New Income Tax Criminal Probe Wing to Toe US Model

The newly created directorate of criminal investigation (DCI) in the income tax (I-T) department is to adopt the functioning and strategies of its American counterpart, the criminal investigation wing of that country's Internal Revenue Service (IRS). A group of senior Income Tax officials would visit the US soon to study the IRS framework and practices in this regard. "We would study the IRS model and accordingly create a system which will suit the Indian context. We will concretise it and present it before CBDT (Central Board of Direct Taxes) for approval, "said a senior I-T department official. He added that DCIs primary role would be to handle cases involving money generated through illegal means such as bribery, smuggling, narcotics and terror funding. "The stakes are very high in these cases. The US IRS criminal investigation (wing) has been very successful in handling these cases. Our idea here is to create a specialised agency (DCI) to tackle illegally acquired money, in coordination with other agencies, including the police and enforcement directorate," said the official. He said for cases involving unaccounted income emanating legally but on which tax had not been paid, the departments normal machinery would be utilised, without DCI venturing into this area. DCI will, as mentioned earlier, focus on those cases where criminality is involved. It can operate under the existing framework, as no change is required in the I-T Act to make DCI functional. DCI has been given the mandate to seek and collect information about persons and transactions suspected to be involved in criminal activities having cross-border, inter-state or international ramifications, posing a threat to national security and punishable under the direct tax laws. It will also investigate the source and use of funds involved in such criminal activities and has been given powers to file prosecution complaints in the competent courts under any direct tax law relating to a criminal activity.

(***Source:*** *http:/www.economictimes.com)*

Now Pay Only 15 Per Cent Tax on Short-Term Gains

There seems to be a dim ray of hope for scores of investors who were asked to pay a higher tax for selling shares within 30 days of purchase. The Income Tax Appellate Tribunal (ITAT) has ruled that profits from the sale of shares held for less than 30 days are eligible to be treated as short-term capital gains, on which 15 per cent tax has to be paid. Tax officials demanded a higher tax of over 30 per cent on the ground that since shares were sold before 30 days from the date of purchase, such gains should be considered as business income and not short-term capital gains. Since tax rules do not spell out the duration of holding and frequency of securities trades for tax treatment, tax officials often use their discretion to arrive at a claim. This has been a source of endless disputes between investors and the tax department. The 15th June ruling by ITAT in Mumbai is the latest in a series of judicial and quasi-judicial decisions on what constitutes short-term capital gains and business income. The ITAT decision in the case of Hitesh Satishchandra Doshi followed two earlier decisions, where the ITAT drew a 30-day mark to distinguish between business income and short-term capital gains. The Mumbai ITAT, however, held that the statute is clear only as far as the distinction between long-term and short-term capital gains is concerned. For long-term capital gains, shares have to be held for at least 12 months, and the profit from shares held for less than 12 months will be taxed as short-term capital gains. There is no tax on long-term capital gains. The ITAT also observed that the law does not lay down a 30-day mark to distinguish between business income and short-term capital gains. It pointed to the parameters laid down by the Supreme Court for making the distinction between investment and trading in shares. Factors such as intention of the assessee at the time of buying shares, whether the assessee borrowed money to purchase the shares and paid interest, the frequency of such purchases and disposal in that particular item, whether the purchase and sale is for realising profit or purchases are made for retention and appreciation in its value, and how the value of items has been taken in the balance sheet, are critical in determining whether a gain is business income or a short-term capital gain. Therefore, no single factor can be said to be decisive in determining whether the nature of the transaction is trading activity or investment, the ITAT held. Each case needs to be decided on the basis of the facts of the case. Therefore, treating a transaction as investment when the holding period is more than 30 days and treating the income as business income if the holding period is less than 30 days is not correct, the ITAT observed.

(***Source:*** *http://www.thehindubusinessline.com/)*

TDS Woes Spilling From TIN

For the first time perhaps the Central Board of Direct Taxes has chosen to consciously undermine a hoary law still extant, the one Parliament has chosen not to repeal. The tax administration has been exhorting taxpayers not to set store by the TDS certificates they receive, but by what appears in the Tax Information Network (TIN) as tax credit available to them by way of advance tax, tax collected at source and deducted at source. What this meant was no matter what the TDS certificates said, the TIN information would be held as final and sacrosanct. And more galling would be a situation where a taxpayer has paid an installment of advance tax, but can't claim credit for the same because the bank with which the amount has been deposited has goofed up. TIN information is compiled out of what the banks with which tax deducted at source is deposited upload into the system and TDS certificates are issued by employers and others obliged to deduct tax at source. The peremptory message is in case of discrepancy between the two, the former would prevail. This was the first step in dethroning of TDS certificates through an administrative fiat without the backing of the Parliamentary approval. Going a step further, the tax administration now has exhorted the tax deductors not to issue Form 16/16A on the basis of their own accounting information, but on the basis of the TIN information. And this time round, the peremptory order is being flashed by the ticker in red appearing on its website. While the ticker might be construed as a belated

attempt to forestall and pre-empt the discrepancy between TIN and TDS certificates by aligning the two peremptorily, the bottom-line is effective marginalisation nay annihilation of the true worth of TDS certificates.
(***Source:*** *http://beta.profit.ndtv.com/news)*

CBDT Plans 11 More Directorates for Tax Exemption Cases

To speed up clearances of tax exemption cases, the Central Board of Direct Taxes (CBDT) will set up 11 more specialised offices in the country. "CBDT plans to have directorate [exemptions] in all the states and to begin with, we will be setting up 10 to 11 new directorates," a revenue official said. However, the official did not specify any timeframe for creation of the specialised offices (directorates). Exemptions are given under the Income-tax Act, 1961, to encourage and fulfill certain social objectives relating to areas such as sports, charity, religion and education. The exemption wing of the Income Tax Department, headed by Director General of Income Tax (Exemptions), currently has seven directorates -- Kolkata, Ahmedabad, Bengaluru, Chennai, Delhi, Hyderabad and Mumbai. When the new directorates are operationalised, the number will increase to 18. The government also allows tax exemptions to various organisations engaged in activities like charity, religious activities and scientific research-related.
(***Source:*** *http://www.hindustantimes.com)*

Government Likely to Roll Back Excise Duty on Branded Garments

In what would come as major relief to garment manufacturers, Centre may withdraw the mandatory 10 per cent excise duty on branded ready-made garments. The duty was imposed in the budget for this financial year on branded apparel sector that is pegged at ₹40,000 crore a year. "I am in the process of taking up the matter with finance ministry. I will write to finance minister by end of this month requesting him to consider the sectors demand for withdrawing 10 per cent mandatory excise duty on ready-made garments as it has led to reduction in retail domestic demand since April, 2011," Textiles Secretary Rita Menon said. Menon is confident that this mandatory excise duty would be withdrawn in next year's budget as it has led to a discernable slowdown in the apparel sector. She was speaking on the sidelines of 47th India International Garments Fair held by Apparel Export Promotion Council. Till now, ready-made garments and made-up textiles were under an optional excise duty regime wherein manufacturer was required to pay excise duty only if he wished to avail Cenvat credit. Over 90 per cent of apparel manufacturers are small and medium enterprises that were not availing Cenvat and, therefore, had never paid excise duty at the factory-level.
(***Source:*** *http://www.indianexpress.com/)*

GST Regime Unlikely From April Next Fiscal; States Oppose Draft Bill

Introduction of indirect tax reforms through the common goods and services tax, or GST, from the next fiscal appears uncertain with fresh opposition pouring in from BJP-ruled states who claim that it would reduce their status to that of municipalities and corporations. The draft bill for GST was introduced in the Lok Sabha in the last Budget session. It was the fourth draft prepared by the Centre after the first three were rejected by the states, citing autonomy issues. Among the objections raised is the proposal to bring the sales tax in ambit of the GST. The GST would subsume most of the indirect taxes like excise duty and service tax at the central level and VAT on the state front, besides local levies. The implementation of GST, considered to be a major tax reform, has been stuck for years due to differences between the Centre and some states over the new structure.
(***Source:*** *http://www.business-standard.com/india/)*

SEBI Bid to Incentivise MF Sellers

Looking for ways to incentivise mutual fund (MF) distributors, SEBI is mulling to do away with sub-limits within the annual fees that asset management companies (AMCs) are allowed to charge from investors. Instead, the market regulator is weighing options of allowing a consolidated fee structure as per the limits already in place. At present, fund houses are allowed to charge 2.5 per cent annual fee for the first ₹100 crore of equity assets they manage, and this comes down by 25 basis points (100 basis points = 1 per cent) for every additional ₹300 crore assets under management (AUM) with the lower limit capped at 1.75 per cent. However, following SEBI's stand of not charging investors more in any case, the overall limit for annual charges or expenses would remain the same, SEBI sources said. At present, the annual expenses that AMCs charge have sub-limits under different heads like fund management charges, custodian fees, marketing expenses, etc. For example, the limit for annual fund management fee is 1.25 per cent for the first ₹100 crore worth of equity AUM, and 1 per cent for AUM above this limit. The market regulator is now evaluating options of doing away with all these sub-limits to settle for a consolidated fee structure as per the limits already in place, SEBI sources said. Top MF industry officials too said that they have been sounded out unofficially about such a move by the regulator but a final decision will be taken only after a detailed discussion within the SEBI board and industry players.
(***Source:*** *http://www.economictimes.com)*

India Won't Expand FY12 Borrowing Plan, Says Finance Minister

The Indian government will not expand its 2011/12 borrowing programme, Finance Minister Pranab Mukherjee said recently. The government plans to borrow ₹4.17 trillion ($93.2 billion) rupees in the current fiscal year, with 2.5 trillion scheduled between April and September. The Finance Minister also said the industrial output growth in May was "not encouraging". India's industrial output in May rose 5.6 percent, the slowest pace of growth in nine months, indicating taut monetary policy and high inflation were acting as brakes on the economy.
(***Source:*** *http://timesofindia.indiatimes.com/)*