ACCOUNTING AND COMPANY LAW

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EXECUTIVE SUMMARY

- **Accounting**

  - The Institute of Chartered Accountants of India (ICAI) has issued an expert advisory opinion on depreciation for additions made to existing unit and for addition of separate (new) unit in a refinery. As per the said opinion:
    - Part of the existing asset cannot have useful life longer than its existing asset based on presumption that it can be used in new asset or existing asset's useful life would be revised in future.
    - Useful life of new unit in a refinery can be longer than the refinery as the new unit has a separate identity and can operate independently of the existing asset (i.e. refinery in the present case).

  - Accounting Standards Board of ICAI has issued exposure draft of Ind AS compliant Schedule III to Companies Act, 2013 for NBFC's.

- **Company Law**

  Ministry of Corporate Affairs ('MCA') has issued clarification in respect of applicability of provisions of winding up to a foreign company.

1. Accounting

1.1. Expert advisory opinions

Depreciation for additions made to existing unit and for addition of separate (new) unit in a refinery:

A. Facts of the case

- A company is engaged in refining of crude oil. The refinery consists of various units; one of the unit is Hydrocracker unit. The refinery and Hydrocracker unit was capitalised on 1st October 2000. Diesel Quality Upgradation Plan (DQUP) and others which is a part of Hydrocracker Unit was capitalised during 2009-10 and in the financial year (F.Y.) 2014-15, Wax Plant Unit (new unit) was capitalised.

- During financial year 2014-15, while applying provision of Schedule II of Companies Act, 2013, useful life of the all units were considered as 25 years from the date of capitalisation. Consequently, useful life of DQUP was longer than the useful life of Hydrocracker unit as explained in table below.

Particular	Hydrocracker unit	DQUP
Date of commission/ capitalization	2000-01	F.Y. 2009-10
Useful life of asset (As per Companies Act, 2013)	25 years	25 years
Year of expiry considered by company	F.Y. 2024-2025	F.Y. 2034-2035

- As per the Company, DQUP can be used in new unit or there can be expected revision of useful life of Hydrocracker unit in future. Further, Wax Plant unit is a separate processing unit and can operate independently of the refinery. Therefore, Company is of the view that different useful life for (a) DQUP and Hydrocracker unit and (b) Wax plant unit and refinery, is in compliance with the provisions of component accounting prescribed in Schedule II.

- In view of CAG, useful life of DQUP should be restricted upto F.Y. 2024-25 i.e. expiry of Hydrocracker unit and Wax Plant unit should also be restricted upto F.Y. 2024-25 considering end date of refinery.

B. Query

- Whether the company should consider useful life of the plant and machinery for DQUP which was added to the Hydrocracker unit F.Y. 2009-10 as 25 years from 2009-10 or as 25 years from the date of initial capitalisation, i.e., 01.10.2000.

- Whether the company should consider useful life for the plant and machinery of the additional facility added to the refinery in the form of Wax Plant which was capitalised during 2014-15 as 25 years from the year of commissioning of the Wax Plant or as 25 years from the initial year of the refinery commissioning, i.e., 01.10.2000.

- Going forward, in case additional facilities are added to the refinery and the useful life of the refinery as per Schedule II of 25 years is over, what need to be considered as the useful life for any such new additions?

C. Points considered by the committee

- In the context of Accounting Standard (AS) Rules, 2006 (hereinafter referred to as (pre revised rules)), the Committee has considered paragraphs 12.2 of AS 10, 'Accounting for Fixed Assets' and paragraph 9 & 24 of Accounting Standard (AS) 6 'Depreciation Accounting'.

- The committee noted that useful life of DQUP has been considered to be longer than that of the unit based on presumption that these can be used in a new unit or there would be revision of useful life of existing unit in future. Committee is of the view that determination of useful life of component should be based on its expected use in existing asset and not merely on its use in future.

- The committee noted that the Wax plant unit has a separate identity and can operate independently even after disposal of the existing asset. Accordingly, the requirements of 'component accounting' are not applicable in this case. Therefore, it should be accounted as a separate fixed asset and depreciated independently considering its own useful life.

D. Opinion

- The useful life of the plant and machinery for DQUP added to the Hydrocracker Unit during 2009-10 should not be considered to be longer than the existing useful life of the Hydrocracker Unit.

- The useful life of the Wax Plant Unit, the additional facility added to the refinery, should be considered independently considering its own useful life rather than the useful life of the existing asset, viz., refinery.

- Going forward, in case additional facilities are added to the refinery/units, the guidance given in both of the above cases should be followed.

1.2. Exposure draft

- Accounting Standards Board of ICAI has issued exposure draft of Ind AS compliant Schedule III to Companies Act, 2013, for NBFC's.

  The exposure draft provides the general instructions for preparation of standalone as well as consolidated financial statements of a Non-Banking Financial Company (NBFC) that is required to comply with Indian accounting standards (Ind as).

2. Company Law

2.1. Clarification on provisions related to closure of place of business of a foreign company in India

It is clarified by MCA that provisions of winding up (Chapter XX to Companies Act, 2013) would apply for the closure of place of business of a foreign company only if that foreign company has issued prospectus or Indian Depository Receipts (IDR) pursuant to provisions of chapter XXII of Companies Act, 2013.

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