CORPORATE NEWS

Growth momentum to continue in FY07-08: RBI

The country's economic growth momentum is expected to continue at a strong pace this fiscal but inflation could emerge as the main downside risk, the Reserve Bank of India (RBI) said.

Steady increase in gross domestic saving and investment rates, consumption demand, addition of new capacity as well as more intensive and efficient utilisation and capitalisation of existing capacity are expected to support growth in 2007-08, the apex bank said in its annual report for 2006-07.

The central bank had earlier in its monetary policy pegged the GDP growth at 8.5 per cent this fiscal. India is the world's second-fastest growing major economy after China and recorded an average of 8.6 per cent growth in the last four financial years ending 2006-07. The country posted a record 9.4 per cent growth in 2007-08.

The annual report said, a higher growth in demand is placing greater pressure for accelerated expansion of supply of infrastructure, despite some efforts to remove supply constraints in the sector. Capacity utilisation was especially stretched in sectors such as electricity generation, roads, ports and major airports, the RBI said.

July exports up 18.5% in dollar terms

India's exports continue to maintain high growth tempo despite the appreciating rupee vis-a-vis dollar, as export growth during July 2007 was 18.52 per cent in dollar terms at $12,494.11 million, against $10,542.14 million in July 2006.

Provisional figures released by the Department of Commerce based on data compiled by the Directorate-General of Commercial Intelligence & Statistics (DGCI&S) reveal that cumulatively, the country's exports during the first four months of the current fiscal (April-July) registered a relatively healthy growth of 18.22 per cent at $46,797.61 million, against $39,586.71 million during the corresponding period of 2006.

FII investment ceiling in PSU banks to stay at 20%, for now

The government said that no proposal is under consideration to raise the ceiling of Foreign Institutional Investors' (FII) holding in public sector banks from the current level of 20%. The government has received representations from public sector banks to increase the foreign investment limit.

Analysts say that limiting FII holdings in banks attract domestic investors. FII investments have almost touched the 20% ceiling in nearly half a dozen public sector banks including Allahabad Bank, Andhra Bank, Bank of Baroda, Punjab National Bank and Union Bank of India.

Further, the Reserve Bank of India is monitoring a dozen private banks that have more than 15% FII holding. Banks including Centurion Bank of Punjab, Development Credit Bank, Federal Bank, HDFC Bank, Axis Bank and YES Bank, among others, are being monitored.

In cases where the 20% limit has been reached in public sector banks, fresh purchases by FIIs are barred. According to RBI, in public sector banks, FIIs can invest up to 20% of the paid-up capital and 49% in case of private sector banks.

'India remains favourite outsourcing destination'

When it comes to outsourcing, India continues to rule as the favourite global destination, even though factors like emergence of cheaper destinations, employee and salary crunch are adversely affecting the sector, a recent study shows.

India holds an edge as it commands global confidence to produce perfect turn around time (TAT), a recent study by recruitment solutions provider Elixier Solutions shows. TAT is the time needed for performing a task, especially receiving, completing, and returning an assignment.

At present outsourcing business in India is increasing at a rate four times more than any other country and the county has the resource and margin to meet the competition. According to the study, growing at a rate of 40% annually, India is the lead player in this sector followed by China at the second spot with a growth rate of 25%.

Mobile boom helps India reach Internet goal before time

India has surpassed its Internet subscriber target of 40 million, more than three years ahead of time. Department of Telecommunication (DoT) had set a goal of 40 million Internet subscribers through 'various technologies' by 2010, which has been met in 2007.

As of March 31, 2007, India had about 9.2 million Internet subscribers on personal computers (PCs) and 31.3 million subscribers on mobile phones (both GSM/CDMA). The DoT had set a 40 million subscribers target in its broadband policy of 2004. DoT is now planning to set a new target.

Rupee surges to 9-year high

The rupee surged to a nine-year high closing at 39.88/89 against the dollar, a level that has not been seen since May 1998. Spurred by strong Foreign Institutional Investor dollar inflows in the stock market, the rupee opened at 40.06/08 and ended the day at 39.88/89, 30 paise from the previous close of Rs. 40.20.

SEBI simplifies listing norms

The Securities and Exchange Board of India (SEBI) has directed all stock exchanges to replace the existing Clause 41 of the Equity Listing Agreement with a revised one, which aims to rationalise and modify the process and formats for submission of financial results to the stock exchanges.

The revised clause also contains other modifications aimed at improving the presentation of the sub-clauses.

Among the modifications, the revised clause requires listed companies to furnish either unaudited or audited quarterly and year to date financial results to the stock exchange within one month from the end of each quarter. Where the unaudited results are furnished, the same are required to be followed with a limited review report. This is with a view to enabling investors to know the performance of listed companies as early as possible.

The revised clause has also simplified the provision for explanation in variation between items of unaudited and audited quarterly, year to date and annual results.

The revised clause requires that explanation for variation be furnished in respect of net profit or loss after tax and for exceptional and extraordinary items.

The percentage of variation for the purpose is revised from '20 per cent or more' to '10 per cent or Rs. 10 lakh', whichever is higher.

As regards the publication of financial results, companies having subsidiaries, which file both stand alone and consolidated results to the stock exchange, will now have an option to publish standalone or consolidated results, subject to the condition that a choice once exercised cannot be changed during the year.

In case the company changes its option in any subsequent financial year, it would be required to furnish comparative figures for the previous financial year in accordance with the option exercised for the current year.

The Securities and Exchange Board of India also amended its Disclosure and Investor Protection guidelines to enable government companies, statutory authorities and any special purpose vehicle set up by any of them, which are engaged in the infrastructure sector, to raise funds in the Indian primary market through Initial Public Offerings (IPOs).

Among them, the clauses requiring promoters' contribution and the minimum holding requirement of pre-issue capital would not be applicable to government companies, statutory authorities and or special purpose vehicles set up by them, which are engaged in infrastructure sector.

FOREIGN DIRECT INVESTMENT ("FDI")

'Common FDI norms for cable, DTH, HITS & radio'

Telecom regulator TRAI has asked the government to bring the FDI sectoral cap for cable TV services, Direct-to-Home services, Head End in the Sky (HITS) and satellite radio to 74%, making it on par with the FDI sectoral cap for the telecom sector. If accepted, this will mean that the FDI cap for cable TV, DTH and HITS will rise while that of satellite radio will fall.

In a communication to both the Department of Industrial Policy and Promotion (DIPP) and also to the Information and Broadcasting (I&B) ministry, TRAI has called for a complete and holistic review of the FDI policy for the various sub sectors in telecommunications and broadcasting. The logic: "This will lead to consistency in policy and a level-playing field between competing technologies."

TRAI has also pointed out to the government that "in the era of convergence where the distinction between voice, internet and video is vanishing, having different FDI limits for different carriage medium was anomalous". The regulator also said that the FDI policy should be consistent across all sectors, as this will ensure "that policies are not a stumbling block where there is a natural convergence of technologies".

FTA with Asean likely by Nov

The much-awaited India-Asean Free Trade Agreement (FTA) is expected to be inked at the Asean Summit in November this year when the Prime Ministers meet in Singapore.

However, reports said Asean has pointed out persisting differences and hoped that the November talks would give a political push for the agreement to be signed.

The differences are reportedly due to Asean's insistence that India remove petroleum products, palm oil, pepper, tea and coffee from the sensitive list as these constitute a significant portion of their trade with India.

Pillai, who was in Manila last week for talks on the India-Asean (Association of Southeast Asian Nations) free trade agreement, told that "there was positive movement from both sides" and added all modalities were likely to be "tied up" by September 30.

India's bilateral trade with Asean countries has more than doubled in three years, having increased from $ 9.7 billion in 2002-03 to $23 billion in 2005-06 with exports from India constituting $8 billion. With the FTA in place in November, India expects its exports to Asean to touch $22 billion by 2012.

Though Asean's share in India's foreign trade rose slightly from 6% in 1991 to 9% in 2002, India's share in Asean's trade was a miniscule 1%.

Asean comprises Brunei, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam.

India has offered to start tariff cuts by 2-3% on edible oil annually soon after the FTA comes into force. This is a departure from its earlier stance of reducing it from 2012. Going by the latest offer, tariffs on refined palm oil would be cut from 90% to 60% and those on crude palm oil would be cut from 80% to 50% and significantly, these cuts will have a deadline of 2018, instead of the earlier 2022.

Pvt firms invest record $3.8 bn in India

Global private equity firms, including Blackstone and Carlyle Group, have made an investment of USD 3.8 billion in 2007 so far in the country, up 50 per cent from the year-ago period.

The record volume has been reached through 81 M&A deals.

Last year, foreign private equity players had invested USD 2.6 billion, data complied by global consulting firm Dealogic showed.

Carlyle Group is the leading "financial sponsor" in India with investment of USD 777 million via two deals, including acquisition of over six per cent stake in HDFC.

It is followed by Dubai International Capital, which acquired a 2.87 per cent stake in ICICI Bank for USD 741 million, and Blackstone Group with USD 619 million inflow via eight deals.

Financial sponsor is a term commonly used to refer to private equity investment firms, particularly those engaged in leveraged buyout transactions.

Blackstone Group, the world's leading private equity firm, has acquired stake in companies such as Intelenet Global Services, Punj Lloyd and Gokaldas Exports.

India to receive $20 bn FDI a year till 2011: Report

India is likely to receive foreign direct investment of $20.4 billion every year during 2007-11, even as executives around the world see developing countries as having "heightened political risk".

According to a report by Economist Intelligence Unit, compiled in cooperation with Columbia Programme on International Investment (CPII), there is "significantly heightened political risk perceptions among the investors".

This, the report said, is especially in the case of emerging markets where all four forms of political risk - political violence, FDI protectionism, threats associated with geo-political tensions and government instability - are seen increasing over the next five years.

For developed countries also, there is a widespread concern about rising FDI protectionism, the threat of terrorism in the United States and Britain and impact of geo- political tensions ranging from effects of possible conflict with Iran and Islamic radicalism to Russian-Western frictions.

FDI proposals worth Rs 284 cr gets nod

The Centre cleared 17 proposals involving a total foreign direct investment (FDI) of Rs 284.76 crore, including that of a group firm of French banking major Societe Generale for undertaking financial services.

The French firm, Sogeparticipations, plans to inject Rs 205.8 crore in India to set up a wholly owned subsidiary for providing financial services. The subsidiary plans to undertake portfolio management and investment advisory services. However, the company would have to meet the conditions of Press Note 1, as per which it must secure approval of Societe Generale's existing joint venture with State Bank of India that provides asset management services.

The 17 proposals have been approved by finance minister P Chidambaram on the recommendations of Foreign Investment Promotion Board (FIPB). These also include a joint venture by Arvind Mills and Netherlands-based lifestyle company Diesel Fashion for selling Diesel's garments and accessories in the country, which will bring FDI of Rs 5.10 crore.

Proposals by two foreign firms New Vernon Pvt Equity and Passport Global Master Fund SPC Ltd of British Virgin Islands picking up 5% stake each in Delhi Stock Exchange for a total of Rs 21.22 crore were also cleared. With this, DSE will have FDI of 25% of so far.

TAX

Refund Banker System to be implemented by next financial year

Long wait for income tax refunds will be a thing of the past as tax-payers will get their dues back within three days of assessment of claims when the Refund Banker System is extended throughout the country from the next financial year. As a pilot project, Refund Banker System has already been launched in New Delhi and Patna and is quite successful and it is expected that by the next financial year, the system will be implemented all over the country.

Govt takes steps to prevent misuse of DTAA

Companies moving in through the Mauritius/Cyprus route to take advantage of concessional tax rates (under the double taxation avoidance agreement or DTAA) may soon run into a wall. The direct tax code, which is being drafted, plans to prevent the misuse of tax treaties by introducing anti-abuse provisions. Several companies from Europe and the US prefer to route investments through Mauritius to avail of tax breaks. There are also concerns over 'round-tripping', when domestic funds go out of the country and come back from Mauritius to avail of capital gains tax exemption available under the agreement.

Claim tax relief on overseas losses

Corporates and banks have been allowed to use losses suffered by 'overseas branches' to lower the tax outgo in India. So far, taxes had to be paid on the full profit generated in India, irrespective of whether the foreign branches posted a loss. From now on, the taxable income in India will go down to the extent of losses suffered abroad.

RBI allows FIIs to pledge foreign G-Secs as collaterals

Foreign Institutional Investors can have a bigger play in the Indian stock market. The Reserve Bank of India (RBI) has paved the way for them to have a higher leverage while investing in India. The Central bank has cleared the operational hurdles for FIIs to pledge foreign sovereign securities like US treasury bills for taking positions in futures and options. Till now, FIIs were mandatorily required to give cash as margin for investing in derivatives. From now on, foreign portfolio managers can dip into their idle holdings of bonds issued by overseas governments to give margins against F&O trades in Indian stock exchanges.

RBI may scrap reverse repo cap

The Reserve Bank of India (RBI) may remove the cap on daily liquidity absorption to modulate excess cash in the banking system and to improve the efficacy of interest rate signals in its first quarterly monetary policy review. Bankers said the RBI had the option of either increasing the amount it would absorb through the reverse repo window from the current maximum of Rs 3,000 crore or remove the ceiling altogether.

Govt scraps ACD on imported spirits, beer

The Centre withdrew the additional customs duty (ACD) imposed in lieu of state excise duty on imported liquor, wine and beer, a Central Board of Excise and Customs (CBEC) Hitherto, the ACD ranged between 20% and 150% over and above the basic customs duty of 150% for spirits and liquor. The basic customs duty on wines, however, is being increased from 100% to 150%, the WTO bound rate, a CBEC release stated. Spirits and liquor will continue to attract basic customs duty of 150%. Government sources said separate legislation allowing states to impose a special levy would be introduced in Parliament soon.

Tribunal puts hire purchase financing out of excise tax net

There is good news on the tax front for hire purchase financiers. The Customs, Excise and Service Tax Appellate Tribunal in a recent ruling said that hire purchase financing is not a taxable service. The tribunal took this view in case of Bajaj Auto Finance. It distinguished a hire purchase arrangement from a hire purchase finance arrangement for taxation purpose. The tribunal held that fundamentally, in case of hire purchase arrangement, the title to the goods remains with the hire purchase company whereas in case of hire purchase financing arrangement, the title to the goods remains with the hirer.

CASES AND JUDGEMENTS

Urmi Juvekar Vs CNN IBN

Urmi Juvekar registered a concept for a reality television show called 'Work in Progress' with the Film Writers' Association. The concept was simple: three citizens or citizen's groups at three locations across the country take up a troublesome civic issue and try to solve it on a campaign footing within a month.

Urmi wrote to Rasika Tyagi from CNN IBN after a telephonic conversation and e-mailed her the concept note. Rasika Tyagi wrote back saying that she found the concept note interesting and asked for a meeting. After the meeting it was decided that the show would be considered for production after the Cricket World Cup, 2007.

Shortly thereafter, CNN IBN puts on a new show 'Summer Showdown'. It is a daily 3-minute capsule and, their website ibnlive.com advertises it as a reality show showcasing five families across five metros solving their civic problems in 4 weeks.

An action is filed in the Bombay High Court, claiming breach of confidentiality, and infringement of copyright.

The Bombay High Court after hearing both sides stated that "An action of breach of confidence succeeds only if Plaintiff could identify clearly what was the information he was relying on and has to be shown that it was handed over in the circumstances of confidence and could be treated as confidential." (*ratio decidendi*)

In this case, since Urmi Juvekar copyrighted the idea, and the conversations between her and CNN-IBN were definitely not intended for public circulation, and hence were confidential, the Bombay High Court decided in her favour, and ordered an injunction on CNN-IBN, restraining them from airing 'Summer Showdown'.

Considering the landmark nature of the judgement and the significance of it for independent film makers, script-writers and the Film Writers' Association, there is not much news of it. The reason is that the media refuses to touch the story, because of the implications it has on its industry.

Surfing, Kangaroos, Ricky Ponting and M&A

Australia has long been known in India for its long beaches, kangaroos and cricketing prowess, particularly its captain Ricky Ponting. What Australia is less well known for, however, is its M&A activity and specifically its current standing as one of the most prolific (if not most prolific) M&A centres of the Asia Pacific region. Such activity has considerable opportunities for Indian companies to participate through acquisitions, as well as to benefit by attracting Australian investment and joint venture partners. The Australian experience in M&A also presents contrasts with India that may foreshadow opportunities for legal practice in India, making Australia more then a nice beach or home of the World Cup winning cricket team (sorry to rub that in!). This article discusses one recent transaction.

Australian M&A in 2006

The Thompson M&A League Tables for 2006 record Australian M&A completed deals with consideration of $US109 billion.[1] This is significantly less than the United States ($US1,540bn) and United Kingdom ($US338bn), but greater than Japan ($US102bn), China ($US46bn), India ($US35bn), Hong Kong ($US28bn) and Singapore ($US16bn). This buoyancy has continued into 2007, with around $80 billion of deals announced in the first half of the year according to figures of the Reserve Bank of Australia.[2] The value of deals has been spurred by a strong economy and a booming resources sector. Favorable credit conditions, improved capital gains tax treatment for non-resident shareholders and conservatively leveraged balance sheets have also made Australian companies particularly appealing to private equity investors.

Of course, at the same time, Australia is not experiencing growth in M&A close to that of India and will be surpassed by India in terms of value of deals completed in the near future.

Proposed sale of Australia's second largest retailer, Coles Limited

Woolworths Limited (with a market capitalization of US$28bn) and Coles Limited (US$19bn) dominate Australia's retail market and between them benefit from approximately 50% of retail sales. Their businesses include supermarkets (up to about 5000 square meters in size) that can be found in every suburb of Australia's major cities and regional towns and discount retailers similar including Kmart and Target brands. They also operate specialty retail brands in office and IT supplies, electronics, liquor, petrol and convenience stores.

Mid way through 2006, US private equity firm Kohlberg Kravis Roberts made an unsolicited conditional offer for Coles Limited worth $18.2 billion following disappointing sales at the retailer's supermarket chain which were failing to match the growth of market leader Woolworths. The Coles' Board responded by claiming the offer undervalued the company and they proposed their own ambitious new sales targets to keep shareholders at bay. When the sale targets became impossible to reach in early 2007, the board promptly declared the entire business for sale.

Wesfarmers, an Australian conglomerate with a similar market capitalization to Coles and businesses in retail (big box hardware centres), coal mining, chemicals, energy and insurance promptly purchased a blocking stake in the retailer of 11%, enough to prevent a takeover which under Australian law requires 90% acceptances prior to compulsory acquisition. In particular Wesfarmers entered into an agreement with one of Coles' largest shareholders to purchase almost 5% of the retailer's equity. This agreement included a clause providing that if a higher offer eventuated, the Seller would be granted a call option over the Coles shares sold, unless the Buyer met the difference as consideration for buying the right to exercise the call option. This is very similar to an escalation clause (which under Australian law is prohibited), but sufficiently different in substance to not warrant investigation by the Australian corporate regulator.

In July, with the cost of debt rising, several private equity bidders reneged on making offers for Coles leaving a Wesfarmers offer with consideration by way of a mix of cash and Wesfarmers' shares the only offer made. The two companies agreed to a Scheme of Arrangement, favored in Australia to a takeover given the less onerous shareholder consents required (75% by value and 50% of voting shareholders as opposed to 90% acceptances required in a takeover to enable remaining shares to be compulsory acquired). Coles subsequently entered into a Scheme Implementation Arrangement with Wesfarmers and an independent expert recommended the transaction (such recommendation required under takeover and scheme of arrangement laws in Australia in certain instances). The transaction now awaits shareholder approval of Coles' members.

Conditions precedent and termination rights included in the Scheme Implementation Agreement that have been publicly disclosed include:

- Each party has termination rights if the 20 day VWAP for Wesfarmers shares falls by more then 10% below the closing price on date of the Agreement AND under performs the S&P/ASX 200 from the same date by more then 10% averaged out over a 20 day period.
- Coles shareholders and the Supreme Court must approve the scheme in accordance with the Corporations Act.
- No Prescribed Occurrences (defined to include changes to capital structure, share issues and insolvency events) can occur for either party or the other party is granted a right of termination.
- Regulatory approval under insurance legislation is required as a result of Wesfarmer's insurance business.

The Scheme Implementation Agreement also included a break fee of $150 million and a non-talk provision. The break fee is payable if:

- a competing transaction is successful; or
- where a majority of Coles directors either recommend a competing transaction or withdraw their support for the Scheme except where the independent expert concludes that the Scheme is not in the best interests of the Coles shareholders; or
- there is a material breach of the scheme implementation agreement by Coles and the agreement is subsequently terminated.

The no-talk provision as disclosed provide:

- until the earlier termination of the agreement and the implementation date (restricted period) and subject to an exception for what may constitute a superior proposal, Coles must ensure that neither it nor its related persons enter into any negotiations or discussions with any person regarding a competing proposal or provides any information to a third party that may lead to a competing proposal;
- during the restricted period, Coles must ensure that neither it nor its related parties take any actions that could reasonably be expected to lead to a competing proposal;
- during the restricted period, Coles must notify Wesfarmers if it is approached by another person to engage in any activity with respect to a competing transaction or of any request for information which may lead to a competing transaction.

Due to recent sharemarket volatility in Australia and around the world, share prices in both Wesfarmers and Coles have fallen significantly since the transaction was announced, resulting in the value of the consideration payable by Wesfarmers (given it is predominately payable by issue of Wesfarmer's equity) being significantly reduced. In response, to retain the support of Coles' shareholders, Wesfarmers amended its bid by providing that half of the share consideration would be provided by way of a new Wesfarmers share (called a Wesfarmers Price Protected Share or WPPS) whereby holders (Coles selling shareholders) would be guaranteed a $2 fully franked dividend each year and receive compensation in the form of additional shares in 4 years time if the Wesfarmers share price at that time did not exceed $45.

The fall in Wesfarmers share price resulted in the Independent Expert finding that the offer price was not within the fair value range of Coles shares, but nevertheless recommending the offer as in the best interests of Coles shareholders given many factors including the absence of any other buyer and recent market volatility. The sale now awaits a vote of Coles shareholders to take place next month.

While all this is taking place, Woolworths continues to grow its market share in Australian retail taking advantage of the distractions faced by its nearest rival. Woolworths is also looking further a field, including India. In October 2006, Woolworths signed a joint venture with Tata's retail arm. The deal is being heralded as a first of its kind in India because rather then providing for a franchise structure, Woolworths operates a wholly owned Indian wholesaler and distributor that acts as the sole distributor to Tata's Croma store. However, Woolworths also provides support in terms of floor design, staff training and system/technical requirements for running the stores, giving inputs into operational issues in addition to supply.

This article has been contributed by Joel Cox, Australian Lawyer who is at present doing his secondment with FML.

POLITIKING

Rural job scheme for entire country

The Union government on Friday announced the extension of the National Rural Employment Guarantee Act (NREGA), which guarantees 100 days of wage employment to rural households, to all districts in the country.

Mohammad Hamid Ansari sworn in as 13th Vice-President

Mohammad Hamid Ansari was sworn in as the country's 13th Vice-President. The oath of office was administered by President Pratibha Patil.

INHOUSE NEWS

- Mr. Indranil Ghosh and Mr. Rodney Ryder have been nominated for "The International Who's Who of Commercial Litigators 2007" and "The International Who's Who of Regulatory Communications 2007" respectively.
- FML has won yet another award namely the ILO (International Law Office) CLIENT CHOICE AWARD for 2007.
- FML as a part of its larger social responsibility organized an art exhibition, visited by the noted actress, Nafisa Ali and famous director Mr. Madhur Bhandrakar amongst other personalities. FML has dedicated permanent space for upcoming artists' works with a view to encourage and provide a much needed platform to serve their potential.
- The Hon'ble Law Minister Mr. H.R Bharadwaj along with the Hon'ble Solicitor General Mr. Milon Kumar Banerjee inaugurated the new FM House building adding to its world class facilities to better serve its clients.

TRAVEL SECTION

Set like a jewelled crown on the map of India, Kashmir is a multi-faceted diamond, changing its hues with the seasons - always extravagantly beautiful. Two major Himalayan ranges, the ***Great Himalayan Range*** and the ***Pir Panjal***, surround the landscape from the north and south respectively. They are the source of great rivers, which flow down into the valleys, forested with orchards and decorated by lily-laden lakes.

The Mughals aptly called Kashmir 'Paradise on Earth' where they journeyed across the hot plains of India, to the valley's cool environs in summer. Here they laid, with great love and care, Srinagar's many formal, waterfront gardens, now collectively known as the *Mughal Gardens*. Anecdotes of four and five centuries ago describe their love for these gardens, and the rivalries that centred around their ownership. They also patronized the development of art & craft among the people of Kashmir, leaving behind a heritage of exquisite artisanship among thes people and making the handicrafts of the land prized gifts all over the world.

Kashmir is a land where myriad holiday ideas are realised. In winter, when snow carpets the mountains, there is skiing, sledge-riding, etc. along the gentle slopes. In spring and summer, the honey-dewed orchards, rippling lakes and blue skies beckon every soul to sample the many delights the mountains and valleys have to offer. Golfing at 2,700 m above the sea, water-skiing in the lakes and angling for prized rainbow trout, or simply drifting down the willow fringed alleys of lakes in shikaras and living in gorgeous houseboats are some of the most favoured ones.

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Special Message: We shall appreciate any comments or suggestions that you may have.

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FOX MANDAL

NEWS TIME

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Editorial

Who controls human marriages in developing countries? The Supreme Court of India must be the only apex constitutional court in the world that is being asked persistently to answer this question, even as it insists on transparency and fairness in corporate marriages called mergers. As the ten percent GDP per annum growth rate becomes a reality, rural and urban India finds economic prosperity creating change which traditional cultures find difficult to absorb. Caste, social, property and residential structures are compelled to change towards better nutrition, education , awareness and security for the girl child. Micro finance, targeted schemes for the pregnant and lactating mothers, mid day meals at schools, special provisions for the girl child's development , spark off economic mobility and security. The logical consequence of young girls and boys falling in love and marrying regardless of caste and sub caste meets powerful and sometimes violent resistance from historical village caste organizations. The litigation lawyer in India is called upon to handle not only corporate marriage problems but also the unique socio- legal problems of eloping rural couples seeking safety through courts. Ultimately the cases end up in the highest court which is asked to rule on the power of caste organizations , the right of a woman to choose her marriage partner and the safety net that must be provided to such couples even as the court weaves a constitutional safety net for labour affected by developmental change.

This saga of the Indian Supreme Court's catalytic and protective role to deliver gender justice as a part of the constitutional promise of justice social, economic and political, has gone unnoticed in the financial and legal world. Its insistence through judgments combined with the power of contempt against officials and private citizens has resulted in effective affirmative action for the historically under privileged and exploited. Accordingly it has laid down specific administrative mechanisms for the delivery and audit of subsidized grains for those below the poverty line, the fundamental right of citizens against malnutrition, the duty of the State to provide a minimum of food, education, health care, shelter, clothing and livelihood. This judicial drive to effectively create productive human capital has resulted in new opportunities for the girl-child and the opening of new horizons for young women. With this has come a sense of personal freedom and choice that manifests itself in new careers and new ways of marrying beyond the inarticulate but imposed sanctions of caste, sub castes and patriarchal domination. It is a long haul based on case to case creation of space for women to fashion their lives in their own way. But the cases act as demonstration effect models to violent suppression in the name of caste, sub caste and family honour in the defined territory called the village. Hence from the appointment of dowry prohibition officers to ensure the economic viability of marriages to the banning of sanctions by caste associations against the free choice exercised by a woman in choosing her partner, the Indian Supreme Court today ensures a peaceful transition from girl hood and womanhood in a caste context to marriage in a non caste context. There are problems of enforcement. There are also problems of legal help coming too late. But the movement goes on in constitutionally directed change.

Majority of women in the developing world or transforming economies face universal problems of development, change and choice of partners in their respective socio-economic and legal contexts. Like India's Special Marriage Act, 1872 since British times, there are common problems of the framework of colonial laws being made to work to meet modern change in man woman relationships. Colonial court structures, simply enlarged after independence to meet larger volumes of litigation, struggle through such legal frameworks to innovate and give relief to the men and women who are victims of the development-change paradigm. But as of today there are no platforms for a sharing and resolution of these universal problems of marital choice faced by those in the developing world. Of what use is global finance and global investment if the global scenario of marriages ends up as a human deficit? Gender, property and investment share a common future of mobility , efficiency and productivity to the extent that they are all freed from restrictive patriarchal regimes in the developing countries enforced through modern law or traditional law recognized through custom. Such custom as the socially binding precedent simply nullifies the power of modern legal precedent. Modern global change becomes a high cost painful process in the search of gender freedom when this could be reduced by global action that makes the rural African, Latin American, Arabian and Asian woman as targets of a joint struggle for gender freedom and finance.

This issue of FM informs you about the new development occurring in the Indian economy concerning new proposals cleared for FDI investment, the attractive investment destination India will continue to be despite heightened political risks in developing countries and that India remains the favourite outsourcing destination. With bulging forex reserves the India story continues as Forbes Asia Fabulous 50 List names twelve Indian companies in its annual ranking of big cap, profitable companies in Asia. A thoughtful write up on M & As in Australia and a path breaking decision of Bombay High Court in a copyright case round up the reading. A delayed winter is around the corner. So FM recommends a trip to Kashmir for enjoying winter sports. The festive season is about to start. FM wishes its readers a happy Festival of Lights in November.

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Clippings

Prime Minister Manmohan Singh with German Chancellor Angela Markel during the G-8 Summit

Forex Kitty bigger by $2.4 billion

After two weeks of consecutive fall in reserves, the forex kitty went up by $2.404 billion to $228.849 billion for the week ended August 24.

The reserves in gold and SDRs remained unchanged at $6.887 billion and $2 million respectively. The reserve position in the IMF went up by $2 million to $455 million.

NSE becomes world's 2nd fastest growing stock exchange

The National Stock Exchange has become the world's second fastest-growing bourse in terms of number of listed companies, while Bombay Stock Exchange has consolidated its position as the biggest bourse.

India Inc on top in Forbes list

China may be the 'world's factory,' but Indian companies, led by software giants TCS and Infosys, continue to outshine and dominate the annual ranking of big-cap, profitable companies in Asia.

A total of 12 Indian companies made it to the third annual 'Forbes Asia Fabulous 50 List', followed by Taiwan with 10 and China with seven, Forbes Asia said in a press release.