INDIA SHINING

Shankarlal Jain And Associates
Chartered Accountants

Head Office :
12, Engineer Building, 265, Princess Street, Mumbai-400 002.
Phone :- 022-22036623, 22065739
FAX :- 91-22-22086269 • E-mail :- sljain@vsnl.com

Branch Office :
Shopper's Point, 5th Floor, H. B. Road, Fancy Bazar, Guwahati-781001.
Phone :- 0361-600471

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EXECUTIVE SUMMARY

M/s. Shankarlal Jain & Associates

SPECIAL ECONOMIC ZONE SCHEME (SEZ)

Special Economic Zone (SEZ) Scheme was introduced under the Export & Import policy by government of India w.e.f. 1-4-2000 with a view to provide an international competitive and hassle free environment for export.

The Special Economic Zone is an enclave, a foreign territory outside the Customs territory of India, with special rules for export-oriented production. Silent features are:

- SEZ units can import duty-free all their requirements for export production. No import licences are required. Even second-hand equipment can be imported. Capital goods can also be sourced from Indian/foreign leasing firms.
- SEZ Units can be set up for any type of activity: manufacture of goods, rendering of services, production, processing, assembling, trading, repair, remaking, reconditioning, or re-engineering. The only exceptions are arms and ammunition, atomic substances, psychotropic substances, and tobacco products.
- SEZ units are allowed considerable operational freedom in routine operations. Activity is not Customs-supervised. There is no Customs examination of import and export consignments. Units are allowed to use their own seals. Consignments are allowed through on an examination of the outer seals and marks and numbers. Operations are on the basis of self-declaration and self-certification by the units.
- Foreign Direct investment is permitted. All permissions granted by Development Commissioner by SEZ under Single window. In certain cases such permission may be granted by Board of Approval.
- SEZ units are obligated to achieve only positive Net Foreign Exchange (NFE) cumulatively over a period of five years commencing from the year of production. Positive NFE implies, FE Inflows through Exports earnings (Direct Exports + Third party Exports + Deemed Exports) should exceed FE Outflows by way of Import outgo on Raw materials /consumables + FE payments of commission/royalty/fees/ dividends/foreign travel + interest on ECB + amortized value of imported capital goods, by at least $1.
- The SEZ regime facilitates risk-free ECB funding. Export proceeds need to be brought in within 12 months of export. 100% of export proceeds can be retained in foreign currency (in EEFC account). This makes foreign currency financing exchange-risk free. Foreign currency borrowings make available funds at lower cost.
- SEZ units are allowed to subcontract/out-source part of their production or part of their production process. Units can subcontract to units abroad, in the SEZ or in the Indian Domestic Tariff Area. SEZ units can undertake job-work for export on behalf of Indian Domestic Tariff Area units. Units can also import raw materials & components free of cost for job work.
- SEZ units are allowed to procure their requirements from the Indian Domestic Tariff Area free of all duties and taxes. Supplies to SEZ units are deemed exports, and suppliers are eligible; for Advance Licence for import of intermediate inputs, exemption from payment of Central Excise Duty, or alternatively refund of Excise Duty, reimbursement of Central Sales Tax, and for Deemed Export Drawback. SEZ units can avail the Deemed Export Drawback and Refund of Terminal Excise Duty on getting disclaimer from the Indian Domestic Tariff Area supplier.
- SEZ units can sell their product to the Indian Market on payment of full duties, subject to NFE being positive.
- SEZ unit can import furnace oil without payment of Custom Duty.
- 100% income exempt for a block period of 5 years, 50% exemption for 2 years and 50% exemption for next 3 years subject to certain Conditions.
- SEZ unit are permitted commodity hedging.
- SEZ units are entitled to reimbursement of Central Sales Tax, Central Excise Duty if paid and are also exempt from payment of such tax and duty.
- No restriction on payment of Royalties, dividend and other remittances out of India.

SETTING UP OF SPECIAL ECONOMIC ZONES

Any private/public/joint sector or State Government or its agencies can set up Special Economic Zone (SEZ). Guidelines on Setting up of SEZ are given in (Appendix 14 -II-N) of Handbook of Procedure of Import and Export.

Proposals for setting up SEZ in the public/private/joint/ State sector are required to meet the following conditions:

(i) Minimum size of the SEZ shall not be less than 1000 hectares. This would however, not apply to existing EPZs converting into SEZs as such or for notifying additional area as a part of such SEZ or a SEZ developed for a specific product, port/airport.

(ii) The SEZ and units therein shall abide by local laws, rules, regulations or bye-laws in regard to area planning, sewage disposal, pollution control and the like. They shall also comply with industrial and labour laws and such other laws/rules and regulations as may be locally applicable.

(iii) Such SEZ shall make adequate arrangements to fulfill all the requirements of the laws, rules and procedures as applicable to such SEZ.

(iv) Only units approved under the SEZ Scheme would be permitted to be located in these SEZ.

(v) At least 25 % area of the SEZ shall be used for developing industrial area for setting up of such units.

The State Government shall, forward the proposal for setting up SEZ to Department of Commerce, Government of India whether such SEZ is developed by Private Indian, NRI, Foreign Companies, State Government or in joint sector along with following Commitments.

(i) The area incorporated in the proposed Special Economic Zone is free from environmental prohibition;

(ii) Water, Electricity and other services would be provided as required;

(iii) Full exemption in electricity duty and tax on sale of electricity for self generated and purchased power;

(iv) To allow generation, transmission and distribution of power within SEZ;

(vi) Exemption from State Sales Tax, octroi, mandi tax, turnover tax and taxes, duty, cess, levies on supply of goods from Domestic Tariff Area to SEZ units;

(vii) For units inside the Zone, the powers under the Industrial Disputes Act and other related Acts would be delegated to the Development Commissioner;

(viii) The Zone will be declared as a Public Utility Service under Industrial Disputes Act;

(ix) Single point clearances system would be provided to the units in the Zone under State Laws/Rules.

SETTING UP AN INDUSTRIAL UNIT IN SEPZ.

❇ All applications are to be filed with the Development Commissioner concerned.

❇ Development Commissioner is competent to clear/ approve in all cases within a period of 15 days, if the application is otherwise in order.

❇ The Development Commissioner is also competent to approve all cases involving FDI (Foreign Direct Investment) falling under the automatic route. For cases not falling under the automatic route, the DC recommends the case to the FIPB (Foreign Investment Promotion Board).

❇ A limited number of cases are referred by the Development Commissioner to the Board of Approvals in Deptt.of Commerce for approval:-

    (i) Manufacturing activities requiring compulsory industrial licensing and those reserved for the Public Sector.

    (ii) Service activities other than Software and IT enabled services.

    (iii) Cases in which location of a project not covered by the locational restrictions as notified by Deptt. of Industrial Promotion & Policy.

❇ On approval of a proposal, the Development Commissioner issues a Letter of Permission/Letter of Intent to the unit concerned.

❇ The Letter of Permission is valid for a period of three years within which the prospective investor is required to execute the Legal Undertaking

❇ The Investor is required to execute a bond with Custom and Excise Department.

SEPZ - INCOME TAX EXEMPTION

The Units set up in the SEZ (Special Economic Zone) which starts manufacture or produce articles or computer software after 01.04.2003 shall be entitle for 100% income tax exemption for income derived from export of such articles, or things or computer software for a period of consecutive 5 years beginning with assessment year in which such undertaking begins to manufacture or produce such articles or things or computer software. In the next 2 years such unit will be entitled for deduction of 50% of its profit of such exports. Thereafter for next 3 consecutive assessment years so much of the profit, not exceeding 50% of the profit being credited with a specified reserve account viz. "Special Economic Zone Reinvestment Reserves Account" will be allowed as deduction from the profit of such units.

The amount transferred to the specified reserve account shall be utilized within a period of 3 years for the acquisition of new plant and machinery for the purpose of SEZ Unit. Till such acquisition such amount will be utilized for the purpose of business of the SEZ units other than distribution of dividend. To qualify for deduction under Income Tax Act it is essential that such SEZ unit is not formed by splitting up or reconstruction of a business already in existence. The plant and machinery that are previously used for any other purpose in India should not be transferred to such SEZ unit except to the extent of 20% of cost of total plant and machinery. However second hand imported plant and machinery can be used. Such SEZ units are required to bring export proceeds in India within the time of 6 months or as extended by the competent authority. The profit exempt relatable to export made by such SEZ units shall be determined in the ratio of export turnover bears to total turnover of such SEZ unit. Such SEZ unit to avail deduction from income tax will be required to get their accounts audited from a Chartered Accountant and to submit such reports along with the return of income.

A SEZ unit is entitled for necessary deduction of export of computer software which has been defined to include any computer program recorded on any Disk, Tape or any other information storage device or any customized electronic data or any product or services of similar nature as notified. The following services have been notified to be entitled for tax deduction as "Computer Software".

I)	Back-office Operations
ii)	Call Centers
iii)	Content Development or Animation.
iv)	Data Processing
v)	Engineering and Design.
vi)	Geographic Information System Services.
vii)	Human Resources Services.
viii)	Insurance Claim Processing.
ix)	Legal Databases.
x)	Medical Transcription.
xi)	Payroll
xii)	Remote Maintenance.
xiii)	Revenue Accounting.
xiv)	Support Centers and
xv)	Webs-site Services

In case a unit develops software at client's site abroad such development of software shall be treated as exports.

The terminology "Manufacture" or "Produce" shall include cutting and polishing of precious or semi-precious stones. It is clarified that although the SEZ units can undertake activities of trading and providing of services other than manufacture or produce of an article or thing or computer software such other activities will not be entitled for income tax deduction.

With effect from 01.04.2004 the sales affected by a manufacturing unit situated outside SEZ and sold to undertaking situated in SEZ is eligible for deduction u/s. 80 HHC of the Income Tax Act, 1961. Such sales effected by an industrial undertaking situated outside SEZ shall be deemed to be an export outside India for the purpose of calculation of deduction of export profit entitled for deduction u/s. 80 HHC. Such deduction will be available till 31.3.2005.

INCOME TAX EXEMPTION TO SEPZ DEVELOPER

The above income tax deduction deals with the deduction available to an industrial unit situated within a Special Economic Zone. Deduction from income tax is also available on profit of the developer who develops Special Economic Zone. Such deduction is available for a period of 10 consecutive assessment years out of a block of 15 assessment years beginning from the assessment year in which such SEZ is developed. The profit derived by the developer from such SEZ shall be exempt to the extent of 100%, if one develops and operates or maintains and operate such Special Economic Zone before 31.3.2006 as notified by the Central Government, in accordance with the Scheme framed, 100% profit of such undertaking from these activities will be exempt as specified hereinabove.

In case Special Economic Zone is set up after 01.04.2001 and such undertakings transfer the operation and maintenance of such special Economic Zone to another undertaking, deduction as specified under the section shall also be allowable to transferee undertaking for the remaining period of 10 consecutive assessment years. In terms of the above provision Ministry of Commerce and Industry has framed a scheme for development, maintaining and running of a Special Economic Zone as notified on 24.1.2002.

Income by way of dividend, interest or Long Term Capital Gain earned by a infrastructure capital fund or an infrastructure capital company from investment made by way of shares or Long Term finance in such undertaking is exempt from taxation provided such infrastructure capital fund is approved by the Central Government on application made.

EXEMPTION FROM SALES TAX

Central Government has granted exemption from payment of Central Sales Tax on purchases affected by the unit set up in SEZ or for the development and maintaining and running of such SEZ. Similarly all the State Governments while applying to Central Government for setting up of SEZ unit, grants exemption from Sales Tax for all purchases effected by such units and undertaking developing and maintaining, running such Special Economic Zone. State Government has also granted exemption from the duty payable on electricity consumed.

Certain other incidental benefits has been allowed as in case of Industrial unit set up in Special Economic Zone. Managing Director, Whole Time Director or a Manager of a company which has set up an industrial unit in SEPZ or engaged in the development and maintaining of a Special Economic Zone need not be a resident in India and a Non-Resident will be entitled for such an appointment by virtue of necessary exemption provided in the Companies Act, 1956. The maximum remuneration payable has been fixed at Rs.2,40,00,000/- per annum or Rs.20,00,000/- per month as against limit of Rs.24,00,000/- or Rs.2,00,000/- per month under the Companies Act, 1956. In such cases, Board Meeting can be held by way of Video-conferencing. A single window mechanism for registration of company in SEZ is also provided.

ESTABLISHMENT OF BRANCH OFFICE / UNITS IN SPECIAL ECONOMIC ZONES

Reserve Bank of India has granted under its Circular dated 16.1.2004 a General Permission to foreign companies to establish Branch Offices/ Units in Special Economic Zones to undertake manufacturing and service activities, subject to the following condition

i. Such units are functioning in those sectors where 100% FDI is permitted,

ii. Such units comply with part XI of the Companies Act (section 592 to 602)

iii. Such units function on a stand-alone basis

iv. In the event of winding-up of business and for winding up proceeds, the branch / unit shall approach an Authorised Dealer with the following documents prescribed under Regulation 6 (1) (iii) of Notification No.FEMA-13/2000-RB dated May 2000 , viz.

- ✤ Auditor's certificate.
- ✤ No-objection or Tax clearance certificate from Income-Tax authority for the remittance; and
- ✤ Confirmation from the applicant that no legal proceedings in any Court in India are pending and there is no legal impediment to the remittance.

Mini Budget 2004-2005

The Honourable Finance Minister presented its Interim Budget for the fiscal year 2004-05 on 03.02.2004. It was for seeking a Vote-on-Account to enable the Government to discharge its liabilities and to meet all essential expenditure during the first four months of the year. However, Finance Minister has laid down broad policy to be persuaded after the establishment of new Government. The Finance Minister has expressed great satisfaction on the robust showing of National Economy. The country's macro-economy situation is held to be better than it was ever in last 50 years. The reason for such situation is controlled inflation at the average rate of 4.5% , expected growth of GDP at the rate of 7.5% to 8%, creation of employment through development of infrastructure, increase in Foreign Exchange Reserves exceeding US $ 100 billion, declining interest rate, healthy capital market and controlled deficit financing. The fiscal deficit estimated to be 4.8% of GDP as against 5.6 %, as budgeted, tax revenue increased to Rs.1,87,539 Crores as against Rs.1,84,169 Crores. Non-tax revenue has also increased to Rs.75,488 Crores as against budgeted Rs.69,766 Crores. Expenses has been kept under control and there has been a decrease in the expenditure of Rs.11,143/- Crores.

BUDGET APPROACH as fixed by Finance Minister are :-

1. enhanced employment and eradication of poverty.
2. a second green revolution in agriculture
3. infrastructure development
4. fiscal consolidation
5. greater manufacturing sector efficiency .

The above objectives are to be achieved through :-

- Antyodaya Anna Yojana-Distribution of grain at subsidized rates to the families Below Poverty Line (BPL) at present it covers 50 Lakhs families, proposed to cover 2 Crore BPL families whilst ensuring that tribal states, districts or belts receive added allocations.
- Six new AIIMs like hospitals to be established one each in Bihar, Chhatisgarh, Madhya Pradesh, Orissa, Rajasthan and Uttaranchal and certain Medical Colleges to be upgraded to the level of AIIMS.
- Measures to ensure availability of timely credit at reduced rate of interest to the farmers and other citizens of rural India at convenient terms and conditions.
- All eligible farmers to be issued Kisan Credit Cards by 31.3.2004 and existing credit card to be modified.
- Farm income insurance scheme introduced in 20 districts, on a pilot basis to be extended to 100 districts.
- Financial help by way of easy loan to be extended to Tea and Sugar Industries.
- Credit cards to be issued to Small Scale Industries having satisfactory track record , limit to be increased from Rs.2 Lakhs to Rs.10 Lakhs.
- For the development of desert areas of Rajasthan, a Task Force to be set up and Indira Gandhi Canal Project implementation to be accelerated and Narmada Canal to be extended to Rajasthan.
- Excise benefits granted to Industrial Units to be set up at Kutch Districts extended from 31st July, 2004 to 31st December, 2004.
- To accelerate Drinking water supply to mega cities such as Bangalore, Delhi, Chennai and Hyderabad, necessary schemes to be taken up.
- Four Global Standard International Convention Centre to be established through private / public partnership at Delhi, Mumbai and one each at Goa and Rajasthan.
- Funds to be established for infrastructure development such as -
  - Agricultural infrastructure and credit fund,
  - Small and medium enterprises fund,
  - Industrial infrastructure fund

  to provide finance at a lower rate of interest at convenient terms.
- Defence modernization Fund to be established at Rs.25,000 Crores.
- In the field of taxation , the following proposals are being made to be implemented :-

A. DIRECT TAXES

Following amendments are proposed to be carried out :

- An undertaking set up for generation and distribution of power which begins to generate or to distribute power prior to 31.3.2006 is entitled for necessary deduction under the provisions of Section 80 IA for a period of 10 years out of period of 15 years in which such undertaking starts its activities. Now the period of setting up of such units has been extended till 31.3.2012.

- Capital gain arising on sale of equity shares in a company being constituent of BSE 500 index or in equity shares allotted through a public issue on and after 01.03.2003 and held for a period of 12 months was entitled for exemption u/s. 10 (36) of the Income Tax Act, 1961 if such shares were acquired prior to 01.03.2004. Now this provision is further extended for a period of 3 years.
- It is proposed that a tonnage tax scheme will be introduced for Indian Shipping Industry in place of present system of taxation.
- Capital gain arising on acquisition of Agricultural land and interest receivable on enhanced compensation in case of compulsory acquisition is proposed to be exempted from tax.
- It is proposed to provide in case of foreign company out-sourcing BPO services from India will not be taxable in case such services are ancillary and auxiliary services.
- Deduction allowable by way of standard deduction, allowable to employees is proposed to be revised.

B. INDIRECT TAXES

These proposals becomes effective immediately :

- In case of capital goods which are exempted from counter veiling duty, suggestion of the industry that in such cases Deemed export benefit to be extended to the capital goods manufactured indigenously shall be considered to make Indian industry more competitive.
- Free Baggage allowance raised from Rs.12,000/- to Rs.25,000/- and customs duty has been reduced from 50% to 40% with immediate effect.
- Tax Administration:
  - Round the clock electronic filing of customs documents for clearance of goods to be extended to 23 customs stations by March 31, 2004.
  - Custom clearance to be based on self-assessment and selective examination from June 30, 2004.
  - An 8 digit code of classification of goods for levy of excise to be adopted by September 30, 2004.
  - Compounding of offences under excise rules for quick settlement of disputes to be introduced from June 30, 2004.
  - E-filing of excise returns to be introduced from June 30, 2004.

C. SERVICE TAX

- Only a simple verification being made for grant of registration.
- A single registration and single return for assesses providing more than one taxable service.
- e-filing of returns and also their electronic scrutiny to all the 58 taxable services.

In its Vote-on-Account passed by the Government on 3.2.2004, it has announced various reductions in customs and excise duty with immediate effect leading to cheaper availability of capital goods for Indian entrepreneurs, at the same time making price competitive and beneficial for the Indian consumers. The major amendment brought about in the Vote-on-Account are :-

- Maximum rate of custom duty reduced from 25% to 20% except for agricultural goods.
- 4% Special Additional Duty of Custom (SACD) abolished.
- Reduction in custom duty on project imports.
- Cut in custom duty on coal from 25% to 15% and on nickel from 10% to 5%.
- On transfer of residence, import duty on laptop scraped and other 17 items duty reduced.
- Custom duty on power transmission and distribution equipment reduced to 10% from 25% and in case of electricity meter 15% from 25%.
- Cell Phone 5% from 10%
- Life saving drugs, duty cut to 5%.
- Excise duty on aviation turbine fuel cut from 16% to 8%.
- 15% inland travel tax and Rs. 500 per passenger and foreign travel tax (FTT) abolished.
- Excise duty on IT Hardware, PCS cut from 16% to 8%.

BUDGET AT A GLANCE

OVERALL SECTORAL IMPACT

Industry wise follows...

OVERALL SECTORAL IMPACT

Sector	Policy Announcement	Impact	Effect
Automobiles	✤ Reduction in peak Customs duty to 20%. ✤ Abolishment of special additional duty.	✤ Will help reduce cost of inputs. ✤ Will reduce cost of imported components.	F
Power	✤ Reduction of Custom duty to 10%. ✤ Abolition of 4% special additional duty. ✤ Reduction in Customs duty on electric meters and imported coal to 15%.	✤ Duty cut will significantly cut down project cost. ✤ Increased threat from equipments imported to local equipment manufacturer.	N
Capital Goods	✤ Reduction in Customs duty to 20%. ✤ Abolition of special additional duty.	✤ It will negatively impact capital goods manufacturers in the country due to intense pricing pressure.	U
Cement	✤ Customs duty on Non-coking coal reduced to 15%.	✤ Cut in the cost of inputs.	F
Pharmaceuticals	✤ Reduction of peak duty on bulk drugs to 20%. ✤ Reduction in Customs duty on many life saving drugs to 5% and 14%. ✤ Abolition of special additional duty.	✤ It will lead to reduction in imported cost. ✤ Reduction in Imported duty will not affect local manufacturers as domestic price continues to be lower.	F
Petrochemicals	✤ Reduction in Peak Customs duty. ✤ Abolition of special additional duty of 4%.	✤ Reduction in Customs duty will lead to pressure on margins of local manufacturers.	U
Oil & Gas	✤ Reduction of Customs duty on projecte imports to 10%. ✤ Reduction of Excise Duty on ATF to 8%. ✤ Capital goods supplies to Refineries get Deemed export status under Exim Policy. ✤ Duty-free imports of Fuel for exporters.	✤ Reduction in project import duty will lead to reduced cost for up coming new Refinery project. ✤ Reduction in ATF price will induce Tariff reduction and increase demand.	F

Sector	Policy Announcement	Impact	Effect
Non-Ferrous Metal	✤ Reduction in Custom duty to 20%. ✤ Abolition of 4% special additional customs duty.	✤ Reduction in import cost will lead to competitive pricing for local manufacturers.	U
Consumer Durables	✤ Reduction in customs duty of Colour Televisions, Refrigerators, Airconditioners, and Washing Machines. ✤ Reduction in Customs duty on Colour Picture tubes and Compressors.	✤ Local Manufacturer will benefit from the reduction in customs duty as the cost of Compressor, a key input in the manufacturing process will reduce. ✤ Price of the product will be reduced due to reduction in customs duty which will benefit the consumer.	F
Telecommunication	✤ Custom duty on raw material and inputs reduced to 5% / NIL. ✤ Specified infrastructure equipments for basic Cellular, Internet, V-Sat etc exempt from basic customs duty.	✤ This will drive down cost of input which will in turn lower the price for Telecom company and customer.	F
Infotech	✤ Excise duty on IT hardware reduced to 8%. ✤ Abolition of special additional duty. ✤ Exemption on VCDs and DVDs from Excise Duty.	✤ It will lead to increase in demand as cost will reduce, as the P.C. prices will drop volumes are expected to pick up.	F

F : Favourable   U : Unfavourable   N : Neutral

BUDGET AT A GLANCE

(In crore of Rupees)

PARTICULARS	2002-03 Actuals	2003-2004 Budget Estimates	2003-2004 Revised Estimates	2004-2005 Budget Estimates
1. Revenue Receipts	**231748**	**253935**	**263027**	**290882**
2. Tax Revenue (net to Centre)	159425	184169	187539	220132
3. Non-tax revenue	72323	69766	75488	70750
4. Capital Receipts (5+6+7)	**168648**	**184860**	**211228**	**166552**
5. Recoveries of Loans	34191	18023	64625	14100
6. Other Receipts	3151	13200	14500	16000
7. Borrowings and other Liabilities	131306	153637	132103	136452
8. Total Receipts (1+4)	**400396**	**438795**	**474255**	**457434**
9. Non-plan Expenditure	**288942**	**317821**	**352748**	**322363**
10. On Revenue Account of which,	268074	289384	284801	295359
11. Interest Payments and Debt Servicing	117804	123223	124555	129500
12. On Capital Account	20868	28437	67947	27004
13. Plan Expenditure	**111455**	**120974**	**121507**	**135071**
14. On Revenue Account	71554	76843	78086	85383
15. On Capital Account	39901	44131	43421	49688
16. Total Expenditure (9+13)	**400396**	**438795**	**474255**	**457434**
17. Revenue Expenditure (10+14)	339627	366227	362887	380742
18. Capital Expenditure (12+15)	60769	72568	111368	76692
19. Revenue Deficit (17-1)	**107879 (4.4)**	**112292 (4.1)**	**99860 (3.6)**	**89860 (2.9)**
20. Fiscal Deficit {16-(1+5+6)}	**131306* (5.4)**	**153637 (5.6)**	**132103 (4.8)**	**136452 (4.4)**
21. Primary Deficit (20-11)	**13502 (0.6)**	**30414 (1.1)**	**7548 (0.3)**	**6952 (0.2)**

* Based on provisional Actuals for 2002-2003.

REVISED ECB GUIDELINES

Reserve Bank of India has clarified under its Circular dated 31.1.2004 conditions for raising External Commercial Borrowing (ECB) which are summarized below :-

ECB can be accessed under two routes, viz

(i) Automatic Route
(ii) Approval Route

(A) AUTOMATIC ROUTE

ECB for investment in real sector; industrial sector, especially infrastructure sector-in India, will be under Automatic Route i.e. will not require RBI / Government approval. In case of doubt as regards eligibility to access Automatic Route, applicants may take recourse to the Approval Route.

I. ELIGIBLE BORROWERS

Corporates registered under the Companies Act except financial intermediaries (such as banks, financial institutions (FIs), housing finance companies and NBFCs) are eligible

II. RECOGNISED LENDERS

Borrowers can raise ECB from internationally recognized sources such as (i) international banks, international capital markets, multilateral financial institutions (such as IFC, ADB,CDC etc) (ii) export credit agencies and (iii) suppliers of equipment, foreign collaborators and foreign equity holders.

III. AMOUNT AND MATURITY

a) ECB up to USD 20 million or equivalent with minimum average maturity of three years

b) ECB above USD 20 million and upto USD 500 million or equivalent with minimum average maturity of five years

c) ECB up to USD 20 million can have call / put option provided the minimum average maturity of 3 years is complied before exercising call / put option.

IV. ALL-IN-COST CEILINGS

All-in-cost includes rate of interest, other fees and expenses in foreign currency except commitment fee, pre-payment fee and fees payable in Indian Rupees. Moreover, the payment of withholding tax in Indian Rupees is excluded for calculating the all-in-cost.

The all-in-cost ceilings for ECB will be indicated from time to time. The following ceilings will have immediate effect and will be valid till reviewed.

Minimum Average Maturity Period	All-in-cost Ceilings over six month LIBOR*
Three years and up to five years	200 basis points
More than five years	350 basis points

* for the respective currency of borrowing or applicable benchmark.

V. END-USE

a) ECB can be raised only for investment (such as import of capital goods, new projects, modernization / expansion of existing production units) in real sector - industrial sector including small and medium enterprises (SME) and infrastructure sector - in India. Infrastructure sector is defined as (i) power, (ii) telecommunication, (iii) railways, (iv) road including bridges, (v) ports, (vi) industrial parks and (vii) urban infrastructure (water supply, sanitation and sewage projects);

b) Utilization of ECB proceeds is permitted in the first stage acquisition of shares in the disinvestment process and also in the mandatory second stage offer to the public under the Government's disinvestment programme of PSU shares.

c) Utilization of ECB proceeds is not permitted for on-lending or investment in capital market by corporates.

d) Utilization of ECB proceeds is not permitted in real estate. The term ‘ real estate ‘ excludes development of integrated township as defined by Ministry of Commerce and Industry, Department of Industrial Policy and Promotion , SIA (FC division) , Press Note 2 (2002 Series, dated 04.01.2002).

VI. GUARANTEES

Guarantee / standby letter of credit or letter of comfort by banks, financial institutions and NBFCs relating to ECB is not permitted.

VII. SECURITY

The choice of security to be provided to the lender / supplier is left to the borrower. However, creation of charge over immovable assets and financial securities, such as shares, in favour of overseas lender is subject to Regulation 8 of Notification No.FEMA 21 /RB-2000 dated May 3, 2000 and Regulation 3 of Notification No. FEMA 20/RB-2000, dated May 3, 2000, respectively

VIII. PARKING OF ECB PROCEEDS OVERSEAS

ECB proceeds should be parked overseas until actual requirement in India.

IX. PREPAYMENT

Prepayment of ECB up to USD 100 million is permitted without prior approval of RBI, subject to compliance with the stipulated minimum average maturity period as applicable for the loan.

X. REFINANCE OF EXISTING ECB

Refinancing of existing ECB by raising fresh loans at lower cost is permitted subject to the condition that the outstanding maturity of the original loan is maintained.

XI. DEBT SERVICING

The designated Authorised Dealer (AD) has the general permission to make remittances of principal , interest and other charges in conformity with ECB guidelines issued by Government / RBI from time to time.

(B) APPROVAL ROUTE

The following types of proposals for ECB will be covered under the Approval Route.

ELIGIBLE BORROWERS

a) Financial institutions dealing exclusively with infrastructure or export finance such as IDFC, ILFS, Power Finance Corporation, Power Trading Corporation, IRCON and EXIM Bank will be considered on a case by case basis.

b) Banks and financial institutions which had participated in the textile or steel sector restructuring package as approved by the Government will also be permitted to the extent of their investment in the package and assessment by RBI based on prudential norms. Any ECB availed for this purpose so far will be deducted from their entitlement.

REVISION OF EXISTING SECTORAL GUIDELINES AND EQUITY CAP ON FOREIGN DIRECT INVESTMENT (FDI), INCLUDING INVESTMENT BY NON RESIDENT INDIANS (NRIS) AND OVERSEAS CORPORATE BODIES (OCBS)

1. With a view to further liberalising the FDI regime, Government have effected the following changes in the FDI Policy :

   i) FDI up to 100 per cent is permitted in printing scientific and technical magazines, periodicals and journals, subject to compliance with the legal framework as applicable and guidelines issued in this regard from time to time by the Ministry of information and Broadcasting. FDI in this sector would be permissible with prior Government approval.

   ii) FDI upto 100 per cent is permitted on the automatic route on Petroleum product marketing. FDI for this sector would be permissible subject to the existing sectoral policy and regulatory framework in the oil marketing sector.

   iii) FDI up to 100 per cent is permitted on the automatic route in oil exploration in both small and medium sized fields subject to and under the policy of the Government on private participation in : (a) exploration of oil and (b) the discovered fields of national oil companies.

   iv) FDI up to 100 per cent is permitted on the automatic route for petroleum product pipelines subject to and under the Government Policy and regulations thereof.

   v) FDI up to 100 per cent is permitted for Natural Gas/LNG Pipelines with prior Government approval.

2. The provisions of Press Note 2 of 2000 stand modified to the above extent.

E-filing of Tax Deducted at Source (TDS) returns - year ended 31st March 2003

BACKGROUND

With effect from 1st June 2003, it is mandatory for all companies to furnish their withholding tax returns on computer media. A proviso has been inserted to Section 206(2) of the Income-tax Act by the Finance Act 2003, which makes this compulsory for all companies.

A notification has been issued with a scheme for e-filing of returns. This scheme is applicable to all persons requiring the filing of returns on computer media. It therefore logically follows that all companies are required to file their withholding tax returns electronically through the e-return intermediary.

ELECTRONIC FILING OF RETURNS OF TAX DEDUCTED AT SOURCE SCHEME, 2003

Attached herewith is a text of the scheme for your ready reference.

- ➢ The printed copy of return to be submitted to 'e- TDS Intermediary' is to be accompanied by a floppy (3½ inch+ 1.44 mb capacity) or CD-Rom containing the form of return. The floppy / CD - Rom need not include the TDS certificates. There is also no clear instruction as to whether the hard copy of the TDS certificate / challans need to be attached with the printout of the return that will be filed.
  - ➢ Each computer media used for preparation of the e-TDS Return shall be affixed with a label indicating name, permanent account number, tax deduction account number and address and e-deductor, the period to which the return pertains, the Form Number of the return and the volume number of the said media in case more than one volume of such media is used.
- The returns in forms 24 / 26 / 27 must be accompanied by Form 27A containing a declaration.
- Corporate deductors will require Tax Deduction Account Number (TAN) in the format: AAAANNNNNA (e.g. DELA00001F). Deductors who do not have TAN should immediately make applications in form 49B (in duplicate).
- The PAN nos. of all persons in respect of whom tax has been deducted should be mentioned.
- Form 26 is a form which is used for all payments - contractors, rent, professional, commission / brokerage. Though one return is filed for all these categories together, kindly start a category on a new page as a new annexure to the same form. In other words, though the form is one, use separate annexures one after the other for contractors, professionals, rent, commission / brokerage, etc.
- For payments to non-residents the form no. is 27. This form is required to be filed quarterly and is in different format from 5 above.
- Most columns in the new form are same as in the old form. The new information in form 26 is '10-Bank branch code' and '11-Challan number given by bank'. There is no instruction on what branch code needs to be filled in and also for the field size, etc.
- Upload Charges:

  Since e-filing of TDS returns will reduce the voluminous paper work involved in filing of paper TDS returns and enclosures thereby significantly reducing the compliance cost of deductors, the e-intermediary i.e. NSDL have been authorized to collect service charges in respect of the various services being rendered by them to the deductors for upload of e-TDS returns at the following rates.

Category of e-TDS return	Upload charges
Returns having records of up to 100 deuctee records	Rs. 25/-
Returns having records of 101 to 1000 deductee records	Rs. 150/-
Returns having records of more than 1000 deductee records	Rs. 25/-

Service tax if any will be payable by deductors in addition to above.

- The last date for filing TDS returns on computer media for the year ended 31st March 2003 is 31st March, 2004.