Select Legal Decisions

INDIRECT TAXES

1. ***Alembic Glass Industries Ltd. v. CCEx. 2006 (201) ELT 161 (SC)***

On account of a prolonged strike in the factory of the appellant, it was decided to cut down expenditure incurred on labour, packing, inventory advertising etc. One of the bulk buyers of the appellant's products started advertising the products purchased from the appellant in order to boost its sales. The department contended that the appellant had gradually transferred the expenditure on sales promotion/advertisement of its products to the said buyer and thus such expenditure should be treated as additional consideration and should be included in the assessable value of the appellant's products.

The Supreme Court observed that where advertisement cost is incurred by the manufacturers/customers compulsorily or mandatorily and where manufacturer has enforceable right against the customers to insist on incurring of such advertisement expenditure by the customers, the advertisement cost would be includible in the assessable value. The Apex Court stated that in the instant case there was no finding recorded by the CEGAT that the appellant had any enforceable legal right. However, circumstances under which the buyer gave an assurance of bulk purchase and commenced advertising the appellant's product indicated that it was a package outlay for the revival of the appellant's factory arrived at between them as a part of cost reduction exercise of the appellant. There was no material before that CEGAT to conclude that there was any tacit understanding between the appellant and the buyer. The factual position showed that the transaction was on principal-to-principal basis. Hence, the Supreme Court held that there was no scope for making any addition in the assessable value.

2. ***CCus. & CEx., Meerut – II v. J.S. Gupta & Sons 2006 (201) ELT 174 (All.)***

The assessee was granted the status of 100% Export Oriented Unit. Upon grant of such status, the unit got the right/facility to obtain raw material free of duty. However, the Commissioner of Central Excise drawing power from a Circular issued by the Central Board of Excise and Customs passed an order suspending the said right/facility of the assessee of procuring duty free raw material.

The Tribunal had held that the right of procuring duty free raw material flowed, by virtue of law, to 100% EOU and that right could be taken away either by cancelling the 100% EOU status or by an order authorised by the same law which had granted that right. The right of procuring duty free raw material had not been granted by CBEC or by the Commissioner, Central Excise and therefore neither of these two authorities could, either by circular or by order, take away that right.

When the matter was brought before the High Court, the views of the Tribunal were reaffirmed by the High Court. It was held that without taking away the 100% EOU status, benefits flowing from that status could not be taken away unless there was such a power conferred by a provision in that very law which conferred the said benefits.

3. ***Union of India v. Slovak India Trading Co. Pvt. Ltd. 2006 (201) ELT 559 (Kar.)***

The assessee stopped production due to the closure of its factory and thus came out of the MODVAT scheme. The assessee filed a refund claim in respect of the unutilised MODVAT Credit.

The High Court allowed the refund claim on the premise that erstwhile Rule 5 of CENVAT Credit Rules, 2002 did not expressly prohibit refund of unutilised credit where there was no manufacture in the light of closure of the factory. Further, since the assessee had come out of the MODVAT scheme, refund of unutilised credit had to be made.

4. ***CCus. Mumbai v. Toyo Engineering India Ltd. 2006 (201) ELT 513 (SC)***

The assessee imported construction equipments which were to be used in initial setting up of an industrial plant. The assessee applied for the benefits of Project Import Scheme so that the goods could be classified under Heading 98.01 of the Tariff Act. However, the benefit was denied to it on the ground that the ownership of the imported goods did not pass to Project

(The authors CA. Priya Subramanian and CA. Smita Mishra are working as Sr. Education Officer and Executive Officer respectively at ICAI)

Authority and thus the goods could be used for other work elsewhere after the completion of the present project.

The Supreme Court held that any equipment which aids or helps in setting up of an industrial plant would fall and be covered under Heading 98.01 of Customs Tariff Act, 1975. Since, the imported construction equipments were used in initial setting up of the plant, project import benefits could not be denied. The mere possibility of their being used subsequently for other projects would not de bar the assessee from availing the facility of project import.

5. ***Tata Teleservices (Maharashtra) Ltd. v. Union of India 2006 (201) ELT 529 (Bom.)***

The assessee had evaded duty and had applied for settlement in the Settlement Commission. The contention of the department was that the companies or the persons, who evade the customs duty fraudulently, cannot avail of the benefit of approaching the Settlement Commission. It was submitted by the department that Settlement Commission has a limited jurisdiction of accepting only the cases of short levy on account of misclassification or otherwise and not other cases.

The High Court observed that Settlement Commission has wide jurisdiction to entertain all kinds of settlement claim applications with liberty to reject the same even at preliminary stage, depending upon nature and circumstances of case and complexity of case, provided they satisfy certain mandatory requirements.

The High Court observed that jurisdiction of Settlement Commission is not restricted only to cases of short levy on account of misclassification or otherwise. The object of introducing Chapter XIVA to the Customs Act, 1962 is to resolve all disputes so as to collect revenue for the department. The High Court held that if interpretation of section 127B were restricted to mean only bona fide cases, then there would be no scope of unearthing revenue. It was pointed out by the High Court that earlier part of section 127B ibid lays down jurisdiction and latter part only deals with rules whereby certain details are to be provided. Therefore, it was held by the High Court that the argument with regard to short levy due to misclassification or otherwise is purely a procedural one and there is no need to decide the same as long as the rules are not provided.

6. ***Bombay Hospital Trust v. CCus (ACC), Mumbai 2006 (201) ELT 555 (Bom.)***

The assessee imported certain goods and cleared them for home consumption under section 47 without payment of duty by availing the benefit of an exemption notification. However, the assessee failed to comply with the conditions set out in the notification. As a result, the goods were confiscated under Section 111(O) of the Customs Act, 1962 with an option to the assessee to redeem the said goods on payment of fine and penalty. The assessee was directed to pay the customs duty payable on the said goods.

The assessee contended that under section 125(2) of the Customs Act, the liability to pay duty is in addition to the redemption fine and if the redemption fine is not payable, the question of paying duty does not arise at all. According to the assessee, the duty liability under section 125(2) is dependent upon the "payment" of fine in lieu of confiscation and where the option is not exercised and the fine in lieu of confiscation is not payable then the duty is also not payable.

The High Court observed that section 125(2) provides that where the goods are allowed to be redeemed by "imposition" of fine in lieu of confiscation, then on such "imposition" of fine in lieu of confiscation, the duty and charges payable on such goods have to be paid. The duty liability to be discharged under section 125(2) is on "imposition" of fine in lieu of confiscation and not on the "payment" of fine in lieu of confiscation. Therefore, whether the fine in lieu of confiscation is paid or has become payable or not, on imposition of fine in lieu of confiscation, the duty and charges payable on the confiscated goods have to be paid as per section 125(2). The High Court elaborated that the words 'in addition to' in section 125(2) is relatable to the "imposition" of fine in lieu of confiscation and not "payment" of fine in lieu of confiscation.

Therefore, the High Court held that customs authorities were justified in seeking to recover duty from the assessee under section 125(2) ibid even though the assessee has not opted to redeem the goods by paying fine in lieu of confiscation.

7. ***Vindhyachal Distilleries Pvt. Ltd. v. State of Madhya Pradesh 2006 (3) STR 723 (MP)***

Bottling, labelling and sealing by pilfer proof cap of glass bottles undertaken by bottlers is

an independent activity and is not a part of process of manufacture of liquor as defined in section 2(f) of the Central Excise Act, 1944. It is a taxable service covered by section 65(76b) of the Finance Act, 1994. The service provider/distillers/bottlers can pass the tax liability to the wholesale/retail contractors, though the department shall recover service tax from service provider only and not from the wholesale/retail contractor.

8. ***Mahakaushal Builders Welfare Association v. Supdt. of Cus. & Ex., Jabalpur 2006 (3) STR 721 (MP)***

While listening to the writ petition of the builders in respect of the liability of service tax on construction of flat/building, the High Court has held that a Circular does not create liability for payment of service tax if assessee is not liable to pay tax under the law relating to service tax. The writ petition was dismissed on the ground that the assessee had an alternate remedy before filing the writ petition. The petitioners were asked to file a reply to the show cause notice before the competent authority.

9. ***Laxmi Color Pvt. Ltd. v. CCEx., Jaipur 2006 (3) STR 760 (Tri.-Del.)***

The assessee applied for service tax registration as soon as his service became eligible to service tax. However, he did not receive any response from the department. Subsequently, a penalty under section 76 and 77 of the Finance Act, 1994 for non-payment of service tax and not filing return was imposed on him. The Tribunal observed that section 80 provides that notwithstanding anything under sections 76 and 77, no penalty shall be imposed on the assessee for any failure referred to in the said provisions, if assessee proves that there was a reasonable cause for the said failure. The Tribunal held that since the assessee had applied for service tax registration as soon as his service became taxable, there was no fault at his end if he did not receive any response from the department. The Tribunal held that in view of the provisions of section 80 the penalty would not be imposable.

10. ***Praseetha Suresh v. CCEx., Thiruvananthapuram 2006 (3) STR 777 (Tri.-Bang.)***

A show cause notice which does not specify the period of demand nor quantifies the demand is not a valid show cause notice.

11. ***CCE & ST, Bangalore v. Standard Chartered Bank 2006 (3) STR 751 (Tri.-Bang.)***

In cases where customers pay less than the billed amount and service tax is paid by the service provider on the billed amount, refund shall be granted to the service provider as there is no unjust enrichment.

12. ***Indian Rayon & Industries Ltd. v. CCE 2006 (4) STR 79 (Tri.-Mum)***

The issue whether service tax paid on mobile phones is available as credit or not has been settled by the Mumbai Bench of the Tribunal. The Tribunal has held that service tax paid on mobile phones is available as credit to eligible output service providers and manufactures. The Tribunal made it clear that the department could not rely on the old CBEC Circular of 2003 to deny the credit of service tax as that circular was relevant under old Service Tax Credit Rules, 2002, which required the telephones to be installed in the business premises of the service provider. Since, there is no such stipulation in the new CENVAT Credit Rules, 2004 the department could not press the old Circular into service. It was held that the term "cellular phone" would include all kinds of phones which would work on cellular technology.

DIRECT TAXES

1. ***Amin Chand Payarelal v. Inspecting Assistant Commissioner, Income-tax (2006) 155 Taxman 633 (SC)***

The issue under consideration is whether penalty under section 271(1)(a) can be levied on a return filed under section 139(4). The High Court observed that the question as to whether the penalty under section 271(1)(a) could be levied on return filed under section 139(4) was raised before the Supreme Court in Pradip Lamps Works v. CIT (2001) 249 ITR 797. The Supreme Court, in that case, had held that merely because section 139(4) enables the assessee to file his return at any time before the assessment is made, it does not mean that his liability to pay penalty under section 139(4) is removed. In view of the law laid down in Pradip Lamps Works case, the Supreme Court held that penalty could be levied in the instant case under section 271(1)(a).

2. ***Headstart Business Solutions (P.) Ltd., In re. (2006) 155 Taxman 639 (AAR – New Delhi)***

Microsoft Regional Sales Corporation (MRSC),

Singapore is a non-resident company having its registered office at Singapore. MRSC entered into a solution provider agreement with the applicant, an Indian company, for supplying packaged business software solutions to it. The product is delivered in physical form through a compact disc accompanied by a software license key which is delivered electronically through e-mail. In this regard, the applicant filed an application under section 245Q(1) to know whether it has any legal obligation to withhold taxes while making payment for software purchased from MRSC.

The High Court observed that, on perusal of section 195(1), any person responsible for paying to a foreign company (i) any interest or (ii) any other sum chargeable under the provisions of the Act is required to deduct income-tax at the time of credit to the account of the payee or at the time of actual payment thereof, whichever is earlier. The expression 'any other sum chargeable under the provisions of this Act' would mean a sum on which income-tax is leviable. The provisions of tax deduction at source would apply not only to amount paid which wholly bears the character of income but would also apply to gross revenue receipts, where the whole sum may not be income or profits of the recipient. This principle was laid down by the Supreme Court in Transmission Corporation A.P. Ltd. v. CIT (1999) 239 ITR 587. Therefore, in view of the provisions of section 195(1), there is a legal obligation on the part of the applicant to withhold taxes while making payment for software purchased from MRSC.

Note – In this case, the High Court has taken a view that "any other sum chargeable under the provisions of this Act" used in section 195(1) would apply not only to income but also to gross revenue receipts. However, from the words "shall, at the time of credit of such income to the account of the payee" following the above phrase in section 195(1), it appears that the TDS provisions are attracted only in respect of income and not gross receipts.

3. *CIT v. Idhayam Publications Ltd. (2006) 285 ITR 221 (Mad.)*

The assessee, a private limited company engaged in publication of books, had accepted a cash loan of Rs. 2,94,000 from its sister concern. The Assessing Officer was of the opinion that the assessee had violated the provisions of section 269SS. On the basis of this information, the Deputy Commissioner initiated penalty proceedings under section 271D. The assessee contended that there was no loan or deposit. However, the contention was rejected and penalty was imposed. The Tribunal, however, deleted the penalty on finding that the proprietor of the sister concern was one of the directors of the company and there was a running account in his name.

The High Court observed that in order to impose penalty under section 271D, the Revenue has to establish that the transaction was a loan or deposit within the meaning of section 269SS. Under the Companies (Acceptance of Deposits) Rules, 1975, deposit does not include any amount received from a director or a shareholder of a private limited company. The High Court, therefore, held that since the transaction between the assessee and the director-cum-shareholder was not a loan or deposit transaction but was only a current account in nature and no interest was being charged for the said transaction, the Tribunal was justified in deleting the penalty.

4. *Nahar Spinning Mills Ltd. v. CIT (2006) 155 Taxman 562 (P&H)*

The assessee-spinning mill gave donation to a paediatrics institution for organising a conference relating to paediatrics and claimed the same as deduction under section 35. The assessee's claim was rejected by the Tribunal on the ground that donation given by the assessee was not allowable as deduction under section 35 since the said section pertains to expenditure on scientific research.

The High Court observed that from the perusal of section 35, it can be seen that deduction under that section is allowable in case the scientific research is related to the business of the assessee. However, in the instant case, the donation was not related to the assessee's business. Therefore, the High Court held that the Tribunal was right in rejecting the assessee's claim.

Note – In this case, deduction under section 35 has been denied on the ground that the donation was for scientific research not related to the assessee's business. However, for claiming deduction in respect of donation for scientific research, section 35(1)(ii) is relevant, which does not stipulate any condition that the scientific research should be related to the assessee's business. The moot point in this case is whether donation for the purpose of organising a conference can be considered as donation for scientific research.

5. *Staywell Hotels (P.) Ltd. v. CIT, Indore (2006) 155 Taxman 603 (M.P.)*

The Assessing Officer issued notice on the assessee imposing penalty under section 271B for late filing of audit report in Form 3CD. There was a delay of two months in filing the said audit report. The assessee offered reason for the delay and claimed that the delay was not intentional.

The High Court observed that compliance of section 44AB is mandatory and its non-compliance within time would attract rigour of penalty under section 271B. However, the expression 'may' used in section 271B confers discretion on the Assessing Officer to impose penalty for non-compliance of section 44AB. If sufficient cause is shown, the Assessing Officer can condone the delay and relieve the assessee from payment of penalty. In the opinion of the High Court, the assessee's explanation in this case was sufficient and ought to have been accepted. The delay in filing the report was not inordinate and explanation was offered for such delay. Thus, there was no deliberate intention on the part of the assessee to delay the filing of report nor was there any intention to evade payment of tax. The non-compliance was merely a technical breach. Therefore, from the facts of the instant case, no case of penalty under section 271B was made out.

6. *Sony India P. Ltd. v. CIT (2006) 285 ITR 213 (Delhi)*

The issue under consideration in this case is whether contributions towards gratuity and superannuating funds, which are not approved, qualify for deduction. The High Court observed that from a plain reading of sections 36(1)(iv) and 36(1)(v), which provides for deduction in respect of contributions to approved superannuating fund and approved gratuity fund, it is clear that deductions under those sections are admissible only if the employer makes the contributions towards a recognised provident fund, an approved superannuating fund or an approved gratuity fund. The provisions of a taxing statute have to be interpreted strictly applying the rule of literal interpretation. Nothing can be added or substituted by implication or intendment. If Parliament has allowed deductions towards provident fund, superannuating fund or gratuity fund only in cases where such funds are approved, granting deduction of amounts paid to unapproved funds under the cover of section 37 may defeat the legislative intent and frustrate the very purpose underlying the specific provisions made hereunder.

Therefore, contributions made to such unapproved funds will not qualify for deduction under section 36(1). Since the deductions claimed by the assessee were of the nature described in section 36(1)(iv) and (v), therefore, section 37 cannot come to the aid of the assessee.

Note – Payments of the above nature specifically attract disallowance under section 40A(9), which provides that no deduction shall be allowed to the assessee-employer, inter-alia, towards contribution to any fund, trust etc. except where such sum is so paid, for the purposes and to the extent provided under clauses (iv) and (v) of section 36(1).

7. *CIT, Meerut v. S.N. Anand (2006) 155 Taxman 390 (All.)*

The assessee was a partner of a firm in the capacity of karta of his HUF. The assessee's wife was also a partner of the same firm in her individual capacity. The assessee did not disclose the income of his spouse in his return of income. The original assessment was completed under section 143(1). Thereafter, reassessment proceedings were initiated for all the years on the ground that the assessee had not disclosed the share income of his wife in accordance with the provisions of section 64(1)(i). The Income-tax Officer added the share income of the wife to assessee's total income.

The High Court followed the judgment of the Apex Court in CIT v. Om Prakash (1996) 217 ITR 785 and held that the income of the wife could not be included in the income of the assessee-HUF. Therefore, it was not obligatory on the part of the husband, who is karta of the HUF, to disclose the share income of his wife from the partnership firm.

Note – This case relates to assessment years 1978-79 and 1980-01 to 1983-84. Share income of a partner is now exempt and therefore clubbing provisions are not relevant. However, the ratio of decision in this case may also be extended to salary, interest and other remuneration of partner i.e., where the assessee is a partner in the capacity as karta of HUF and his wife is a partner in her individual capacity, then, salary, interest etc. of wife from the firm need not be clubbed in the hands of the husband.

8. *Surender Paul v. CIT, Chandigarh (2006) 155 Taxman 385 (P&H)*

The search and seizure operation under section 132 was carried out at the premises of the assessee's family and cash, jewellery and other valuables were seized besides other incriminating materials. The assessee made disclosure under section 132(4) during the course of search. The return of income of the relevant assessment year in question was filed after the due date and tax due to be paid with the return was also not paid. The Assessing Officer completed the assessment of the assessee taking into account the surrendered income and initiated penalty proceedings under section 271(1)(c). The assessee, relying upon Explanation 5 to section 271(1)(c), contended that no penalty was leviable under section 271(1)(c). The Commissioner (Appeals) and the Tribunal upheld the levy of penalty under section 271(1)(c) upon the assessee on the ground that the return of income should have been filed by the assessee within the due date specified under section 139 for the purpose of availing the benefit of Explanation 5 of section 271(1)(c).

The High Court observed that the assessee's case was not covered by any of the two exceptions spelt out in the Explanation 5. The income which was surrendered by the assessee was not disclosed by him in his return of income before the search took place. The return of income for the relevant assessment year in question was not filed within the due date and the tax due thereon was also not paid by the assessee along with the return filed belatedly. Therefore, the levy of penalty under section 271(1)(c) was justified.

9. *CIT v. Mysore Wine Products Ltd. (2006) 285 ITR 381 (Karn.)*

The assessee-company is a wholly owned subsidiary of M/s. Consolidated Investments Ltd. (CIL), which again is a wholly owned subsidiary of M/s. United Breweries Ltd (UBL). It carries on the business of trading in liquor. It entered into agreements with another group company, M/s. McDowell and Co. Ltd. (MDL), for taking on hire certain plant and machinery and for obtaining know how and technical advice on payment of Rs.8 lakhs per month. The assessee transferred to MWP, another wholly owned subsidiary of UBL, the plant and machinery taken by it on hire from MDL alongwith the technical know how and other information. MWP had to pay a sum of Rs. 2 lakh per month to the assessee for use of the facilities. The said expenditure was disallowed by the Assessing Officer on the ground that it was not incurred wholly and exclusively for business purposes. The Assessing Officer was of the view that the arrangement for paying higher amount to MDL and charging much lower amount from MWP was with a view to reduce the tax liability of the group as a whole.

The High Court observed that the three companies were sister concerns. The payment made by the assessee to MDL was reflected in the books of the assessee, and when the payments were not made, interest was charged and the same was also reflected in the books. MDL had accounted for the charges of Rs. 8 lakh per month in its accounts and paid income-tax. The receipt of Rs. 2 lakh by the assessee was also not

disputed. The tripartite agreement was beneficial to the assessee from the point of payment of sales tax. MWP supplied liquor manufactured by it at a lower price to the assessee than at which it sold to third parties. Further, 90% of the production of MWP was supplied to the assessee. If payment of Rs. 8 lakh was made by MWP to the assessee, it would not have been able to make profits and there would have been no tax liability. Also, the said amount of Rs. 8 lakh was taxed in the hands of MDL and consequently, there was no avoidance of tax by the sister concerns.

The High Court, therefore, held that the Commissioner (Appeals) and the Tribunal were right in holding that the arrangement was not sham. The High Court also held that interest charged by MDL (for default in payment of such sums legally payable by the assessee) was also a genuine business expenditure deductible under section 37(1).

10. A. Rajendran v. Asst. Commissioner, Special Investigation, Circle III, Coimbatore (2006) 155 Taxman 364 (Mad.)

In this case, it has been held that where cash gifts are made out of love and gratitude and routed through proper banking channels and credited in the books of accounts of the recipient, the genuineness of the transaction cannot be doubted and the receipt cannot be taxed under section 68. The assessee had received gifts from an NRI-industrialist in UK through normal banking channels and had credited the same in its books of account. The donor had made the gift out of love and gratitude since the assessee had earlier helped the donor's father in bad times. The donor had also confirmed the same in his declaration that it was due to the help rendered by assessee to his father in difficult times, he was able to come up in life and reach such a high position. Further, the donor had also appeared pursuant to the notice issued by the income-tax authorities and affirmed his gifts.

The High Court observed the decision of the Guwahati High Court in Nemi Chand Kothari v. CIT (2003) 264 ITR 254, where it was held that in order to avoid the applicability of section 68, the burden is on the assessee to establish (1) the identity of the creditor, (2) the genuineness of the transaction and (3) the creditworthiness of the creditor. Once this was established, then the assessee had discharged his burden.

The High Court held that in this case, the assessee had established all the above requirements and therefore, the gifted sum was not liable to be assessed under section 68.

11. CIT v. Escorts Finance Ltd. (2006) 155 Taxman 559 (Delhi)

The assessee-company had incurred certain expenditure for providing wooden partition, painting, glasswork and other petty repairs in its leased premises. It claimed such expenditure as revenue expenditure. The Assessing Officer disallowed the claim of the assessee, treating the said expenditure as capital expenditure. However, Commissioner (Appeals) and the Tribunal allowed the assessee's claim, treating the expenditure as revenue expenditure.

The High Court observed that the expenditure of the above nature incurred by the assessee to make the premises workable has to be considered as revenue expenditure. The manner in which the leased premises is to be maintained and the extent of repair work to be done is to be decided by the businessman. The Court held that all such expenditure incurred on painting, polishing the floor, providing wooden partition, glasswork etc. has to be considered as revenue expenditure. The nature of such repairs was not of enduring character so as to characterise the same as capital expenditure.

12. CIT, Lucknow v. Shyam Medical Agencies (2006) 155 Taxman 632 (All.)

In this case, there was a change in the constitution of the firm in October of the relevant previous year on account of retirement of one partner and admission of another. The assessee-firm filed two returns—one for the period from 1st April to October and the other for the period thereafter up to 31st March. The assessee claimed that two assessments should be made. The Assessing Officer took the view that there should be only one assessment in case of change in constitution of the firm and rejected the claim. The Deputy Commissioner (Appeals) and the Tribunal confirmed the view of the Assessing Officer.

Section 187 deals with the change in constitution of the firm. The High Court observed that as per section 187(2), there is a change in the constitution of a firm if one or more of the partners cease to be the partners or new partners are admitted in such circumstances that one or more of the persons who were partners of the firm before the change continue as partner or partners of the firm after the change. Therefore, in view of section 187(2), no new firm is constituted in the instant case and it was a case of change in the constitution of the firm. Hence, there was no need for two separate assessments.

CIRCULARS

Significant Notifications Issued by the Government during September 2006 are as follows:

DIRECT TAXES

1. NOTIFICATION NO. 267/2006, DATED 14-9-2006

It is proposed to insert a new clause (v) in rule 17C of the Income-tax Rules, 1962 so as to include investment by a recognised Stock Exchange, in the equity shares of a company promoted by it to acquire the membership rights of other stock exchanges, where at least 51% of the paid-up share capital is held by the Stock Exchange and the balance is held by its members as an approved investment under section 11(5) read with Rule 17C. The amendment is proposed to be made effective retrospectively from the 26th day of November, 1999. This notification is intended to encourage subsidiaries of stock exchanges formed to acquire shares in other major stock exchanges as a part of the revival plan notified by SEBI.

2. NOTIFICATION NO. 270/2006, DATED 19-9-2006

This notification gives the cost inflation index for the previous year 2006-07. It is 519.

CENTRAL EXCISE

1. The concept of large taxpayer has been introduced vide Notification No. 18/2006 CE (NT), dated 30.09.2006. Rule 12BB has been inserted after Rule 12AA in the Central Excise Rules, 2002 which lays down the procedure and facilities for the large taxpayer.
2. Notification No. 19/2006 CE (NT), dated 30.09.2006 has been issued to incorporate the concept of large taxpayer in the CENVAT Credit Rules, 2004. Rule 12A has been inserted after Rule 12 in the CENVAT Credit Rules, 2004 which lays down the procedure and facilities for the large taxpayer.
3. Notification No. 20/2006 CE (NT), dated 30.09.2006 has notified the conditions to be satisfied and procedures to be followed by a person to be eligible to opt as large taxpayer.

CUSTOMS

1. Circular No.25/2006–Cus., dated 19.09.2006 has clarified that for the purpose of calculation of value addition under brand rate claims, the notional value of imported materials supplied 'free of cost' by the foreign supplier should be added both to the CIF value of inputs and the FOB value of export goods.

SERVICE TAX

I. NOTIFICATIONS:

1. With effect from 01.10.2006, Notification No. 27/2006-ST dated 21.09.2006 has made it compulsory for the assessee, who has paid service tax of Rs. 50,00,000 or above in the preceding financial year or has already paid service tax of Rs. 50,00,000 in the current financial year, to deposit the service tax liable to be paid by him electronically, through internet banking.
2. Notification No. 28/2006-ST dated 30.09.2006 has been issued to incorporate the concept of large taxpayer in the Service Tax Rules, 1994. Rule 10 has been inserted after Rule 9 in the Service Tax Rules, 1994 which lays down the procedure and facilities for the large taxpayer.

II. CIRCULAR:

1. Circular No. 84/2/2006-ST dated 19.09.2006 has clarified the scope of term "charitable" used in the definition of club or association service.