From the Editorial Desk

1. The Finance Minister deserves to be congratulated for kicking off the second generation reform in the financial sector in his budget speech dated 27th February 1999. The second generation reforms have significant legal dimension inasmuch as wide spectrum of the legislation has been covered. In the housing area, two legal reforms are mooted viz. repeal of Urban Land (Ceiling and Regulation) Act and amendment to National Housing Bank Act to develop the primary and secondary markets for housing mortgages by simplification of the present legal provision for foreclosure and transfer of property.

2. In the area of industry and infrastructure, the Finance Minister observed that the process of corporate and industrial re-structuring is inevitable in the face of new challenges and to help this, he has announced important tax initiatives. To facilitate corporate mergers and amalgamations, he has proposed review and amendment to industries (Development and Regulation) Act. This is expected to shift the primary focus to development of industries rather than its regulations. He has also suggested shifting of focus from the Monopoly and Restrictive Trade Practices Act, (MRTP Act, which has become obsolete in international economic developments, to competition laws. With a view to promoting competition, the Government has decided to appoint a Committee to examine range of issues and propose a modern competition law suitable to India.

3. In the external sector, the budget proposal is to open trading terminals abroad to facilitate participation of NRIs in the Indian capital market. This would require review of necessary laws including existing FERA. Further, it is proposed, with a view to modernising the debt market and introducing paperless trading, to abolish stamp duty on transfer of debt instrument within the depository mode. Also the RBI has been requested to issue necessary instructions to the banks to accept bonds of the Government as collateral for loans to workers who may need assistance. This was in order to reduce the burden on budget on account of implementation of VRS in the context of a proposal by the Government that it will also encourage public sector enterprises to issue bonds to the workers opting for VRS and that the Government will guarantee the repayment of such bonds and also reimburse fully the interest payment.

4. In the baking sector, the Narasimham Committee Report of April 1998 offers certain specific proposals in the legal and legislative framework. One of the proposals relates to amendment to the Debt Recovery Act which has been introduced in the Parliament on 5th March 1999. The Narasimham Committee has also suggested a review of the amendment made to Section 28 of the Contract Act. Also recommended are review and re-examination of the recommendations given by Dr. Rajamannar Committee on the Personal Property Security Law. The Narasimham Committee has recommended amendment to Indian Penal Code too, regarding transactions in which the presumption of fraud could be raised against the borrowers, who have removed the hypothecated inventories without the express or implied consent of the bank. The Narasimham Committee has also suggested major amendments to Sick Industrial Companies (Special Provisions) Act, 1985, SICA. This Committee has also recommended review of laws in the areas of computerisation affecting the payment system of the country, which includes not only the electronic funds transfer but also electronic contracts involved in the payment cycle. The Narasimham Committee has broadly suggested re-structuring of the banking system which would necessarily entail an amendment to not only the Reserve Bank of India Act and Banking

Regulation Act but also to Acts like State Bank of India Act, 1951 and State Bank of India (Subsidiary Banks) Act, 1959. The Finance Minister's proposals would certainly bring the pace of the legal reforms on an even keel with the financial sector reforms provided the Parliament is allowed to do the normal legislative work.

5. We are delighted to note that our editorials are attracting interesting responses. Even though it is our avowed policy not to publish any anonymous letters in the mail bag, we are making an exemption for the first time and perhaps the last time and publishing one such letter solely with a purpose to start a debate on an issue, since we are also giving our reaction to the letter in the mail bag. We may like to state here that one of the basic objectives in starting "mail bag" in our house journal was to create a forum or a platform, where one can feel free to vent his earnest opinions on a topical issue preferably a legal issue. Of course, we also welcome in our mail bag letters seeking answers to legal queries.

6. This issue opens with an article on the proposed Foreign Exchange Management Act (FEMA), which closely examines the reforms envisaged. Another article provides an insight into the complexities of penal action against companies and other legal persons, which is particularly relevant in the context of Bank's powers for prosecutions against erring financial companies. Covering a wider compass, we have an article overviewing the recent developments related to Human Rights movement. The Journal Section concludes with an article examining the legal issues related to taking of HUF property as security for bank loans.

7. In the Judgements Section we have included some of the recent judgements of the Supreme Court and High Courts, covering an assortment of subjects. The Legislation Section covers the recent amendments to Income-tax rules relating to use of PAN and also the rules for appointment of Ombudsman for insurance-related complaints. Apart from this, we have a write up on the Regulations Review Authority recently appointed by the Bank and also all other usual features like Bibliography, Book Review, LD News and Mail Bag.

We have great pleasure to greet our esteemed readers with this opening issue of the 4th year of our publication.

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