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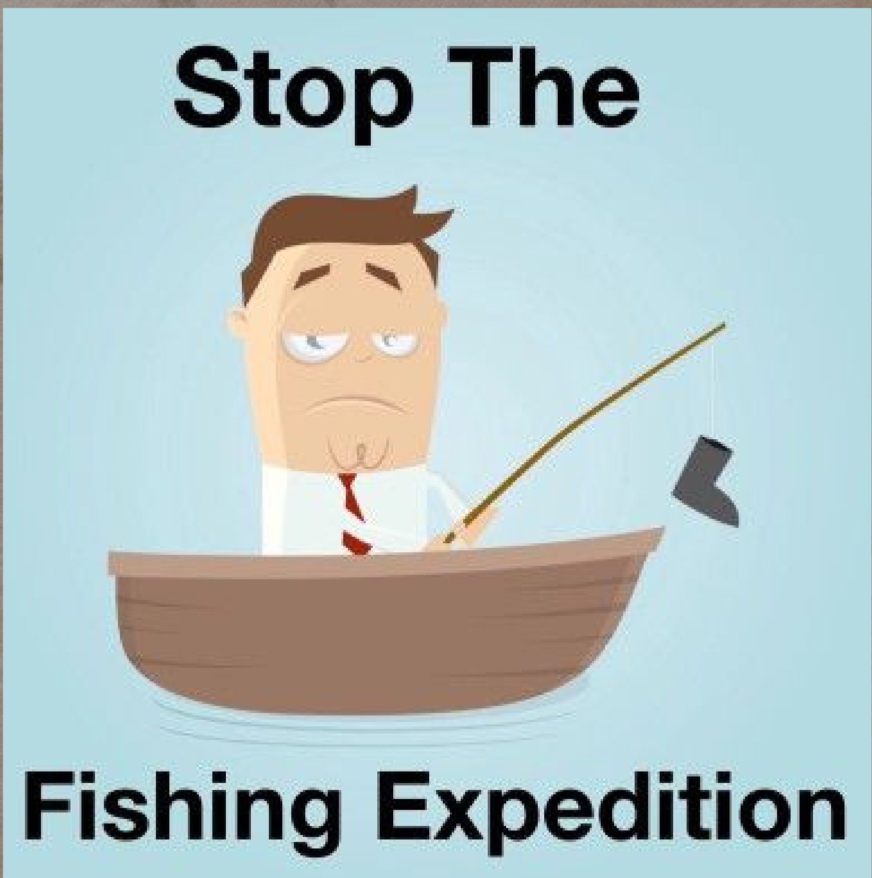
# TAXTIME

NEWSLETTER

## DIRECT TAX NEWS

### I-T DEPARTMENT MUST AVOID FISHING EXPEDITIONS




The income-tax (I-T) department has reportedly sent notices to a clutch of Mauritius-based private equity (PE) funds amid suspicions that unnamed persons call the shots in these funds, while the boards and managements merely serve as dummies.

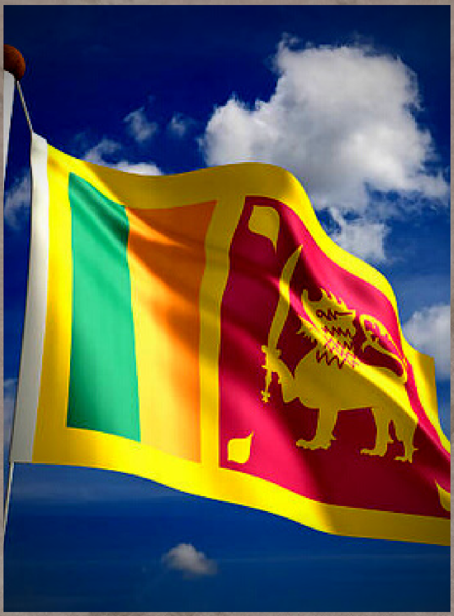
While tax officials are within their right to question such entities, let there be no fishing expeditions. The I-T department must have evidence based on facts to prove that the fund's place of effective management (POEM) is elsewhere, and not Mauritius, before it raises any tax demand. The tax demand would mean denying PE funds the benefit of the Indo-Mauritius tax treaty.

Under the treaty, investors from Mauritius were spared from paying capital gains tax on the sale of shares of Indian companies till 2017. It was amended from April 1, 2017, to tax capital gains on investments coming from that country. Past investments were grandfathered. So, all shares bought before this date would not attract capital gains, irrespective of when they are sold. Funds that have come under the taxmen's lens avoided capital gains by stating the shares were acquired prior to April 1, 2017.

But tax officers suspect that POEM — where key decision-makers are located — is elsewhere. The language of the law (POEM) gives a lot of latitude to tax officers. It must be used cautiously to ensure that genuine investors are not chased by the I-T department in its attempt to meet revenue targets. Some court rulings have been a trigger for I-T notices to PE funds. Earlier, in the 'Azadi Bachao Andolan' case, the Supreme Court had held that a Mauritius tax residency certificate is sufficient ground to provide capital gains tax relief under the Indo-Mauritius tax treaty. That must be accepted. The tax system must have stability and certainty.

## INTERNATIONAL TAX CORNER

# SRI LANKA TO INK NEW TAX TREATIES WITH INDIA, TURKEY AND CZECH REPUBLIC



The Cabinet nod has been granted to the Finance Ministry to enter into agreements on double taxation and tax evasion on income tax avoidance with India, Turkey and the Czech Republic.

Finance Minister Basil Rajapaksa on Monday sought the approval of the Cabinet of Ministers to sign relevant treaties and to submit them to parliament for approval as per the provisions of the Inland Revenue Act No. 24 of 2017.

Accordingly, the government would sign a new agreement with the Indian government to avoid double taxation and tax evasion on income tax revising the current double taxation avoidance treaty.

Similar treaties would be signed with Republic of Turkey and the Czech Republic. Currently, Sri Lanka doesn't have a double taxation avoidance treaty with Turkey.

Sri Lanka has 45 bilateral double taxation avoidance treaties and one multilateral treaty in place.

## INDIRECT TAX NEWS

# BRING NATURAL GAS UNDER GST, CUT IMPORT DUTY ON LNG, PETROLEUM INDUSTRY URGES CENTRE

The government should bring natural gas under the Goods and Services Tax (GST) regime to realise Prime Minister Narendra Modi's vision for a gas-based economy and raising the share of the environment-friendly fuel in India's energy basket, the Federation of Indian Petroleum Industry (FIPI), which boasts of members from across the oil and gas spectrum, has said in its pre-Budget memorandum to the Finance Ministry. Natural gas is currently outside the GST ambit, and existing legacy taxes — central excise duty, State VAT, Central sales tax — continue to be applicable on the fuel.

"Non-inclusion of natural gas under the GST regime is having adverse impact on natural gas prices due to stranding of taxes in the hands of gas producers/suppliers and is also impacting natural gas-based industries due to stranding of legacy taxes paid on it," FIPI said. VAT rate on natural gas is very high in some States — Andhra Pradesh levies 24.5 per cent tax, Uttar Pradesh 14.5 per cent, Gujarat 15 per cent and Madhya Pradesh 14 per cent. Inclusion of natural gas under GST is required to provide uniform taxation and to encourage free trade of it across the country without any tax anomalies. "This is one of the key prerequisites for the development of gas exchange in the country," it said.

FIPI said non-inclusion of basic petroleum products such as crude oil, natural gas, petrol, diesel and ATF under the newly introduced GST regime is affecting the sector adversely. "Presently, the industry is paying GST on procurement of plant machinery and services and is unable to get the input tax credit as the final product is not included under GST. This is leading to immense pressure on the industry, which, in turn, is straining the entire economy," it said. The industry body also sought lowering of import duty on LNG to make it competitive with polluting liquid fuel. Presently, the import of LNG attracts customs duty of 2.5 per cent plus SWS cess of 10 per cent.

FIPI also sought rationalisation of GST on transportation of natural gas through pipeline by levying 5 per cent tax with input tax credit (ITC) benefit instead of present 12 per cent. "This will lead to lower cost of transportation of natural gas and will help in promotion of cleaner sources of energy for power and CNG where ITC of GST paid on transportation of natural gas is not available," it said

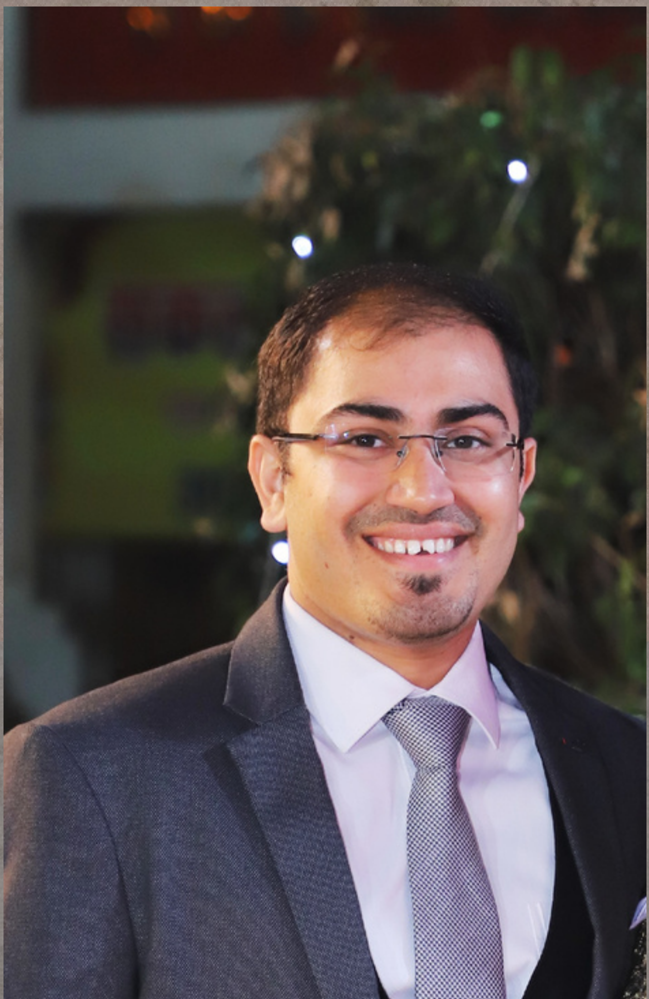
# DEPLOYMENT OF INTEREST CALCULATOR IN GSTR-3B

The new functionality of interest calculator in GSTR-3B is now live on the GST Poral. This functionality will facilitate & assist the taxpayers in doing self-assessment. This functionality will arrive at the system computed interest on the basis of the tax liability values declared by the taxpayers, along with the details about the period to which it pertains. The interest appliable, if any, will be computed after the filing of the said GSTR-3B and will be auto-populated in the Table-5.1 of the GSTR-3B of the next tax-period. The facility would be similar to the collection of Late fees for GSTR-3B, filed after the Due date, posted in the next period's GSTR-3B. This functionality will inform the taxpayers about the manner of system computed interest for each tax-head and hence will assist the taxpayers in doing correct computation of interest for the tax liability of any past period declared in the GSTR-3B for the current tax period.

# TODAY'S QUOTE

*"More is lost by indecision than wrong decision."*

*– Marcus Tullius Cicero*



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