LEVERAGING ON LAW FOR RESOURCE OPTIMISATION IN INDIAN RAILWAYS
INDIAN RAILWAYS & CORPORATE LAWS

- INDIAN RAILWAY A GOVT DEPTT DIFFERENTIATED FROM GOVT CO (ARTICLE 285 OF THE CONSTITUTION OF INDIA)

- GOVT IN BUSINESS: GOVT DEPTT, STATUTORY CORPORATION, GOVT CO

- APPLICABILITY OF CORPORATE LAWS TO IR

- SERVICE TAX, CENTRAL EXCISE DUTY, VAT, CUSTOM DUTY, INCOME TAX ACT, INDUSTRIAL & LABOUR LAWS

IS IT POSSIBLE TO TAKE MILEAGE FROM EXISTING LAW OR GET SUITABLE AMENDMENTS TO SAVE SCARCE RESOURCE FOR INDIAN RAILWAYS?
<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Excise Duty on Stores (Rs 25000*12.%)</td>
<td>3000</td>
</tr>
<tr>
<td>Excise Duty on Track &amp; Material (Rs 10000*12.%)</td>
<td>1200</td>
</tr>
<tr>
<td>Excise Duty on HSD Oil (12000*26%)</td>
<td>3100</td>
</tr>
<tr>
<td>Excise Duty on Construction Material (7000*12)</td>
<td>840</td>
</tr>
<tr>
<td>Excise Duty on Assets &amp; Non Stock (1200*12%)</td>
<td>240</td>
</tr>
<tr>
<td>Custom Duty</td>
<td>500</td>
</tr>
<tr>
<td>Service Tax &amp; Other Taxes</td>
<td>4500</td>
</tr>
<tr>
<td>VAT</td>
<td>440</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>13820</strong></td>
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</tbody>
</table>
CASE FOR CENTRAL EXCISE CONCESSIONS

CENTRAL EXCISE RATES

ON HSD OIL USED BY INDIAN RAILWAYS (14% + Rs 5 PER LITRE) = 26%

RAILWAY LOCOMOTIVE 6%

PARTS OF LOCO, ROLLING STOCK & TRACK 12%

VEGETABLE OIL, FRUIT NUTS 6%

KHANDSARI SUGAR 6%

PAASTA, POTATO CHIPS, ICECREAM, DRINKS ETC 6%

PAPER, WOOD OTHER CONSUMER PRODUCTS 6%

EXCISE ON PARTS OF LOCO, ROLLING STOCK & TRACK TO REDUCE TO 6%

SAVING EXPECTED Rs 2000 cr
### CENTRAL EXCISE CONCESSIONS

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<tr>
<td>ON HSD OIL USED BY INDIAN RAILWAYS</td>
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<td>EFFECTIVE RATE WORKS OUT TO</td>
<td>26%</td>
</tr>
<tr>
<td>CENTRAL EXCISE ON AVIATION TURBINE FUEL (AIRLINES)</td>
<td>14% ONLY</td>
</tr>
<tr>
<td>CENTRAL EXCISE RATES ON HSD OIL TO REDUCE TO</td>
<td>6%</td>
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<tr>
<td>SAVING EXPECTED</td>
<td>Rs 2000 CR</td>
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<td>CENTRAL EXCISE RATES ON HSD OIL TO REDUCE TO</td>
<td>14%</td>
</tr>
<tr>
<td>SAVINGS EXPECTED</td>
<td>Rs 1200 CR (APP)</td>
</tr>
</tbody>
</table>
IR CARRY 21 MILLION PASSENGERS & 2.53 MILLION TONNE OF FREIGHT EACH DAY

IR OPERATES A NO OF UNECONOMIC BRANCH LINES AS SOCIAL OBLIGATION

IR OPERATES A NO OF STRATEGIC LINES IN NATIONAL INTEREST

IR CARRY MILITARY TRAFFIC ON PRIORITY FOR DEFENCE PURPOSE

IR CONNECT FAR OFF BACKWARD AREAS WITH MAIN STREAM INDIA

IR CARRY ESSENTIAL COMMODITIES AT BELOW THE COST

GIVE CONCESSIONAL FARE TO 46 CATEGORIES OF PASSENGER AS SOCIAL SERVICE

IR IS THE BIGGEST EMPLOYER OF WORKFORCE IN THE COUNTRY

RAILWAYS IS THE ENVIRONMENT FRIENDLY MODE OF TRANSPORTATION.

IR IS A KEY SEGMENT OF INFRASTRUCTURE SECTOR AND PRIORITY UTILITY

IR IS A PUBLIC SERVICE ORIENTED INFRASTRUCTURE SECTOR UTILITY
LEVERAGING ON CENVAT CREDIT RULES

AFTER REMOVAL OF EXEMPTION GOODS MANUFACTURED IN FACTORY OF CENTRAL GOVT ARE EXCISEABLE AT 2% WITHOUT CENVAT OR 6% WITH CENVAT CREDITS.

IS IT PROFITABLE FOR A PRODUCTION UNIT TO CLAIM CENVAT CREDIT?

ANNUAL PRODUCTION (SAY OF DLW) 1000 CR

CENTRAL EXCISE AT 2% (WITHOUT CENVAT CREDIT) 20 CR

CENTRAL EXCISE AT 6% (WITH CENVAT CREDIT) 60 CR

CENVAT CREDIT (1000*70%*12%) 84 CR

NET EXCISE DUTY PAYABLE WITH CENVAT CREDIT NIL

YES, IT IS MORE COST EFFECTIVE TO AVAIL CENVAT CREDIT
PAYMENT OF SERVICE TAX ON RAILWAY SERVICES

OPTION I (SERVICE TAX WITH ABATEMENT)
SERVICE TAX @ 12.36% ON 30% OF GROSS TRAFFIC RECEIPTS 4500
(125000 CR*30%*12.36%)

OPTION II (FULL SERVICE TAX WITHOUT ABATEMENT)
SERVICE TAX @ 12.36% ON GROSS TRAFFIC RECEIPTS OF RS 125000 CR 12000
CENVAT CREDIT ON ALL INPUTS 9000
NET RESOURCE OUTFLOW 3000
EXCESS OUTFLOW OF RESOURCE IN OPTION I (4500-2500) 1500
UNDER SEC 35(2)

- ANY PAYMENT TO NATIONAL LABORATORY FOR SCIENTIFIC RESEARCH QUALIFY FOR DOUBLE THE AMOUNT CONTRIBUTED AS DEDUCTION.
- IS RDSO A NATIONAL LABORATORY, IF YES
- GET RDSO RECOGNISED AS NATIONAL LABORATORY FROM DG(I.T EXEMPTION) FOR SCIENTIFIC RESEARCH IN SAFETY RELATED MATTERS
- CONTRIBUTIONS TO SAFETY FUND SHALL FINANCE RDSO ACTIVITIES
- VENDORS SHALL FOR A CONTRIBUTION OF ONE CRORE SAVE A TAX OF 60 LACS

EXPENDITURE ON CONTRIBUTION TO BE TREATED AS A PART OF EXPENDITURE ON CORPORATE SOCIAL RESPONSIBILITY (CSR) AS REQUIRED UNDER THE LAW.
UNDER SECTION 80G

- All donations/contributions to National Funds are exempt i.e. 100% deduction from the taxable income of donor.

- Railway Stability Fund is proposed under Section 80 G.

- All contributions to be 100% exempt from income tax.

- Contributions to Stability Fund to be used to make good loss to railway’s properties and to stabilise railway operations.

Contributions be treated as Corporate Social Responsibility expenditure as required to be made under the law.
LEVERGING ON INCOME TAX ACT

UNDER SEC 32( DEPRECIATION RATES UNDER INCOME TAX ACT)

- MACHINERY & PLANT 15% PLUS 20% ADDITIONAL DEPRECIATION
- LEASING COST OF MACHINERY FROM IRFC WORKS OUT TO 5%(APP)
- POLLUTION CONTROL EQUIPMENTS 100%
- COMPUTERS AND SOFTWARE 60%
- LIFE SAVING MEDICAL EQUIPMENT 40%
- RAILWAY ASSETS 15%

DEPRECIATION RATES ON IR’S ASSETS BE REVISED TO 40% TO MAKE LEASING CHEAPER ALTERNATIVE SOURCE OF FINANCING
UNDER SECTION 43B UNDER THE HEAD INCOME OF BUSINESS

- CERTAIN KINDS OF EXPENSES ONLY ADMISSIBLE ON PAYMENT BASIS

- TAXES, DUTY & CESS

- PF CONTRIBUTION, BONUS

- INTEREST ON LOANS/BORROWINGS FROM PFI (ICICI, IFCI, IDBI, LIC, UTI AND SCHEDULED BANK)

GOVT DUES INCLUDING RAILWAY FREIGHT, LEASE RENTAL AND OTHER CHARGES PAYABLE TO INDIAN RAILWAY BY ANY BUSINESS ENTITY ON ACCOUNT OF USE OF LAND AND OTHER RAILWAY ASSETS.
DEALING WITH CARTEL FORMATION BY SUPPLIERS OF RLY MATERIAL

- COMPETITION COMMISSION OF INDIA (COMPETITION ACT 2002) TO CHECK ANTI COMPETITIVE AND ANTI TRUST ACTIVITIES
- DIRECTOR GENERAL/INVESTIGATION
- DETERANT PENALTIES IN RECENT PAST (CEMENT & DLF CASES)
- IF RDSO APPROVED SOURCES ARE FEW THEY ARE IN DOMINANT POSITION
- IF THERE IS COLLUSIVE BIDDING/CARTELISATION OR SUPER NORMAL PROFIT PRICING (ABUSE OF DOMINANT POSITION)
- INFORMATION/CASE IS TO BE FILED WITH CCI U/S 19 & 26
- CCI MAY INSTRUCT DG/I TO INVESTIGATE AND REPORT

CCI MAY FIX RESPONSIBILITY ON OFFICERS FOR NOT TAKING REASONABLE STEPS TO PREVENT EMERGENCE OF DOMINANT POSITION.
OUTSOURCING OF ACTIVITIES
LEGAL IMPLICATIONS

- Contract for service and contract of service differentiated
- IR principal employer under Labour & Industrial laws
- Core and perennial activities to be outsourced sparingly
- Peripheral and incidental activities to be outsourced
- Payment to be linked to compliance of legal regulations
- Is outsourcing really cheaper as sunk costs are irrelevant
- Supply contracts not to be made contract of service.

Need for issuing comprehensive policy directives on outsourcing of work
Under Section 79A of the Company Act sweat equity shares are allotted to employees of the parental company.

The provisions of company act can be amended suitably to provide for direct firm allotment of shares by Railway’s PSU to employees of Indian Railways including ex-employees/pensioners as a Promoter Group.

The PSU can later buy back shares at a pre guaranteed price so as to afford marketability/Liquidity to shares.

This alternative option shall help avoid the complicated complex IPO route and shall help also relieve Indian Railways (Being Administrative Ministry)) of the liability to provide additional equity capital to its PSU for expansion.

AMENDMENT IN NEW COMPANIES ACT REQUIRED
Thank You!