

Attn: SHEFALI GUPTA

Thought for the month

*A journey of 1,000
miles begins with a
single step.*

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Note from the Editor

The New Year has brought with it a strong trend towards extensive legal reforms in India. Phase II of the reforms process seems to be initiated with great vigour. The Parliament has passed several Bills to amend existing laws as well as to create new laws in India.

Our focus in this edition of our newsletter has been to highlight the features of some of the new Bills passed in Parliament. Two of the important Bills, in respect of which we have provided an in-depth analysis, are the Information Technology Bill, 1999 and the Foreign Exchange Management Act, 1999 (FEMA).

With the rapid development of information technology (IT) and e-commerce in India, the need for legislation in these areas has been keenly felt. The IT Bill, which is the consolidation of the draft E-commerce Act, 1998 and the draft E-commerce Support Act, 1998, seeks to meet this growing need for regulation of IT in India.

FEMA reflects the new mind-set of the Indian government. Its emphasis is on acting as a facilitator rather than as a regulator. Our article on the comparative analysis of FEMA and the old Foreign Exchange Regulation Act, 1973, is an attempt to highlight the new philosophy/mind-set adopted by the Indian government in respect of its foreign exchange policy.

The legal snapshots, our regular feature, cover an array of topics, and deals with some of the main features of some other important Bills/amendments passed by Parliament.

We hope that you enjoy this edition of our newsletter. As always, we look forward to your comments and suggestions.

- Rajesh N. Begur, Editor, Legal Eye

Automatic clearance for FDI in most sectors

Automatic clearance for foreign direct investment (FDI) has been allowed in all except a few sensitive sectors in the negative list. All FDI proposals through the automatic approval system will only have to get clearance from the RBI and will not be required to approach the Government for approval.

Automatic approvals will nevertheless be subject to sectoral caps for various sectors, including:

- Financial services like banking and non-banking financial companies, venture capital funds;
- Infrastructure sectors like civil aviation, power, telecommunications, roads, highways and ports;
- Housing and real estate, hotel and tourism, drugs, petroleum, mining, coal and lignite, postal services, advertising and films.

FDI and NRI investment in these sectors in excess of the ceiling stipulated by the Government will therefore have to go to the Foreign Investment Promotion Board (FIPB) for clearance.

FDI proposals for manufacture of items on the negative list will also have to be cleared by the FIPB. The areas on the negative list include the following:

- Items which require a license under the New Industrial Policy, 1991;
- Items which require industrial license under the Industrial (Development and Regulation) Act, 1951;
- Proposals in areas in which the foreign collaborator has a previous venture or tie up in India; and
- All proposals relating to acquisition of existing shares in an Indian company in favour of a foreign investor/NRI or OCB. ❖

TRAI ordinance promulgated

The government has promulgated the Telecom Regulatory Authority of India (TRAI) Amendment Ordinance, 2000 which redefines the powers of TRAI. Some of the features of the ordinance are as follows:

- The members of the existing TRAI are required to give up office and a new TRAI is to be constituted having a reduced strength of 5 members;
- TRAI can also issue *suo moto* or on a request from a licensor, make recommendations on the following areas: need and timing of new service providers, terms and conditions of license to a service provider, revocation of license for non-compliance of terms and conditions of a license, measures to facilitate competition, type of equipment to be used by service providers and efficient management of spectrum;
- The Government is bound to seek recommendations on the need and timing of new licenses and terms and conditions of the license but the recommendations are not binding;
- The Government is required to abide by the TRAI recommendations on ensuring compliance of license terms and conditions, interconnection, quality standards and time period for provision of circuits between different service providers;
- Powers dealing with tariffs are clarified not to come under the purview of the Comptroller and Auditor General (CAG);
- A new Appellate Tribunal has been introduced to adjudicate between licensor and licensee, between two or more service providers, and between a service provider and a group of consumers - any further appeal against the Appellate Tribunal can be made only in the Supreme Court. ❖

Information Technology Bill, 1999

- ANOOSHREE CHAKRAVORTY, ASSOCIATE, A.R.A. LAW
- STATIRA RANINA, ASSOCIATE, A.R.A. LAW

The Information Technology Bill, 1999 (the Bill) was introduced in the Lok Sabha on 16th December, 1999. It was passed by both Houses of Parliament and awaits the assent of the President and a notification to put it into effect as an Act. The main features of the Bill are as follows:

1. *Authentication of Electronic Records*: The Bill provides that a person may authenticate an electronic record by affixing his digital signature to it. The Bill grants recognition to a digital signature that has been verified by means of an asymmetric crypto system and a hash function.
2. *Electronic Governance*: The Bill grants recognition to the following:
 - (i) electronic records;
 - (ii) digital signatures;
 - (iii) the use of electronic records and digital signatures by the Government and its agencies;
 - (iv) documents, records or information stored in electronic media;
 - (v) rules, regulations etc. published by the Government in an electronic Gazette.
3. *Attribution, Acknowledgement and Dispatch of Electronic Records*:

As long ago as in 1966, the Supreme Court held in *Bhagwandan V. Girdharilal AIR 1966 SC 543* that where an acceptance to an offer is communicated by simultaneous electronic means of communication, the acceptance is effective at the place where it is spoken or from where the electronic record originates. This principle has been adopted by the Bill as can be seen below:

- (i) The Bill provides that an electronic record shall be attributed to the originator if it was sent by the originator himself, or by any person who has the authority to act on behalf of the originator, or by an information system programmed by the originator to operate automatically.
 - (ii) The Bill further provides that, where there is no agreement between the originator of the electronic record and the addressee as to the form of acknowledgement, acknowledgement may be given by any communication by the addressee, automated or otherwise; or any conduct of the addressee sufficient to indicate that the record has been received by him
 - (iii) The Bill provides that the dispatch of an electronic record occurs when it enters a computer resource outside the control of the originator and is deemed to be dispatched at the place where the originator has his place of business and is deemed to be received at the place where the addressee has his place of business
4. *Regulation of Certifying Authorities*: The Bill provides for the appointment of a Controller of Certifying Authorities to exercise control over the activities of certifying authorities. The Controller would have the power to grant licenses to a person who applies to become a Certifying Authority, and would also have the power to suspend or revoke the license on any misconduct by a Certifying Authority.
 5. *Digital Signature Certificates*: The Bill empowers a Certifying Authority to issue, suspend and revoke a Digital Signature Certificate (the Certificate). The Certificate may be suspended on a request from a subscriber listed in the Certificate or if the Certifying Authority believes that it is in public interest to do so. Further, the Certifying Authority may also revoke the Certificate either if the subscriber has made any false statements in the Certificate; if he has not met any requirement which was necessary for the issue of the Certificate; if the Digital Signature was compromised in any manner so as to affect the

Certificate's reliability; on the death or insolvency of a subscriber; or on the dissolution or winding up of a company of a firm.

6. *Penalties and Adjudication:* The Bill provides that any person who is responsible for (a) unauthorized access to a computer; (b) causes a virus to be released in a computer; or (c) causes damage to a computer, etc, would be liable to a penalty of not more than Rupees 10 lakhs. The Bill further provides that failure by a person to furnish any information required under the Bill, file any return or maintain any books of accounts is liable to a penalty of Rs. 10,000 per day during which the failure continues.

The Central Government is empowered by the Bill to appoint an adjudicating officer, not below the rank of a Director to the Government of India, to adjudicate upon any disputes arising under the Bill.

7. *The Cyber Regulations Appellate Tribunal:* Any person who is aggrieved by an order of the adjudicating officer under the Bill may appeal to a Cyber Appellate Tribunal set up by the Central Government. The Tribunal is not required to follow the procedure set out under the Civil Procedure Code, 1908. Every proceeding before the Tribunal is to be treated as a judicial proceeding under Sections 193 and 228 of the Indian Penal Code. The Tribunal is also to be deemed to be a civil court for the purposes of Section 195 of the Civil Procedure Code. A person who is aggrieved by a decision of the Tribunal may appeal to the High Court within 60 days from the date of the order of the Tribunal.
8. *Offenses:* The following are deemed to be offenses under the Bill and are liable to punishment and/or penalty:
- (i) Tampering with computer source documents;
 - (ii) Publishing obscene information in electronic form;
 - (iii) Misrepresentation of any fact to the Controller or Certifying Authority, for the purpose of obtaining a Digital Signature Certificate;
 - (iv) Unauthorised disclosure of any electronic record, book, register, correspondence etc.;
 - (v) The publication of a Digital Signature Certificate which contains false particulars.

The Bill also applies to all offences committed outside India, provided that the offence or contravention involves a computer, computer system or network in India.

The Bill has also amended the provisions of several existing Acts, such as the Indian Penal Code, the Evidence Act, etc. We shall discuss these amendments in the next issue of Legal Eye. ❖

FERA vs FEMA

- ALIFF FAZELBHOY, PARTNER, A.R.A. LAW

The Foreign Exchange Management Bill was passed by the Rajya Sabha on 8th December 1999. The Foreign Exchange Management Act (FEMA) will come into effect from the date the President signs the Bill. The objective of FEMA is to facilitate external trade and payments, and promote the orderly development and maintenance of the foreign exchange market in India. The shift from regulation to management is clear.

General

This part seeks to briefly highlight and compare some of the new provisions of FEMA with the earlier concepts under FERA. Of the three main characteristics of the Foreign Exchange Regulation Act, 1973 (FERA), FEMA retains only one on extra-territorial jurisdiction to a limited extent. The other two characteristics, i.e. presumption of *mens rea* – the culpable mental state and abetting amounting to contravention are absent in FEMA.

Another aspect of FERA was that it provided a scheme for obtaining RBI's permission, either general or special, in respect of most of the regulations contained in FERA. The general permissions have been granted by RBI from time to time by issuing circulars and notifications, whereas special permissions are granted on a case to case basis on applications made for this purpose. Under FEMA, it is only section 3 that relates to dealing in foreign exchange, which provides for obtaining general or special RBI permission. This will make it much simpler and easier to implement this provision and leaves less scope for debate on whether a particular transaction is permissible or not. Of course, the provisions of section 3 will have to be implemented through fresh circulars and notifications issued by RBI.

Definitions

Certain terms like 'capital account transactions', 'current account transactions', 'person', 'service', etc., not previously defined in FERA are introduced in FEMA. 'Authorised Dealer' under FERA is widened to 'Authorised Person' under FEMA to include among others, banks, money changers and offshore banking units. The regulatory powers for capital account transactions have been retained. FEMA provides for the first time that an exporter of services shall furnish a declaration containing the true and correct material particulars in relation to payment for such services.

Residence

A 'non-resident' was defined differently under FERA and the Income Tax Act, 1961 (IT Act), causing considerable confusion among people, particularly for expatriates or the non-residents coming to India on employment or for any length of time. The criterion for being a resident under the IT Act is based on the number of days that a person physically spends in India, viz. he becomes resident if he is in India for 182 days or more during the financial year. Under FERA, the emphasis is more on intention or purpose rather than the number of days. The criterion of a person having to stay outside India for 182 days in order to be a 'non-resident' has been included in FEMA. Now, a person who is a non-resident according to the IT Act, will also be considered such under FEMA. However, a non-resident under FEMA may not necessarily qualify as a non-resident under the IT Act as the rest of the definition of a 'non-resident' is from FERA's definition of a 'non-resident', viz. that in addition to the number of days, intention is also relevant for determining residence under FEMA. Thus, in order to be a resident under FEMA, an individual must not only be in India for at least 182 days during the financial year, but also have an intention to stay in India for an indefinite period or have come to India either for taking up employment or carrying on any business. Thus, a mere tourist who comes to India and stays more than 182 days would be resident under the IT Act, but not resident under FEMA.

Certain relaxation through circulars and notifications in FERA has been incorporated in FEMA concerning certain assets abroad of Indians who are returning and certain assets in India of emigrating Indians. However, it will be necessary for the Reserve Bank of India (RBI) and the government to notify that certain beneficial circulars and notifications issued under FERA will continue to be applicable under FEMA.

Offences and penalties

Offences under FEMA will be considered as civil offences to be punished by a monetary penalty and not as criminal offences. The powers of arrest have been curtailed and imprisonment prescribed only when one fails to pay the monetary penalty. Further, the monetary penalty is limited to three times the amount involved or up to Rs 2 lakhs, unlike up to five times the amount under FERA. In case of a continuing offence, the penalty is up to Rs 5,000 per day.

FEMA also permits a person to appear before the adjudicating appellate authority either in person or to avail of the services of a legal practitioner or chartered accountant of his choice to present his case.

Like FERA, there is no period of limitation for initiating action under FEMA. Section 49(3) of FEMA prescribes a time limit of 2 years by providing that no court shall take cognizance of an offence under FERA and no adjudicating officer shall take notice of any contravention under section 51 of FERA after the expiry of two years from the date of commencement of FEMA.

Though FERA will be repealed when FEMA comes into force, all offences committed under FERA will continue to be governed by FERA and not by FEMA.

FEMA is a welcome step towards the ultimate goal of full convertibility of the Indian rupee and eventual abolition of exchange control regulations. Much will depend now on how the new law is administered. ❖

Companies (Second Amendment) Bill proposes wide changes

The Companies Act, 1956 is proposed to be amended through the Companies (Second Amendment) Bill. This Bill proposes wide changes, some of which are outlined below:

- “dividend” is defined to include interim dividend;
- minimum paid-up capital of rupees one lakh for incorporation of a private company and rupees five lakh for a public company introduced;
- provisions are introduced to cover defaults in payment of deposit and interest to small depositors;
- private placement of securities is redefined and an offer made to more than 50 persons is to be treated as an offer to the public;
- obtaining the approval of shareholders to specified proposals by means of postal ballot is made mandatory;
- time allowed for payment of dividend is reduced from 42 to 30 days;
- public companies having a paid-up capital of Rs 5 crores and one thousand or more small shareholders are required to have at least one director elected by the small shareholders;
- companies not required to employ a whole-time secretary are mandated to file with the Registrar of Companies a certificate from a whole-time secretary regarding the company’s compliance with the provisions of the Companies Act;
- SEBI, in consultation with RBI, is empowered to specify guidelines regarding offers and invitations made by NBFCs to the public;
- monetary penalties are increased 10 times over those prescribed in the 1956 Companies Act.

These amendments have been introduced with the object of protecting the interests of shareholders and depositors. ❖

LEGAL SNAPSHOTS

Competition law bill in budget session

The government is proposing to introduce a new competition law bill in the budget session of Parliament. Domestic industry expects the Committee to come out with stringent provisions, which would curb monopolistic expansion and protect the domestic industry from the onslaught of multinational companies.

According to the terms of reference, the Committee is empowered to recommend a suitable legislative

framework in view of international economic development and the need to promote competition. It has also been entrusted the task of demarcating the jurisdiction of the MRTP Commission and the consumer courts under the Consumer Protection Act, 1986 to avoid overlapping of jurisdiction. The Committee may either recommend a new law or suggest appropriate amendments to the MRTP Act, 1969. ❖

Banks to be allowed to market and distribute insurance products

The government plans to amend the Banking Regulation Act to permit banks to either distribute or market insurance products. However, certain criteria are expected to be laid out to allow banks to undertake such activities.

Banks may need a positive three-year track record to enter insurance. Financials of banks may also be a criterion. Players in banking and insurance have been talking about alliances and hope that the government would allow such alliances. ❖

Foreign insurers may be allowed to bypass FIPB

Foreign insurers may be allowed to bypass the Foreign Investment Promotion Board (FIPB) while bringing their investments as the Insurance Regulatory and Development Authority's (IRDA) approval could suffice. A decision to this effect is expected to be taken later as the issue of the first license to private insurance companies could take about 9 to 12 months following the ratification of the Bill. ❖

Amendment to trademark law

The Union Cabinet has decided to bring in a new trademark law through the Trademarks Act and has approved the amendment to the Trade and Merchandise Marks Act, 1958. The proposed amendments are expected to make the law on trademarks simpler, more effective, flexible and transparent. ❖

EPCG scheme for 4 more sectors

The government has announced fresh incentives for exports as follows:

- Zero-duty import of capital goods allowed for biotech, engineering, textiles and chemical sectors;
- Advance licensing scheme and DEPB scheme extended to dry ports, including Dahej, Nagput, Cochin, Nasik, Rudrapur and Dig; and
- Zero-duty imports restricted to 41 items in the case of textiles. ❖

Tax structure revamp for shipping

The government proposes to revamp the tax structure for shipping companies in a bid to increase domestic

shipping tonnage. The move is expected to be revenue neutral. Under the proposed taxation structure, the corporation tax on shipping companies is to be replaced with a tax on the basis of the net registered tonnage. ❖

Setting up of Asset Reconstruction Fund (ARF)

The Reserve Bank of India (RBI) is considering setting up an ARF to strengthen the Debt Recovery Tribunal (DRT) and to reduce the non-performing assets in the banking industry. ❖

FDI in retail chain stores

The Government is all set to clear, for the first time, foreign direct investment (FDI) in retail chain stores. Retail chain stores have been identified as among the main areas to attract FDI. The Ministry of External Affairs is believed to have said that, by opening up this area, the country would be assisted in meeting the target of USD 10 billion per annum of FDI set by the government. ❖

Government has eased ECB norms

The Finance Ministry has eased the norms for external commercial borrowings (ECB) in a move towards single window clearance. The procedures have been eased both at the automatic clearance window managed by the Reserve Bank of India (RBI) as well as the discretionary clearance window at the Finance Ministry. The Finance Ministry had wanted to totally delegate its powers to the RBI, but the apex bank has sought additional time to put in place the infrastructure to handle all ECB clearances. The four stage ECB clearance at the Finance Ministry level has been brought down to three-stage clearance. ❖

MF's seek SEBI approval for monthly income plan

Private and public sector mutual funds have applied to the Securities and Exchange Board of India (SEBI) for floating a monthly income plan scheme, wherein assured returns committed to investors would be paid out of the capital contributed by investors themselves. Currently, SEBI rules on mutual funds require that any assured return scheme be backed by a guarantee from the sponsor. It remains to be seen what view SEBI will take as this would require an amendment to the current SEBI regulations on mutual funds. ❖

Mutual funds allowed to issue units to FII

The Reserve Bank of India (RBI) has allowed mutual funds to issue units to foreign institutional investors (FIIs) without its permission, but subject to certain conditions. The investment would be received by inward remittance through normal banking channels or by debit to the NRE/FNCR account of the non-resident investor or special non-resident rupee account of the FII, maintained with an authorised dealer.

The dividends or interest and maturity proceeds are allowed to be remitted through normal banking channels or credited to the foreign currency account of the non-resident investor or special non-resident rupee account of the FII. ❖

Tough RBI norms for debit cards

The Reserve Bank of India (RBI) barred banks from providing ATM facilities to debit card holders without its prior permission. The guidelines released by the RBI state that banks should issue such cards to customers who have maintained accounts satisfactorily for at least six months. ❖

Income and corporate tax concessions and exemptions are likely to be rationalized

Income and corporate tax concessions are likely to be rationalized in next year's budget. The Ministry of Finance has set up four committees to study income tax concessions. The committees are to observe whether the concessions' objectives were achieved. The reports of the committees were expected to be finalised by the end of December. ❖

Government plans new legislation to regulate finance companies

The government is proposing a new legislation to regulate non-banking finance companies (NBFC's). This would be done by deleting Chapters III A and III B of the Reserve Bank of India Act, 1934. The deleted provisions would be brought under the new NBFC Act. Chapter II A and B together define an NBFC. They empower the RBI to regulate the deposit-taking function, ban an NBFC from taking deposits and empower it to alienate assets. Several other powers are also given to RBI under this chapter. ❖

Indirect tax reforms

The Central and State Governments have recently signed a historic pact to bring about the following indirect tax reforms:

- to introduce a single rate value-added tax (VAT) from April 2001;
- to introduce uniform floor sales tax rates by January 1, 2000 (previously, the states had varying floor sales tax rates). The floor sales tax rates shall be 0%, 4%, 8%, and 12 %, besides two special rates of 1% and 20%;
- to phase out sales tax-based incentives by January 1, 2000 and thus end the inter-state tax war;
- to rationalise Central Sales Tax.

The Central Government has agreed to give financial aid to the states and also compensate them for loss of revenue in the initial stages. The finance minister Mr. Yashwant Sinha has stated that there will be several benefits in moving towards VAT, namely, that besides reducing the cascading of taxes, VAT provides stability of revenue, it has no distortionary effects and is neutral, transparent and certain. ❖

Governance Code may be eased

The Kumar Mangalam Birla Committee on corporate governance, constituted by the Securities and Exchange Board of India (SEBI) is considering recommending that its suggestions be made mandatory only for top corporates initially. Industry chambers have described the draft recommendation that all companies with paid-up capital of Rs. 10 crores and above should be brought within the ambit of the code, as too stiff. Therefore it has been felt that the code should be initially enforced on only the larger corporates. ❖

SEBI to be empowered to proceed against malpractices in transfer and issue of shares

SEBI will be empowered through an amendment to the Companies Act, 1956 to proceed against listed companies which have been found to engage in malpractices relating to issue and transfer of shares. The power to issue directions to companies to redress complaints regarding allotment and transfer of shares and debentures is currently vested with the Company Law Board. The Companies Short (Amendment) Bill will transfer these powers to SEBI according to the Department of Company Affairs' proposal. ❖

Directors can be punished if cheques by firms bounce

The Supreme Court has ruled that the directors of a company can be prosecuted independently if their company issued a cheque which was dishonoured. Even if the company is not prosecuted, the directors can be proceeded against under Section 141 of the Negotiable Instruments Act, the court said in a judgement. ❖

Securities Bill passed

The Lok Sabha approved the Securities Laws (Amendment) Bill, 1999, paving the way for derivatives trading. The Rajya Sabha approved it through a voice vote. The Lok Sabha approved these amendments to the Securities Contracts (Regulation) Act (SCRA), 1956 and the Securities and Exchange Board of India (SEBI) Act, 1992. The Rajya Sabha also approved the Securities Laws (Second Amendment) Bill which seeks to transfer appellate functions currently vested with the Centre to a tribunal which will henceforth hear appeals against SEBI rulings. ❖

Companies with foreign equity holding can trade only their own items

The Foreign Investment Promotion Board (FIPB) has clarified that trading companies with foreign equity participation cannot trade or sell products manufactured by associated joint ventures in the domestic market. Trading would be permitted only for items manufactured by the company itself and not contracted from other sources. ❖

SEBI permits Internet trading

The Securities and Exchange Board of India (SEBI) Board has cleared the introduction of Internet trading through a circulation vote. This implies that the Internet as an order-routing mechanism can now be introduced in the markets. ❖

Oral knowledge to be protected under Patents Act

A clause has been introduced in the amended Patents Act, which gives the status of documented knowledge to practices based on oral tradition. This implies that patents can no longer be sought on such practices. In addition, the new amended act also draws up a list of

items to be excluded from patentability, redefines 'invention' and revises the provisions on compulsory licensing, including a series of safeguards. ❖

Exemption likely from corporate tax and MAT for income from IPRs

The Department of Chemicals and Pharmaceuticals has asked the Finance Ministry to exempt income derived from intellectual property rights based on research undertaken in India fully from both corporate tax as well as minimum alternate tax (MAT). Acceptance of this proposal will mean that income from the sale or license of new chemical entities or new drug delivery systems developed by Indian companies would be totally tax-free. The Department also plans to put in place a package of fiscal incentives including:

- a 10-year tax holiday for companies registered for carrying out scientific and industrial R&D;
- allowing all approved R&D units to import chemicals, bio-chemicals, special consumables, equipment and spares at zero duty;
- all R&D expenditure on consumables and equipment to be written off for a period of one year for the purpose of income tax. ❖

Reporting format to be reviewed by IRDA

The Insurance Regulatory and Development Authority (IRDA) plans to review the reporting format for life insurance firms currently existing under the Companies Act. Once the norms are finalized, the insurers will have to prepare in addition to the balance sheet, a single profit and loss account in two parts - the policy holders' account that contains particulars such as premium income, claim expenses; and the profit and loss account that belongs to the shareholders. ❖

Blanket RBI approval for ADR/GDR floats

The RBI has given approval for the issue and export of ADR's and GDR's by Indian corporates and for their acquisition by foreign investors. Other permissions necessary for launching an ADR or GDR issue have also been granted to the issuing companies. Consequently, issuing companies may enter into agreements in respect of, or ancillary to, the offer including, but not limited to, the subscription agreements and deposit agreement, and to provide the necessary warranties and indemnities in accordance with international practices. The relaxed norms are

however not applicable to foreign currency convertible bond issues. ❖

DRT's made more powerful

Amendments to the Recovery of Debts Due to Financial Institutions Act seeking to strengthen the Debt Recovery Process have been cleared by the Cabinet. These include:

- Empowering the DRT's to attach property on the filing of a complaint of default by the borrower; and
- Empowering the processing officers to execute the decree of the official receiver based on a certificate issued by the DRT. ❖

New Civil Aviation Policy

The draft of a new civil aviation policy has been circulated. Some of the proposals included in the draft policy are:

- Dilution of Government stake in all aviation companies except Airports Authority of India (AAI);
- Domestic airlines to be allowed access to international routes;
- Privatization of major airport infrastructure proposed;
- Up to 100% foreign equity in aircraft manufacturing allowed;
- AAI land to be leased out to the private sector;

- No change in policy on foreign equity in domestic airlines;
- New regulatory body to replace Directorate General of Civil Aviation (DGCA);
- Route dispersal guidelines for domestic carriers to continue;
- Bureau of Civil Aviation Security (BCAS) to be strengthened. ❖

Use of submarine optic fibre cables to be cleared

The use of submarine optic fibre cables to connect international gateways of private Internet service providers (ISP's), is likely to be cleared. Consequently, ISP's will benefit either from lower tariffs for use of the cables or from a deregulated competitive market. ❖

Telecom companies to get additional IT benefits

Telecom companies are to get extended benefits under Section 80 IA of the Income Tax Act under a Budget 2000 proposal mooted by the Department of Telecommunications:

- While presently the five-year tax holiday is available to an undertaking starting services before March 2000, the proposal seeks to extend the provision up to March 31, 2000;
- Section 80 IA is proposed to be expanded to include Internet service providers. ❖

Meet the A.R.A. LAW Team

In each issue, we will be profiling one person who is part of A.R.A. LAW. They will also be sharing their experience of working at A.R.A. LAW.

STATIRA RANINA graduated in 1996 and holds a Bachelor of Arts degree in Economics from the University of Bombay, including an additional Honours Certificate. She obtained her law degree from the Government Law College (University of Bombay) in 1999. Statira has been with A.R.A. LAW since September 1996. At A.R.A. LAW she has been associated mainly with corporate law issues, joint ventures, M&A's, intellectual property rights, arbitration, litigation and cyber law. Here's what Statira thinks of working at A.R.A. LAW.

Working at ARA is always an adventure. I use the word "adventure" purely because of the continuous challenge and learning experiences that ARA provides.

I joined ARA fresh out of college after graduating in Economics, within a week of joining Government Law College for my post-graduate law degree. Believe me when I say that I had no concept of what it was like to work in a law firm or what would be required of me as a lawyer. After making about a million mistakes (okay, maybe I'm exaggerating a little), the past four years at ARA have helped me develop my abilities as a lawyer and realise that learning and growth never end, and that striving towards excellence is a continuous endeavour.

On a more personal note, working at ARA law is a lot of fun. Our team is more like a close knit family with young partners, associates and staff, extremely dynamic and efficient, but as importantly with a great sense of humour and, let me not forget (we believe that it is an imperative pre-requisite to be on the ARA LAW team), a good appetite. We've survived our fair share of funny incidents, from the flooding of the office due to a burst pipe to our friendly neighbourhood mouse (who had almost become our mascot, until we found an extremely competent exterminator!!), to lots of others.

They say that there is nothing like enjoying your work, I know that I can say that I do, I hope that you are lucky enough to feel the same way. ❖

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