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PANTOMATH™ Capital Advisors (P) Ltd

Re-CAP
A weekly mailer encapsulating capital market news
September 7 - September 12, 2015

SKOCH BSE AWARD FOR ASPIRING INDIA ORDER OF MERIT | BSE Amongst BSE's Top Five Performers in Merchant Bankers 2013-14 | PANTOMATH SMEX-30 | 25 Most Promising Financial Consultants

INDEPENDENT DIRECTORS OF MCX GET BIG SALARY HIKES

The remuneration of independent directors of Multi Commodity Exchange of India (MCX) has shot up considerably in the past couple of years. Earnings of independent directors (IDs) have seen a 100-200 per cent hike over the previous year. When compared to the earnings of the members of pre-crisis board in the financial year ending March 2013, this represents a tenfold rise. These numbers came to the fore in the company's latest annual report filed with the stock exchanges.

The steep rise was due to a combination of a significant increase in the sitting fees paid by the company per board/committee meeting and in the number of such meetings, disclosures in the annual report showed. The number of committees, of which the IDs were part of, also went up following the resignation of managing director and chief executive officer Manoj Vaish early in the financial year.

According to the annual report for 2014-15, MCX paid ₹80.9 lakh in sitting fees to its independent directors.

Among the major beneficiaries of this hike are former LIC Chairman DK Mehrotra who received a total remuneration of ₹22.1 lakh. He was followed by G Anantharaman who took home ₹19.3 lakh and Ravi Kamal Bhargava who earned ₹14.7 lakh. Independent Chairman Satyanand Mishra earned ₹12 lakh.

In comparison, Mehrotra earned ₹6.2 lakh in FY14. Anantharaman and Bhargava earned ₹9.3 lakh and ₹9.9 lakh, respectively that year, while Mishra, who had joined midyear took home ₹2.4 lakh. In FY13, then Chairman Venkat Chary drew the highest fee among independent directors, he drew ₹ 2 lakh. Others namely Shvetal Vakil, BR Barpande and CM Maniar drew between ₹50 ,000 and ₹1.5 lakh, the annual report showed.

A person familiar with the MCX board matters said, "In the absence of a full-time managing director, the company is now run through various committees. The independent directors, who are manning these committees, are having to put in considerable time and effort. These factors and industry standards of sitting fees paid by public sector firms were taken into consideration while deciding the hike last year."

The annual report said, "The sitting fees paid to the non-executive directors and/or independent directors were fixed by the Board and thereafter was approved and ratified by the shareholders in the last AGM of the company. The same is within the limits prescribed under the Companies Act, 2013."

An MCX spokesperson did not respond to an email seeking comments on the hike.

The annual report showed that there was a 100 per cent hike in sitting fee for board meets and a 50 per cent one in fee for committee meetings during last year. Till June 2014, directors drew a fee for ₹20, 000 for all meetings. "Thereafter, the sitting fees payable to the non-executive directors was revised upwards and they were entitled to sitting fees of ₹40,000 per meeting for attending the meetings of the Board and ₹30,000 per meeting for attending the meetings of any committee of the Board," the report said.

It further added that following the resignation of Manoj Vaish, who was MD for a brief period, "the Board constituted management committee comprising of exchange officials (which was disbanded later), oversight committee and selection committee. Also, an independent directors' committee and ethics committee were constituted during FY 2014- 2015." MCX had 20 such committees as of last year.

Total managerial remuneration stood at ₹2.63 crore, well within the ₹12.57 crore or 11 per cent of net profit limit, set by the Companies Act. Of this, Joint Managing Director PK Singhal drew ₹1.56 crore; Vaish drew ₹19.13 lakh during his brief stay. The exchange paid around ₹25.6 lakh to non-independent, non-executive directors the previous financial year.

ON CASH PILE
SITTING FEE EARNED BY INDEPENDENT DIRECTORS

FY 2015	
Remuneration in ₹ lakh	
Satyanand Mishra	12.0
DK Mehrotra	22.1
G Anantharaman	19.3
RK Bhargava	14.7
FY 2013	
Venkat Chary	2.0
Shvetal Vakil	1.5
CM Maniar	1.5
P R Barpande	0.5

Source: MCX annual reports

Source: Business Standard
11 September, 2015

START-UPS TARGET SME FUNDING

Out of India's 50 million-odd small and medium enterprises (SMEs), only six to seven per cent manage to get access to funds. With the Indian start-up eco-system blooming, entrepreneurs are now using technology to tap this space.

On the other hand, a plethora of players such as Paytm, Oxigen, Mobiqwik and others have emerged, who want to cater to retail customers and reduce their payment issues. New-age technology-based companies such as Innoviti, Pine Labs, and Capital Float have come up with models that ease out payment issues for SMEs.

Bengaluru-based Capital Float has raised $17 million in funding from Sequoia Capital, SAIF Partners, and Aspada. The company is also using its equity to finance loans from banks and other lenders. Its revenue model is a combination of interest and fees.

"The SME lending market is massive in India and there is a huge under-served market of $200 billion that traditional lenders don't

New-age technology-based firms such as Innoviti, Pine Labs, and Capital Float have come up with models that target lending to SMEs

address. Plus, technology in the sector has not evolved significantly. Today's borrowers are dominantly online and this means lenders can target them online and use new technology and data to underwrite loans better and faster," said Gautam Mago, managing director, Sequoia Capital

Founded in 2013, Capital Float has created a propriety platform to evaluate the financial condition of an SME and provide working capital requirements in about seven days, compared to a traditional bank that would take two months. At present, the company is working with all major e-commerce players — Flipkart, Snapdeal, Jabong, Amazon, Myntra, etc small merchants, and business to business service providers. The company is a registered nonbanking financial company.

"India has a huge SME segment whose lending needs have been ignored. Various estimates suggest about $200 billion funds are required by SME in India for their working capital needs. At present, this is mostly funded by loan taken from family and relatives. For Bank loans, the time taken is two weeks to one-and-a-half months. Since many have to focus on day-to-day operational issues, they do not have the time to stand in long queues at banks," added Sashank Rishyasringa, co-founder, Capital Float. The company has created a platform that focuses on getting the details of the merchant and collection of documents in a way that's convenient to the applicant as well as the underwriting team.

"For the documents, we integrate with a number of third-party sources in order to fetch documents on behalf of the applicant so he or she doesn't need to provide them to us. This simultaneously reduces the load on the applicant, as well as increases the level of trust in the data that we receive. Besides, we have a patent-pending document management solution that makes sure no documents slip through the cracks," said Rishyasringa.

He added several companies in the US are using technology to disrupt this segment. "Capital Float is not only making access of funds to SMEs easier, but we are also creating data and insight that is unique," he added.

Another player in this segment is Innoviti, which recently raised ₹30 crore from Catamaran Ventures and New India Investment Corporation of Canada, and has built a lending marketplace for credit distribution that brings lenders, buyers and sellers together. It also has a payment management system that reduces loss of revenue due to wastage and errors for merchants.

Innoviti's marketplace model has already been tested with two large cash-and-carry players in India. The uniqueness of the platform is that it validates the buyer (merchant/ SME) for the sellers and lenders and they get access to short-term credit lending for seven to 14 days.

Source: Business Standard
10 September, 2015

SHORT SELLERS HIT HARD AS SENSEX GAINS 401 POINTS

RELIEF RALLY in Asia and government moves bring cheer, but traders feel gains may not be sustainable ahead of Fed meet next week

A relief rally in Japanese and Chinese stock markets lifted the gloom across Asia, with India clocking gains for the second straight day on short covering after major indices bounced back from oversold territory. Besides, government approval on gold monetisation, offshore wind energy, and telecom spectrum trading also helped matters.

However, investors and analysts remained skeptical and expect trading gains to be limited ahead of the crucial US Federal Reserve meeting on September 17, where the US central bank may decide to raise interest rates for the first time in nearly a decade, and in the face of relentless foreign institutional investor selling.

The BSE Sensex surged 401 points, or 1.59%, on Wednesday to close at 25,719, rallying about 800 points in the past two trading sessions. The Nifty gained 130 points, or 1.70%, to end the day at 7,818, above the crucial technical level of 7,800. BSE Midcap index and Small cap index rose 1.9% and 1.8%, respectively.

Traders with short positions were caught unawares, suffering significant losses, after markets rebounded sharply in the past two trading sessions. "It's difficult to take a call on whether these gains are sustainable. Technically, markets were in oversold territory and a relief rally was on the cards, "said KunjBansal, ED & CIO at Centrum Wealth Management.

Sentiment in Asia improved after Japan's Nikkei vaulted 7.7% on Wednesday, its biggest daily percentage gain since October 2008. The Chinese government's move to speed up tax reforms, boost infrastructure spending, and accelerate use of public-private-partnership model to support economic growth also lifted spirits. "Markets should be touching 8,000-8,100 levels as target for the second half of September because of smart buying and short covering which has been the trend of the day," said Sanjiv Bhasin, EVP at IIFL.

Traders continue to remain worried over relentless selling from foreign institutional investors (FIIs). Foreigners have sold stocks worth ₹452 crore on Wednesday Wednesday -they had sold shares worth ₹ 22, 400 crore in August and September (so far). However, domestic institutional investors (DIIs) remained buyers worth ₹ 1,194 crore on Wednesday, they have bought shares worth ₹ 21,500 crore in August and September (so far).

"I would say most of the risks are now priced into the market in the short term, "said PiyushGarg, EVP & CIO, ICICI Securities. "I would advise people to be in large caps, quality names or buy the Nifty futures while it's better to avoid midcaps."

Metal stocks were in the limelight following overnight gains in copper prices in international markets. Hindalco, Vedanta, and Tata Steel were up between 5% and 8% on Wednesday.

Source: The Economic Times
10 September, 2015

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CHARIOTEER FUND FADES AWAY JUST TWO YEARS AFTER ROLLOUT

AMBIGUOUS GUIDELINES, WARY INVESTORS MAKE IT DIFFICULT FOR SOCIAL ALTERNATIVE FUNDS TO RAISE MONEY HERE

Charioteer Social Alternative Fund, one of India's earliest listed alternative investment funds has been given a quiet burial just two years after rollout due to ambiguous guidelines and wary investors, with both banks and high net worth individuals, raising doubts over the future of social impact investing in the country.

Managers of Charioteer surrendered its alternative investment fund (AIF) license last week after it failed to raise the targeted corpus.

The fund, launched in 2013 with an initial outlay of ₹ 250 crore, managed. 60 crore worth of soft to get just commitments from investors. "We tried hard to get this up and running, but we could not, "said Krishnamurthy Vijayan, founder MD of Charioteer I4L.

The root cause of Charioteer's demise happens to be unclear rules on investments in social projects. After the `promotion of social business' clause of the old Companies Act was amended, it is not clear if CSR funds pooled in from different companies into social projects were legal and compliant with the new Companies Act. Another section, which mandates that CSR funds be only given to third-party trusts with a three-year track record, went against Charioteer.

Quarter	Commitments Raised	Funds Raised	Investments Made
Jun '13	11	**0**	0
Sep '13	412.68	**35.2**	24.3
Dec '13	434.36	**78.21**	25.3
Mar '14	428.29	**78.21**	38.91
Jun '14	435.25	**78.21**	38.91
Sep '14	484.49	**78.21**	49.81
Dec '14	498.93	**150.87**	49.81
Mar '15	564.9	**235.87**	129.41
Jun '15	595.81	**259.52**	185.81

(Figures in ₹Crore) Source: Sebi

"The new Companies' Act did not really support CSR funds to flow into impact funds. Unfortunately, our fund was structured to manage CSR funds from firms, "said Vijayan.

The new Companies Act, according to several impact fund managers, is also unclear about where the funds could be used. As per the `catchment area' clause, CSR funds could be only used in places where companies have business interests.

Vijayan said people have clearly not understood this concept of social responsibility with profit objective. "For them, investment and social work are separate ideals. "

Impact Investments: No Takers

The case of Charioteer underscores the bleak future of few social venture capital funds (SVFs) in India. Besides Charioteer, there are four Sebi registered SVFs in the AIF space and all of them could meet a similar fate.

While SIDBI and IFMR have managed to raise small sums of money from institutional investors, Incubi Connect Fund of Incubi Ventures is far from collecting even half of its initial corpus.Sankhya Partners, a newly-formed fund, may also hit the fund-raising road soon, sources said.

"There's limited domestic participation in our SVFs, "said Mani Iyer, MD of Incube Ventures, adding that more money flows in from overseas investors. "Domestic banks also do not participate in SVFs as they'll have to provision for their investments in these funds. HNIs are not attracted because SVFs are perceived to deliver muted returns. "SVFs promise 12¬15% returns on investments. This, in the current scenario, could be better than actively-managed sectoral PE funds.

"The tax structure is a bit unclear in SVF. That apart, the minimum. 1 crore is a bit too much ticket size of ` for even HNIs, "said Amit Bhatia, CEO of Impact Investors Council.

Even established SVFs have found it hard to raise funds. Aavishkaar and Lok Capital have taken 4-5 years to create a meaningful corpus.

"Banks, HNIs are not really your captive investors, "said VinitRai, MD of Aavishkaar, which manages social infrastructure assets worth ₹ 1,500 crore.

Market watchers say most investors are yet to warm up to the concept of returns and social work

Vishal Mehta, MD of Lok Capital agreed. "Foreign investors, though more open to SVFs, like to invest in small ticket sizes. They are also very conscious about the impact of their investments, "he said.

Institutional interest for debt participation in SVFs has found more takers than equity participation. The ₹100-crore IFMR Fimpact Investment Fund is a success story in this regard. "Insurance companies have been our biggest participants, along with a few HNIs, "said Kshama Fernandes, MD & CEO of IFMR Capital.

"It's certainly not muted returns in the case of debt investments in SVFs. Our funds are structured to deliver 100-300 bps over benchmark. Debt or equity, the success of an SVF depends on the risk appetite and investment horizon of investors, "Fernandes added.

Source: The Economic Times
9 September, 2015

SENSEX SINKS TO 15-MTH LOW ON GLOBAL WOES

Indian stocks tumbled to a 15-month low on Monday tracking the weakness on Wall Street, as worries about the possibility of tighter monetary policy in the US extended flight from emerging markets. Continued weakness in Chinese markets, which opened on Monday after a long weekend, also contributed to the weakness driving the benchmark Sensex below 25,000 for the first time since June 2014.

Brokers said the decline on Monday was amid lower trading volumes, showing retail investor participation has shrunk after the recent sell off. Total turnover in the cash segment of both exchanges was. 14,360 crore compared with the average daily turnover of ₹22,861 in the last thirty days. The Sensex, which has fallen almost 11% from August 1 when China first devalued its currency is just 177 points away from the levels of May 26, 2014, the day the Modi government took over. On Monday, the index fell over 308.09 points, or 1.22%, to 24,893.81, the lowest since June 2014. The NSE Nifty closed the day at 7,558.8, down 96.25 points, or 1.26%.Out of the 30 Sensex stocks, 26 ended lower on Monday.

On the BSE, 170 stocks including ICICI Bank, Hindalco Industries, State Bank of India, Power Grid, and IDFC hit 52-week lows. Banking stocks led the selloff with the sectoral index falling 2%.

Strategists say investors may need to brace of heightened volatility ahead of the US Federal Reserve on September 16-17.

"There could be a significant rise in volatility around the Fed meet time in September. Additionally, the added volatility factor has been the events in China and thus the declines that we anticipated have been far greater, "said Vive R Mira, strategist Asian equities at SocieteGenerale. "However, I would say that we are probably not too far away from the bottom of the market, if we have not reached the bottom already.

Foreign institutional selling showed no signs of abating with these investors dumping shares worth ₹827 crore on Monday. Since August, foreign investors have sold to the tune. 21,000 crore. "The Indian market is falling due to global factors and not because of any domestic issues, "said DhirajSachdev, senior vice president, HSBC Global Asset Management. "Things will improve once FIIs stop correlating India with the other emerging markets. "

Source: The Economic Times
8 September, 2015

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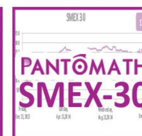


METAL SECTOR TO TAKE TIME TO RECOVER

30% OF BSE 500 COS NOW TRADING AT 40% DISCOUNT TO THEIR 52-WEEK HIGHS

Mid and small-cap stocks have fallen more sharply than bluechips in the recent sell off. While the Sensex has fallen about 17% from its yearly high on March 4, 2015 about 30% of the stocks in the BSE 500 index are currently trading 40% below their 52-week high levels. Some have lost nearly their entire valuation in the last few months. A majority of these stocks belong to metal and banking sectors, while some are from capital goods, realty and power. Large-cap stocks Jindal Steel, Vedanta, Hindalco, Bank of India, Tata Steel and Cairn, among others, are currently trading over 60% below their 52-week highs. Analysts expect sectors like metal to take a few more quarters to recover. "We continue to expect major steel firms to report operational losses during Q2FY16, given the decline in global prices, "said AshishKejriwal, analyst at Elara Capital. "Even if the safeguard duty of 20% (probable) gets implemented, the effect of it will be reflected in Q3FY16."

Stock	CMP (₹)	Fall from 52-Week High (%)	YTD Return (%)	Target Price* (₹)	200 DMA
Jindal Steel	59.90	-75.9	-59.1	92.72	129.21
Vedanta	89.85	-69.2	-55.9	174.52	185.60
Hindalco	71.55	-59.5	-53.1	100.38	131.16
Bank Of India	127.25	-59.2	-56.2	161.91	219.72
Tata Steel	215.85	-58.9	-43.6	281.30	339.31
Cairn India	147.35	-57.2	-37.5	205.56	210.46
GMR Infra	11.00	-56.5	-33.7	19.50	15.67
Reliance Power	35.20	-56.4	-42.3	52.42	54.26
Reliance Infra	325.85	-54.2	-36.9	482.29	443.32
Just Dial	802.65	-54.1	-39.3	1374.33	1246.25
Reliance Com	58.15	-51.9	-26.9	68.00	70.55
Nalco	33.55	-51.4	-37.5	41.75	45.52
Coromandel Inter	173.30	-50.9	-42.1	287.33	263.02
ONGC	226.05	-50.7	-33.1	342.94	316.60
NMDC	93.85	-50.0	-30.2	109.10	126.58
GAIL	276.10	-50.0	-35.7	368.30	393.28
SAIL	47.65	-47.5	-41.2	50.10	68.95
Canara Bank	252.60	-47.2	-40.8	329.61	366.99
Tata Motors-A	322.85	-46.7	-34.1	510.50	483.51
JSW Energy	67.70	-46.4	-29.4	97.40	101.99
Syndicate Bank	77.25	-45.3	-38.2	119.67	110.62
PNB	127.90	-44.8	-38.9	158.42	167.73
Indian Bank	124.65	-44.4	-40.3	195.22	167.23

* Bloomberg Consensus Estimate

Source: The Economic Times
8 September, 2015

CORPORATE PROFITABILITY MIGHT FALL IN COMING DECADES: MCKINSEY

The past three decades were a period of unprecedented prosperity for global corporations. Corporate earnings before interest and taxes trebled between 1980 and 2013. But this era may well be over. Anewreportfrom MckinseyGlobal Institute, titled Playing to win: the new global competition for corporate profits, projects that over the coming decade, corporate profitability could fall from 10 per cent of global GDP in 2013 to 7.9 per cent by 2025. This fall in profitability is a consequence of several disparate forces. First, emerging-market companies will account for a greater proportion of the corporate universe in infrastructure industries such as utilities, telecom, transportation and construction. This rise in competition will lead to a fierce battle among existing companies to retain their slice of the pie, thereby lowering profit margins. McKinsey expects their increased presence to shrink future corporate profits by about $800 billion to $900 billion. Secondly, technology disruption, the rise of low costs solutions, could reduce corporate profits by$600-700 billion in sectors such as retail, health care, and utilities. Third, the fall in labour costs observed over the past few decades is unlikely to continue in the coming decade. McKinsey expects the end of declining labor costs to reduce corporate profitability by$800 billion. Lastly, higher interstates and taxes could further erode corporate profitability. The report says that in today's corporate world, "value is increasingly created from patents, brands, trademarks, and copyrights rather than industrial machinery or factories". Sectors which are considered as idea-intensive accounted for 17 per cent to the profits generated by Western companies in 1999. Today their share is 31 per cent.

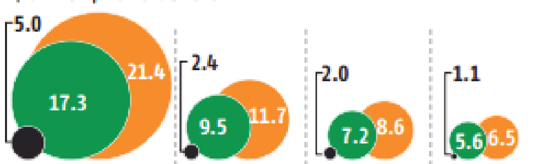
Source: Business Standard
10 September, 2015

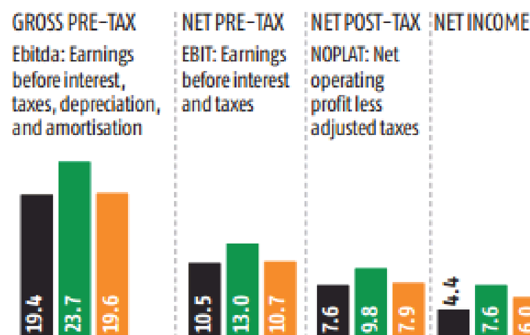
IDEA-INTENSIVE SECTORS SEE HIGHER MARGINS AND SPREADS THAN MOST SECTORS

Group	Sector archetype	Selected sectors	Average profit margin (NOPLAT over sales, %)
Idea-intensive goods and services	Intellectual property-intensive	Pharma/ medical devices	19.8
	Technology-intensive	Technology hardware	7.8
		IT and business services	11.7
		Media	12.4
Labour-intensive consumer goods and services	Local consumer-facing	Consumer discretionary products	5.0
		Consumer staples	9.3
		Hospitality services	8.5
		Health care services	3.9
		Retail	3.5
Capital-intensive goods and services	Capital goods	Construction	4.4
		Automobiles	5.4
		Machinery	6.8
		Processing	6.6
	Infrastructure	Transportation	6.0
		Telecom	13.4
		Utilities	8.5
		Extraction	5.8

Source: McKinsey Corporate Performance Analysis Tool; IHS; US Bureau of Economic Analysis; US Bureau of Labor Statistics; McKinsey Global Institute analysis

GLOBAL CORPORATE PROFIT POOL COULD LOSE ALL THE GAINS OF THE PAST THREE DECADES IN THE NEXT DECADE





Sources: World Bank; OECD; Bureau van Dijk; European Commission AMECO database; US Bureau of Economic Analysis; IHS; Oxford Economics; McKinsey Corporate Performance Analysis Tool; McKinsey Global Institute analysis

TEXTILE INDUSTRY WANTS QUICK GOVT HELP

SAYS DUMPING, LACK OF FTAS, EXPORT INCENTIVES HURTING DEEPLY, WITH COMPETITORS GETTING AHEAD; WANTS POLICY & FINANCIAL HELP

After Tuesday's meeting between the Prime Minister and top business heads, the textile industry is expecting the central government to take quick action on its problems.

The measures hoped for include action on free trade agreements (FTAs), on export incentives and release of funds under the Technology Upgradation Fund scheme (Tufs), among others. The textile and clothing industry's yearly turnover is pegged at $105 billion, of which exports form 35-40 per cent. Capacity utilisation, especially in yarn, has declined by 15-20 per cent in the past couple of months due to decline in export competitiveness. K Selvaraju, secretary general of the Southern India Mills Association, investments worth ₹1 lakh crore have not received any subsidy benefits under Tufs.

"While the recent rupee depreciation has helped textile exporters in some ways, the industry continues to get hurt in many other ways. For instance, as against the rupee, India's export target nations have also seen currency depreciation, which has almost nullified any benefit. Also, not only is the excise duty on synthetic textile products of 12.5 per cent hurting the industry, the reduction in duty-free scrips from two to four per cent to zero to two per cent has reduced export competitiveness," said O P Lohia, chairman of Indo Rama Synthetics.

Another charge is that China has a lot of surplus capacity, used to dump into countries like India through other routes. "India has signed an FTA with Bangladesh, which allows any garment converted in Bangladesh, whether the fabric is from that country, India or any other country like China, to arrive duty-free in India. Such agreements are hurting India, where even Chinese products can now come duty-free. India was competent enough in yarn exports. However, China has stopped buying yarn from India and instead begun producing," said Sanjay Lalbhai, managing director of textile conglomerate Arvind Ltd.

Lalbhai says while competing nations Sri Lanka, Pakistan and Bangladesh have signed FTAs, such as with Europe, we have got left out. "India has to become part of FTAs. India is not part of any major FTA, unlike its competing nations. If agreements like the Trans-Pacific Partnership agreement come through, India could get completely marginalised," he said.

"The situation has aggravated in the past couple of months, with imports growing, especially from China. In such a scenario, the Centre needs to provide a level playing field. Unlike our competing nations like Vietnam, Bangladesh and Cambodia which have duty-free access, all textile products from India attract four to 15 per cent duties. We have demanded an export incentive of three per cent for yarn, five per cent for fabric and seven per cent for garments," Selvaraju said.

Source: Business Standard
10 September, 2015

FIRMS WITH ANNUAL TURNOVER OF ₹ 25 LAKH MIGHT NOT ATTRACT GST

DRAFT LAWS LIKELY TO BE READY IN 3 WEEKS; RULES BEING READIED TO AVOID SCRUTINY OVERLAP BY CENTRE, STATES

Companies with an annual turnover up to ₹25 lakh might be exempted from the proposed national goods and services tax (GST). The Centre and states are likely to settle for this threshold as they finalise the GST laws.

According to finance ministry officials, the draft of these laws is expected to be ready by the end of this month. The Centre and states are working on a mechanism to avoid dual scrutiny of companies by them.

"The thinking now is that all legal entities with an annual turnover of up to ₹ 25 lakh will be completely exempt. This will be applicable to one TIN (Taxpayer Identification Number)," said a ministry official.

The government is looking to reconvene Parliament's monsoon session to get the Constitutional amendment Bill on GST passed in the Rajya Sabha. Three Bills — on the Centre's GST (CGST), states' GST and Integrated GST — would come up after the Constitutional Bill is cleared. Work on the drafts is on.

States wanted a threshold of ₹10 lakh to protect their revenue, while the Centre has assured them full compensation for five years. Besides, firms with an annual turnover between ₹25 lakh and ₹75 lakh will have an option to pay a flat rate of one per cent or GST rate. If they decide to opt for one per cent rate, firms will not get input credits because of which many, particularly dealers, may choose the GST rate.

The exemption limit from value added tax and service tax across states —except the Northeast — is close to ₹10 lakh turnover. "There will be an impact on revenue but it will depend on how many under the ₹25 lakh to ₹75 lakh annual turnover bracket opt for the one per cent rate. If 60-70 per cent opt for it, there will be loss of revenue for states but they will also get compensated by the Centre," said Bipin Sapra, tax partner, EY. From the manufacturing point of view, it was important to keep the exemption limit higher, he added.

While these are likely to be part of the GST laws, a final decision on this is to be taken by the yet-unformed GST Council. This is to be constituted within two months of enacting the Constitution amendment. It would comprise the Union and state finance ministers and will be empowered to take key decisions on GST.

The idea is that entities with a turnover of up to ₹75 lakh will not attract any checks or audits from either the state or the Centre. The Centre will give states a free run on compliance checks for companies with annual turnover above ₹75 lakh and up to ₹1.5 crore. "Here, the Centre will only do online scrutiny. And, if states detect non-compliance with respect to CGST, only the Centre will issue a notice. States cannot issue a notice on our behalf," said an official. However, in case of companies with annual turnover of more than ₹1.5 crore, there will be concurrent audits by both the state government and the Centre.

"The government is still discussing a mechanism of a risk-based selection so that the checks by Centre and states do not overlap," said the official.

The government on Sunday made a renewed appeal to Opposition parties to help pass the Constitutional amendment through an extended monsoon session. It is vital that this be cleared at the earliest for the government to stick to the GST implementation timeline of April 1, 2016. The three draft legislations will lay down the fine print of the uniform indirect tax regime.

Source: Business Standard
8 September, 2015

INDIA NEXT GLOBAL HUB FOR COMMERCIAL ARBITRATION?

The Cabinet has cleared the amendments to the Arbitration and Conciliation Act, 1996, specifying deadlines for awards by tribunals and incentivising expeditious disposal of cases. However, these alone will not make India an international hub for commercial arbitration. According to experts, India should have more capacity such as having regular legal experts and not just retired judges in the arbitral panel. The amendments, approved by the Cabinet, seek to provide for arbitral tribunal making its award within 12 months. Parties might extend such periods up to six months. Thereafter, it can only be extended by the court.

While extending the period, the court might also order reduction of arbitrators' fees not exceeding five per cent for each month of delay, if the court finds the proceedings have been delayed for reasons attributable to the arbitral tribunal. If the award is made within six months, the arbitrator might get additional fees if the parties agree. Besides, a new provision would be inserted for a fast-track procedure for conducting arbitration. Parties to the dispute might agree their dispute be resolved through the fast-track procedure. Award in such cases shall be given in six months. A new sub-section in Section 11 would be added to ensure an application for appointment of an arbitrator shall be disposed of by the high court or Supreme Court expeditiously, and the matter should be disposed of within 60 days. The amendments are based on the Law Commission's 246th report. An official statement had said these recommendations would ensure that India become a hub of International commercial arbitration.

Ganesh Chandru, executive partner at Lakshmikumaran & Sridharan, a law firm, says more institutional arbitration should take place in India, for which existing arbitral institutions should be modernised.

Right now, most of the arbitrations in India are ad-hoc, says Chandru, who is in the arbitral panel of Singapore and Kuala Lumpur. He advises arbitration hearings should be conducted continuously during the week days and not just during weekends so that there is continuity of proceedings.

Amit Bansal, senior partner at Deloitte Haskins & Sells, says these amendments are a step toward achieving this objective, but a strong institutional framework is also needed. Bansal says arbitral panel is full of retired judges of high courts and the Supreme Court. Besides, it does not have many non-legal experts. This is contrary to international arbitration centres such as the ones in Singapore, London and Paris. Chandru, too, says increasing the pool of arbitrators is an important step for which there needs to be nationwide training of arbitrators and more people should be accredited as full-time arbitrators.

Naresh Thacker, partner, Economic Laws Practice, says a quick and efficient mechanism of redressal of business disputes is always welcome and the government has shown urgency in setting right all areas which businesses — both domestic and international — see as a hurdle to doing business in India. "The move to amend the Arbitration and Conciliation Act, 1996 is the first step in providing a platform to the alternate dispute resolution mechanism to achieve its true goal, that of providing expeditious and effective settlement of commercial disputes," he points out. However, he cautions it is naïve to believe the morning after the Bill becomes an Act, India will suddenly be recognised as an International arbitration hub.

"It is not merely a change in law that will be enough. The conduct and attitude of all stakeholders, including litigants, lawyers, arbitrators and courts will ultimately determine whether the amendments will achieve what is intended," he says. Chandru suggests arbitration should be made a compulsory module in all law colleges as this is likely to become the preferred way of resolving commercial disputes in the years to come.

Arbitration is preferred by many companies in a dispute than normal legal process because it is more expeditious, though a costlier affair, and its award is enforceable in foreign jurisdictions as well. All major disputes of companies, including Vodafone, NTT DoCoMo versus Tata Teleservices, moved to international arbitration centres due to cumbersome processes in India.

Recently, former revenue secretary Shaktikanta Das said arbitration is not the best route to solve disputes related to taxes. He found mutual agreement procedure and advance pricing agreements as much better ways to settle tax disputes.

Source: Business Standard
8 September, 2015

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