs must disclose financial numbers for RBI okay

The Reserve Bank of India (RBI) has ruled that foreign venture capital funds will have to provide their financial statements for regulatory approval to invest in India. The central bank has sent nearly a dozen applications of such funds back to market regulator, the Securities and Exchange Board of India (Sebi), as these were not backed by financial statements.

The move is part of the Indian regulators' aim to ensure that only the credible players get approval to start operations here. Some months ago, Sebi had made it mandatory for foreign venture capital investors to obtain a firm commitment of at least $1 million from their investors. The rule on minimum commitment was a modification to an earlier rule that foreign venture capital funds should have a minimum capitalisation of $100,000.

The apex bank, which has the final word on all foreign investments, is keen to ensure that due diligence is carried out on these foreign entities to check whether they are eligible to invest in the Indian market.

Often, a foreign venture capital fund looking to invest in India usually formed an investment holding firm in Mauritius with basic capital, often not more than a few dollars. The investment company then filed for registration with Indian regulators, and once it got the approval, overseas investors were gradually roped in.

Such a practice was followed because several foreign investors were uncomfortable in making commitments, unless the offshore fund had obtained necessary approvals from the regulator. But RBI was not in favour of such a structure. In the past, RBI had sent back applications of foreign venture capital funds to Sebi unapproved, citing 'under-capitalisation' as the reason.

India has attracted Rs 26,827 crore of investments through foreign venture capital funds, compared to domestic venture capital funds' Rs 24,893 crore as on December 31, 2009, according to Sebi data. At present, there are 144 foreign venture capital funds registered with the market regulator.

PRABHAKAR CHINCHOLE

India-led M&As touch $40 bn in Jan-June 2010

Outbound takeovers soar, Indian deals account for a sixth of total Asian M&As

Takeovers by Abbot Laboratories and Bharti Airtel helped mergers and acquisitions in India quadruple in the first half of this year from a year ago, strengthening views that corporates are turning optimistic about earnings prospects.

Indian transactions accounted for a sixth of the total Asian deals of $242.1 billion from 5,078 deals, a rise of 21%. Bharti's acquisition of Zain assets in Africa for $10.7 billion tops the Asian list.

M&As in India touched $40 billion in the first six months of the year, according to a Thomson Reuters M&A report. This is the best first half since 2007.

Bharti led the revival of India Inc's acquisition frenzy with the purchase of Zain Africa in February. Reliance Industries is actively pursuing investments in the US shale gas ventures with the latest being the $1.3 billion payment for a 45% stake in Pioneer Natural Resources. Indian companies are also being bought with drugmaker Abbot's buy of Piramal Healthcare's formulations business for $3.72 billion. The telecom sector topped the league table with deals valued at $13.8 billion.

The thawing of credit markets last year after central banks' co-ordinated measures has revived the spirit of Indian entrepreneurship. This follows a lull in 2008 and 2009 after a splurge in the 2004-07 bull run, which left many including Dr Reddy's Laboratories and Tata Motors grappling with financial stress.

Since the demand in developed markets is plateauing, some of the global companies are willing to pay over the odds for Indian companies where a billion-plus population provides scope for growth.

Inbound M&A activity has been relatively subdued on account of valuation resistance but, going forward, this too may pick up as international companies realise the potential of the Indian markets. The value of deals in the energy sector tripled to a record $8.8 billion, compared to a year earlier, the report said. The value of overseas acquisitions by Indian companies, known as outbound M&As, was nearly thrice that of acquisitions of domestic firms or, inbound M&As. Abbott's acquisition last month is the highest inbound acquisition so far this year and the highest inbound deal in the healthcare sector on record. It is also the third-largest inbound deal in India on record. US companies topped the local purchases with more than half the value of the deal.

Private equity deals rose a slower 52% to $1.7 billion as valuations deterred deals. Transcend Infrastructure's acquisition of privately held Essar Telecom Infrastructure for $431.6 million was the highest in the segment.

Foreign banks seek level field to operate 100% arms

Want liberal branch licensing regime and flexibility to raise subordinated debt for capital adequacy

Foreign banks in India have made a representation to RBI seeking a level-playing field in case the central bank forces them to incorporate locally.

RBI had given foreign banks the option of converting branch operations into wholly-owned subsidiaries (WOS) without the liberal branch licensing norms applicable to local banks. Since none of the banks came forward to exercise this option, the central bank indicated that opening a WOS may be made mandatory. The representation by foreign banks comes ahead of an RBI discussion paper, which is due to be presented before September 2010.

Foreign banks have said that to convert their branch outfits into subsidiaries, some incentives are required. They have asked for a liberal branch licencing regime and the flexibility to raise subordinated debt for the purpose of capital adequacy. Once a foreign bank converts its branch into a bank, it will no longer be able to depend on its parent's balance sheet, however, it will have an advantage in terms of tax treatment.

On the issue of wholly-owned subsidiaries, the shift in stance has been dramatic with both sides doing a complete volte face. A decade ago, in the aftermath of the Asian currency crisis, foreign banks were demanding that they be allowed to open subsidiaries in India so that the impact on the parent's balance sheet would be very limited in case of a regional crisis. At that time, RBI was, however, keen that foreign banks reaffirm their commitment through a branch presence.

Now, in the aftermath of the global financial crisis, there is a fear that some of the foreign banks, which have a significant presence in India, might find their local operations affected because of problems in their home country. In his monetary policy in April 2010, RBI governor D Subbarao said: "Some of the lessons from the crisis are to avoid organisational structures which become too big and too complex to fail. Furthermore, while there is a realisation that an international agreement on cross-border resolution mechanism for internationally active banks is not likely to be reached in the near future, there is considerable merit in subsidiarisation of significant cross-border presence."

The governor pointed out that since the roadmap for the presence of foreign banks in India was laid out in 2005, no branch of a foreign bank has chosen to convert into a local bank. "The wholly-owned subsidiary was to be treated on par with the existing branches of foreign banks for branch expansion in India. No foreign bank, however, applied to establish itself as a WOS or convert to a WOS during the first phase," said Mr Subbarao.

ON EVEN **KEEL**

- **Foreign banks** have told RBI that to convert their branch outfits into subsidiaries, some incentives are required
- **Once a foreign** bank converts its branch into a bank, it will no longer be able to depend on its parent's balance sheet, however, it will have an advantage in terms of tax treatment
- **The representation** by foreign banks comes ahead of an RBI discussion paper, which is due to be presented before September 2010

Tax planning through foreign entities under cloud

With the increase in outbound investments from India, the Government is concerned about the ability of such companies to park profits outside India in low or no tax jurisdictions. Until a dividend is declared by the overseas company, no tax liability arises in India.

Indian tax law does not tax a shareholder of a company on the company's income until the income is distributed as dividend. Therefore, it has become common for Indian companies to form foreign subsidiaries in tax havens and shift "portable" income to those subsidiaries. Tax on this income is avoided until the subsidiary located in the tax haven country pays a dividend to the parent Indian company. This dividend could also be avoided indefinitely by loaning the earnings to the parent Indian company without actually declaring a dividend.

Governments are not always happy that multinationals based in their countries are keeping large amounts of profits offshore. Therefore, in several countries, a new law has been introduced to eliminate the benefits of tax deferral, by taxing income in the parent country even when the income has not been actually repatriated or remitted to that country. These laws are generally referred to as Controlled Foreign Corporation (CFC) laws. The CFC rules have also been adopted by US, UK, Germany, etc to prevent avoidance or deferment of domestic tax collection by home companies on income earned from overseas businesses carried out through offshore subsidiaries or affiliates.

In India a Working Group on Non-resident Taxation was formulated in, January 2003. The Group termed the deferral of taxes as an unjustifiable loss of revenue and recommended the introduction of CFC regime in India. The intent is to prevent the avoidance or deferment of tax on income, by levying taxes in the hands of the parent company on the consolidated world income.

CFC legislation, as prevailing in most countries, has a number of components. The rules generally have an ownership/control test, so that an entity will be treated as a Controlled Foreign Corporation only if a certain percentage of ownership/control is in the hands of the parent company or other residents of the parent country.

Once a CFC is identified, the rules set out the consequences of being treated as a CFC. Generally speaking, the consequence is to tax certain income of the CFC 'currently' in the hands of the parent company, as if the said income had been remitted to the parent company or was the income of the parent company, even though there is no actual remittance. In fact the income clearly remains in the legal ownership of the CFC abroad.

The revised discussion paper on The Direct Taxes Code released on 15th June, 2010 also contains discussion on CFC as under:

"As an anti-avoidance measure, in line with internationally accepted practices, it is also proposed to introduce Controlled Foreign Corporation provisions so as to provide that passive income earned by a foreign company which is controlled directly or indirectly by a resident in India, and where such income is not distributed to shareholders resulting in deferral of taxes, shall be deemed to have been distributed. Consequently, it would be taxable in India in the hands of resident shareholders as dividend received from the foreign company."

It is strongly felt that the Government should not take any hasty step in this direction. It is to be kept in mind that outbound investment from India is very small compared to inbound investment. In fact CFC Rules have generally been adopted by developed countries whose outbound investments far exceed the capital inflows. There is no comparison between India and such other developed countries.

The issue should be seriously addressed as to whether the economic conditions in India justify introduction of CFC Regime. Is India ready to afford restrictions on outbound investments? Should Indian tax regime deny the benefit of deferral of tax liability available to foreign arms of Indian companies, which makes them more competitive?

Tobacco to be within GST ambit, alcohol outside

The Union finance ministry has agreed to states' demand that tobacco be kept within the ambit of Goods and Services Tax (GST) and alcohol outside it. Besides GST, the Centre would levy an excise duty on tobacco. At present, states collect tax on alcohol, while the Centre levies duty on tobacco.

States have agreed to keep purchase tax under GST, as the finance minister is willing to fully compensate them. Foodgrain-producing states Punjab and Haryana were against subsuming purchase tax in GST because they got substantial revenue from the levy.

The Centre is confident that most states would not make any losses due to GST and, thus, the compensation amount may not be very high.

The empowered group of state finance ministers had proposed that tobacco be subjected to GST, but alcoholic beverages be kept out of it and sales tax or value-added tax should continue to be levied on it.

The government, however, had argued alcohol and tobacco were demerit goods that were considered harmful to health and, therefore, both should be kept under GST, with states getting the power to levy additional excise on alcohol and the Centre getting the same power for tobacco. Now, it has been agreed that alcohol should be kept outside GST because it is also used in medicines.

Both the goods are good revenue sources for the government. Excise duty collections from tobacco products like cigarettes, *bidis*, chewing tobacco and *gutkha* stood at Rs 12,526 crore in 2008-09, compared with Rs 9,591 in 2007-08 and Rs 8,213 in 2006-07.

In the case of petroleum products, states will continue to levy sales tax on petroleum products with prevailing floor rates. Similarly, the Centre will also continue its levies. The Centre had opposed keeping crude petroleum and natural gas outside the ambit of GST, as it would imply that the credit on capital goods and input services were going into exploration, and extraction would not be available, which would have cascading effects.

Terminal 3 at Delhi airport inaugurated

A new airport terminal building - T3 - in Delhi, has catapulted India among the global big boys with a capacity to handle over 34 million passengers annually.

T3, built at a cost of Rs 12,700 crore in a record 37 months, has four boarding piers with 48 boarding gates and 78 aerobridges, which is the highest for a terminal of its size. Three aerobridges would cater exclusively to the Airbus 380 aircraft. It is ranks eighth in terms of space and is bigger than well known facilities such as Singapore's Changi Terminal 3. It will also handle more passengers per annum than Changi, which handles 22 million passengers annually.

T3 also has many firsts to its credit. It would have 89 travelators, eight of which would be inclined - a first-of-its-kind in India. The 118-metre travelator would be the longest in Asia. The terminal would also have 63 elevators and 31 escalators. The airport is being built by DIAL, a consortium led by Bangalore-headquartered GMR Group, comprising Airports Authority of India, Malaysian Airport and Frankfurt Airport.

The terminal has an eight-storied main building housing 168 check-in areas and 95 immigration counters. The other floors would have a 100-room hotel, lounge exclusively for industrialists, airline offices, floor for baggage handling and two arrival-departure floors. It also boasts of an advanced five-level secure in-line baggage handling system with latest security systems.

The government is now working towards a regulatory and policy framework, which will be attractive enough to absorb investments worth $120 billion (Rs 5.59 lakh crore) in the aviation sector by 2020.

Source

Press clippings

About Chadha & Co.

Chadha & Co. is a law firm based in New Delhi, India, with a strong Corporate and Commercial practice. The Firm has a specialized inbound practice in advising domestic and foreign corporations doing business in India on all Indian laws and regulations that are relevant to their business.

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