



# Connection

Dear Friends,

It's a privilege to get an opportunity to talk to you. The present scenario is full of doubts with relevance to reforms with uncertainty of the present and future government.

Finally IFRS seems to be converged and implemented in the year 2015, which makes all of us to ensure that we are prepared to be compatible to provide services to our clients and organizations.

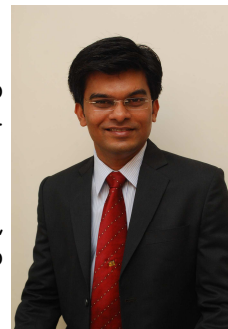
Our motto is Service to profession. At Institute, FRRB (Financial Reporting Review board) is doing a good job of unearthing the reporting irregularities in financial statements and taking it to a proper forum. The objective of the Board is to review the compliance, inter alia, with the accounting and auditing standards issued by the Institute of Chartered Accountants of India. It is envisaged that the reviews carried out by the Board, in the long-run would improve the overall quality of works executed by the members of the profession. The Board, however, restricts its reviews to the published general-purpose financial statements only. The Reviews by the Financial Reporting Review Board would not be verification of the entire audit (re-audit) or review of working papers of the auditors concerned.

To add value, we can enroll our name at [http://www.icai.org/app\\_forms/frrb\\_2013.html](http://www.icai.org/app_forms/frrb_2013.html) for analyzing the financial statements forwarded from institute's desk and provide our review. We are paid fees by the institute after going through the review report.

Results of November exams have somewhat tried to correct or average out results of previous exams.

The month of March is observed as the month full of colours and joy. Holi is a special time of year to remember those who are close to our hearts with splashing colors! Let us celebrate this day this year too in a manner benefiting the occasion. In a bid to protect the environment, we should pledge to play dry Holi and ensure that no water is wasted during the Holi revelry. There is an acute shortage of water in our country. By preventing wastage of water, we can save water for our future generation.

CA Lalit Bajaj  
B.Com, FCA, DISA



**Lalit Bajaj &  
Associates**

Volume III, Issue 3

March 2014

## Just to Remind You:

- ☺ Mar 15 - Payment of Advance Income Tax: Companies & Others (100%)
- ☺ Mar 21 - Payment of VAT under MVAT for Feb
- ☺ Mar 31 - Payment of Service Tax for month / quarter ended March
- ☺ Mar 31 - Due date of Filing Return of FY 2012-13

## Inside this issue:

SEBI Amendments	2
CSR Notified	4
MCA Circular	4
Interim Budget 2014	5
Case Law	6
TDS Update	7
India-Romania Treaty	7
ICAI TV Channel	8



# SEBI Amends the Listing Agreement

The Board has approved the proposals to amend the Listing Agreement with respect to corporate governance norms for listed companies. The amendments, inter-alia, propose to align the provisions of Listing Agreement with the provisions of the newly enacted Companies Act, 2013 and also provide additional requirements to strengthen the corporate governance framework for listed companies in India. The amendments shall be made applicable to all listed companies with effect from October 01, 2014.

The Board approved the following proposals:

1. Exclusion of nominee Director from the definition of Independent Director
2. Compulsory whistle blower mechanism
3. Expanded role of Audit Committee
4. Prohibition of stock options to Independent Directors
5. Separate meeting of Independent Directors
6. Constitution of Stakeholders Relationship Committee
7. Enhanced disclosure of remuneration policies
8. Performance evaluation of Independent Directors and the Board of Directors
9. Prior approval of Audit Committee for all material Related Party Transactions (RPTs)
10. Approval of all material RPTs by shareholders through special resolution with related parties abstaining from voting
11. Mandatory constitution of Nomination and Remuneration Committee. Chairman of the said committees shall be independent.
12. At least one woman director on the Board of the company
13. It has been decided that the maximum number of Boards an independent director can serve on listed companies be restricted to 7 and 3 in case the person is serving as a whole time director in a listed company
14. To restrict the total tenure of an Independent Director to 2 terms of 5 years. However, if a person who has already served as an Independent Director for 5 years or



more in a listed company as on the date on which the amendment to Listing Agreement becomes effective, he shall be eligible for appointment for one more term of 5 years only.

15. The scope of the definition of RPT has been widened to include elements of Companies Act and Accounting Standards.



In addition to the above, the Board also approved the proposal to put in place principles of Corporate Governance, policy on dealing with RPTs, divestment of material subsidiaries, disclosure of letter of appointment of Independent Directors and the letter of resignation of all directors, risk management, providing training to Independent Directors, E-voting facility by top 500 companies by market capitalization for all shareholder resolutions and Boards of companies to satisfy themselves that plans are in place for orderly succession for appointments to the Board and senior management.

## Long Term Policy for Mutual Funds in India

SEBI Board has approved a Long Term Policy for Mutual Funds in India. The long term policy includes all aspects - including enhancing the reach and promoting financial inclusion, tax treatment, obligation of various stakeholders, etc. to deal with the public policy objectives of achieving sustainable growth of the mutual fund industry and mobilisation of household savings for the growth of the economy. The recommendations of long term policy has been bifurcated in two buckets, tax incentive related proposals and non-tax related proposals.

## Tax related proposals:

The objective of giving tax benefits is to incentivize and channelize savings into long term investment products. Schemes offering tax benefits are a powerful approach world over that helps channelize household savings into long term investment products. The tax incentives for Mutual Fund schemes are recommended as under:

1. A long term product such as Mutual Fund Linked Retirement Plan (MFLRP) with additional tax incentive of Rs.50,000/- under 80C of Income Tax Act may be introduced.
2. Alternatively, the limit of section 80C of the Income Tax Act, 1961, may be enhanced from INR 1 lakh to INR 2 lakh to make mutual funds products (ELSS, MFLRP etc.) as priority for investors among the different investment avenues. RGESS may also be brought under this enhanced limit.
3. Similar to merger/consolidation of companies, the merger/consolidation of equity mutual funds schemes also may not be treated as transfer and therefore, may be exempted from capital gain taxation.

## Non-Tax incentive proposals:

In the long run, the objective is to ensure that Mutual Funds achieve a reasonable size and play an important role in achieving the objective of financial inclusion while further enhancing the transparency so that investors can take informed decision. Towards this objective the following has been decided:

1. Capital Adequacy i.e. minimum net-worth of the Asset Management Companies (AMC) be increased to INR50 crore.
2. The concept of seed capital to be introduced i.e. 1% of the amount raised (subject to a maximum of Rs.50 lacs)

**"The amendments shall be made applicable to all listed companies w.e.f. October 01, 2014"**

- to be invested by AMC's in all the open ended schemes during its life time.
3. EPFOs be allowed to invest upto 15% of their corpus in Equities and Mutual Funds. Further, the members of EPFOs who are earning more than INR6500 per month be offered an option for a part of their corpus to be invested in a Mutual Fund product of their choice.
  4. Presently, Navratna and Miniratna Central Public Sector Enterprises (CPSEs) are permitted to invest in Public Sector Mutual Funds regulated by SEBI. It has been recommended that all CPSEs be allowed to choose from any of the SEBI registered Mutual Funds for investing their surplus funds.
  5. In order to enhance transparency and improve the quality of the disclosures, it has been decided that AUM from different categories of schemes such as equity schemes, debt schemes, etc., AUM from B-15 cities, contribution of sponsor and its associates in AUM of schemes of their mutual fund, AUM garnered through sponsor group/ non-sponsor group distributors etc. are to be disclosed on monthly basis on respective website of AMC's and on consolidated basis on website of AMFI.



6. In order to improve transparency as well as encourage Mutual Funds to diligently participate in corporate governance of the investee companies and exercise their voting rights in the best interest of the unit holders, voting data along with rationale supporting their decision (for, against or abstain) be disclosed on quarterly basis on their website. This is to be certified by Auditor annually and reviewed by board of AMC and Trustees.
7. Towards achieving the goal of financial inclusion, a gradual approach to be taken such that initially the banked population of the country may be targeted with respect to Mutual Funds investing. SEBI will work towards achieving the goal that the basics of capital markets and financial planning may be introduced as core curriculum in schools and colleges. Printed literature on Mutual Funds in regional languages be mandatorily made available by Mutual Funds. Investor awareness campaign in print and electronic media on Mutual Funds in regional languages to be introduced.
8. In order to develop and enhance the distribution network PSU banks may be encouraged to distribute schemes of all Mutual Funds. Online investment facility needs to be enhanced to tap the internet savvy users to invest in Mutual Funds. Also, the burgeoning mobile-only internet users need to be tapped for direct distribution of Mutual Funds products.

The proposals relating to tax incentives, allowing EPFO to invest in equities/mutual funds and allowing all CPSEs to invest their surplus fund in mutual funds will be sent to the Government for its decision.

**Amendment to SEBI (KYC (Know Your Client) Registration Agency) Regulations, 2011**

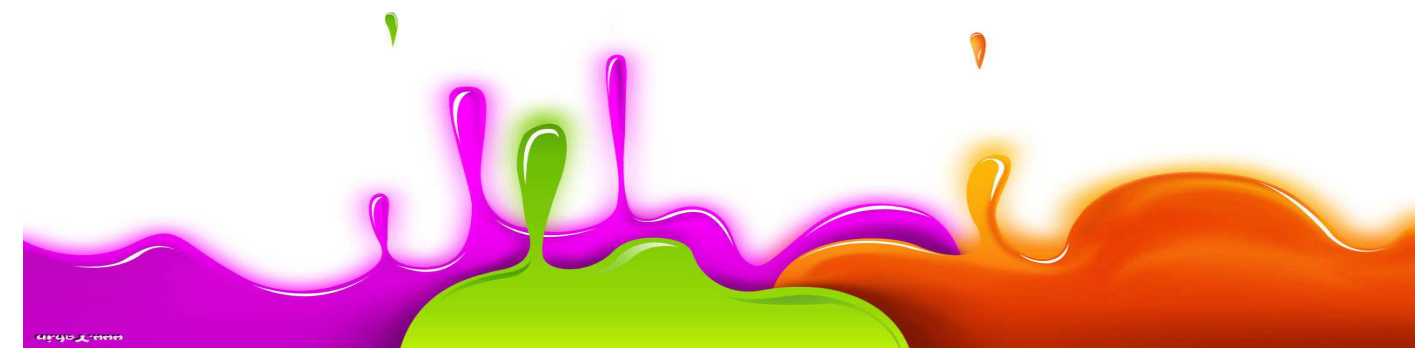
SEBI (KYC Registration Agency) system ('KRA system') has evolved and stabilized over a period of two years and with inter-operability in place, there is easy exchange of KYC data among five SEBI registered KRAs. The client who has already done the KYC with any SEBI registered intermediary need not undergo the same process again when he approaches another intermediary. The system has benefited the investors as well as the intermediaries.



However, as per existing KRA Regulations, there is an option available to the intermediary that he may access the centralized KRA system in case of a client who is already KYC compliant or carry out fresh KYC process. As the KRA system has been working well, it is felt that there may not be a need to provide this option in the Regulations.

Board has now approved the amendment to KRA Regulations and the option of taking fresh KYC has been done away with. However, as provided in the Regulations, the intermediary can undertake enhanced KYC measures commensurate with the risk profile of its clients.

This would further facilitate the KYC process for the investors.



## Notification on CSR

The Companies Act 2013 u/s 135 requires that Every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during any financial year shall constitute a Corporate Social Responsibility (CSR) Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director. The Company shall ensure that the company spends, in every financial year, at least two per cent of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy.

**S.O. (E) –** In exercise of the powers conferred by sub-section (3) of section 1 of the Companies Act, 2013 (18 of 2013), the Central Government hereby appoints the 1<sup>st</sup> day of April, 2014 as the date on which the provisions of section 135 and schedule VII of the said Act shall come into force.

**G.S.R. (E).-** In exercise of the powers conferred by sub-section (1) of section 467 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following amendments to Schedule VII of the said Act, namely:-

1. In Schedule VII, for items (i) to (x) and the entries relating thereto, the following items and entries shall be substituted, namely:-

- a. eradicating hunger, poverty and malnutrition, promoting preventive health care and sanitation and making available safe drinking water;

- b. promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly, and the differently abled and livelihood enhancement projects;



- c. promoting gender equality, empowering women, setting up homes and hostels for women and orphans; setting up old age homes, day care centres and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups;
- d. ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and maintaining quality of soil, air and water;
- e. protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promotion and development of

- f. traditional arts and handicrafts;
- f. measures for the benefit of armed forces veterans, war widows and their dependents;
- g. training to promote rural sports, nationally recognised sports, paralympic sports and - Olympic sports;
- h. contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government for socio-economic development and relief and welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women;
- i. contributions or funds provided to technology incubators located within academic institutions which are approved by the Central Government;
- j. rural development projects."

2. This notification shall come into force with effect from 1<sup>st</sup> April, 2014.

**" The Central Government appoints the 1<sup>st</sup> day of April, 2014 as the date on which the provisions of section 135 shall come into force"**

## MCA Circular

It has come to the knowledge of this Ministry that Companies / Limited Liability Partnerships are being registered with the word 'National' in their names. It is being intimated that no company should be allowed to be registered with the word 'National' as part of its title unless it is a government company and the Central / State government(s) has a stake in it. This should be stringently enforced by all Registrar of Companies (ROCs) while registering companies. Similarly, the word 'Bank' may be allowed in the name of an entity only when such entity produces a 'No Objection Certificate' from

the RBI in this regard. By the same analogy the word "Stock Exchange" or "Exchange" should be allowed in name of a company only where 'No Objection Certificate' from SEBI in this regard is produced by the Promoters.



**Ministry of  
Corporate Affairs**

# Key Features of Interim Budget 2014

## THE CURRENT ECONOMIC SITUATION AND THE CHALLENGES

- The state of world economy has been the most decisive factor affecting the fortunes of every developing country.
- The world economy has been witnessing a sliding trend in growth, from 3.9 percent in 2011 to 3.1 percent in 2012 and 3 percent in 2013.
- The economic situation of major trading partners of India, who are also the major source of our foreign capital inflows, continues to be under stress. United States has just recovered from long recession, Euro zone, as a whole, is reporting a growth of 0.2 per cent, and China's growth has also slowed down.
- The economic challenges faced by our country are common to all emerging economies. Despite these challenges, we have successfully navigated through this period of crisis.
- Apart from embarking on the path of fiscal consolidation, the objectives of price stability, self sufficiency in food, reviving the growth cycle, enhancing investments, promoting manufacturing, encouraging exports, quickening the phase of implementation of projects and reducing a stress on important sectors were the goals set in 2012-13.

## REVENUES

### GST and DTC

- Government appeals to all political parties to resolve to pass the GST Laws and the Direct Tax Code in 2014-15



### Funding Scientific Research

- It is proposed to set up a Research Funding Organization that will fund Research Projects selected through a competitive process. Contribution to that organization will be eligible for tax benefits. The required legislative changes can be introduced at the time of regular Budget.

## Budget



### Off-shore Accounts

- The Government has succeeded in obtaining information on illegal off-shore accounts held by Indians in 67 cases and action is under way. Prosecution for willful tax evasion has also been launched in 17 other cases. More enquiries have been initiated in to accounts reportedly held by Indian entities in no tax or low tax jurisdictions.

### Changes in Tax Rates

Following changes in some indirect tax rates are proposed:

- States to partner in development so as to enable the Centre to focus on Defense, Railways, National Highways and Tele-communication.
- The Excise Duty on all goods falling under Chapter 84 & 85 of the Schedule to the Central Excise Tariff Act is reduced from 12 percent to 10 percent for the period upto 30.06.2014. The rates can be reviewed at the time of regular Budget.
- To give relief to the Automobile Industry, which is registering unprecedented negative growth, the excise duty is reduced for the period up to 30.06.2014 as follows:
  - Small Cars, Motorcycle, Scooters and Commercial Vehicles - from 12 % to 8%, SUVs - from 30% to 24%. Large and Mid-segment Cars - from 27/24% to 24/20%
- It is also proposed to make appropriate reductions in the excise duties on chas-

sis and trailers - The rates can be reviewed at the time of regular Budget

- To encourage domestic production of mobile handsets, the excise duties for all categories of mobile handsets is restructured. The rates will be 6% with CENVAT credit or 1 percent without CENVAT credit.

- To encourage domestic production of soaps and oleo chemicals, the custom duty structure on non-edible grade industrial oils and its fractions, fatty acids and fatty alcohols is rationalized at 7.5 percent.

- To encourage domestic production of specified road construction machinery, the exemption from CVD on similar imported machinery is withdrawn.
- A concessional custom duty 5 percent on capital goods imported by the Bank Note Paper Mill India Private Limited is provided to encourage domestic production of security paper for printing currency notes.
- The loading and un-loading, packing, storage and warehousing of rice are exempted from Service Tax.
- The services provided by cord blood banks are exempted from Service Tax.



## Case Law

Hon'ble Gujarat HC has held in the case of **Dineshchandra Bhailalbai Gandhi VS. TRO** has held that deposits in PPF Account are immune from attachment for recovery of tax dues and Rule 10 of Schedule II of the I-T Act exempts all such properties from attachment or sale.

### Brief facts of the Case

Petitioner has challenged action of the respondent in attaching and recovering an amount of Rs. 9,05,000/- from the Public Provident Fund account [PPF account] of the petitioner. The petitioner is assessed as an individual by the Income- tax Department.

The respondent- Tax Recovery Officer, Surat issued a notice dated 25<sup>th</sup> February 2005 under section 226(3) of the Income- tax Act, 1961 to the Branch Manager of Salabatpur Branch of the State Bank of India stating that a sum of Rs. 25,16,790/- is due from the petitioner to the Income -tax Department. His PPF account is therefore attached under section 226 (3) of the Act and the amount lying in the said account may be remitted to the Tax Recovery Officer.

### Contention of the Assessee

Petitioner placed heavy reliance on Section 9 of the Public Provident Fund Act, 1968 to contend that the amount outstanding in the petitioner's PPF account cannot be attached for recovery of his tax dues. He also relied on Rule 10 of Schedule -II to the Income tax Act, 1961 in this respect. Our attention was drawn to Section 60 of the Civil Procedure Code to contend that the amount in the PPF account cannot be attached.

### Contention of the Revenue

Department opposed the petition contending that Section 9 of the PPF Act only pertains to the attachment under any decree or order of the Court in respect of any debt or liability incurred by the subscriber and has no reference to his income -tax dues. He relied on C.B.D.T circular dated 7<sup>th</sup> November 1990 in which it is clarified as under:-

*"It has been clarified by the C.B.D.T and the Ministry of Law that Section 9 of the Public*

*Provident Fund applies only to attachment under a decree/order of a Court of Law and not to attachment by the Income Tax Authorities. In view of this clarification, the amount standing to the credit of subscriber in PPF Account shall be liable to attachment under any order of income tax authorities in respect of debt or liability incurred by the subscriber."*

### Held by High Court

Section 9 of the PPF Act, 1968 Rule 10 of Schedule- II to the Income- tax Act, 1961 and clause (ka) to the proviso to Section 60 (1) of the Code of Civil Procedure complete a full circuit, making any amount lying in the public provident fund of a subscriber immune from attachment and sale for recovery of the income tax dues.

We may recall that Rule 10 of Schedule- II to the Income- tax Act, 1961 exempts all such properties as by the Civil Procedure Code are exempted from attachment and sale in execution of a decree of a civil court from attachment and sale under the said schedule. In turn, clause (ka) of the provision to Section 60 (1) of the Code of Civil Procedure provides that all deposits and other sums in or derived from any fund to which the Public Provident Fund Act, 1968 applies in so far as they are declaring by the said Act not to be liable to attachment, shall not be liable for attachment or sale under the Code. This brings us right back to Section 9 of the PPF Act, 1968 which provides that the amount standing to the credit of any subscriber shall not be liable to attachment under any decree or order of any Court in respect of any debt or liability incurred by the subscriber.

In case of **Union of India v. Smt. Hira Devi & Anr.**, reported in AIR 1952 SC 227, the Apex Court held and observed that the compulsory deposit made in the Provident Fund under Section 2 (1) of the Provident Fund Act, 1925 is not liable to attach-

ment. It was observed that the prohibition against the assignment or the attachment of such compulsory deposits is based on grounds of public policy.

Considering the benevolent provisions of the PPF Act, 1968 and taking harmonious construction of the relevant provisions of the PPF Act read with the provisions of the Civil Procedure Code and the provisions contained in the Income- tax Act, 1961 for recovery of the tax dues, it clearly emerges that as long as an amount remains invested in a PPF account of an individual, the same would be immune from attachment from recovery of the tax dues. The situation may change as and when such amount is withdrawn and paid over to the subscriber, which is not the situation in the present case.

In our opinion, the clarification issued by the C.B.D.T does not take into account the provisions of Rule 10 of the Second Schedule to the Income -tax Act, 1961 and the provisions of Section 60(1) of the Code of Civil Procedure. The said clarification is contrary to such statutory provisions.

In the result, writ petition is allowed. Action of the respondent in first attaching and thereafter unilaterally withdrawing a sum of Rs. 9,05,000/- from the PPF account of the petitioner is *quashed*. Rule is made absolute.

Source- **Dineshchandra Bhailalbai Gandhi VS. TRO (Gujarat High Court), Special Civil Application No. 11575 of 2005, Dated: 12<sup>th</sup> February 2014**



## Public Provident Fund



**"Deposits in PPF Account are immune from attachment for recovery of tax dues"**

# Extension of Due Date for Filing TDS/TCS Returns

CBDT has issued following Circular No. 07/2014 dated 4<sup>th</sup> March 2014.

The Central Board of Direct Taxes ('the Board') has received several petitions from deductors/collectors, being an office of the Government ('Government deductors'), regarding delay in filing of TDS/TCS statements due to late furnishing of the Book Identification Number (BIN) by the Principal Accounts Officers (PAO) / District Treasury Office (DTO) / Cheque Drawing and Disbursing Office (CDDO). This has resulted in consequential levy of fees under section 234E of the Income-Tax Act, 1961('the Act').

The matter has been examined. In case of Government deductors, if TDS/TCS is paid without production of challan, TDS/TCS quarterly statement is to be filed after obtaining the BIN from the PAOs / DTOs / CDDOs who are required to file Form 24G (TDS/TCS Book Adjustment Statement) and intimate the BIN generated to each of the Government deductors in respect of whom the sum deducted has been credited. The mandatory quoting of BIN in the TDS/TCS statements, in the case of Government deductors was applicable from 01-04-2010. However, the allotment of Accounts Officers Identification Numbers (AIN) to the PAOs/DTOs/CDDOs (a pre-requisite for filing Form 24G and generation of BIN) was completed in F.Y. 2012-13. This has resulted in delay in



filing of TDS/TCS statements by a large number of Government deductors.

In exercise of the powers conferred under section 119 of the Act, the Board has decided to, ex-post facto, extend the due date of filing of the TDS/TCS statement prescribed under subsection (3) of section 200 /proviso to sub-section (3) of section 206C of the Act read with rule 31A/31AA of the Income-tax Rules, 1962. The due date is hereby extended to 31.03.2014 for a Government deductor and mapped to a valid AIN for –

- i. FY 2012-13 - 2nd to 4th Quarter
- ii. FY 2013-14 - 1st to 3rd Quarter

However, any fee under section 234E of the Act already paid by a Government deductor shall not be refunded.

Timely filing of TDS/TCS statements is essential to ensure timely reconciliation of Government accounts and for providing tax credit to the assessee while processing their Income-tax Returns. Therefore, it is clarified that the above extension is a one-time exception in view of the special circumstances referred to above. Since the Government deductor and the associated PAO/DTO/ CDDO belong to the same administrative setup that regulates the clearance of expenditure, the deductors/collectors may be advised to co-ordinate with the respective PAO/DTO/CDDO to ensure timely receipt of BIN/filing of TDS/TCS statements.

**"The given extension is a one time exception in view of the special circumstances stated herein"**

## Government Notifies Amended India-Romania Treaty

Notification No. 13/2014, Dated the 5th March, 2014

S.O (E).- Whereas, an Agreement between the Republic of India and Romania, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income was signed at New Delhi on the 8th day of March, 2013 (hereinafter referred to as the said Agreement);

2. And whereas, the date of entry into force of the said agreement is the 16th day of December, 2013, being the date of later of the notifications of completion of the procedures as required by the respective laws for entry into force of the said Agreement, in accordance with paragraph I of Article 30 of the said Agreement;

3. Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies that all the provisions of said Agreement between the Republic of India and Romania for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, as set out in the Annexure hereto, shall be given effect to in the Union of India with effect from the 16th day of December, 2013.





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## ICAI To Launch TV Channel

The first MoU signed between CA. K. Raghu, President, ICAI and Mr. Praveen Prakash, Joint Secretary [TEL], MHRD in the presence of Dr. M. M. Pallam Raju, Hon'ble Minister of HRD

The Government of India, on January 2, 2009, had launched a centrally Sponsored Plan Scheme, namely, the National Mission on Education through Information and Communication Technology (NMEICT). This activity has the potential to revolutionize education delivery across the length and breadth of the country in a highly cost effective man-

ner. For the viewers the service would be free.

In order to make use of the modern technology for its registered students, the Institute of Chartered Accountants of India (ICAI) has in the past been using all possible ICT modes, including delivery of audio video lectures extensively through Gyan Darshan etc. The ICAI intends to use the upcoming DTH platform of MHRD i.e. ICAI T. V. Channel for the benefit of more than 8 Lakh students pursuing Chartered Accountancy Course across the country.



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