



CS Update

August 19, 2011

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WITH FINANCIAL INCLUSION PLAN (FIP) (*RBI dated 12.08.2011*)

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- SERVICE TAX REFUND TO EXPORTERS THROUGH INDIAN CUSTOMS EDI SYSTEM (ICES) — DRAFT CIRCULAR CALLING FOR COMMENTS, VIEWS AND SUGGESTIONS (*CBEC dated 12.08.2011*)
- WAIVER FROM THE REQUIREMENT OF BANK GUARANTEE IN RESPECT OF EOUS(*CBEC dated 12.08.2011*)

PREVIOUS ISSUES OF CS UPDATE ARE AVAILABLE AT THE FOLLOWING LINK:

<http://www.icsi.edu/Member/CSUpdate/tabid/1635/Default.aspx>

Disclaimer: - Due care and diligence is taken in compilation of the CS Update. The Institute does not own the responsibility for any loss or damage resulting from any action taken on the basis of the contents of the CS Update. Anyone wishing to act on the basis of the contents of the CS Update is advised to do so after seeking proper professional advice.



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FROM ICS





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39th

National Convention of Company Secretaries

Dates

October 13-14-15, 2011

Venue

Jaypee Palace Hotel & Convention Centre, Agra

10 PCH
for
Members of
ICSI

THEME

Corporate Dynamism and Innovative Professionalism

Sub Themes

- Dynamic Business Environment, Innovation and Risk Management
- Regulatory Convergence, Technology and Innovative Professionalism
- From Compliance to Creative Solutions – Vision 2020 challenges
- Leveraging Globalisation for Trade in Professional Services
- Harmonisation of Companies Bill, vis-à-vis other Corporate Laws

Further details of the Convention and delegate registration form available at the link:

<http://www.icsi.edu/WebModules/LinksOfWeeks/39NC-Brochure.pdf>





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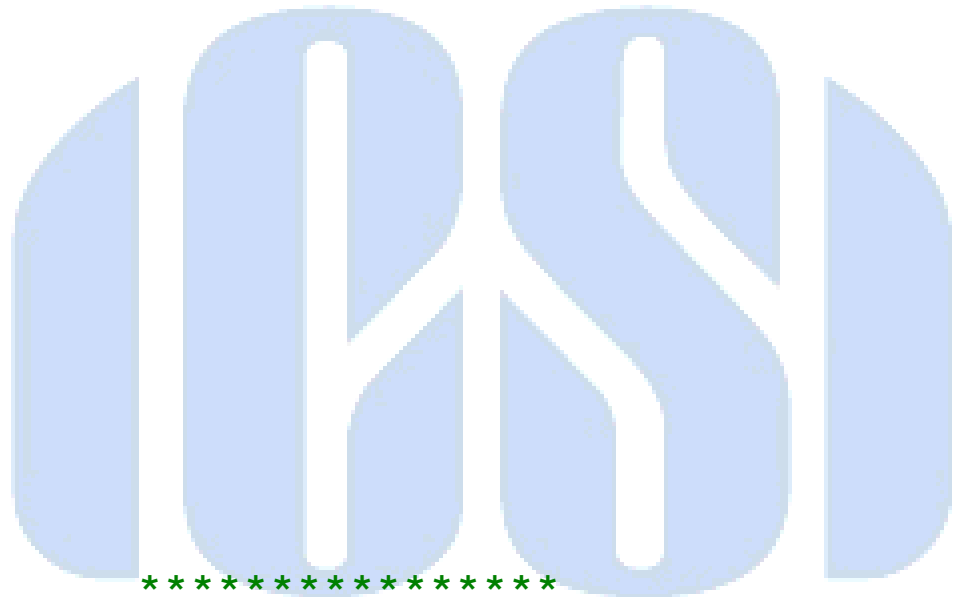


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RECORDING OF WEBCAST ON XBRL ARRANGED BY ICSI

Details can be accessed at:
<http://www.streamonweb.com/ICSI/archivals>





FORTHCOMING PROGRAMMES ON XBRL

S.No	Date	Topics	Faculty	Organised by	Participating Chapters on live Webcast
	NIRC				
1	21.08.2011	Training Programme on XBRL		Luknow Chapter of NIRC	
2.	23-08. 2011	Workshop on XBRL		NIRC	
3	27.08.2011	Meeting on XBRL		NIRC	
4	28.08.2011	Meeting on XBRL		NIRC	
	ICSI -CCGRT				
5	19-20.08.2011	Filing, Demonstration and Reporting of XBRL		ICSI-CCGRT	
	SIRC				
6	26.08.2011	XBRL Conference		SIRC, Chennai	Subject to confirmation
7	27.08.2011	XBRL Conference		SIRC, Chennai	
8	28.08.2011	XBR Conference		Hyderabad Chapter	



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**THE INSTITUTE OF
Company Secretaries of India**
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament

CENTRE FOR
CORPORATE
GOVERNANCE,
RESEARCH &
TRAINING (CCGRT)

PCH - 6

Program on

eXtensible Business Reporting Language (XBRL)

PDP/
ADP -12

Introduction and Objective	<p>The Ministry of Corporate Affairs has issued various General Circulars (the last being Circular No. 57/2011 dated 28th July 2011) mandating certain class of companies to file, on or before 30th November 2011, their balance sheets & profit and loss account in respect of financial statements closing on or after 31.03.2011 by using XBRL taxonomy.</p> <p>The Manual for filing financial statements in XBRL form in MCA21 system is given at the XBRL section of the MCA portal.</p> <p>MCA has also clarified that the verification and certification of the XBRL document of financial statements on the e-forms would continue to be done by authorized signatory of the company as well as professionals like Company Secretary in whole-time practice.</p> <p>Considering all the above, ICSI-CCGRT is organising this program particularly for the benefit of its Members, to acquaint them with the intricacies and practical aspects involved in XBRL filing.</p>								
Day, Date & Timing	<p>Friday , August 19, 2011 from 04.00 p.m to 07.00 p.m followed by Dinner</p> <p>Saturday, August 20, 2011 from 09. 30 a.m to 05.30 p.m</p>								
Venue	A/C Conference Hall of ICSI-CCGRT, Plot No. 101, Sector 15, Institutional Area, CBD Belapur, Navi Mumbai – 400 614								
Proposed Coverage	<ul style="list-style-type: none"> • Introduction to XBRL filing • Concept of XBRL Reporting • Demonstration of XBRL filing 								
Speakers include	<p>Shri S. Swaminathan Founder & CEO IRIS Business Services Ltd & team from IRIS Business Services</p>								
Participant Mix	Primarily Company Secretaries								
Fees	<table border="0"> <tr> <td>Members ICSI</td> <td>Rs. 3000/- per participant</td> </tr> <tr> <td>Others</td> <td>Rs. 3500/- per participant</td> </tr> <tr> <td>Annual Members of CCGRT</td> <td>Rs. 2500/- per participant</td> </tr> <tr> <td>Students of ICSI</td> <td>Rs. 2500/- per participant</td> </tr> </table> <p>Fees includes the cost of program kit, lunch, dinner on the first day, background material and other organisational expenses.</p>	Members ICSI	Rs. 3000/- per participant	Others	Rs. 3500/- per participant	Annual Members of CCGRT	Rs. 2500/- per participant	Students of ICSI	Rs. 2500/- per participant
Members ICSI	Rs. 3000/- per participant								
Others	Rs. 3500/- per participant								
Annual Members of CCGRT	Rs. 2500/- per participant								
Students of ICSI	Rs. 2500/- per participant								

Note : The program will be conducted by IRIS Business Services Ltd.

For Prior registration : Fee may be paid by local cheque/DD payable at Mumbai in favour of "ICSI-CCGRT A/c" sent to: Shri Gopal Chalam, Dean, ICSI-CCRT, Plot No. 101, Sector – 15,

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Attention Members

11th ICSI National Award for Excellence in Corporate Governance, 2011

We are happy to inform you that the process of identifying the best governed corporates for the **11th ICSI National Award for Excellence in Corporate Governance** for the year 2011 has begun.

The First Questionnaire of the 11th ICSI National Award for Excellence in Corporate Governance is available on the ICSI website - www.icsi.edu and can be downloaded from the website in word format.

Please note as a part of the Green Initiative, the institute will not be sending a hard copy of the questionnaire.

All listed entities and unlisted companies which send their nomination are eligible for the Award.

You are requested to participate/ encourage participation of companies that you are associated with, in order to make this endeavour of the Institute a grand success.

The duly filled in Questionnaire may be sent in hard as well as in soft copy so as to reach the Institute on or before August 30, 2011.

For further information you may contact Mrs. Alka Kapoor, Joint Director (Academics) at alka.kapoor@icsi.edu; Ph. -011-45341018.





CG & CSR : WATCH

The Institute has always been in the frontline to promote good corporate governance and it has been the constant endeavour of the Institute to raise awareness among the members and students in Corporate Governance arena. This watch gives an update of the latest happenings in the area of Corporate Governance and Corporate Social Responsibility.

NEW DEVELOPMENTS

1. Corporate Governance Blueprint 2011, Malaysia, launched on 8 July 2011

The Securities Commission Malaysia's five-year Corporate Governance Blueprint (Blueprint) provides the action plan to raise the standards of corporate governance in Malaysia by strengthening self and market discipline and promoting greater internalisation of the culture of good governance.

Developed through a highly consultative process with industry, the Blueprint focuses on six connected themes of the corporate governance ecosystem namely shareholder rights, the roles of institutional investors, boards, gatekeepers and influencers, disclosure and transparency as well as public and private enforcement.

The recommendations in the Blueprint will be implemented over a five year period. Most of the recommendations will be applied through a corporate governance code and changes to the Listing Requirements, both of which are expected to take effect by early 2012.

The Blueprint is divided into various chapters. Chapter two sets out proposals for a new code governing institutional investors. Chapter three recommends that boards adopt a charter setting out, amongst other things, the board's functions and responsibilities as well as the key values, principles and ethos of the company. The charter should also include information about the company's governance arrangements, including the committees formed and the division of powers between the board, committees, chairman and CEO. Chapter four sets out five pillars of disclosure and transparency and makes recommendations regarding the content of the Commission's Corporate Governance Code. Chapter five makes wide-ranging recommendations, including greater clarity regarding the role of company secretaries and widening the obligations regarding mandatory whistle-blowing. Chapter six explains that shareholders are able to bring a statutory derivative action where the company has suffered harm but notes that there has only been one reported case. The chapter recommends further research to explore ways in which private enforcement can be promoted, including whether the Securities Commission should have a greater role.

The Securities Commission welcomes feedback from all interested parties and the public on the Blueprint. All feedback can be emailed to CGblueprint@seccom.com.my by **15 September 2011**.

The **Corporate Governance Blueprint 2011** can be accessed at:
<http://www.sc.com.my>

2. GOCC Governance Act of 2011 [Republic Act No. 10149] of Republic of the Philippines approved by President on 6th June 2011

The GOCC Governance Act of 2011 has been enacted in Philippines to promote financial viability and fiscal discipline in government-owned or -controlled corporations (GOCC) and to strengthen the role of the state in its governance and management to make them more responsive to the needs of public interest and for other purposes.

The Act will have wide-ranging reforms in the GOCC sector which constitute a substantial portion of the government assets and liabilities.

In accordance with the Act, a body named the Governance Council for Government-Owned or Controlled Corporations (GCG) will be created, further the GOCC Governance Commission (GCG) will monitor the performances of the 157 GOCCs in the country.

Among others, the functions of the GCG is to adopt a manual encompassing all issues concerning GOCC operations; take charge of endorsing to the President the individuals qualified to be Appointive Directors; assess GOCC operations regularly; and determine the relevance of a GOCC and make a recommendation to the President whether to abolish, merge, privatize, reorganize, or streamline the corporation in question.

Also among the GCG functions are to recommend a reasonable compensation system for employees and officers of GOCCs; monitor the performance of GOCCs and ensure that operations are consistent with government programs and policies; and recommend approval or disapproval with regard to the creation of a

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GOCC.

GCG shall also recommend Government Corporate Governance Standards applicable to GOCCs, which shall refer to a system whereby shareholders, creditors, and other stakeholders of a corporation ensure that management enhances the value of the corporation as it competes in an increasingly global market place.

The **Act** can be accessed at:

<http://www.gov.ph/2011/06/06/republic-act-no-10149/>

GREEN CORNER

GREEN INDIA

Reduce, Reuse, Recycle



Reduce – Check unwanted consumption & wastage; turn off the lights, carpool, and conserve energy, etc.

Reuse – Think of probable usage before throwing away any material,

Recycle – Prefer recycling the waste material rather than simply dumping discards.

Something Good

"We hope to establish an independent regulator — **the National Environment Appraisal and Monitoring Authority** — soon. Staffed by dedicated professionals, it will work full time to evolve better and more objective standards of scrutiny,"

PM Manmohan Singh --- said at the international seminar on "Global Environment and Disaster Management, law and society in the national capital."

To Remember:

August 8 - World Senior Citizen's day

August 12 - International Youth Day, recognized by the UN

August 19 - World Humanitarian Day

Quote of the Month

"The ultimate test of man's conscience may be his willingness to sacrifice something today for future generations whose words of thanks will not be heard."

—**Gaylord Nelson**, former governor of Wisconsin, co-founder of Earth Day

Forthcoming Events

CSR Asia Summit --- The Summit is the annual flagship event of CSR Asia which aims to be the most innovative and thought-provoking gathering on corporate social responsibility in Asia. Themed "**Asian Growth: Global Responsibility**", the conference will bring together over 400 international delegates to discuss key CSR issues and strategies, and provide new insights for businesses, governments, CSR practitioners and NGOs.

– 27th- 28th September 2011– Hotel Istana , Kuala Lumpur, Malaysia.

Corporate Secretaries International Association --- First International Corporate Governance Conference – "**Sustainable Corporate Governance – Towards a Global Model ?**"

--21-23 September 2011- JW Marriott Hotel, Shanghai.

Feedback & Suggestions

Readers may give their feedback and suggestions on this page to Mrs. Alka Kapoor, Joint Director, ICSI (alka.kapoor@icsi.edu)

Disclaimer:

The contents under **CG & CSR: Watch** have been collated from different sources. Readers are advised to cross check from original sources.



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MCA UPDATE





CORRIGENDUM TO COMPANY LAW SETTLEMENT SCHEME, 2011

General Circular No. 60/2011

F. No. 2/11/2011-CL V
Government of India
Ministry of Corporate Affairs

5th Floor, A Wing, Shastri Bhavan,
Dr. R.P. Road, New Delhi,
Dated the 10th Aug, 2011

To

All Regional Director,
All Registrars of Companies.

Subject: Corrigendum to Company Law Settlement Scheme, 2011

Sir,

In continuation of the Ministry's General Circular No. 59/2011 dated 5.8.2011 on the subject cited above, it is stated that the said scheme shall be applicable to Form 52 (filing of annual accounts by a foreign company) as foreign companies are included in the scheme.

2. All the terms and conditions of the General Circular No. 59/2011 dated 5.8.2011 will remain the same.

Yours faithfully,

-sd/-
(Kamna Sharma)
Assistant Director

Encl: As above

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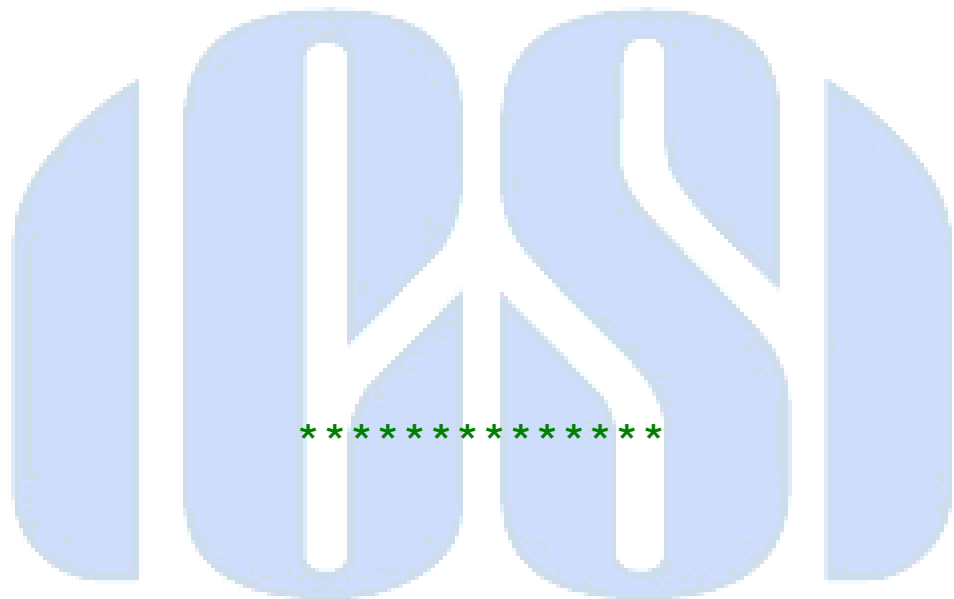




COMPANIES (CENTRAL GOVERNMENT'S) GENERAL RULES AND FORMS (AMENDMENT) RULES, 2011

FOR DETAILS:

[://www.mca.gov.in/Ministry/notification/pdf/GSR\(E\)_11aug2011.pdf](http://www.mca.gov.in/Ministry/notification/pdf/GSR(E)_11aug2011.pdf)



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COMPANY LAW SETTLEMENT SCHEME, 2011

General Circular No.59 /2011

F. No. 2/11/2011-CL V
Government of India
Ministry of Corporate Affairs

5th Floor, A Wing, Shastri Bhavan,
Dr. R.P. Road, New Delhi,
Dated the 05th Aug, 2011

To

All Regional Director,
All Registrars of Companies.

Subject: Company Law Settlement Scheme, 2011

Sir,

It has been observed that a large number of companies are not filing their due statutory documents (i.e. Balance Sheets and Annual Returns) timely with the Registrar of Companies. Due to this, the records available in the electronic registry are not updated and thereby are not available to the stakeholders for inspection. Further, due to not filing the documents on time, companies are burdened with additional fee, facing the prosecutions and being debarred from filing other documents electronically as provided in Circular No. 33/2011 dated 01.06.2011 also.

2. In order to give an opportunity to the defaulting companies to enable them to make their default good by filing such belated documents and to become a regular compliant in future, the Ministry, in exercise of the powers under Section 611(2) and 637B (b) of the Companies Act, 1956 has decided to introduce a Scheme namely, "Company Law Settlement Scheme, 2011," condoning the delay in filing documents with the Registrar, granting immunity from prosecution and charging additional fee of 25 percent of actual additional fee payable for filing belated documents under the Companies Act, 1956 and the rules made there under. The details of the Scheme are as under:-

- (i) The scheme shall come into force on the **12th Aug, 2011** and shall remain in force up to **31st Oct, 2011**.



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(ii) **Definitions** - In this Scheme, unless the context otherwise requires, -

(a) "Act" means the Companies Act, 1956 (1 of 1956);

(b) "company" means a company registered under the Companies Act, 1956 and a foreign company falling under section 591 of the Act;

(c) "defaulting company" means a company registered under the Companies Act, 1956 and a foreign company falling under section 591 of the Act, which has made a default in filing of documents on the due date(s) specified under the Companies Act, 1956 and rules made there under;

(d) "designated authority" means the Registrar of Companies having jurisdiction over the registered office of the company.

(iii) **Applicability:** - Any "defaulting company" is permitted to file belated documents, which were due for filing till **30.06.2011**, in accordance with the provisions of this Scheme:

(iv) **Manner of payment of fees and additional fee on filing belated document for seeking immunity under the Scheme** - The defaulting company shall pay statutory filing fees as prescribed under the Companies Act and rules made there under along with an additional fee of 25 percent of the actual additional fee standardised under sub-section (2) of Section 611 of the Companies Act, 1956, payable on the date of filing of each belated document;

(v) **Withdrawal of appeal against prosecution launched for the offences-** If the defaulting company has filed any appeal against any notice issued or complaint filed before the competent court for violation of the provisions under the Act in respect of which application is made under this Scheme, the applicant shall before filing an application for issue of immunity certificate, withdraw the appeal and furnish the proof of such withdrawal along with the application;





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(vi) **Application for issue of immunity in respect of document(s) filed under the scheme** - The application for seeking immunity in respect of belated documents filed under the Scheme may be made electronically in the Form annexed, after closure of Scheme and after the document(s) are taken on file, or on record or approved by the Registrar of Companies as the case may be, but not after the expiry of six months from the date of closure of the Scheme. There shall not be any fee payable on this Form;

(vii) **Order by designated authority granting immunity from the penalty and prosecution** - The designated authority shall consider the application and upon being satisfied shall grant the immunity certificate in respect of documents filed in the Scheme;

(viii) **Scheme not to apply to certain documents** -

(a) This Scheme shall not apply to the filing of documents other than the following documents:-

Form 20 B - Form of filing annual return by a company having a share capital

Form 21 A - Particulars of annual return for the company not having share capital

Form 23AC & 23ACA - Form for filing Balance Sheet and Profit & Loss account

Form 66 - Form for submission of Compliance Certificate with the Registrar

(b) This Scheme shall not apply to companies against which action under sub-section (5) of section 560 of the Act has been initiated by the Registrar of Companies;

(ix) After granting the immunity, the Registrar concerned shall withdraw the prosecution(s) pending if any before the concerned Court(s);



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3. At the conclusion of the Scheme, the Registrar shall take necessary action under the Companies Act, 1956 against the companies who have not availed this Scheme and are in default in filing of documents in a timely manner.

Yours faithfully,

A handwritten signature in black ink, appearing to read "Kamna Sharma".

(Kamna Sharma)
Assistant Director

Encl: As above





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CORRIGENDUM TO GENERAL CIRCULAR NO. 54/2011

GENERAL CIRCULAR NO. 58/2011

F. No. 35/6/2011/Insolvency
Government of India
Ministry of Corporate Affairs

5th Floor, 'A' Wing, Shastri Bhavan,
Dr. R.P. Road, New Delhi-110001
Dated 1st August, 2011

To

All Regional Directors
All ROCs
All Official Liquidators

Subject: Corrigendum to General Circular No. 54/2011.

In view of the representations from professional Institutes, it has been decided to amend Para (c) the Circular No. 54/2011 dated 26th July, 2011. Para (c) of the said Circular may be read as under:

(c) "In each case the OL will file an application praying to the Court to direct the management of the company to submit following information duly verified by a Chartered Accountant/**a Company Secretary/a Cost Accountant in practice:-**"

2. All other clauses of the said Circular remain unaltered.

(Jaikant Singh)
Director



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MASTER CIRCULAR ON PROSECUTION OF DIRECTORS

Master Circular No. 1/2011

No.3/57/2011/CL- II
Government of India
Ministry of Corporate Affairs

5th Floor, Shastri Bhavan,
Dr. Rajendra Prasad Road,
New Delhi-110001,
Dated the 29th July, 2011

To,

All Regional Directors,
All Registrars of Companies,
All Official Liquidators.

Sub: Master Circular on Prosecution of Directors – Regarding

Sir,

The question of treating a person as an officer in default by ROCs when prosecutions are launched against a company and its directors for violations under Companies Act, 1956 has come up for examination time and again. The Department has issued various circulars in this regard so far. It may be recollected that the Department vide circular No.42/7/73-CL.II dated 20.9.1973 had clarified that a person appointed as a nominee director, whatever interest he represents or protects is responsible for the proper discharge of his obligations and fiduciary responsibilities under the statute in the similar manner as an ordinary directors. However, in the same circular, it was further clarified that nominees of institutions set up under Acts having non-obstante clauses can enjoy immunity from prosecutions.

2. In Departmental circular No.6/98 dated 12.11.1998, it was clarified that where penal provisions provide for "punishment of officers in default", prosecutions should be filed primarily against managing director(s)/ whole time director(s)/manager(s) and the company secretary, if any. It was also clarified that only in those cases where the above mentioned managerial personnel are not available in any company; prosecutions should be against ordinary directors. In the same circular, it was also clarified that there are provisions in the Act which though do not use the expression "officers who are in default" for fastening liabilities in case of their contraventions, yet the persons against whom the proceedings can be initiated is specified. In such cases, the persons expressly specified in the relevant provisions of the Act should alone be prosecuted.



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3. It has come to the notice of the Department that in spite of various rulings available on the question of "officers in default" who can be held liable for violations of a particular provision under the Companies Act, the ROCs are arraying all the directors of the company for the violations without differentiating between officer in default and or others.

4. It is noticed that penal actions are also initiated against certain Directors who are not charge with the responsibility, particularly in following cases: --

(a) For listed companies Securities and Exchange Board of India (SEBI) requires nomination of certain Directors designated as Independent Directors.

(b) For public sector undertakings, respective Government nominates Directors on behalf of the respective Government.

(c) Various Public Sector Financial Institutions, Financial Institutions and Banks having participation in equity of a Company also nominate Directors to the Board of such companies.

(d) Directors nominated by the Government u/s 408 of the Companies Act, 1956.

In super session of all earlier circulars, it is clarified that Registrar of Companies should take extra care in examining the cases where above Directors are also identified as Officer in default. No such Director as indicated above shall be held liable for any act of omission or commission by the company or by any officer of the company which constitute a breach or violation of any provision of the Companies Act, 1956, and which occurred without his knowledge attributable through Board process and without his consent or connivance or where he has acted diligently in the Board process. The Board process includes meeting of any committee of the Board and any information which the Director was authorized to receive as Director of the Board as per the decision of the Board. All the Regional Directors are advised to direct Inspecting Officers also to examine the Board's minutes of the company to arrive at a conclusion if Independent director is also responsible for any violation of the provisions of Companies Act, 1956.

5. It is further clarified that before taking penal action under the Companies Act, 1956 against the Directors the following compliances should be verified by Registrar of Companies: -

(a) A director resigns and the company does not file Form 32 as required in terms of Section 302(2) of the Act. In case, the director concerned has informed/endorsed a copy of his resignation to the Registrar of Companies, the Registrar should enquire into such cases and try to find out whether such director has actually resigned or not.

(b) In case the status of a director, i.e. whether he is a nominee director or not, is not reflected in the Annual Return or other documents of the



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company, available with Registrar, the same should be cross checked with the Annual Report filed by the company;

(c) The timing of the commission of offence is also material to identify the director's responsibility; and Form 1AB should also be checked in case any person has been charged by the Board under Section 5(f) with the responsibility of complying with some particular provision or in case any director has been specified by the Board under Section 5(g) of the Act.

(d) Special Directors appointed by BIFR under section 16 (6)(b) of SICA 1985, shall not incur any obligation or liability for anything done or omitted to be done in good faith and in discharge of duties. Hence they shall be excluded in the list of officers in default

6. For default u/s 209(5), 209(6), 211 and 212 of the Act, the following persons shall be the 'officers in default for the purpose of prosecution under these provisions: -

(a) Where there is a Managing Director or Manager, the Managing Director or the Manager as the case may be and in addition, the Company Secretary appointed u/s 383A or the person who has been charged with work of maintenance and preparation of Annual Accounts in compliance with aforesaid provisions.

(b) Where there is no Managing Director or Manager, every director and the Company Secretary appointed u/s 383A of the Act.

(c) Any persons amongst officers and employees other than Managing Director/Manager/Directors who has been charged by the Managing Director/Manger or Board of Directors with specific responsibility of complying with aforesaid provisions, in addition to Managing Director/Manager/Board of Directors as the case may be.

(d) Directors including Non-Executive Directors, officers and employees not connected with responsibility with the above provisions should not be arrayed as delinquent directors.

(e) While considering the non-executive directors for including in the list of officers in default for a particular violation of the Companies Act, it should be examined whether the violation has taken place with his knowledge attributable through board process, with his consent or connivance and whether he acted diligently or not.

(f) Where prosecution is required to be filed against any Government company, its directors/officers and Member of Parliament and Member of Legislator under the Companies Act, 1956, Registrar of Companies should seek prior authorization of Central Government in terms of Section 621 of the Act

7. There should be proper application of mind on the part of Registrar of Companies in deciding whether a person to be implicated is an 'officer in default' by examining the Annual Return, Form 32(s) and DIN-3 database



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available in the Registry. The guidelines issued herein above should be applied and wrongful prosecution should be avoided. Wherever the Registrar of Companies has doubt as to whether director/officer can be held liable after applying the above parameters, they should refer to Regional Director, who shall guide Registrar of Companies in the matter.

8. All the Regional Directors are required to ensure that such cases are reviewed, based on these parameters and a report must be sent by each Regional Director with specific recommendation in case the proceedings are proposed to be discontinued.

This master circular consolidates circular No.2/2003 dated 7.7.2003, No.08/2011 dated 25.3.2011, No.1/88/2010-CL.II dated 18.4.2011 and 47/2011 dated 14.7.2011 respectively.

Yours faithfully

Sd/-

(R K Bakshi)

Deputy Director
Tel. No. 23073230

Copy to:

1. PS to CAM
2. PS to MOS
3. PS to Secy. MCA
4. PS to AS, MCA
5. PS to Joint Secy. (A) & Joint Secy. (R)
6. PS to DII (DR)
7. PS to DII (Policy)
8. PS to Economic Advisor
9. Spare Copies





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FILING OF BALANCE SHEET AND PROFIT AND LOSS ACCOUNT IN XBRL MODE

Circular No: 57/2011

No. HQ/MCA/DigitisedBS/AR/2009
Government of India
Ministry of Corporate Affairs

5th Floor, "A" Wing, Shastri Bhawan,
Dr. R.P. Road, New Delhi – 110001

Dated: 28.07.2011

All the Regional Directors,
All the Registrar of Companies/ Official Liquidators
All stakeholders

Sub: Filing of Balance Sheet and Profit and Loss Account in eXtensible Business Reporting Language (XBRL) mode.

Sir,

The Para 3 of the Circular no. 37/2011 dated 07.06.2011 may be read as under: -

"All companies falling in Phase-I class of companies (excluding exempted class) are permitted to file their financial statements without any additional fee up to 30.11.2011 or within 60 days of their due date, whichever is later."

2. Further, in supersession of Para 2 (i) of Ministry's Circular No. 43/2011 dated 07.07.2011, it is informed that the verification and certification of the XBRL document of financial statements on the e-forms would continue to be done by authorized signatory of the company as well as professional like Chartered Accountant or Company Secretary or Cost Accountant in whole time practice.

3. This issue with approval of Competent Authority.

Yours faithfully,

A handwritten signature in black ink.

(J.N. Tikku)
Joint Director





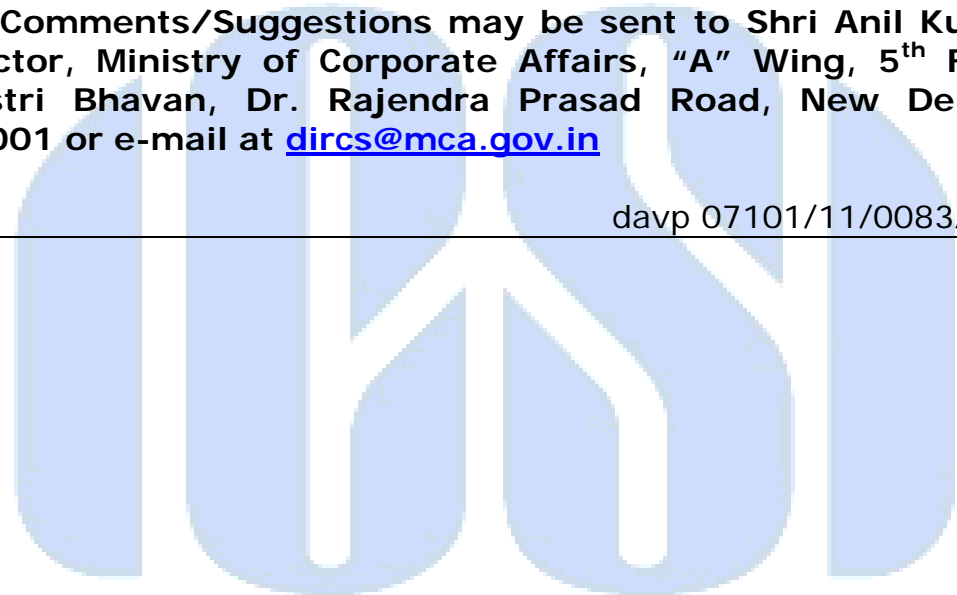
DRAFT NATIONAL COMPETITION POLICY

MINISTRY OF CORPORATE AFFAIRS
Shastri Bhavan, New Delhi

Ministry of Corporate Affairs, Government of India, New Delhi, invites Comments/Suggestions from the public and other Stakeholders including Government/State Governments on the draft "National Competition Policy" document available on Ministry of Corporate Affairs website www.mca.gov.in latest by 20th August, 2011.

The Comments/Suggestions may be sent to Shri Anil Kumar, Director, Ministry of Corporate Affairs, "A" Wing, 5th Floor, Shastri Bhavan, Dr. Rajendra Prasad Road, New Delhi – 110001 or e-mail at dircs@mca.gov.in

davp 07101/11/0083/1112



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RBI UPDATE





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MISUSE OF BANKING CHANNELS - ISSUE AND PAYMENT OF DEMAND DRAFTS FOR RS. 50,000/- AND ABOVE

RBI/2011-12/154

RPCD.CO.RRB.BC.No.17/03.05.33/2011-12

August 16, 2011

The
All Regional Rural Banks

Chairman

Dear Sir,

Misuse of Banking Channels -Issue and Payment of Demand Drafts for Rs. 50,000/- and above

Please refer to our circular RPCD.No.NB.BC.124/RRB.16/90-91 dated May 29, 1991 in terms of which demand drafts, mail transfers, telegraphic transfers and travellers cheques for Rs.50,000/- and above should be issued by banks only by debit to the customer's account or against cheques or other instruments tendered by the purchaser and not against cash payment.

2. It has been brought to our notice that some banks have recently issued demand drafts of Rs. 50,000/- and above on deposit of cash and not against debit to the customer's account or against cheques or other instruments tendered by the customer.

3. In the current scenario where the integrity of the financial system in general and the banking channels in particular is of paramount importance, breach of these guidelines is a matter of serious regulatory concern in view of the wide ranging ramifications.

4. In the above context, we reiterate that the instructions conveyed vide our circular dated May 29, 1991 referred to above may be strictly complied with by banks. Any violation of these instructions will be viewed seriously.

Yours faithfully,

(C.D.Srinivasan)
Chief General Manager





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OPERATIONAL GUIDELINES ON IMPLEMENTATION OF ELECTRONIC BENEFIT TRANSFER (EBT) AND ITS CONVERGENCE WITH FINANCIAL INCLUSION PLAN (FIP)

RBI/2011-12/153

RPCD.CO.BC.FID.No. 16/12.01.019/2011-12

August 12, 2011

The Chairman/CMD/CEO of all scheduled commercial banks

Dear Sir/Madam,

Operational Guidelines on implementation of Electronic Benefit Transfer (EBT) and its convergence with Financial Inclusion Plan (FIP)

As you are aware, Electronic Benefit Transfer (EBT) for servicing low value accounts and extending banking infrastructure to underserved low income areas has been implemented in the states of Andhra Pradesh, Haryana, Karnataka, Orissa, Chhattisgarh, Himachal Pradesh, Uttarakhand, Bihar, Punjab, etc. on pilot basis in select districts under the "One District – One Bank" Model. Difficulties have been expressed by stake holders in scaling the model.

2. The experience gained so far suggests that the "One District – One Bank" Model has not been able to achieve the objective of financial inclusion. Allocation of villages amongst banks under the Financial Inclusion Plan (FIP), i.e. Roadmap for providing banking services to villages with population above 2000, has been generally on the basis of the Service Area Approach. This has led to a situation wherein the designated bank for EBT and FIP in the same village differed. This issue has been raised in various fora by the State Governments and banks. For clearer conceptual understanding and based on detailed consultative meetings and interface with stake holders, "Operational guidelines on implementation of Electronic Benefit Transfer and its convergence with Financial Inclusion Plan" has been formulated. These guidelines are expected to give a fillip to financial inclusion efforts and lead to a scalable and sustainable financial inclusion model.

3. A copy of the [operational guidelines](#) is enclosed for necessary action.

Yours faithfully,

(Deepali Pant Joshi)

Chief General Manager-in-Charge



DISCRETION TO CUSTOMERS FOR SELECTION BETWEEN RTGS AND NEFT

RBI/2011-12/152
DPSS (CO) EPPD No./274/04.03.01/2011-12

August 12, 2011

The Chairman and Managing Director / Chief Executive Officer
of member banks participating in RTGS / NEFT

Madam / Dear Sir,

Discretion to customers for selection between RTGS and NEFT

As you are aware, RTGS and NEFT are two important pan-India payment systems introduced by Reserve Bank of India keeping in mind the requirements of various customers in the wholesale and retail payment systems segment. Both these systems have distinct objectives and unique features in terms of the time criticality of payments, threshold value of transactions, mode of settlement etc. As such, the charges levied for transactions in the two systems are also different. The customers in turn, should be empowered to exercise the choice between these two systems depending upon their requirements.

2. In view of the above, we reiterate that all the participating banks should provide the option to the originating customer to choose between these two modes at the time of initiation of the funds transfer. The option should be made available to all the customers who may originate remittance either at the branch or through internet or any other means. The funds are to be transferred necessarily through the option chosen by the customer.

3. Please ensure compliance.

Yours faithfully

(G. Srinivas)

General Manager

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TAX LAW UPDATE





SERVICE TAX REFUND TO EXPORTERS THROUGH INDIAN CUSTOMS EDI SYSTEM (ICES) — DRAFT CIRCULAR CALLING FOR COMMENTS, VIEWS AND SUGGESTIONS

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Draft Circular

F.No.354/66/2011-TRU

Government of India

Ministry of Finance

Department of Revenue

Central Board of Excise & Customs

(Tax Research Unit)

146-F, North Block,

New Delhi, 12th August, 2011

To

Chief Commissioners of Customs (All)

Chief Commissioners of Customs and Central Excise (All)

Chief Commissioners of Central Excise & Service Tax (All)

Director General of Export Promotion

Director General of Service Tax

Commissioners of Customs (All)

Commissioners of Customs and Central Excise (All)

Commissioners of Central Excise and Service Tax (All)

Commissioners of Service Tax (All)



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Madam/Sir,

Subject: Service Tax Refund to exporters through Indian Customs EDI System (ICES) — Draft circular calling for comments, views and suggestions -- regarding.

At present Service Tax Refund (STR) is made available to exporters on specified services used for export of goods covered in Notification 17/2009-ST dated 07.07.2009 subject to specified conditions. Representations have been received from exporters seeking simplification of the STR scheme.

2. These representations were examined and the Government had proposed to introduce a simplified scheme for refund of service tax to exporters on the lines of duty drawback. Subsequently, the matter was referred to the Committee for the formulation of All Industry Rate of Duty Drawback, for formulating a simplified scheme for STR. The Committee has since submitted its report to the Government. In accordance with the recommendations of the Committee, a scheme for disbursement of STR through the ICES on the lines of drawback is proposed to be introduced. This scheme would not supplant the existing mechanism of STR through the Central Excise/Service Tax formations but would be in the nature of an option being provided to the exporters to either claim the refund through the ICES on the lines of drawback or continue claiming the refund through the service tax/central excise formations, as is in vogue at present.

3. Under the proposed scheme, an exporter, who opts for claiming STR through the ICES in relation to specified services used for export of goods, would declare his intent on the shipping bill which will be processed on the same lines as drawback shipping bills. In case of other shipping bills (other than drawback shipping bills), the shipping bill will, after filing of EGM, move separately, get processed and sanctioned on the ICES. In either case, shipping bill itself will be the basis for claiming refund. The process of disbursement of STR through the ICES would broadly entail the following:

(i) Creation of separate service tax directory in the ICES for the specified services in terms of Notification '17/2009-ST, dated 07.07.2009' along with the specified rate for each of these services. These rates would be similar to an AIR (All Industry Rate) which is being proposed for these services.

(ii) Chapter/Sub heading number of the schedule of STR at the first 2 digit or 4 digits, as the case may be, should tally with RITC code.

(iii) Exporters who prefer to claim STR on actual basis through the Central Excise/Service Tax field formations should declare STR Serno (Serial Number) 9801 in the Shipping Bill.

(iv) Total STR amount would not be less than Rupees Fifty for a shipping bill, otherwise the system will make it zero and this will be on the same line as is in the drawback scheme.

(v) The option to amend STR Serno against an item in the shipping bill is not proposed to be given to any officer. However, an exporter who wants to get the STR Serno amended, for any reason, can get the same carried out through the ICES service centre by filing an amendment request.

Although the proposed scheme for sanctioning STR on the lines of drawback through the ICES would broadly follow the same workflow



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process similar to draw back, there are some significant differences which are discussed in the paragraph below.

4. Presently in case of drawback shipping bill, after filing the EGM, drawback is scrolled in by Superintendent(Drawback) in case the drawback amount is less than Rs One Lakh and by AC/DC when the drawback amount is equal to or more than Rs One Lakh. Thereafter, the drawback scroll is generated by the AC/DC (Drawback) in respect of all shipping bills for crediting drawback amount in the designated bank of exporter. Similarly, for disbursal of STR through ICES, it is proposed that for drawback shipping bills, drawback amount will also include STR amount. Thus drawback scroll will credit both STR and drawback amount in exporter's account. In the case of non-drawback shipping bills, the STR amount would be automatically scrolled in once EGM is filed and the same will be scrolled out by the AC/DC (Drawback) along with the drawback scroll.

5. To sum up, the following measures are proposed:

(i) Service Tax Refund will be processed in the ICES through the Custom Houses.

(ii) Service Tax Refund will be given electronically to the exporter who opts for claiming STR based on schedule. In case an exporter wishes to claim STR on export of goods on actual basis he will approach the concerned Central Excise/Service Tax field formations.

(iii) Service Tax Refund will be processed and sanctioned on the ICES system subject to the safeguards indicated.

6. Exporters, exporter associations, chambers, trade, industry and field formations are requested to go through the proposed scheme and offer their comments, views and suggestions. In order to provide wide publicity to the proposed scheme, this circular is also being posted on the CBEC website, www.cbec.gov.in and it is requested that comments, views and suggestions on the proposed scheme may be forwarded to the undersigned on or before **26th August 2011**.

(J. M. Kennedy)

Director (TRU)

Tel/Fax: 011-23092634

Email: jm.kennedy@nic.in



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WAIVER FROM THE REQUIREMENT OF BANK GUARANTEE IN RESPECT OF EOUS

Circular No. 36/2011-Customs

F. No. DGEP/EOU/18/2011
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs

New Delhi dated 12 August, 2011.

To

All Chief Commissioners of Customs / Customs (Prev)
All Chief Commissioners of Customs & Central Excise
All Commissioners of Customs / Customs (Prev)
All Commissioners of Customs (Appeals)
All Commissioners of Customs & Central Excise
All Commissioners of Customs & Central Excise (Appeals)

Sub: - Waiver from the requirement of Bank Guarantee in respect of EOUs – Amendment to Circular No. 54/2004-Customs dated 13.10.2004 - reg.

Attention is invited to para 19 of the Board's Circular No. 54/2004-Customs dated 13.10.2004 which extends the facility of exemption from furnishing bank guarantee by 100% Export Oriented Units (EOUs) at the time of import or for sending goods on job work in Domestic Tariff Area (DTA).

2. In terms of the provisions of para 6.12 (f) of FTP announced on 31.8.2004, exemption was granted for 100% EOUs from furnishing bank guarantee at the time of import or going for job work in DTA subject to certain prescribed conditions to be followed by the unit. These conditions are that (i) the unit has a turnover of Rupees 5 crores or above; (ii) unit is in existence for at least three years; and (iii) unit is having an unblemished track record. Accordingly, this was implemented by issue of instructions vide para 19 of the aforesaid Board's Circular No. 54/2004-Customs.

3. It has been brought to the notice of the Board that one of the conditions relating to 'unblemished track record' for grant of such exemption from furnishing bank guarantee to 100% EOUs has been changed in the annual FTP amendments and the same is not being properly implemented. It has been represented by the exporters that Customs/ Central Excise field formations are insisting for Bank Guarantee even for Status Holder EOUs on the ground that show cause



notices have been issued to them, thereby such units are unable to fulfill the condition of 'unblemished track record'.

4.1 The issue has been examined in the Board. The provisions of para 6.12 providing other entitlements to 100% EOUs was amended in the FTP changes introduced w.e.f. 1.4.2008, and the said para 6.12 state the following:

**6.12. (f): Unit will not be required to furnish bank guarantee at the time of import or going for job work in DTA, where unit has*
(i) a turnover of Rs. 5 crores or above;

(ii) unit is in existence for at least three years; and

(iii) The unit:

(a) has achieved positive NFE / export obligation wherever applicable;

(b) has not been issued a show cause notice or a confirmed demand, during the preceding 3 years, on grounds other than procedural violations, under the penal provision of the Customs Act, the Central Excise Act, the Foreign Trade (Development & Regulation) Act, the Foreign Exchange Management Act, the Finance Act, 1994 covering Service Tax or any allied Acts or the rules made thereunder, on account of fraud / collusion / willful mis-statement/ suppression of facts or contravention of any of the provisions thereof;

*[*Note: The said para has been re-numbered as 6.12(e) in the current FTP introduced w.e.f. 23.8.2010]*

From the above it could be seen that there are four conditions prescribed as (i), (ii), (iii)(a) and (iii)(b). The condition (iii) has been revised in the FTP changes introduced w.e.f. 1.4.2008. While there appears to be no difficulty for the trade and industry in complying with first three conditions, in respect of condition at (iii)(b) it is represented that mere issue of show cause notice on procedural non-compliance would not debar them from the entitlements of bank guarantee waiver granted under para 6.12(f).

4.2 It could be seen from the provisions of para 6.12(f) sub-para (iii)(b) of FTP, that the prescribed condition clearly excludes show cause notices or cases booked for procedural violations. Hence, the entitlement of bank guarantee exemption to 100% EOUs / EHTP / STP / BTP units shall be denied only in cases involving fraud/ collusion/ willful mis-statement/ suppression of facts, whether or not extended period for issue of SCN has been invoked. Further, any violation or contravention of any of the provisions of the Customs Act, 1962 or Central Excise Act, 1944 or Finance Act, 1994 or other Acts specified in para 6.12(f) of FTP or any Allied Acts or Rules made thereunder, would also attract denial or exemption from furnishing bank guarantee. However, in simple cases of issue of show cause notices for procedural violation against such units, the entitlement of exemption from furnishing bank guarantee to EOU/EHTP/STP/BTP units need not be denied. These units shall continue to be eligible for availing the bank guarantee waiver mentioned in para 6.12(f) of the FTP, in view of the exclusion provided therein.

5. Board's Circular No. 54/2004-Customs dated 13.10.2004 stands modified to the above extent.

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CS Update

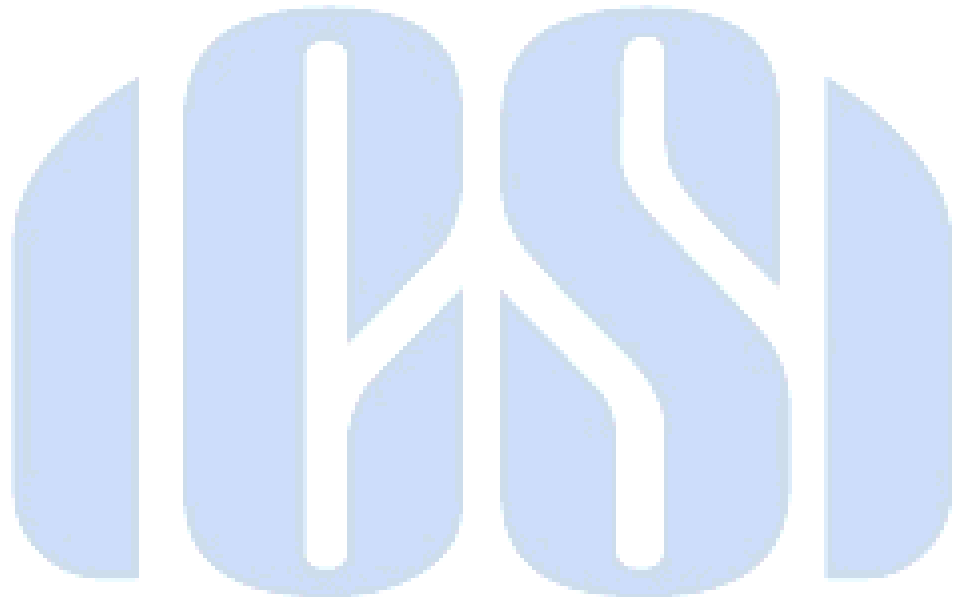
August 19, 2011



6. These instructions may be given wide publicity and should be brought to the notice of all the concerned by way of issuance of instructions/ trade notice.
7. Difficulty faced, if any, in implementation of the above instructions may be brought to the notice of the Board at an early date.
8. This issues with the approval of competent authority.

Yours faithfully,

(H.S. Chimni)
Deputy Director



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