

### **Comptroller and Auditor General of India set to knock on the doors of corporate India for audit**

In a landmark judgment (in Association of Unified Telecom Service Providers of India and Others Vs. Union of India and Others, Writ Petition (Civil) No. 3673/2010 and Cellular Operators Association of India and Others Vs. Union of India and Others, Writ Petition (Civil) No. 3679/2010), High Court of Delhi has held that Comptroller and Auditor General of India ('CAG') under the Constitution of India has power to audit the receipts of Private Telecom Operators.

The Telecom Operators have a revenue sharing agreement with the Government of India (Department of Telecommunications) as certain percentage of their Adjusted Gross Revenue ('AGR') is paid towards license fee. The High Court of Delhi has held that the income derived from any contract, cannot be kept out of the general revenues and the accounts of Telecom Operators/Licensees, in relation to the revenue receipts can be said to be the accounts of the Central Government and thus subject to a revenue audit by CAG.

The judgment has far reaching effect on the Indian corporate landscape considering the present economic scenario, where Private-Public-Partnership Projects ('PPP Projects') are gaining popularity. The judgment would open many doors for CAG and make it easy for the Central Auditor to gain access to books of accounts of various Private Companies working closely with the Public Sector on projects of national importance.

The High Court of Delhi gave 'dynamic interpretation' to the provisions pertaining to CAG. The Apex Court has also in catena of judgments has recognized the fact that it is often possible that after the enactment of a statute, political and economic developments in the society may take place. New scientific inventions may also come out. The legislature might not have been aware of all these developments and inventions, when the law was made. Therefore, the Court should take into account all these developments while construing statutory provisions.

With Delhi High Court's mandate in favour of CAG to audit income derived by State from any contract, it would be interesting which sector CAG will audit next and whether the Corporate India would embrace CAG with open arms or CAG would face resistance like with the Private Telecom Companies.

Maneesha Dhir (Managing Partner) at Dhir & Dhir Associates represented Department of Telecommunications in the matter.