

IN THE NEWS

May 2010

1.0 Foreign Direct Investment (“FDI”) Notifications

1.1 Ban on Cigarette Manufacturing

The Department of Industrial Policy & Promotion (“DIPP”), the nodal department for framing the FDI policy banned FDI in manufacturing of cigars, cheroots, cigarillos and cigarettes, tobacco or tobacco substitutes.¹ These products have now been included in the list of sectors prohibited for FDI. Earlier, 100% FDI was allowed under the approval route (i.e. with prior approval of Foreign Investment Promotion Board) for the manufacture of cigars and cigarettes, subject to obtaining industrial license under the Industries (Development & Regulation) Act.

1.2 Increase of FDI limit in Defence Sector

DIPP has issued a discussion paper proposing to increase the level of FDI in defence sector from the present cap of 26% to 74%. The discussion paper makes out a case for increasing the FDI limit on the ground that major defence equipment manufacturers do not want to come to India with their proprietary technology unless they have majority ownership of the company. However, DIPP has sought views/suggestions from various stakeholders on the discussion paper till July 31, 2010.

2.0 Ministry of Corporate Affairs (“MCA”) Schemes

2.1 Simplified Exit Route for Defunct Companies

In order to give an opportunity to the defunct companies, for getting their names struck off from the Registrar of Companies (“Registrar”), MCA has issued an Easy Exit Scheme, 2010 (“EES 2010”) under the Companies Act, 1956 (“Act”). This scheme came into effect from May 30, 2010 and is valid till August 31, 2010.

Any defunct company desirous of getting its name struck off under EES 2010 shall make an application without any fees in the prescribed form EES, 2010 along with affidavit, indemnity bond and statement of accounts duly certified by the statutory auditor or a chartered accountant in whole time practice. This scheme is not applicable to listed companies, non-profit organization, companies which are under investigation for non-compoundable offences, companies which have secured loans or have accepted public deposits which are outstanding, and vanishing companies.²

¹ Press Note 2 dated May 10, 2010.

² Under EES 2010, a company registered under the Act and listed with the stock exchange which has failed to file its return with the Registrar and stock exchange for a consecutive period of two years and is not maintaining its registered office at the address notified with the Registrar or stock exchanges and none of its directors are traceable.

2.2 Company Law Settlement Scheme for Defaulting Companies

MCA has introduced “Company Law Settlement Scheme, 2010.” Under this scheme, an opportunity is given to the defaulting companies to make their default good by filing belated documents and to become regular compliant in future. Registrar will condone the delay for companies filing documents with it and grant immunity from prosecution and would charge an additional fee of 25% of actual additional fee payable for filing documents under the Act. After granting the immunity, the Registrar will withdraw prosecution pending against the defaulting company, if any, before the concerned courts.

This scheme came into effect from May 30, 2010 and is valid till August 31, 2010. The Registrar will take necessary action under the Act against such defaulting companies that have not availed this scheme.