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Saskia Bonenberger
Executive Director
WTS India

Dear Reader,

Indirect transfer of shares and its retrospective amendement in India still remains a hot topic but there are quite a lot of signs of relief.

We have Finance Minister Arun Jaitly´s clear Budget Speech and the implementation of the Commission to survey the application of the retrospective amendement. Secondly the recent judgement that you will find as the first article in this issue concerning the definition of "substantial interest". It has been interpreted as 50 % or more of the value of the shares in India in comparison to the value of sold shares abroad. And the third clear hint is a very interesting five bench judgement (CIT vs. Vatika Township Pvt. Ltd.) in respect of retrograde amandements. It was not on indirect transfer of shares, but on levy of supplementary taxes, but gives clear instructions for retrograde amendements. Still not everything has been ruled out and we should have a careful eye on this development, especially on what the next budget and the legislation might bring. We will keep you informed on that matter.

In this issue you will also find the recent notification concerning Transfer Pricing, Protocol to DTAA with Poland and DTAA with Columbia and Bhutan.

Very important might also be the extension of filing of return of income for Assessment Year 2014-2015 in case of assessees required to file Tax Audit Report. In case you need deduction of expenses for employees and subcontractors, there might be a solution, if withholding tax is paid later, but before November 2014.

Yours sincerly

I. Transfer of shares of a foreign company not liable to tax in India if shares derive less than 50% of value from the assets in India | *Author: Jatinder Singh, New Delhi*

The High Court of Delhi ("the HC") in its recent judgement in the case of DIT (International Tax) v. Copal Research Limited has held that transfer of shares of a foreign company does not amount to indirect transfer of shares of Indian company held by it if the shares of the foreign company derive less than 50% of their value from the assets located in India.

On the facts of case, the following three Share Purchase Agreements (SPA's) were signed between Copal Group (Sellers) and Moody Group (Buyers):

Transaction I - Sale of 100% shares of Copal Research India Private Limited, India (CRIL) by Copal Research Limited, Mauritius (CRL) to Moody's Group Cyprus Limited (Moody's Cyprus) entered on November 3, 2011;

Transaction II - Sale of 100% shares of Exevo Inc., USA, (Exevo US) by Copal Market Research Limited, Mauritius (CMRL) to Moody's Analytics Inc., USA (Moody's–USA) entered on November 3, 2011; and

Transaction III - Sale of 67% shares of Copal Partners Limited, Jersey (Copal Jersey) to Moody's–UK entered on November 4, 2011.

The shareholding structure of Copal Group and Moody Group was as under:

- Copal Jersey held 100% of the shares in CRL, which held 100% of the shares in CRIL.

- CRL also held 100 per cent of shares in CMRL which in turn held 100% shares in Exevo US.

- Exevo US held 100% of the shares in Exevo India Private Limited, India (Exevo India).

Advance Ruling was sought by the sellers and the buyers on the question of taxability in India of gains arising from Transaction I and II, and consequently corresponding tax obligations if any, on the respective buyer. The Authority for Advance Rulings passed a common order in favour of the applicants by holding that capital gains arising on sale of shares pursuant to Transaction I and II shall not be chargeable to tax in India in view of provisions of India-Mauritius tax treaty, and consequently there shall not be any withholding obligation. The Revenue authorities filed writ petitions with the HC.

Before the HC, the Revenue authorities argued that all the transactions were structured to transfer the entire businesses and interests of the Copal group to the Moody Group, to avoid the incidence of tax arising out of Transactions I and II by taking benefit of India-Mauritius tax treaty. As such, capital gains arising from sale of shares of Copal–Jersey under Transaction III would be subject to tax, being involving indirect transfer of shares of Exevo-US (which held 100% shares in Exevo India), if the sale of shares of Exevo– US and CRIL by CMRL and CRL under Transaction I & II respectively is ignored.

The Revenue authorities further argued that the control and management of Copal Group was with Mr Rishi Khosla – a resident of UK (and authorised to carry out aforesaid transactions) and as such, the gain arising in Transaction I & II should be considered as per the provisions of India-UK tax treaty. Accordingly, such transactions were not entitled to claim beneficial treatment under the India-Mauritius tax treaty.

Based on the submission made by the assessee and available facts, the High Court held that the transactions were not structured at all. The execution of Transaction I & Transaction II just one day before the sale of shares of Copal-Jersey in Transaction III has commercial rationale, as it enabled Moody Group to obtain 100% control of Indian entities, which would not have been possible by isolated sale of shares of Copal Jersey (of which Copal Group shareholders had 67% stake).

The High Court, however, analyzed the taxability in India of sale of shares of Copal Jersey, assuming the situation that the shares of Exevo-US and CRIL have not been sold by CMRL and CRL.

The HC observed that only a fraction of the value of shares of Copal Jersey was derived indirectly from India, taking into account the 67% value of sale consideration in Transaction I & Transaction II, and accordingly held that the income therefrom was not taxable in India. In this regard, the HC noted that as per the amended provisions of law dealing with indirect transfers, income from transfer of shares of a company outside India would be deemed to be an asset situated in India if such shares derive its value substantially from assets located in India. The HC observed that the expression 'substantially' as appearing in the provisions should be read as 'principally', 'mainly' or at least 'majority'. The HC held that capital gain arising on transfer of shares of a foreign company is not liable to tax in India if such shares derive less than 50% of their value from assets situated in India. In arriving at the 50% threshold, the HC referred to the corresponding

provisions of the proposed Direct Taxes Code 2010, recommendations of the Shome Committee, United Nations Model Convention and the OECD Model Convention.

As regards the Revenue's contention that Mr Rishi Khosla, who was a resident of UK, was in de facto control and management of the entire Copal Group and accordingly, the situs of CRL and CMRL ought to be taken as UK instead of Mauritius, the High Court observed that CRL and CMRL were operating companies deriving income from providing financial research and market research services to group companies and holding Global Category I Global Business License. Accordingly, it held that CRL and CMRL cannot be said to be shell companies so as to ignore their corporate identities, even if they were rendering services to its related enterprises. Further, the HC held that although Mr Rishi Khosla had played a role wider than that of an agent with respect to the transactions, that itself was not sufficient in the absence of cogent material to conclude that CRL and CMRL were not managed by its Board of Directors from Mauritius but from the UK. Therefore, the residence of Mr Rishi Khosla cannot be considered as the situs of the said companies.

As such, it held that the AAR was right in holding that CRL and CMRL could not be held to be non-Mauritian companies. The HC, accordingly, disposed the present petition.

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I. Tolerance Band for FY 2013-14 notified, explanation added to define 'wholesale trading' | *Author: Harpreet Singh, New Delhi*

Section 92C of the Income-tax Act, 1961 provides that where the variation between the arm's length price and the price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed such percentage not exceeding 3% of the latter as may be notified, the price at which the transaction has actually been undertaken shall be deemed to be the arm's length price.

Recently, the Central Board of Direct Taxes issued notification under the above provision specifying the tolerance band for FY 2013-14. No change has been made in the tolerance band vis-à-vis FY 2012-13 which remains at 1% for wholesale traders and 3% for all other taxpayers. However, this time the notification has added an explanation defining the term 'wholesale trading' as the one which fulfils the following two conditions:

- purchase of finished goods is 80% or more of total cost pertaining to trading activities;
- average monthly closing inventory of such goods is 10% or less of trading sales.

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II. Protocol to DTAA with Poland made effective from April 1, 2015 | *Author: Sapna Gupta, New Delhi*

In respect of the Double Taxation Avoidance Agreement ("DTAA") between India and Poland, a protocol to the said DTAA was signed and had entered into force on June 1, 2014.

The Central Government, vide Notification No. 47/2014 dated September 24, 2014, has directed that the provisions of.the said protocol shall be effective from April 1, 2015. The said protocol contains various amendments

to the DTAA which inter-alia include amendments with respect to Articles dealing with PE, dividend, interest, royalty and Fees for Technical services, capital gains, Dependent Personal Services, etc.

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III. DTAA with Columbia and Bhutan made effective from April 1, 2015 | *Author: Sapna Gupta, New Delhi*

The Central Government, vide Notification No. 44/2014 dated September 23, 2014 has directed that the provisions of Double Taxation Avoidance Agreement ("DTAA") between India and Columbia along with the protocol thereto shall be effective from April 1, 2015.

Similarly, in respect the DTAA between India and Bhutan the provisions of the said DTAA as signed on March 4, 2013 have also been made effective from April 1, 2015, vide Notification No. 42/2014, dated September 5, 2014.

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IV. Extension of filing of return of income for Assessment Year 2014-15 in case of assessees required to file Tax Audit Report | *Author: Sapna Gupta, New Delhi*

The CBDT vide Order -F.No. 153/53/2014 dated September 26, 2014 has extended the due date of filing return of income for AY 2014-15 from September 30, 2014 to November 30, 2014. The said extension is applicable in the case of assessees who are required to file return of income by 30th September and are also required to get their accounts audited under section 44AB

It may be noted that the above extension is subject to levy of interest under section 234A, wherever applicable. Therefore, for the purpose of levy of interest arising on account of late filing of return of income, the due date of return shall be considered to be September 30 only. For other assesses who are not required to get their accounts audited under section 44AB but are required to file their return of income by September 30, 2014, the due date of filing return of income shall remain as 30th September, 2014.

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TAX INDIRECT TAX
Recent Notification

I. Mandatory Pre-deposit to be made on appeals under Central Excise, Customs and Service Tax | *Author: Shashank Goel, New Delhi*

The Finance Act, 2014 has substituted section 129E of the Customs Act, 1962 and Section 35F of the Central Excise Act, 1944. Since the Service Tax regulations have adopted section 35F of the Central Excise Act, 1944 the newly substituted section 35F of the Central Excise Act would also apply to Service Tax.

New Law - In terms of the new law, pre-deposit as specified and mentioned below have been made mandatory for filling appeals before the Commissioner (Appeals) and before the Appellate Tribunal.

The following rates of pre-deposit have been prescribed. These will apply for the appeals filed on or after August 6, 2014 as under:

Particulars of Appeal	Rate of Deposit
For Appeal before Commissioner (Appeals)	7.5% of the duty demanded or penalty imposed in the order-in-original passed by the Adjudicating Authority.
For Appeal before Appellate Tribunal	10% of the duty demanded or penalty imposed by the Commissioner (Appeals)

Central Board of Excise and Customs has vide Circular No. 984/08/2014-CX dated September 16, 2014 has clarified regarding adjustment to be made for certain payments made, refund of pre-deposit, etc. The clarifications are briefly stated as under:

- Payment made during Investigation - It has also been clarified that any payment made during the course of investigation or audit prior to the date on which appeal is filed, shall take the colour of deposit under section 35F of the Central Excise Act, 1944 and 129E of the Customs Act, 1962 only when the appeal is filed and the date of filing of appeal shall be deemed to be the date of deposit and any shortfall in the amount stipulated shall be paid before filling of appeal before appellate authority.

- Refund of Pre-deposit - Pre-deposit for filling of appeal is not a payment of duty and therefore the provisions contained in section 11B of the Central Excise Act, 1944 or Section 27 of the Customs Act,1962 which govern refund of duty shall not apply to pre-deposit referred to herein. Thus, in case where the case has been decided in the favour of the appellant, refund along with interest at six percent per annum shall be paid within 15 days of the receipt of a letter (referred to below) seeking refund, irrespective of whether the order of authority is proposed to be challenged by the department or not.

- Procedure and Manner of Pre-deposits - E-payment facility is available for the purpose of pre-deposit and a self attested copy of document showing proof shall be submitted before the appellate authority as a proof of payment. Different columns in Appeal forms has been made available seeking detail of duty/penalty deposited under Central Excise, Service Tax and Custom law.

- Procedure for Refund - For the purpose of claiming refund of pre-deposit, a simple letter by a person who has made such deposit requesting for refund along with the self attested copy of order consequent to which deposit become refundable and a copy of document evidencing payment of such deposit shall be filed before the Assistant/Deputy Commissioner of Central Excise and Service Tax or Customs. A copy of the said Circular No. 984/08/2014-CX dated September 16, 2014 is attached herewith for kind reference.

Note - It is seen that the above circular does not clarify the adjustment of 7.5% pre-deposit against 10% pre-deposit.

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FOREIGN EXCHANGE MANAGEMENT ACT

I. External Commercial Borrowings ('ECB') in Indian Rupees | *Author: Shamik Sama, New Delhi*

In terms of AP (DIR Series) Circular No. 27 dated September 23, 2011, the Reserve Bank of India ('RBI') permitted eligible borrowers to raise ECB in Indian Rupees from foreign equity holders.

With a view to providing greater flexibility for restructuring ECB arrangement, RBI has relaxed norms for ECBs by allowing all recognised non-resident ECB lenders to extend loans in Indian rupees, subject to the following conditions:

The lender should mobilise Indian Rupees through swaps undertaken with an Authorised Dealer Category-I bank in India.

The ECB contract should comply with all other conditions applicable to the automatic and approval routes as the case may be.

The all-in-cost of such ECBs should be commensurate with prevailing market conditions.

RBI has also permitted recognised ECB lender to set up a representative office in India for executing swaps for ECBs denominated in Indian Rupees.

However, hedging arrangement for ECBs denominated in Indian Rupees extended by non-resident equity-holders shall continue to be governed by the provisions of AP (DIR Series) Circular No. 63 dated December 29, 2011.

[Source: A.P. (DIR Series) Circular No. 25 dated September 03, 2014]

II. Foreign Direct Investment ('FDI') in India – Issue of equity shares under the FDI Scheme against the legitimate dues | *Author: Shamik Sama, New Delhi*

As per the existing regulations of FEMA, under the automatic route, an Indian company can issue shares/convertible debentures to a person resident outside India against lump-sum technical know-how fee, royalty ECBs (other than import dues deemed as ECB or Trade Credit as per RBI guidelines) and import payables of capital goods by units in Special Economic Zones subject to certain conditions like entry route, sectoral cap, pricing guidelines and compliance with the applicable tax laws.

On a review, it has been announced by the RBI that equity shares can also be issued against any other funds payable by the investee company, remittance of which does not require prior permission of the Government of India or RBI under FEMA, 1999 or any rules/ regulations framed or directions issued there under, however, subject to conditions such as:

The equity shares shall be issued in accordance with the extant FDI guidelines on sectoral caps, pricing guidelines etc. as amended by RBI, from time to time;

Explanation: Issue of shares/convertible debentures that require Government approval in terms of paragraph 3 of Schedule 1 of FEMA 20/2000-RB dated May 3, 2000 or import dues deemed as ECB or trade credit or payable against import of second hand machinery shall continue to be dealt in accordance with extant guidelines;

The issue of equity shares under this provision shall be subject to tax laws as applicable to the funds payable and the conversion to equity should be net of applicable taxes.

[Source: A.P. (DIR Series) Circular No. 31 dated September 17, 2014]

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IMPORTANT DATES TO REMEMBER

Particulars	Date
Deposit of TDS for the month of October, 2014	November 7, 2014
Deposit of Service Tax for Companies for the month of October, 2014	November 5, 2014 (by e-payment – November 6, 2014)
Filing of Transfer Pricing Certificate in Form 3CEB	November 30, 2014
Filing of Corporate Tax Return where Transfer Pricing Certificate is to be furnished	November 30, 2014

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Circular No 984/08/2014-CX

F. No. 390/Budget/1/2012-JC
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Excise & Customs)

New Delhi, dated the 16th September, 2014

To,

1. All Chief Commissioners, Central Excise and Service Tax/ Customs.
2. All Commissioners of Central Excise, Service Tax/ Customs.
3. Chief Commissioner (AR), CESTAT, New Delhi.
5. All Commissioners of Central Excise, Service Tax and Customs
6. All Commissioners (AR), New Delhi, Mumbai, Chennai, Kolkata, Bangalore & Ahmadabad
7. Webmaster

Sub: Amendments to the Appeal provisions in Customs, Central Excise and Service Tax made by Finance Act, 2014- Issue of clarifications – reg.

Sir / Madam,

The Finance Act (No.2), 2014 has been enacted on 06.08.2014. Section 35F of the Central Excise Act, 1944 and Section 129E of the Customs Act, 1962 have been substituted with new sections to prescribe mandatory pre-deposit as a percentage of the duty demanded where duty demanded is in dispute or where duty demanded and penalty levied are in dispute. Where penalty alone is in dispute, the pre-deposit shall be calculated on the penalty imposed.

1.2 The amended provisions apply to appeals filed after 6th August, 2014. Sections 35F of the Central Excise Act, 1944 and Section 129E of the Customs Act, 1962 contain specific saving clause to state that all pending appeals/stay applications filed till the enactment of the Finance Bill shall be governed by the erstwhile provisions.

1.3 Section 35FF of the Central Excise Act, 1944 and Section 129EE of the Customs Act, 1962 have also been substituted to provide for payment of refund along with interest at the prescribed rate on the amount pre-deposited from the date of such payment till the date of refund. In exercise of the powers conferred under the new Section 35FF of the Central Excise Act, 1944 and Section 129EE of the Customs Act, Notification Nos 24/2014-CE(NT) and 70/2014-Cus(NT), both dated 12.08.2014 have been issued specifying six percent as rate of interest on refunds made under those sections.

1.4 Various doubts / issues have been raised by trade bodies, industry associations and field formations etc. on the implementation of the new provisions. With a view to implement the scheme smoothly, the following clarifications are issued.

2. Quantum of pre-deposit in terms of Section 35F of Central Excise Act, 1944 and Section 129E of the Customs Act, 1962:

2.1 Doubts have been expressed with regard to the amount to be deposited in terms of the amended provisions while filing appeal against the order of Commissioner (Appeals) before the CESTAT. Sub-section (iii) of Section 35F of the Central Excise Act, 1944 and Section 129E of the Customs Act, 1962 stipulate payment of 10% of the duty or penalty payable in pursuance of the decision or order being appealed against i.e. the order of Commissioner (Appeal). It is, therefore, clarified that in the event of appeal against the order of Commissioner (Appeal) before the Tribunal, 10% is to be paid on the amount of duty demanded or penalty imposed by the Commissioner (Appeal). This need not be the same as the amount of duty demanded or penalty imposed in the Order-in-Original in the said case.

2.2 In a case, where penalty alone is in dispute and penalties have been imposed under different provisions of the Act, the pre-deposit would be calculated based on the aggregate of all penalties imposed in the order against which appeal is proposed to be filed.

2.3 In case of any short payment or non-payment of the amount stipulated under Section 35F of the Central Excise Act, 1944 or Section 129E of the Customs Act, 1962, the appeal filed is liable for rejection.

3. Payment made during investigation:

3.1 Payment made during the course of investigation or audit, prior to the date on which appeal is filed, to the extent of 7.5% or 10%, subject to the limit of Rs 10 crores, can be considered to be deposit made towards fulfillment of stipulation under Section 35F of the Central Excise Act, 1944 or Section 129E of the Customs Act, 1962. Any shortfall from the amount stipulated under these sections shall have to be paid before filing of appeal before the appellate authority. As a corollary, amounts paid over and above the amounts stipulated under Section 35 F of the Central Excise Act, 1944 or Section 129E of the Customs Act, 1962, shall not be treated as deposit under the said sections.

3.2 Since the amount paid during investigation/audit takes the colour of deposit under Section 35F of the Central Excise Act, 1944 or Section 129E of the Customs Act, 1962 only when the appeal is filed, the date of filing of appeal shall be deemed to be the date of deposit made in terms of the said sections.

3.3 In case of any short-payment or non-payment of the amount stipulated under Section 35F of the Central Excise Act, 1944 or Section 129E of the Customs Act, 1962, the appeal filed by the appellant is liable for rejection.

4. Recovery of the Amounts during the Pendency of Appeal:

4.1 Vide Circular No.967/1/2013 dated 1st January, 2013, Board has issued detailed instructions with regard to recovery of the amounts due to the Government during the pendency of stay applications or appeals with the appellate authority. This Circular would not apply to cases where appeal is filed after the enactment of the amended Section 35F of the Central Excise Act, 1944 or Section 129E of the Customs Act, 1962.

4.2 No coercive measures for the recovery of balance amount i.e., the amount in excess of 7.5% or 10% deposited in terms of Section 35F of Central Excise Act, 1944 or Section 129E of Customs Act, 1962, shall be taken during the pendency of appeal where the party / assessee shows to the jurisdictional authorities:
(i) proof of payment of stipulated amount as pre-deposit of 7.5% / 10%, subject to a limit of Rs.10 crores, as the case may be; and
(ii) the copy of appeal memo filed with the appellate authority.

4.3 Recovery action, if any, can be initiated only after the disposal of the case by the Commissioner (Appeal) / Tribunal in favour of the Department. For example, if the Tribunal decides a case in favour of the Department, recovery action for the amount over and above the amount deposited under the provisions of Section 35F / 129E may be initiated unless the order of the Tribunal is stayed by the High Court/Supreme court. The recovery, in such cases, would include the interest, at the specified rate, from the date duty became payable, till the date of payment.

5. Refund of pre-deposit:

5.1 Where the appeal is decided in favour of the party / assessee, he shall be entitled to refund of the amount deposited along with the interest at the prescribed rate from the date of making the deposit to the date of refund in terms of Section 35FF of the Central Excise Act, 1944 or Section 129EE of the Customs Act, 1962.

5.2 Pre-deposit for filing appeal is not payment of duty. Hence, refund of pre-deposit need not be subjected to the process of refund of duty under Section 11B of the Central Excise Act, 1944 or Section 27 of the Customs Act, 1962. Therefore, in all cases where the appellate authority has decided the matter in favour of the appellant, refund with interest should be paid to the appellant within 15 days of the receipt of the letter of the appellant seeking refund, irrespective of whether order of the appellate authority is proposed to be challenged by the Department or not.

5.3 If the Department contemplates appeal against the order of the Commissioner (A) or the order of CESTAT, which is in favour of the appellant, refund along with interest would still be payable unless such order is stayed by a competent Appellate Authority.

5.4 In the event of a remand, refund of the pre-deposit shall be payable along with interest.

5.5 In case of partial remand where a portion of the duty is confirmed, it may be ensured that the duty due to the Government on the portion of order in favour of the revenue is collected by adjusting the deposited amount along with interest.

5.6. It is reiterated that refund of pre-deposit made should not be withheld on the ground that Department is proposing to file an appeal or has filed an appeal against the order granting relief to the party. Jurisdictional Commissioner should ensure that refund of deposit made for hearing the appeal should be paid within the stipulated time of 15 days as per para 5.2 *supra*.

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6. Procedure and Manner of making the pre-deposits:

6.1 E-payment facility can be made use of by the appellants, wherever possible.

6.2 A self attested copy of the document showing satisfactory proof of payment shall be submitted before the appellate authority as proof of payment made in terms of Section 35F of the Central Excise Act, 1944 or Section 129E of the Customs Act, 1962.

6.3 Column 7 of EA.1, column 6 of CA.1 and column 6 of ST.4 for filing appeal before Commissioner (Appeals), seek details of the duty/penalty deposited. The same may be used for indicating the deposits made under amended Section 35F of the Central Excise Act, 1944 or section 129E of the Customs Act, 1962.

6.4 The appeal filed before the CESTAT are filed along with the appeal memo in prescribed format (Form EA-3 for Central Excise Appeals and Form CA-3 for the Customs Appeals). Column 14(i) of the said appeal forms seeks information of payment of duty, fine, penalty, interest along with proof of payment (challan). These columns may, therefore, be used for the purpose of indicating the amount of deposit made, which shall be verified by the appellate authority before registering the appeal.

6.5 As per existing instructions, a copy of the appeal memo along with proof of deposit made shall be filed with the jurisdictional officers.

7. Procedure for refund:

7.1 A simple letter from the person who has made such deposit, requesting for return of the said amount, along with a self attested Xerox copy of the order in appeal or the CESTAT order consequent to which the deposit becomes returnable and attested Xerox copy of the document evidencing payment of such deposit, addressed to Jurisdictional Assistant/Deputy Commissioner of Central Excise and Service Tax or the Assistant/Deputy Commissioner of Customs, as the case may be, would suffice for refund of the amount deposited along with interest at the rate specified.

7.2 Record of deposits made under Section 35F of the Central Excise Act, 1944 or section 129E of the Customs Act, 1962 should be maintained by the Commissionerate so as to facilitate seamless verification of the deposits at the time of processing the refund claims made in case of favourable order from the Appellate Authority.

8. Amendment to Preamble of Orders:

8.1 In order to make the new provisions known to the assessee / trade every adjudicating authority lower in rank to the Commissioner is directed to incorporate the following sentence in the Preamble to the order being issued by them –

"An appeal against this order shall lie before the Commissioner (Appeal) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute or penalty, are in dispute or penalty, where penalty alone is in dispute. "

8.2 The following may be added in the preamble of the orders issued by the Commissioner (Appeals) –

"An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute".

8.3 The following may be added in the preamble of the orders issued by the Commissioner as original adjudicating authority –

"An appeal against this order shall lie before the Tribunal on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute".

9. Receipt of the Circular may please be acknowledged.

10. Hindi version follows.

(Sunil K. Sinha)
Director (Judicial Cell)