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# NEWSLETTER

September-2016

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Chartered Accountants



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## INCOME TAX & INTERNATIONAL TAX

S.R.Thorat Milk Products Pvt. Ltd. – Pune Tribunal

### **Re: Allowability of Interest on Share Application money**

The assessee Company had claimed interest paid on share application money received pending its allotment. The Assessing Officer (AO) of the view that under section 37 it is a capital expenditure and it cannot be allowed under section 36(1)(iii) ingredient of borrowing by the assessee Company was not present when interest is paid on receipts in the nature of share application money. He therefore disallowed the interest.

The Tribunal held that the share application money per se cannot be characterised or equated with Share Capital. Allotment of shares is subject to certain Rules and Regulations of the Companies' Act. The obligation to return the money is always implicit in the event of non-allotment of shares in lieu of the share application money received. Therefore, receipt by way of share application money is not receipt held towards share capital before its conversion. If such funds are utilised for the purpose of the business, the interest is allowable. Therefore the addition was deleted.

# INCOME TAX & INTERNATIONAL TAX *(cont.)*

J.M.Financial & Investment Consultants Pvt. Ltd. – Mumbai Tribunal

**Re: 1) Computation of average investment under Rule 8D rws. 14A**

## **2) Allowability of interest from Short Term Capital Gains**

1) The assessee Company had made investment of Rs. 46 crores in Group Companies being strategic investments since these concerns were subsidiaries or group concerns of the assessee. While computing the “average investment” for the purpose of calculating disallowance under Rule 8D, the assessee excluded the strategic investment made. The AO did not exclude these strategic investment and made higher disallowance under section 14A.

The Tribunal held that the strategic investment is not to be taken into account while computing average investment as per Rule 8D and directed the AO to recomputed the disallowance under Rule 8D after excluding strategic investment out of the average investment so made by the assessee.

2) The assessee Company had applied for shares of Cairns India by utilizing funds borrowed from DSP Mutual Funds. It paid interest of Rs. 2.57 crores on the borrowing so utilised. Upon allotment, the shares were sold and short term capital gain was computed. The assessee claimed interest as part of cost of shares sold and therefore reduced from the sale consideration. The AO rejected this claim and disallowed the interest.

The Tribunal found that the assessee had not claimed interest as revenue expense but the same was capitalize as cost of the asset. The interest expenditure is to be considered as cost of acquisition of shares and therefore allowable while computing capital gain under section 48 of The Act. The Tribunal directed the AO to allow assessee’s claim of interest under section 48 of the Act.

## **E4e Business Solutions India Pvt. Ltd. – Bangalore Tribunal**

**Re: Foreign exchange gain – whether part of “International Transaction”?**

The assessee was a subsidiary of USA Company engaged in the business of providing end-to-end BPO services. For computing operating profit margin for transfer pricing purpose, the assessee had included foreign exchange gain. However, the TPO excluded the foreign exchange gain for benchmarking the international transaction stating that the economic and other factors affected foreign exchange gains and such gain was not dependent on the operations of the tax payer.

## INCOME TAX & INTERNATIONAL TAX *(cont.)*

The Tribunal held that it was undisputed fact that the foreign exchange gain pertains to income from service provided to the Associated Enterprise (AE). Therefore, it had direct nexus with international transactions and services provided by the taxpayer to its AE. The economic and other factors affecting foreign exchange gain also affected the business transactions and price determination between the parties. Since the foreign exchange gain had arisen only because of international transaction, it had direct nexus with international transaction. Therefore, such transactions are part of operating revenue and consequently part of operating profit for the purpose of determining the Arms' Length Price in respect of the international transaction.

However, while benchmarking the margins of the comparable, foreign exchange gain should also be included for computing their operating profit margin.

*Compiled by: Malay Damania, Partner*

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## INDIRECT TAX (MVAT)

### Recent Important Judgements under Sales Tax laws:

#### High seas sale:

- i. Claim allowable in case of import by Air, on the basis of duly endorsed Delivery order issued by the original importer [Bio-tech India v/s. State of Maharashtra (Maharashtra Sales Tax Tribunal – MSTT)].
- ii. Relying on Mumbai High Court & MSTT judgements, the tribunal further observed that endorsement of Bill of lading, in case of high seas sale, is not a necessary condition provided the claim of high seas sale is supported by other related documents.

#### Rate of tax on UPS:

All types of UPS are Information Technology products and hence covered by schedule entry C-56, currently liable to VAT @ 5.5% (MSTT- Sukam Power Systems Ltd. v/s. State of Maharashtra).

## **INDIRECT TAX (MVAT) (cont.)**

### **Interstate movement of Goods for job work – Requirement of Form 'F'**

Hon. Mumbai High Court has held that interstate movement of goods for job work and thereafter return of goods duly processed, are covered by S. 6A of the Central Sales tax Act, 1956 and hence declaration in Form 'F' is mandatory. The Hon. Court further referred to the clarification by Hon. Supreme Court that in case any State does not issue 'F' form, then the assessing officer can still allow the claim on merits, after examining the transactions.

(Johnson Matthey Chemicals India Pvt. Ltd. v/s. State of Maharashtra)

### **Sale in the Course of Import:**

The Hon. Supreme Court (SC) allowed the claim of sale in the course of import relying on various facts such as:

- i. Import of equipment was strictly as per requirement and specification of customer
- ii. Import was effected ONLY to meet such requirement of customer
- iii. Suppliers were approved by the customer
- iv. Pre inspection of goods was mandated and customer had right of rejection
- v. Goods were custom made for use by customer
- vi. Packed goods were specifically marked as meant for customer.

All these facts led SC to conclude that sale had occasioned import and so it was held as sale in the course of import (Commissioner VAT, Delhi v/s. ABB Ltd)

### **Works Contract - Composition - levy of VAT on Service tax component:**

The dealer following composition scheme in Works Contract Billing - VAT and Service tax charged separately – Held that service tax not part of sale price and hence no VAT on service tax component (MSTT – Konstra Construction Pvt. Ltd. v/s. State of Maharashtra)

### **Contract for Construction of glass walls in new buildings:**

Hon. Mumbai High Court held that activity of construction of glass (curtain) walls instead of brick walls, in new buildings is neither construction contract nor contract incidental or ancillary to construction contract – hence not eligible for concessional rate of 5% (Permasteelisa India Pvt. Ltd. v/s. State of Maharashtra)

## INDIRECT TAX (MVAT) *(cont.)*

### **Transfer of right to use tangible goods – levy of tax:**

In case where exclusive use of goods is meant for transferee and where such tangible goods cannot be used by some other party except the transferee, in that case even if the effective control remains with the transferor, there is transfer of right to use such tangible goods and levy of VAT is applicable. (MSTT – Yash Raj Films v/s. State of Maharashtra)

*Compiled by: Rajeev Varaiya, Partner*

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## CORPORATE LAW, ACCOUNTING STANDARD & Ind AS

### Recent important amendments in Corporate law, Accounting Standard and Indian Accounting Standard (Ind AS)

#### A. Remuneration payable to Key Managerial Person:

Ministry of Corporate affairs vide notification dated 12<sup>th</sup> September, 2016 has amended the Schedule V of the Companies Act, 2013:

Where in any financial year during the currency of managerial person, company has no profit or its profit are inadequate, it may without central Government approval, pay remuneration to managerial Person not exceeding the Limit under A and B given below:

A)

Where effective capital is	Limit of yearly remuneration payable shall not exceed (Rupees)
i. Negative or less than 5crores	60 Lacs
ii. 5 Crores and above but less than 100 Crores	84 Lacs
iii. 100 Crores and above but less than 250 Crores	120 Lacs
iv. 250 Crores and above	120 Lacs <i>plus 0.01% of the effective capital in excess of Rs. 250 crores</i>

## CORPORATE LAW, ACCOUNTING STANDARD & Ind AS (cont.)

*Provided that the above limit shall be doubled if the resolution passed by shareholder is the special resolution*

- B) In case of a managerial person who is functioning in a professional capacity, no approval of central Government is required, if such managerial is not having any interest in capital of the company or its holding company or any of its subsidiary directly or indirectly or through any other statutory structure and not having any direct or indirect interest or related to the Directors or promoters of the company or its holding company or any of its subsidiaries at any time during the last two years before or after the date of appointment and possesses graduate level qualification with expertise and specialized knowledge in the field in which company operates:

Provided that any employee of a company holding shares of the company not exceeding 0.5% of its paid up share capital under the scheme formulated for allotment of shares to such employee including employee stock option plan or by way of qualification shall be deemed to be person not having any interest in capital of company

### **B) New curb on promoter shares of suspended firms:**

Promoters' shares will be frozen if they fail to comply with delisting norms:

Securities and Exchange Board of India (SEBI) has imposed a new restriction on promoters of companies suspended from stock exchanges.

SEBI has directed freezing of shares of promoters of such delisting-bound companies whose 'fair value' is positive, till the promoters of such company provide an exit option to public shareholders.

## **CORPORATE LAW, ACCOUNTING STANDARD & Ind AS** *(cont.)*

The promoters will have to pay their public shareholders a 'fair value', determined by an independent valuer appointed by exchanges, said SEBI. Promoters and whole-time directors of a compulsorily delisted company shall also not be eligible to become directors of any listed company till the exit option is provided.

Under current delisting norms, an entity compulsorily delisted, its whole time directors, promoters, and companies promoted by any such person shall not, directly or indirectly, access the securities markets for a period of 10 years from the date of compulsory delisting, it noted.

SEBI has asked stock exchanges and depositories to coordinate for ensuring compliance with these requirements.

The BSE exchange recently sent compulsory delisting notices to 194 companies. Trading in these has been suspended for nearly 13 years, for non-compliance with the listing agreement. The regulator wants public shareholders in these companies to be adequately compensated.

There are 1,021 companies listed on the BSE and 200 on the National Stock Exchange, which have been suspended for more than seven years in this regard.

### **C) Standardization and Simplification of Procedures for Transmission of Securities:**

1. SEBI has reviewed the process being followed by the Share Transfer Agents (STAs) and the Depositories / Issuer companies (in-house STAs) for effecting transmission of securities held in physical as well as dematerialized mode.

2. With a view to make the transmission process more efficient and investor friendly, it has been decided in consultation with Registrars Association of India (RAIN) and the depositories, that STAs/ issuer companies and the depositories shall adhere to the following guidelines, as applicable to them:

I. In case of transmission of securities in dematerialized mode, where the securities are held in a single name without a nominee, the existing threshold limit of Rs. 1,00,000 (Rupees One lakh only) per beneficiary owner account has now been revised to Rs. 5,00,000 (Rupees Five lakh only), for the purpose of following simplified documentation, as already prescribed by the depositories vide bye-laws / operating instructions.

## CORPORATE LAW, ACCOUNTING STANDARD & Ind AS *(cont.)*

### **In case of transmission of securities held in physical mode:**

a. where the securities are held in single name with a nominee, STAs/issuer companies shall follow the standardized documentary requirement as given in Annexure A.

b. where the securities are held in single name without a nominee, the STAs/issuer companies shall follow, in the normal course, the simplified documentation as given in Annexure A, for a threshold limit of Rs. 2,00,000 (Rupees Two lakh only) per issuer company. However, the Issuer companies, at their discretion, may enhance the value of such securities.

II. The timeline for processing the transmission requests for securities held in dematerialized mode and physical mode shall be 7 days and 21 days respectively, after receipt of the prescribed documents.

3. To improve the awareness of nomination facility, all Registrars to an Issue and Share Transfer Agents shall publicize nomination as an additional right available to investors, while sending communications to the investors.

4. All the stock exchanges are directed to make necessary amendments, wherever applicable, to the listing agreements for listing of various securities.

5. The depositories are directed to make necessary amendments, wherever applicable, to the relevant byelaws/ rules and regulations/circulars in this regard.

6. The circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992, to protect the interests of investors in securities and to promote the development of, and to regulate the securities markets and shall be complied with at the earliest and not later than 45 days from the date of issue of the circular.

7. This circular is available on SEBI website ([www.sebi.gov.in](http://www.sebi.gov.in)) under the categories "Legal Framework" and "Circulars".

***Compiled by: CS Hemal Mehta***

# CORPORATE LAW, ACCOUNTING STANDARD & Ind AS (cont.)

## OPERATING SEGMENTS- IND AS-108 (Overview and Analysis):

### I. As per Ind-AS 108, Operating Segment is a component of the entity :

- that engages in business activities from which it may earn revenues and incur expenses (including revenues and expenses relating to transactions with other components of the same entity),
- whose operating results are regularly reviewed by the entity's chief operating decision maker to make decisions about resources to be allocated to the segment and assess its performance, and
- for which discrete financial information is available

### II. THE CORE PRINCIPLE:

An entity shall DISCLOSE information to enable users of its financial statements to **EVALUATE** the nature and financial effects of the **BUSINESS ACTIVITIES** in which it engages and the **ECONOMIC ENVIRONMENT** in which it operates

### III. Application methodology:

- Identify the CODM
- Identify the Operating Segments
- Determine the Reportable Segments
- Disclose the Required Information

### IV. CHIEF OPERATING DECISION MAKER (CODM):

- CODM is a FUNCTION, not a DESIGNATION.
- CODM can be an INDIVIDUAL or a GROUP of Individuals.
- CODM FUNCTION is to:
  - Allocates the Resources of the Entity
  - Assess the performance of the Operating Segments of the Entity.

### V. IDENTIFY THE CODM:

Management Committee of Board of Directors, Chief Executive Officer, Chief Financial Officer and The Board of Directors

## CORPORATE LAW, ACCOUNTING STANDARD & Ind AS (cont.)

### VI. DETERMINING REPORTABLE SEGMENTS:

- **Aggregation Criteria of Segment- Characteristic Basis** such as Nature of Products & Services, Nature of Production Processes, Types of Customers, Distribution Channel and Regulatory sector such as Banking, Insurance, NBFC etc.
- **Quantitative Basis:** Revenue constitutes 10% or more OR Profit/Loss constitute 10 % or more of the Absolute Amount OR 10% or more of the Total Assets.
- **Overriding Criteria:** In any case if the Quantitative criteria is out of reach, characteristic criteria will supersede.
- Further, reportable segments should account for **at least 75%** of entity's Revenue. In case the same fall short of the threshold, additional operating segments shall be identified as reportable segments (even if they do not meet the criteria) until at least 75% of the entity's revenue is included in reportable segments.
- **SEGMENTS NOT MEETING THE QUANTITATIVE THRESHOLD and Management believes that the Information is Useful for the Users** –Disclose the Segment information.
- **SEGMENTS NOT MEETING THE QUANTITATIVE THRESHOLD in Current Year but was disclosed in Preceding Period**-Segment information can be disclosed if the Management judges that the Information is of Continuing Significance
- **SEGMENTS MEETING THE QUANTITATIVE THRESHOLD in Current Year but was Not disclosed in Preceding Period**- Disclose and Restate prior period information (unless the necessary information is not available and cost to develop it would be excessive)
- Information about other business activities and operating segments that are not reportable shall be combined and disclosed in an 'ALL OTHER SEGMENTS' category separately from other reconciling items in the reconciliations. The sources of the revenue included in the 'ALL OTHER SEGMENTS' category shall be described.

## CORPORATE LAW, ACCOUNTING STANDARD & Ind AS *(cont.)*

### VII. DISCLOSURE:

An entity shall disclose information to enable users of its financial statements to evaluate the nature and financial effects of the business activities in which it engages and the economic environments in which it operates.

**A.** An Entity shall disclose the following for each period for which a Statement of Comprehensive Income is presented:

- General Information
- Information about Segment Revenues, Segment Profit or Loss and Segment Assets and Liabilities and basis of Measurement.
- Reconciliation Statement

#### **B. DISCLOSURE – GENERAL INFORMATION:**

- Factors used to IDENTIFY the Entity's Reportable Segments (viz., Nature of Products & Services, Nature of Production & Distribution Processes, Geographical Areas, Regulatory Environment, or a Combination of these Factors).
- The Types of Products and Services from which each Reportable Segment derives its Revenue.

#### **DISCLOSURE – INFORMATION ABOUT SEGMENT (REVENUES, P & L AND ASSETS & LIABILITIES):**

For each Reporting Segment, Entity shall report:

- Segment Profit or Loss
- Total Segment Assets
- Segment Liabilities (if reviewed by CODM)

For each Reporting Segment, Entity shall report (if reviewed by CODM or otherwise Information is provided to CODM, even if not included in measure of P & L):

- Revenues from External Customers
- Revenue from Intra-Group Transactions with Other Operating Segments
- Interest Revenue & Interest Expenses (separately)

## CORPORATE LAW, ACCOUNTING STANDARD & Ind AS *(cont.)*

- Depreciation and Amortisation
- Material Items of Income and Expenses
- Entity's interest in P&L of Associates / JV accounted for under the Equity Method
- Income tax expense
- Material non-cash items other than Depreciation & Amortisation.

### **C. DISCLOSURE- Measurement Principles:**

An entity shall provide an explanation of the measurements of segment profit or loss, segment assets and segment liabilities for each reportable segment. At a minimum, an entity shall disclose the following:

- Basis of accounting.
- Nature of any differences between the measurements of the reportable segments' profits or losses and the entity's profit or loss before income tax expense or income and discontinued operations.
- Nature of any differences between the measurements of the reportable segments' assets/ liabilities and the entity's assets/liabilities.
- Nature of any changes from prior periods in the measurement methods used to determine reported segment profit or loss and the effect, if any, of those changes on the measure of segment profit or loss.
- Nature and effect of any asymmetrical allocations to reportable segments. For example, an entity might allocate depreciation expense to a segment without allocating the related depreciable assets to that segment

### **D. DISCLOSURE – RECONCILIATION:**

Total of Reportable Segments

- Revenues to Entity's Revenue
- Profit and Loss to Entity's Profit and Loss
- Assets to Entity's Assets
- Liabilities to Entity's Liabilities (if Reported)
- Amounts for Every Material Item of Information disclosed to corresponding amount for the entity.

### **E. ENTITY WIDE DISCLOSURES:**

All entities subject to this IND AS including Entities that have a single reporting segment shall provide Information about:

## **CORPORATE LAW, ACCOUNTING STANDARD & Ind AS** (cont.)

- Products and Services
- Geographical Areas
- Major Customers

The amounts reported shall be based on the financial information that is used to produce the entity's financial statements. If Any Information is Not Available and Cost to develop it would be excessive, the fact should be disclosed.

### **F. INFORMATION ABOUT PRODUCTS & SERVICES:**

Revenues from External Customers for each product & services (or group of products and services)

### **G. INFORMATION ABOUT GEOGRAPHICAL AREAS:**

- Revenues from External Customers & Non-current Assets (other than Financial Instruments, Deferred Tax Assets and Rights under Insurance Contracts)
  - Attributed to the Entity's country of Domicile
  - Attributed to the all Foreign Countries from which the Entity derives Revenue or holds Assets.

If revenues from External Customers or Assets attributed to an Individual Foreign Country are Material, the same shall be disclosed separately.

### **H. INFORMATION ABOUT MAJOR CUSTOMERS:**

- Extent of its Reliance on Major Customers
- If Revenues from transaction with single external customer amount to 10% or more of the Entity's Revenue, the Entity shall Disclose:
  - the Fact;
  - the total amount of Revenues from each such Customer;
  - the Identity of the Segment(s) reporting such Revenue
  - Need NOT Disclose – Identity of the Customer

A group of Entities known to the Reporting Entity to be under common control shall be considered a single customer.

## **CORPORATE LAW, ACCOUNTING STANDARD & Ind AS** *(cont.)*

Government (and entities known to the Reporting Entity to be under the control of that Government shall be considered a single customer

*Compiled by: Bharat Jain, Partner*

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## FINANCIAL ADVISORY SERVICES

### Indian SME Overview

Micro, Small and Medium Enterprises (MSMEs) forms a major portion of the industrial activity and produce 8000 different products. SME provides employment to about 12 Crores people through 5 Crores enterprises across the country and is the largest generator of employment in the Indian economy. Micro, Small and Medium Enterprises in India contribute

- 17% of the country's GDP
- 45% of the manufactured output
- 40% of our exports

### **Indian SME Challenges:**

The basic source of finance for this SME Enterprises are:

1. Their Own Fund
2. The Fund from Family & friends
3. From Banking Institutions
4. From Development Financial Institutions

The Above Finance has its own limitations and cannot remain with the companies for longer period, they need adequate access to finance to survive and grow beyond their SME Status.

# FINANCIAL ADVISORY SERVICES *(cont.)*

## Some other Challenges faced by SME are as below:

1. There is no standard practice of raising finance. It is always need based and have no cash flow planning of repayment of loan and interest, which constrains liquidity and also fall in margins.
2. There is always lack of poor information in terms of MIS, Internal control, corporate governance and policies to act fast as per changing environment and switch from one mode of finance to another.
3. There is always lack of capital, managerial resources and fund arrangement, so the advantage of market fluctuation is not available to them due inadequate liquidity.

## Increasing Complexity of SME Financing:

### Debt:

- Banks have been lowering their **high pre-crisis leverage levels** and are preparing for stricter regulatory capital requirements. Consequently, lending to SME's is likely to become increasingly challenging.
- **Securitisation** is a partial solution. However, this requires a lengthy and uncertain process of Government and Regulatory support.
- The assessment of **creditworthiness** in case of an SME loan is much more complex and difficult as compared to a mortgage loan. This also makes **securitisation of SME loans** more complex and difficult than securitisation of mortgages.
- While the loan size is relatively small, the investment in **due diligence** is about the same as for a bigger loan for a larger company.

### Equity:

- **Equity financing** for SMEs, as opposed to debt financing, was seen as appropriate in particular for small, innovative start-up companies that are essential to improve an economy's competitiveness and unearth dynamic growth.
- Many company owners hesitate to raise equity capital for **fear of losing control** to investors. The research shows that venture capital (VC) supported firms in the US are on average three times more innovative than comparable, non VC-funded firms.
- But the **venture capitalist threshold** is high, creating a so-called equity gap that is making it harder for most entrepreneurs to secure financing.

# FINANCIAL ADVISORY SERVICES *(cont.)*

## How SME Exchange Came Into Existence?

An SME Exchange is a stock exchange dedicated for trading the shares / securities of SMEs who otherwise find it difficult to get listed on the Main Board. The concept originated from the difficulties faced by SMEs in gaining visibility and attracting sufficient trading volumes when listed along with other stocks on the Main Board of stock exchanges

World over, dedicated SME trading platforms or exchanges are prevalent, which are known by different names such as 'Alternate Investment markets' or 'growth enterprises market', 'SME Board' etc.

## Some of SME Exchange acrossGlobe:

- TSX, Toronto , NASDAQ - New York City , AIM - London , KOSDAQ,- South Korea, MOTHERS – Japan, Chinext – China.

There are more than 24 companies in the world operating SME Exchanges and India is world largest business Hub will show aggressive growth in future years to come.

## Evolution of SME Exchange in India:

1. As it was difficult for small size fund to mobilize via listing due to 10crore limit for listing on BSE & NSE, The Government and SEBI recommended SME Exchange with lower equity for listing with easy norms. In 2010
2. The Bombay Stock Exchange Ltd. And National Stock Exchange Limited launch their SME platforms and list the first company in 2012.
3. The First Migration from Main Board (BSE & NSE) companies were happened in the year 2015.
4. As per Sourced about 155 companies are listed on both exchanges and create visibility & Valuation. In 2016.

## Plat form Available in India:

BSE has launched **BSE SME** to enable SME listing and NSE has launched **NSE Emerge**

## Value Proposition for SME listing:

- Provide SMEs with **equity financing opportunities** to grow their business from expansion to acquisition.
- Equity Financing will **lower the Debt burden** leading to lower financing cost and healthier balance sheet.

## FINANCIAL ADVISORY SERVICES *(cont.)*

- **Expand the investors' base**, which in turn will help in getting secondary equity financing, including private placement.
- **Enhance company's visibility**. Media coverage can provide SME with greater profile and credibility leading to increase in the value of its shares.
- Incentives for greater venture capital participation by providing an **exit option** thus reducing their lock-in period.
- Greater **incentive for the employees** as they can participate in the ownership of the company and benefit from being its shareholders
- Encourage **innovation and entrepreneurial spirit**
- Capital Market will help **distribute risk more efficiently**
- SME sector will grow better on **two pillars of Financial system** i.e. Banking and Capital Market

### Who Can Raise:

- Any Indian Company who's Post issue paid up capital
- Rs 10-25 crore : SME/ main Board
- < Rs 10 crore : SME Board only
- 3 year operational history and 2 year positive cash accruals
- Positive Net worth
- Ready to dilute at least 25%.

### What's The Size of Investment – Investors Point?

- Minimum application size: Rs. 1 lakh
- Minimum trading lot : Rs. 1 lakh
- Nominated investors (PE funds & QIBs) can support underwriting and market making.

### FACTS TO BE KNOWN – SME PLATFORM:

- The Minimum Promoter Dilution should be 26.25 % ( 25% to public and 1.25% to market maker).
- Minimum 50 Investors should subscribed to the issue. So if 1 lakh is minimum application than 50 lacs is minimum size of the company.
- The issue should be 100% underwritten before open for subscription.
- Minimum trading lot of Rs.1, 00,000/-.
- Market making of stock is compulsory for 3 years and he should give buy & sell quotes 75% of trading time to maintain liquidity in stock.
- After 2 years SME can migrate to main board by raising equity to 10 crore.
- There is clear visibility and privilege given to SME exchange as main exchange in terms of trading times and quote.

## FINANCIAL ADVISORY SERVICES *(cont.)*

### Difference between SME Platform & Main board:

		SME	Main Board
1	Capital Requirement	Min - 1crore / Max - 25crore	Min - 10crore / Max – No limit
2	Trace Period of Profit	Not Mandatory	Mandatory 3 out of 5 years with last year showing profits.
3	Underwriting	100%	Not Mandatory
4	Market making	3 years completion	Not Mandatory
5	Period	2-4 months	8-10 months
6	SEBI Approval	Waived	Mandatory
7	Min Investors	50	1000
8	Lot size for trading	Rs.100000	1 Nos
9	Return of Financial	Half year	Quarterly
10	Annual Report	Abridged version is alright & full report can be put on website.	Full report to be sent

### Advantages of Listing:

- Efficient raising of Capital
- Appropriate Valuation
- Tax Benefits
- Higher Visibility
- Entry and Exit Platform for PE/ Other Investor
- Efficient Risk Distribution for Investors
- Governance – Internal Systems
- Creditability
- Only Exchange observations, no grading requirements and easy migration to the Main Board subject to few conditions
- 100% Underwriting and Market making for 3 yrs.

### Save on Your Taxes:

- Zero Tax on Long Term Capital Gain – Say NO to LTCG
- Short Term Capital gain – STCG @15 %
- No tax on fresh equity infusion in the company
- No tax on distressed business purchase
- Efficient Risk Distribution for Investors
- Entry & Exit Platforms for PE / Other Investors

# FINANCIAL ADVISORY SERVICES *(cont.)*

## Law Compliances:

- The requirements of pre intimation of Board meeting and communicating the outcome to stock exchanges was do away with.
- Instead of announcing quarterly result, half yearly submission of unaudited Financial results by only emailing the abridged report.
- There is no requirements to publish bulky financials, The Company only need to upload to its website.
- There is no need to appoint full time company secretary on company pay roll.

## Other Benefits of Listing:

- There is a Shift from Net worth To **Wealth Creation Model**.
- The big valuation will give big market capitalisation
- The Listing will unearth the value of intangible assets.
- The Brand building will increase business growth as it is available to masses.
- The Companies create visibility as they get listed on nationwide exchanges.
- The Company will clearly stand out for its peers who are unlisted.
- The listing will get visibility and in turn will help in primary need for success of business.

## Procedure for Listing:

1. Increase Authorized Capital
2. Identification & Selection of following Parties
  - a. Merchant banker
  - b. Investors
  - c. Registrars & Transfer Agents
  - d. Advertising Agents
  - e. Underwriters
3. Hosting Code of Conduct on company website
4. Appoint a full time Company Secretary.
5. Constitute following Committees – Audit, Shareholder, Grievance, Remuneration etc., Agreement with NSDL & CDSL & Obtaining ISIN (International Security Identification Number)
6. Filing Red Herring Prospectus (RHP) with Stock Exchange & SEBI & application for In-principle approval from stock exchange.
7. Filing RHP with ROC & Obtaining clearance
8. In case of IPO, issue shares and close and list in the Stock exchange or company can also directly list in Stock Exchange with group of informed investors
9. Filing trading application with Stock Exchange

## **FINANCIAL ADVISORY SERVICES** *(cont.)*

### **Role of Professionals**

Professional Team will play an important role in the journey of SME listing by providing its valuable inputs through:

- Analysing, Advising on the “Road Map” for the entire process and assisting the Company to comply the same.
- GAP analysing and bridging the same so that the company complies with all the regulatory aspects required by the Exchanges.
- Restructuring Capital / Resource Raising so as to comply with regulations and requirements of raising capital.
- Valuation is needed to arrive at the financial strength of the company as well as to decide size and pricing of the IPO
- Assisting the Company in Appointing “Category A” Merchant Banker and various other Intermediaries like Legal Advisor, Registrar, Bankers, Brokers, and Underwriters/Market Makers to the issue.
- Assisting and guiding the Company in respect of Post – issue compliances, as may be required.

***Compiled by: CA Rajesh Shah, Principal Advisor***

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