Shell to Challenge Income Tax Order

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NEW DELHI, MONDAY FEB 04, 2013: Shell India unequivocally states that recent media reports claiming tax liabilities involving transfer of shares are incorrect.

“Recent media reports on tax evasion are baseless and Shell India will challenge this order strongly and is evaluating all options for redress.

Shell globally and in India complies with all applicable local regulations and laws and has also done so in this instance - in full compliance with the Shell Group Business Principles”, said Dr. Yasmine Hilton, Chairman Shell Group of Companies in India,

Shell India’s considered view is that the transfer pricing order is based on an incorrect interpretation of the Indian tax regulations and is bad in law as this is a capital receipt on which income tax cannot be levied. Funding of a subsidiary through issue of shares is common in India and globally.

“Taxing the money received by Shell India is in effect a tax on Foreign Direct Investment (FDI), which is contrary not only to law but also to the spirit of the recent global trip by the Finance Minister to attract further FDI into India”, added Dr. Yasmine Hilton.

The Royal Dutch Shell group has over the last few years made significant investments in India. Equity injection was used to finance these investments and to fund the ordinary business activities of Shell India. Shell Gas BV was the only parent of Shell India before this equity issue and continued to be so after the issue.

A Rs 15220 crore (USD 2.7 billion) adjustment has been proposed in the transfer pricing order of FY 08-09 of Shell India Markets Pvt Ltd (Shell India), a wholly owned subsidiary of the Royal Dutch Shell Group of Companies. This adjustment is on account of an issue of equity shares by Shell India to its sole parent Shell Gas BV, in March 2009.

Against a fresh equity injection of Rs 867 crores (USD 160 million) shares aggregating to 86.7 crore, were issued at a value of Rs 10 per share. The share issuances were in accordance with the terms of the foreign investment policy, the prevailing exchange control regulation, the applicable corporate and related laws.

The valuation of the shares was undertaken by a certified independent valuer who assessed the value (in line with the foreign investment and exchange control laws) to be below Rs 10 per share and the issue was made at Rs 10 per share.

The valuation certificates were filed with the regulatory authorities. The transfer pricing order has valued these at Rs 183 per share even though there are no provisions under the income tax law for such revaluation.

As such the Royal Dutch Shell group intends challenging the order and will be evaluating all options for redress.

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