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CHARTERED ACCOUNTANTS
Audit Consulting Tax IFRS Valuation

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Contents –

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Basic aspects of Local Body Tax (LBT) (Maharashtra State) Procedures and Taxation

Indirect Tax

Legislation Basic aspects –

LBT stands for Local Body Tax. It has been introduced w.e.f. 1st April, 2013 in lieu of Octroi. Following are the basic taxation aspects of LBT –

Applicable legislations –	**Rates Schedule** –	**Taxable Event and Date** –
• Act – Bombay Provincial Municipal Corporation Act, 1949 • Rules – Bombay Provincial Municipal Corporation (Local Body Tax) Rules, 2010	• Schedule A – Taxable Goods • Schedule B – Tax Free Goods	• Entry of any goods by purchase, stock transfer, job work or gift into limits of city / corporation • Effective date is **1st April, 2013**

Registration requirements (Who should obtain Registration under LBT) –

For registration requirements, dealers or assesses are bifurcated into 3 categories – Importer (from the angle of corporation limits), others who are not importers but may be traders or manufacturers or service providers etc. and last category is persons requiring temporary registration for non-recurring activities. Registration is based on the turnover of sales and purchases, as follows –

- **Importer** – Turnover (T/o) of Sch. A goods not < 5000/- & value of the goods imported not < 5000/- & T/o of all sales/purchases not < 100000/- (300000/-)
- **Others** - T/o of Sch. A goods not < 5000/- & T/o of all sales/purchases not < 150000/- (400000/-)
- **Temporary** - Dealer not carrying on regular business in city but on temporary basis will be liable for registration whether or not he is liable as above.

Important Forms and Maintenance of records –

Following are the important forms to be used in respect of LBT compliance. *The list is not exhaustive. There are other forms also prescribed under LBT.*

Form A – Application form for obtaining Registration
Form B – Registration Certificate
Form C – Application for Cancellation of Registration Certificate
Form D – Purchase Register
Form E I – Half Yearly Return
Form E II – Annual Return
Form F – Declaration of manager of Business
Form Q – Authorization for appearance before authority in proceedi
Form R – Declaration for Lump sum payment of LBT
Form S – Appeal against Demand Notice

Most Important : Certificate for Local Purchases –

- If dealer purchases Sch. A goods from a dealer from same city, he shall obtain certificate as per rule 21, which will be verified by the comm. and if it is ok such Purchases will not be taxable.
- If such certificate is not produced it will be presumed that such goods are imported and tax will be payable on the same.
- Where dealer sells goods to another dealer in same area he shall issue an invoice containing a certificate in the manner and details u/r 22.
- Sales invoice shall specify the full name, style and add of business place and LBT no. of seller, particulars of goods sold including sales price and a certificate mentioned in rule 22.
- Where the invoice amt is more than Rs. 500 it shall give the details of purchaser including name, address and LBT No. of the purchaser

Calculation and Payment of LBT –

For calculation and payment of LBT, two options are available – Rate Schedule Scheme (based on nature of goods imported) or Lump sum payment scheme (based on turnover or nature of business), details of which are as follows –

- **Rate Schedule scheme** –

  LBT shall be payable as per the rates prescribed under Schedule A for the goods. For schedule B goods, no LBT shall be payable.

- **Lump sum Payment Scheme** –

  - For dealers having turnover less than prescribed amount (Rs 10 Lacs), slab wise lump sum payment of LBT is allowed.
  - For builders Lump sum payment depends upon no. of floors to be constructed. Up front payment of 50% is required to be made.
  - For works contractors Lump sum LBT rate is fixed @ 0.25% of contract value.

Payment Date, Mode & Challan –

Payment of LBT to be made before 10th of the next month (now allowed up to 20th). Online payment facility has been made available through net banking as well through use of credit or debit cards.

Return filing procedures –

- Half yearly return for first six months is to be filled in form E-I & Annual return in form E-II. Both the returns are to be filed within 15 days from end of respective period.
- A dealer liable for lump sum payment u/r 27 shall furnish Annual Return only in form E-II every year, till the order of Commissioner is in force for allowability of such Lump sum payment.
- Powers available with the Commissioner for specifying different periods and dates for different dealers, to exempt dealers from furnishing returns or to permit submission of consolidated returns.

Refund in case of Export –

If the dealer exports outside the city the goods imported by him otherwise than under a contract of sales then 90% of LBT on import shall refunded to him by an order in **From M** if following conditions are fulfilled

- Details of Goods Imported are given in relevant return and LBT paid thereon.
- The goods are exported outside the city within 6 months from import.
- The return for the said period shows these sale
- Goods are exported without change in form.
- Comm. may allow payment of 10% LBT for dealer regularly importing & exporting A sch. goods.

Penalty and Interest –

- Failure to issue bill by selling dealer = double (equal) the amt of LBT payable
- Failure to apply for registration in time (10/5 times of LBT payable in URD period),
- Failure to comply with the notice in respect of the proceeding = (Rs. 10000/5000),
- Failure to disclose any entry of the goods on which LBT is payable, claimed inaccurate deduction or refund, disclose fully and truly all the material = (5/2 times the amt of LBT found payable)
- Interest on late payment of LBT = 2% p.m. for first 12 months (and 3% p.m. thereafter)
- Fraudulent documents produced and LBT escaped = penalty equal to (2/5 times) the amt LBT
- If the dealer produces any false declaration or certificate which is false or fails to abide by or acts in contravention of recital of terms of such declaration penalty is 5 (2) times amt of LBT which would have been payable.

Some Interesting Facts and Figures about Local Body Tax (LBT) *–

Particulars	Pune Corporation	Pimpri Chinchwad	Thane Corporation	Nagpur Corporation	Navi Mumbai Corporation
No of Entries in Schedule A	Group I – 14 Group II – 127 Group III – 12 Group Iv – 01	Group I – 14 Group II – 139 Group III – 12 Group Iv – 01	Group I – 14 Group II – 116 Group III – 12 Group Iv – 01	Group I – 14 Group II – 116 Group III – 12 Group Iv – 01	Group I – 14 Group II – 116 Group III – 12 Group Iv – 01
No of Entries Schedule B	59	59	59	59	59
Standard Rate for Goods not covered by Sch. A (Group I to III) and Sch. B	4.00 %	2.40%	5.00%	4.00%	4.00%

*Under VAT laws in Maharashtra, if goods are mentioned in **Schedule A** then no vat is payable, but it is payable if goods are mentioned in **Schedule B**. But, under LBT, if goods are mentioned under **Schedule A** then LBT is payable, while it is exempt if it is mentioned in **Schedule B** !!*

* *Includes proposed rates also*

Opportunity to pay your Service Tax Dues without penalty !

Voluntary compliance Encouragement Scheme, 2013

Background –

If you are a Service Provider or receiver liable to obtain registration under the law and make the payment of tax, but have failed to do so, then you have good opportunity to make the compliance without requiring to pay any penalty ‼

In order to encourage non-fliers & non-payer service tax assesses to make compliance under the law, Voluntary Compliance Encouragement Scheme (which was announced in the Budget 2013) has been introduced on 10th May, 2013.

It is basically applicable for person having service tax dues for period pertaining to 1st day of October, 2007 to 31st day of December, 2012 and such dues are not paid as on the 1st day of March, 2013. Further, benefit under the scheme is available only if no notice has already been issued u/s 72 or 73 or 73 A of the act to such persons.

The Service Tax Voluntary Compliance Encouragement Rules, 2013 have been issued to bring into effect the Scheme. Notification No. 10/2013 dt. 13.05.13 and Clarification circular no. 169/4/2013 dt. 13.05.13 is applicable in this case.

Procedural aspects of the scheme –

If you are interested in availing the benefits of the said scheme, then following steps need to be taken –

- **Step 1 – Obtain Registration**, if not already taken –

  It is necessary that for availing the benefit, first you must be registered under the law. Any person, who wishes to make a declaration under the Scheme shall, if not already registered, take registration under the Service Tax law. No penalty shall be charged for taking such late registration. Govt will benefit from this as assesses will come forward for VCES Scheme and once registered, tax basket of the Govt is increased forever.

- **Step 2 – Submission of declaration** –

  Second step is to submit the declaration to the Officer. It is the declaration in respect of tax dues under the Scheme, which is to be filed in Form VCES – 1.

  Excise officer, on receipt of such declaration, shall issue an acknowledgement thereof, in Form VCES - 2, within a period of seven working days. Last Date for submission of such declaration is **31st day of December, 2013**. Now your time starts for making payment of declared service tax, which is due but unpaid.

- **Step 3 – Payment of Tax dues** – The tax dues payable under the Scheme as informed by the assessee in the declaration need to be paid as per normal challans prescribed under the law. The CENVAT credit shall not be utilised for payment of tax dues under the Scheme. First Installment of tax due (which shall be for at least 50% of declared amount) is to be paid on or before **31st day of December, 2013.** Balance 50% can be paid (even in installments) on or before **30th day of June, 2014**. Although you have submitted declaration, paid first 50% installment before time but balance is still pending, then it can be paid on or before the **31st day of December, 2014** but now along with interest. If you do not make payment by this date, then probably benefit of no penalty shall stand withdrawn !

- **Step 4 – Confirmation from Authority** –

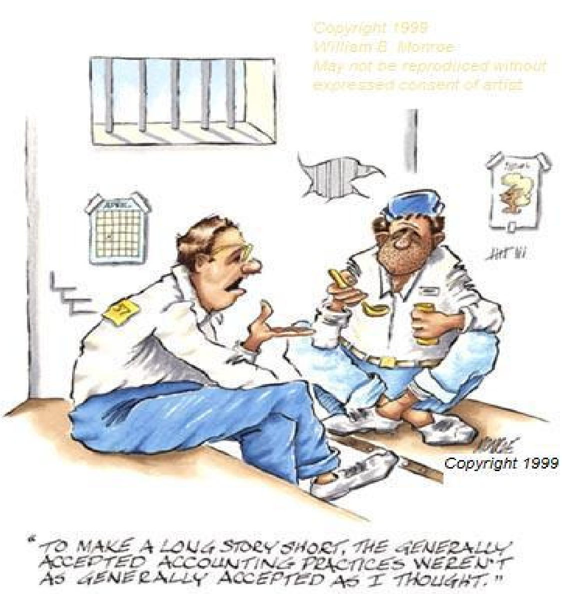
  This is the last step in VECS scheme. On payment of all declared tax dues, the designated authority shall issue an acknowledgement of discharge of liability in Form VCES - 3. The acknowledgement of discharge shall be issued within a period of seven working days from the date of furnishing of details of payment of tax dues in full along with interest, if any, by the declarant.

  A declaration shall become conclusive upon issuance of acknowledgement of discharge and no matter shall be reopened thereafter in any proceedings. This is the biggest relief !

Concluding remarks –

Govt has made available good opportunity to the non-compliant assesses through this scheme, as no interest / penalty shall be payable if such declaration is submitted and payment of dues is made within time.

However it may be noted that, scheme is for dues pertaining to specific period only and for any service tax becoming due or payable after January, 2013, no concession or immunity is available under the law. If you are seriously thinking about clearing your tax records, you can make use of this opportunity.



Tax Advisor and Story of Cinderella

The tax advisor had just read the story of Cinderella to his four-year-old daughter for the first time. The little girl was fascinated by the story, especially the part where the pumpkin turns into a golden coach. Suddenly she piped up, "Daddy, when the pumpkin turned into a golden coach, would that be classified as "Income from other sources or a long-term capital gain?"

One Person Company (OPC) as a form of Business

Background –

As a part of practice domain, company law services are provided by our firm. In many cases, family owned companies (generally Pvt. Ltd.) are formed with husband and wife as shareholders and directors. Although wife in this case is only housewife, still her association is required as Company law requires minimum 2 persons to form the company and minimum 2 individuals to act as "Directors". However, The Companies Bill, 2012 has proposed to allow floating of One Person Company (OPC).

Apart from family started businesses explained above, OPC, in our opinion, may act as a very dynamic form of business. Information in this article has been given about such provisions made in The Companies Bill, 2012.

Basic aspects –

- "One Person Company (OPC) means a company which has only one person as a member". It will naturally be a Private Limited Company.
- OPC like any other class of companies under the Companies Act, will get registered with RoC. It can be a company limited by shares, guarantee or even unlimited.
- The one member of OPC can be either a natural person or a juridical person. Thus even an existing company can also form OPC.
- In order to enjoy perpetual existence, Memorandum of Association of OPC may indicate name of another person who in the event of subscriber's death / incapacity to contract can become member of the company.
- An OPC can be converted into any other class of company

Advantages of OPC –

- OPC shall enjoy administrative / procedural relief as it need not follow stringent provisions relating to calling of extraordinary general meeting, notice of general meetings, quorum for general meetings, chairman of such meetings, proxy, voting, postal ballot, etc.
- Further, in case of OPC, the resolution required to be passed at the general meetings of the company shall be deemed to have been passed if the resolution is agreed upon by the sole member and communicated to the company and entered in the Minutes Book.
- OPC can have a single member Board or multiple member board. If it is a multiple member board, it attracts all the provisions relating to board meetings like any other class of meetings under the Act; if it is a single person board, necessary concessions are provided.
- OPC may appoint managerial personnel as per its business needs.

- OPC cannot raise equity capital from any other person other than the One Person who is a member of the company and cannot issue debentures to "public"; debentures may be issued on private placement" basis. There is no bar on raising funds through loan or instruments other than securities.

Important Foreign Exchange Management Act (FEMA) Updates –

FDI

❖ FDI - Issue of Shares against pre-operative / pre-incorporation of Expenses –
Issue of equity shares/preference shares against pre-operative/pre-incorporative expenses is permitted under the Government route, subject to specified terms and conditions. Important condition is that payments should be made by the foreign investor to the company directly or through the bank account opened by the foreign investor as provided under FEMA Regulations' ***A.P. (DIR Series) Circular No.104 dated May 17, 2013***

Exports

❖ Export of Goods and Software – Liberalisation in realisation and repatriation of export proceeds –
The period for realization and repatriation to India, of the amount representing the full value of goods or software exported was enhanced from six months to twelve months from the date of export. This relaxation was available up to March 31, 2013. RBI has now, in consultation with the Government of India, decided to to bring down the above stated realisation period from twelve months to nine months from the date of export, with immediate effect, valid till September 30, 2013. ***A.P. (DIR Series) Circular No.105 dated May 20, 2013***

SEZ

❖ Export of Goods and Services - Realisation and Repatriation period for units in SEZ
Presently, there is no time limit for realisation and repatriation of export proceeds, for the exports made by units in SEZs. Henceforth, units located in SEZs shall have to realise and repatriate full value of goods/software/services, to India within a period of twelve months from the date of export. Any extension of time beyond the above stipulated period may be granted by RBI, on case to case basis. This changes will be applicable with immediate effect and shall be valid for one year, subject to review. ***Notification No. FEMA.273/2013-RB dated April 25, 2013 and A.P. (DIR Series) Circular No.108 dated June 11, 2013***

Life

Reiki is a spiritual practice developed in 1922 by Japanese Buddhist Mikao Usui. "The Five Commandments or Principles" of Reiki are –

At least for today – 1) Do not be angry, 2) Do not worry, 3) Be grateful, 4) Work with diligence and 5) Be kind to people.

Recent changes in Income Tax E-Return and Submission of CA Reports

Direct Tax

- **New Forms prescribed** – New Income Tax Return forms for A.Y. 2013-14 (F.Y. 2012-13) have been prescribed vide Notification No. 34/2013 dt. 1st May, 2013.

Forms for Individual and HUF.

Need to file one of the applicable ITR form.

Due date for ITR 1 and ITR 2 is 31st July, 13

For ITR 3 and ITR 4 due date is

31st July (If tax audit not applicable) or

30th September (if Tax Audit applicable)

ITR 1 (Sahaj) Applicable for Individuals having Income from Salary / Pension, Income from One House property (excluding cases where loss is brought forward from previous years), Income from Other Sources (excluding winning from Lottery and Income from Race Horses)

ITR 2 Applicable to an individual or a HUF whose total income for the A.Y. 2013-14 includes :-
a)Income from Salary / Pension; or
b)Income from House Property; or
c)Income from Capital Gains; or
d) Income from Other Sources (including Winning from Lottery and Income from Race Horses)

ITR 3 Applicable to Individual or an HUF for the A. Y. 2013-14 who is a Partner in a firm and not having Income from Business or Profession under any proprietorship.

ITR 4S (Sugam) Applicable to Individual or HUF whose total income for the A.Y. 2013-14 includes :-
a) Business income computed as per special provisions of section 44AD and 44AE of the Act or
b) Income from Salary/Pension; or
c) Income from One House Property (excluding cases where loss is brought forward from previous years); or
d) Income from Other Sources (Excluding winning from Lottery and Income from Race Horses)

ITR 4 This Return Form is to be used by an individual or a Hindu Undivided Family for the assessment year 2013-14 who is carrying out a proprietary business or profession.

Forms for Other assesses

ITR 5 This Return Form can be used by a person being a Firm, AOP, BOI, Artificial Juridical Person referred to in section 2(31) (vii), Co-operative Society and Local Authority.

ITR 6 Applicable for Company Assessee

Direct Tax

ITR 7 Persons including companies required to file return u/s 139(4A) o
or u/s 139(4C) or u/s 139(4D) are required to file return in ITR 7.

Compulsory e-filing of IT Return for persons having Income over Rs. 5 Lacs – A person having Total Income in excess of Rs. 5 Lakhs, must furnish a return of income for AY 2013-14 and subsequent years only in electronically form.

E-filing of Tax Audit and other CA Reports

Tax Audit Reports to be submitted online – An assessee who is required to furnish a report of audit under sections 44AB, 92E or 115JB of the Act, shall furnish it in electronically for AY 2013-14

Other reports are also to be submitted online – An assessee required to furnish a report of audit specified under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10, section 10A, clause (b) of sub-section (1) of section 12A, section 44AB, section 80-IA, section 80-IB, section 80-IC, section 80-ID, section 80JJAA, section 80LA, section 92E or section 115JB of the Act, shall furnish the said report of audit and the return of Income electronically for AY 2013-14

Do you know ?

Trusts and NGO's

Ministry of Home Affairs, Govt of India has made available e-portal for compliances under Foreign Contribution Regulation Act (FCRA) which include – Registration, Annual Return Filing and application for accepting foreign hospitality.

Link is - http://mha.nic.in/fcra.htm

Partnership Firms

Registrar of Firms, Maharashtra Govt has launched e-portal for services relating to Submission of various forms relating to the firm. Form A has been made compulsory to be filled through this online mode.

Link is - www.rof.maharashtra.gov.in/

Borrowers & CIBIL Score

CIBIL score which is always referred by banks before granting the loans can be obtained by Borrowers before applying to the bank loan. This facility is available at just Rs. 470/- through online payment mode.

Link is - https://www.cibil.com/online/check-credit-score-for-loan.do

Purchase of Immovable property and TDS Provisions compliance

Direct Tax

Basic Legal Provisions –

Finance Act, 2013 has introduced new Section 194 IA which has provided for deduction of TDS @ 1% w.e.f. 1st June, 2013 at the time of purchase of immovable property of Rs. 50 lacs or more.

Brief details of the provision are as follows –

- Responsibility to deduct tax (TDS) in on the transferee of the property (i.e. Purchaser)
- No TDS is applicable if consideration for the immovable property is less than Rs. 50 Lacs.
- TDS rate is 1%
- TDS is to be deducted at the earliest of execution of Agreement or making the payment to the seller.
- Provision is not applicable for purchase of Agriculture property.

Procedural aspects and Circular issued by CBDT in this regard –

CBDT has issued notification on 31st May, 2013 for the purpose of procedural aspects relating to this. It provides for the following –

- TDS deducted is to be deposited in Form 26 QB
- Such TDS is to be deposited within 7 days from the end of the month in which such TDS is deducted.
- Such TDS is to be paid in electronic mode (i.e. e-banking facility)
- Further Certificate of such TDS is to be issued in Form 16 B to the payee within 15 days from the date of furnishing of challan in Form 26 QB.

Details required for Form 26 QB –

Form 26 QB as made available on website and now available for e-payment mode as well requires following aspects to be filled in –

- Details about the Purchaser of the Property –
    - PAN, Category of Purchaser, Full Name and address, whether more than 1 transferee
- Details about the seller of the Property –
    - PAN, Category of Purchaser, Full Name and address, whether more than 1 transferor
- Details about the Property –
    - Type of Property (Land or Building), Detailed address, Date of Agreement / Booking, total value of consideration, Payment type (Limp sum or installments)
- Details about the Payment of TDS –
    - Total amount paid, TDS rate, TDS amount and mode of payment.

Electronic Payment by deductors not having net-banking facility –

- Since this TDS formality is not routine nature, an alternative has been provided to deductor who is not having net-banking facility.
- The deductor has to fill the information online and then opt for e-tax payment on subsequent date option. On completing the form, an acknowledgement will be generated.
- The deductor can then visit a bank branch for payment and request the bank to make e-payment based on the acknowledgment number through TIN website.

Other important remarks about the provision –

- In case valid PAN of seller is not available , tax deduction will be at higher rate of 20%.
- The purchaser is exempt from the obligation to obtain TAN, which is otherwise mandatory for all deductors.
- Form 16 B shall be downloaded from the TRCES portal.
- In case wrong PAN is entered, there is no facility of correcting the same online and only option available is to approach the Assessing Officer or TDS-CPC.

Pay your taxes in time !

(Dues dates falling in July to Sept 2013 Quarter)

Income Tax	Service Tax	Vat and CST	Profession Tax
7th July, August and Sept – Payment of TDS **15th July** – TDS Return for Q 1 FY 2013-14 **31st July** – Income Tax return by non-corporate, non-audit assesses. **15th September** – Advance payment of Income Tax **30th September** – Return by Corporate and Audit assesses.	**5th July** – Quarterly Payment of Service Tax (for Individual and partnership firms) **5th July, August and September** – Payment of Service Tax (other than Individuals and Co) **31st August 2013** – Service Tax Return for October to March 2013	**10th July** – Uploading of Annexure by dealers not requiring Form 704 **21st July** - Vat / CST payment by Quarterly filers **21st July, August and September** – Payment of Vat and CST by Monthly filers. **31st July, August and 30th September** – Vat / CST return by monthly filers	**31st July, August and 30th September** – Monthly PTRC return by assesses making payment of Profession Tax over Rs. 50,000 p.a. in last financial year.

Due Diligence in Business Takeovers

Introduction –

Due diligence is a process of thorough and objective examination that is undertaken before corporate entities enter into major transactions. Examples of such transactions can be mergers and acquisitions, issuing new stock or other securities, project finance etc. Basic objective of due diligence is to minimize to the extent possible risk of unknown liabilities. The Due-diligence exercise involves investigation into the business, tax, financial, accounting and legal aspects of an issuer. Due diligence is not applicable for MNC's but for any businesses taking over or making tie up arrangements with other business houses. It is also useful in valuation of business for takeovers.

Types of Due Diligence –

The approach to due diligence depends on the type of transaction and what is intended to be achieved.
Due diligence may be of various types:

- ✓ Commercial due diligence – It involves review of commercial aspects relating to review of industry, market, and business model of the issuer.
- ✓ Reputational due diligence – review of credit worthiness and reputation of individual counterparties.
- ✓ Financial due diligence – It includes review of tax dues pending, if any, financial position of the business, policies and internal controls.
- ✓ Legal due diligence – Under this, review of documentation is done to identify potential legal issues that may be risks to the transaction or the general operations of the issuer, that may affect the value or consideration in connection with the transaction

Uses of Due Diligence –

Due Diligence generally offer following advantages / uses –

- ➢ Structuring of transaction – It helps to understand the issues relating to structuring or documentation of the transaction.
- ➢ Valuation Management – It provides guidance about the valuation of proposed business transaction.
- ➢ Risk Mitigation – It helps in identifying the issues relating to risks and helps to provide for measures in order to mitigate the risks.

Scope of Due Diligence –

The scope of due diligence depends on the nature of transaction proposed to be undertaken. Broadly, it covers following –

- ✓ To obtain material information so as to make informed decision on the proposed business transaction.
- ✓ To assess the nature and extent of the risks involved in the business transaction and highlight them.
- ✓ To advise possible risk mitigation techniques / advise on valuation of proposed business transaction.

Due diligence report shall generally highlight on the following points –

- ✓ Company structure, shareholding pattern, corporate compliance, financial position etc.
- ✓ Validity and enforceability of important contracts, rights and obligations under the contract.
- ✓ Employment matters, labour issues, pending cases, if any.
- ✓ Pending litigations with the customers, suppliers and others.
- ✓ Business overview, projection and possibilities / obstacles in achieving them.
- ✓ Pending tax and legal issues, if any.
- ✓ Adequacy and sufficiency of insurance covers.
- ✓ Borrowings details, position of accounts, current and past dues.
- ✓ Licenses, approvals, off balance sheet assets and liabilities.
- ✓ IPR and other properties, if any

Concluding remarks –

Due diligence is essentially a process done by experts to evaluate the proposed business transaction to recommend price adjustment and / or highlight risk factors and / or providing of conditions to be incorporated in business contracts. It helps to make informed business decision and is useful small as well as large business houses.

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