Ministry of Corporate Affairs

Monthly Newsletter

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From The Secretary's Desk

The Revised Estimates of National Income for the year 2011-2012 released by the Central Statistical Office (CSO) on 31st May, 2012 pegs the GDP growth rate at 6.5%, which put the annual average growth performance of the economy during the Eleventh Five Year Plan (2007-2012) at 7.9%. This, I consider, is appreciable considering the adversities of global economic slowdown.

The World Bank in its "Global Economic Prospects" released in early June, 2012 has projected: *"India will see growth (measured at factor cost) increasing to 6.9, 7.2 and 7.4 per cent in fiscal years 2012-13, 2013-14 and 2014-15, respectively".*

India's fixed capital formation, which peaked at 33.7% of GDP in 2007-08, has declined to 32% in 2011-12. However, it is interesting to note that gross FDI inflows estimated at US$ 46.8 billion during 2011-12 have recorded phenomenal increase over the previous year's figure of US$ 34.8 billion. This record level of FDI inflows in the last fiscal reinforces our belief in the intrinsic strength of Indian economy.

The recent downgrading of India's credit ratings has caused some concerns. I understand that interpretation of these ratings and conclusions drawn therefrom are not context-neutral. The credit rating agencies quote large fiscal deficits as one of the parameters accounting for the recent downgrading. But we have managed to reduce the Central Government's outstanding liabilities from about 57% of GDP in the year 2006-07 to about 47% in 2011-12. This has come despite more than doubling of the fiscal deficit from 2.5% in 2007-08 to 5.9% in 2011-12.

The Government is alive to the emerging scenario, and has taken several steps to instill the business confidence back on track. By liberalizing the norms for Qualified Foreign Investors (QFIs), the Government has permitted foreign retail investors from more member countries of Gulf Cooperation Council (GCC) and the European Commission to invest in India's equity and corporate bond markets. The Government has also approved setting up of an Investment Tracking System to ensure speedy implementation of mega projects with an outlay of more than Rs. 1,000 crore. The Financial Stability Development Council (FSDC), set up by the Government along with major financial regulatory bodies, such as RBI and SEBI, has been working on a contingency plan to insulate the economy from the impact of the worsening Euro zone crisis.

In this conspectus, I expect that the Indian Corporate sector would steer clear of the pessimist sentiments. I would assure Corporate India that our economy will find solutions from within. Our fundamentals are strong, and our business acumen has kept our heads high even in times of crises. I am sure the Corporate Sector will take the positive cues and prove its mettle.

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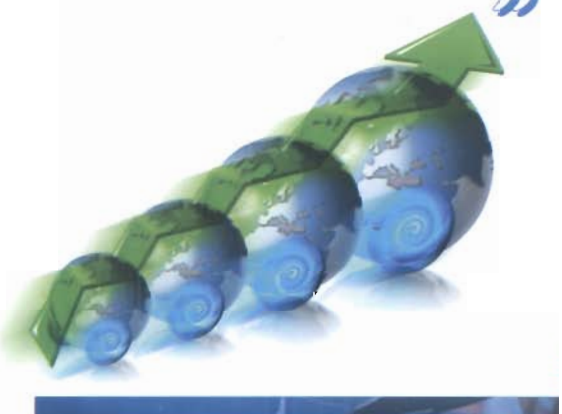


Senior level Appointments : Hon'ble Mr. Justice V.S. Sirpurkar, assumed charge as Chairman of the Competition Appellate Tribunal of India on 22.05.2012. The earlier Chairman, Hon'ble Mr. Justice Arijit Pasayat had demitted the office on his retirement on 09.05.2012. The post of Chairman, Competition Appellate Tribunal is held by a retired Judge of the Supreme Court or a retired Chief Justice of a High Court for a tenure of three years.

Companies Bill, 2011: In the Companies Bill, 2011, a forward-looking legal framework addressing many corporate governance issues has been proposed. It seeks to put in place many innovative measures to protect investors, ensure companies function responsibly, and enable foreign companies to do business in India with ease. This Bill was introduced in the Lok Sabha on 14.12.2011 and was referred to the Hon'ble Parliamentary Standing Committee on Finance. The Committee took evidence of the Officers of the Ministry of Corporate Affairs on 20.04.2012. It is expected that the Report of the Committee on the Companies Bill, 2011 will be tabled in the Houses of Parliament early in the Monsoon Session.

New payment Gateway in MCA21 : MCA21 is the operational e-governance portal providing enhanced user experience to corporates. It has state-of-the-art online functioning, and makes most of the regulatory approvals available through a *Straight Through Process* (STP) model. Electronic filing has not only resulted in ease of business and faster provision of services, it has also resulted in saving lakhs of pages as documents are now filed electronically. The payments are also made electronically through the RBI guided NEFT. So far, the ICICI bank was providing the payment gateway. Now, the Ministry has enabled another gateway, through the Union Bank of India, for Credit card and net-banking payments. With this, the payment of fees for the services availed under MCA21 system is likely to get faster and easier.

Progress in XBRL : The eXtensible Business Reporting Language (XBRL) reporting format not only ensures adaptation of global best practice and validated fillings, it also enhances improved regulatory regime using online regulatory analysis tools that automatically ensures improved monitoring. During the Month of May, 2012, the XBRL mode moved forward in terms of filings, training, automatic regulatory technical scrutiny and the development of taxonomy:

- *Filings :* By May, 2012, as many as 26815 companies had filed their financial statements in the XBRL format to the Ministry.
- *Training :* Officers and staff in the establishments of Regional Directorates (RDs) and Registrars of Companies (ROCs) are being trained on XBRL continuously. In May, 2012, the training took place in Ahmedabad, Bangalore, Chennai and Mumbai.
- *Technical Scrutiny :* The XBRL regulatory tool was employed for conducting technical scrutiny on XBRL filings made by companies. Three or more alerts were generated for 738 companies, which have been referred to RD/ ROC for examination.
- *Taxonomy :* The development of taxonomies based on revised Schedule-VI continued during the month and feedback/ suggestions from RD/ROC offices for improved regulation of companies through XBRL were incorporated in the taxonomy. Comments/suggestions, etc were also invited from other government regulators like Enforcement Directorate, SEBI, RBI, CBEC, CBDT, etc. for inclusion of their regulatory requirements in the taxonomy so that future exchange of company related information is smooth and efficient.

Reporting on unpaid Dividend/Deposits: Under Section 205C of the Companies Act, 1956, the Investor Education and Protection Fund (IEPF) has been set up. Under the IEPF Rules, 2001, dividends and deposits remaining unpaid and unclaimed continuously for seven years with companies have to be transferred to the IEPF. The Ministry has enabled the companies to file details of such amounts on the Ministry's website (through MCA21 portal), to inform/alert such investors. Requisite rules for such filing have been notified.

Amendment to Competition Act: The proposal of the Ministry of Corporate Affairs to amend the Competition Act was considered by the Union Cabinet on 10.05.2012. It has been decided by the Cabinet to refer the matter to a Group of Ministers consisting of Finance Minister, Home Minister, Corporate Affairs Minister, HRD Minister and the Law Minister who will go into the issues including those of jurisdiction of sectoral regulators on Competition.

Roadmap for Investor Related Issues: As a follow-up to the India Corporate and Investor Meets organized by the Ministry in February, 2012, a Committee has been constituted under the chairmanship of Shri Jaydeep N. Shah, President, ICAI to prepare a roadmap for investor related issues comprising of financial literacy, investor grievance redressal, channelizing household savings into the corporate sector, and recognition to corporates for investor friendliness. The Committee is expected to submit its report by the second week of August, 2012.

Simplification of Rules and Procedures under the Companies Act :

I) Notifications : With a view to aligning Form 23AB with the provisions of the New Schedule-VI of the Companies Act, 1956, the form has been amended by G.S.R. dated 31.05.2012. The amended form includes 'Abridged Balance Sheet' containing the salient features of Balance Sheet and Statement of Profit and Loss etc. as per section 219 (1)(b)(iv) of the Act.

II) Circulars :

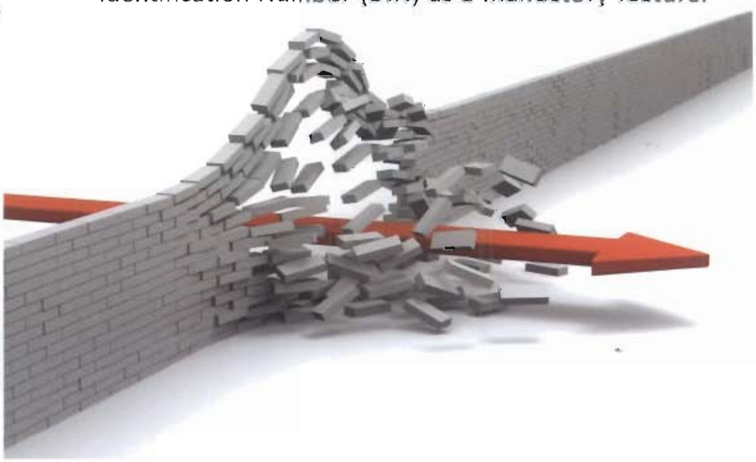
A. Certain event based information/changes relating to items like particulars of charges, modifications of charges and satisfaction of charges have been permitted to be filed in Forms 8, 10 & 17 with the Registrar of Companies by the defaulting companies (see General Circular No. 9/2012 dated 15.05.2012).

B. The Ministry of Corporate Affairs has also framed certain criteria for declaring a Financial Institution as Public Financial Institution under section 4A, of the Companies Act, 1956 (see General Circular No. 34/2011 dated 02.06.2011 and General Circular No. 10/2012 dated 21.05.2012).

SFIO Investigation Reports: The Ministry of Corporate Affairs ordered an investigation into the Affairs of M/s Sesa Goa Ltd (SGL). The Serious Frauds Investigation Office (SFIO) investigated the matter under Section 235 of the Companies Act and submitted its investigation report. The SFIO's investigation report has been considered in the Ministry and prosecutions under Sections 147 and 395 of the Companies Act, 1956 have been filed in Court. The Institute of Chartered Accountants of India has been requested to initiate disciplinary action against the statutory auditors of the company for professional misconduct.

Eminent Persons Advisory Group for CCI : The Competition Commission of India (CCI) has constituted an Eminent Persons Advisory Group (EPAG) on 08.05.2012. The EPAG will serve as a group of 'wise persons' to give broad inputs and advice on larger issues impacting markets and competition, good international practices, improved advocacy etc. to the Commission. The EPAG will have interaction/ meetings with the Commission twice or thrice a year. The group has been constituted in a manner that CCI could benefit from the advice of eminent persons representing a wide arena from the Corporate Sector, Academics, NGOs, Regulatory Authorities, Reserve Bank of India, CAG etc.

Action against Vanishing Companies : Companies that had come out with public issues and disappeared by way of (i) non-maintenance of their registered office; (ii) non-filing of statutory returns/listing requirements with the concerned ROCs/Stock Exchanges for a period of two years; and (iii) non-correspondence with the Exchange for a long time have been classified as 'Vanishing Companies'. A Coordination and Monitoring Committee (CMC) co-chaired by Secretary, MCA and Chairman SEBI has been setup to identify and monitor the state of affairs of Vanishing Companies and to take appropriate action against such companies in terms of Companies Act, 1956 and the SEBI Act, 1992. So far, 86 prosecutions have been filed against such 'Vanishing Companies'. The total number of vanishing companies stands at 87. As a measure that will inter alia help in easily tracing the Directors, the norms for incorporation of companies have been made stringent by introduction of Directors Identification Number (DIN) as a mandatory feature.



Encouraging CSR activities by companies : The Government has taken various steps to encourage adoption of Corporate Social Responsibility (CSR) activities by the companies, such as : (i) making it mandatory for Profit-making Central Public Sector Enterprises to create a CSR budget; (ii) declaration of the National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business, in July, 2011 for all companies; and (iii) giving CSR a statutory status under the new Companies Bill, 2011. Under the provisions of the Bill, companies, depending upon their net worth, turnover and net profit, shall endeavour to spend in every financial year, at least 2% of the average net profit made during the three immediately preceding financial years, towards a range of activities including welfare of SCs, STs, OBCs, minorities and women, in pursuance of its CSR policy.

Debt Recovery Tribunal Orders : M/s Daewoo Motors (India) Ltd. is presently under liquidation. Under the orders of the Debt Recovery Tribunal (DRT), Mumbai, the factory of the company was sold and the sale proceeds are with the DRT. A winding-up petition has been filed in the Delhi High Court, which will also consider the recent report of a Committee on the claims of the workmen.

Third Anniversary of CCI : A Two day workshop on "Competition Law and State owned Enterprises" was organised in collaboration with UNCTAD to commemorate the day of enforcement of Competition Law in India. The workshop was inaugurated by Dr. M. Veerappa Moily, Hon'ble Minister for Corporate Affairs. Shri Ashok Chawla, Chairperson, CCI and Shri Hassan Qaqaya, UNCTAD delivered opening remarks. Shri Naved Masood, Secretary, Ministry of Corporate Affairs and Shri O.P. Rawat, Secretary, Department of Public Enterprises delivered Special Address. Representative of Russia, United Kingdom, European Commission, Korea, South Africa and Australia participated and made presentation. About a hundred senior officers of the various Ministries, Public Sector Undertakings, academia, professional organisation and research institutions participated in the workshop.

Dr. Veerappa Moily, Hon'ble Corporate Affairs Minister congratulated the Competition Commission of India for completing three years of enforcement of competition laws and opined that the objective of competition laws was to protect competition and not the competitors and ultimately consumers should be the focus of any public policy and consumer should be the ultimate beneficiary. He highlighted the need for competition to be promoted, protected and nurtured through appropriate regulatory mechanism. Due to meticulous enforcement of such policies, India has been able to see an addition of 45 million new entrepreneurs during the last two decades.

Workshops, Seminars, Lectures and Advocacy by CCI :

- A workshop on "Handling in-depth merger investigation" was organised by CCI in collaboration with DG Competition, European Union during May 23-24, 2012.
- Shri S.N. Dhingra, Member, CCI participated in panel discussion on "Myth & Reality of Trial by Media" organised by Sardar Vallabhbhai Patel National Police Academy, at Hyderabad on 09.05.2012.
- Shri R.N. Sahay, Adviser, delivered a lecture on "Overview of Competition Law" at North Eastern Hill University, Umshing Mawkynroh, Shillong on 25.05.2012.
- Shri Kapil Agarwal, Joint Director and Shri Sriraj Venkatasamy, Deputy Director attended the workshop on "Competition Programme on Merger Analysis" organised by OECD–Korea Policy Centre at Jeju Island, Korea during May 8-10, 2012.

Competition Education in Schools : In order to generate awareness among senior secondary school children about the importance of healthy and fair competition in markets, the Competition Commission of India (CCI) has designed a small booklet 'Understanding Competition Law'. In several interactive sessions with the students in 15 schools in Delhi, the booklet has been distributed. Students have been fascinated by this new area of knowledge and their involvement in the interactions has been very encouraging. They are also elated with opening of new vistas in their career pursuits. The CCI proposes to cover more schools across the country. CCI would also approach authorities to include competition law in the curriculum of the schools.

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