

IN THE NEWS

February 2010

1. Hike in spectrum charges for GSM and CDMA operators

Starting April 01, 2010, there will be almost a 50% increase in the spectrum charges paid by various telecom operators. All telecom service operators pay a certain percentage of their adjusted gross revenue (“**AGR**”) to the government as spectrum usage charge and this charge is subject to the quantity of spectrum allotted to the operator.

The new charges vary between 3-8 percent. For instance, a GSM operator holding up to 4.4 Mhz of spectrum will now have to be spectrum charge at 3% of its AGR as compared to the existing 2%. This move will really burn the pockets of various telecom operators who are already finding it difficult to survive amidst the intense competition and tariff-war.

2. Bad- Debts written off now allowable

In a February 09, 2010 decision by the Supreme Court of India (“**SC**”) in TRF Ltd. v. CIT, it clarified the ongoing judicial controversy pertaining to allowing of bad-debts to be written off under section 36(1)(vii) of the Income Tax Act, 1961 (“**Act**”). In some earlier decisions of Assessing Officers and courts, the assessee was required to establish that debt had become bad at the time of its write-off and prior to being allowed as a deduction under section 36(1)(vii) of the Act.

Resolving the above ambiguity, the SC in the aforementioned matter held that it is not necessary for the assessee to establish that the debt had become irrecoverable and it would be sufficient if the bad debt was written off in the accounts.

3. Bids for 3G telephony

The government has finally invited bids from telecom operators to participate in the radio frequency auction of the 3G spectrum. As per the circular issued by the Ministry of Information and Broadcasting, 3 operators will be allowed to operate in most telecom circles, barring five circles where 4 operators will be allowed.

The entire process will take place in two stages. In the first stage, the bidders will be awarded a block in each telecom service area where there is at least one block available to auction. In each service area, bidders will bid for a right to a single spectrum block not linked to any specific frequency. The second stage will be of frequency identification stage. As per the schedule, the last date for submission of applications is March 19, 2010 and the mock auction will be held on April 5-6, 2010.

4. Budget for FY 2010-2011 released

The Finance Minister released the much awaited annual budget 2010-2011 on February 26, 2010. While the overall scheme of the budget appears positive, there are a few sectors which

are unhappy with the tax burden put on them. One of the biggest dark spots of this year's budget has been the increase in Minimum Alternate Tax ("MAT") from 15% to 18% of book profits. This is expected to impact companies across various industry sectors. Such an increase in MAT will result in a higher outgo of cash, especially in the short term. The budget has also not addressed the demand of the information technology sector to extend tax holidays under the Software Technology Park of India scheme.

However, corporate surcharge has been lowered from 10% to 7.5% and the percentage of weighted deduction on in-house R&D has increased from 150% to 200%. This will provide ample opportunities for IT and pharmaceutical companies. Some other sectors which have immensely benefited from this year's budget are telecommunication, travel, auto component sector and defense.