



Info Capsule

BAR LEADERSHIP SUMMIT ON REFORMS IN INDIAN LEGAL SERVICES SECTOR¹

The Indian National Bar Association (INBA) in collaboration with the Department of Commerce, Ministry of Commerce and Industry, and the Centre for Trade and Investment Law (CTIL), Indian Institute of Foreign Trade organized the 'Bar Leadership Summit on Reforms in the Indian Legal Sector' in New Delhi recently. The Minister of State for Human Resource Development (Higher Education), Shri Satya Pal Singh graced the occasion, senior officials from the Government of India and several leading lawyers and professionals from the legal sector were also present.

The Summit explored issues and concerns surrounding the liberalization of the Indian legal services sector.

The Minister for Commerce and Industry, Shri Suresh Prabhu who addressed the Summit through a video message emphasized on the growing importance of Alternative Dispute Resolution (ADR) and encouraged the legal community to increasingly make use of this mechanism for enhancing the ease of doing business.

Shri Satya Pal Singh in his inaugural address, stressed on the importance of law as an enabler of justice and spoke on the importance of the impartiality and neutrality of the judicial system in India. He noted that the justice system should focus on the difficulties faced by victims in particular.

The Secretary General of INBA, Shri Kaviraj Singh who introduced the theme of the Summit, highlighted the dramatic changes that have taken place within the legal sector in India in the last two decades and identified the three major areas which the Summit should focus on, (i) the conduct of arbitration in India; (ii) reforms in the Indian legal regulatory sector; and (iii) the liberalization of Indian legal services.

The President of INBA, Dr. Subhash C. Kashyap welcoming the gathering, highlighted the importance of initiating discussions on much needed reforms in the legal sector.

Law Secretary, Ministry of Law and Justice, Shri Suresh Chandra said India has huge potential to increase the size of the legal market, which is around \$9bn Dollars at present. He suggested that reforms in this sector could tie in with the Prime Minister's agenda of "reform, transform and perform".

Additional Economic Adviser, Department of Commerce, Ms. Sangeeta Saxena, highlighted the need for diversification of services exports and the particular importance of the legal services sector in boosting India's overall performance in services.

President of the Supreme Court Bar Association (SCBA), Shri R. S. Suri, noted that the "gulf of understanding between the Bar Council of India, State Bar Councils and the government need to be bridged" and that frequent consultations and deliberations are needed in reforming this important sector.

¹ Available at: <http://pib.gov.in/newsite/erelease.aspx>

Head, Centre for Trade and Investment Law, Prof. James Nedumpara, spoke about the need to introduce major challenges in the curriculum in law schools in India to enable young Indian lawyers to become 'global Indian lawyers' and avail opportunities in the rising global corporate sector.

The discussions ended with a presentation on the myths and realities surrounding the debate on liberalization of legal services. The Summit on the whole agreed on the need to reform the legal sector to align itself with the new global realities in the profession.

The agenda of the conference and the background paper are available at –

Agenda: http://ctil.iift.ac.in/docs/LatestUpdates/INBA_agenda.pdf

Background Paper: http://ctil.iift.ac.in/docs/LatestUpdates/INBA_11112017.pdf

Twitter https://twitter.com/ctil_india.

DRAFT OF PROPOSED NOTIFICATION UNDER SECTION 115JG (1) OF THE INCOME-TAX ACT, 1961 ISSUED IN RESPECT OF CONVERSION OF INDIAN BRANCH OF FOREIGN BANK INTO INDIAN SUBSIDIARY COMPANY²

Comments/Suggestions of Stakeholders sought on Draft Notification by November 30, 2017

The Finance Act, 2012 inserted a new Chapter XII-BB consisting of Section 115JG in the Income-tax Act, 1961 (the Act) which contains "Special provisions relating to conversion of Indian Branch of a Foreign Bank into a Subsidiary Company". Section 115JG of the Act, *inter alia*, provides that in case the conversion of Indian Branch of foreign bank fulfils the conditions notified by the Central Government, the capital gains arising from such conversion shall not be chargeable to tax and the provision relating to unabsorbed depreciation, set-off or carry forward and set-off of losses, tax credit in respect of tax paid on deemed income relating to certain companies and the computation of income in case of foreign company and Indian subsidiary shall apply with such modification, exception etc. as may be specified in the notification.

The Reserve Bank of India (RBI) released the "Scheme for setting-up of wholly owned subsidiaries (WOS) by foreign bank in India" (the Scheme) on 6th November, 2013. The Scheme, *inter alia*, provides the procedure for conversion of existing branches of Foreign Bank in WOS. A Foreign Bank is required to set-up a WOS in India and the Indian Branch shall amalgamate with WOS as per the Amalgamation Scheme approved by the shareholder of Foreign Bank and WOS which is sanctioned by the RBI.

In view of the above, it is proposed to issue Notification under Section 115JG(1) of the Act specifying the conditions to be fulfilled by the conversion and also specifying modifications, exceptions, in applicability of certain provisions of the Act to such conversion. In order to have wider consultations in this matter, the draft of proposed Notification has been uploaded on the website www.incometaxindia.gov.in. The stakeholders are requested to send their comments/suggestions on the Draft Notification by 30.11.2017 to the email address dirtpl2@nic.in.

Team ICSI

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