

Edition 111
April 2013



Mysore Chapter

eMagazine



Earth Day
April 22

CRR:
Implications &
Controversies



**E- Magazine from
The Mysore Chapter of the
Institute of Company Secretaries
of India**

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Message from Chairman



Dear Readers,

March'13 was very eventful month for the Chapter, the preliminary rounds of the annual mega event of the Chapter, "Umang 2013", was held on 17th March, 2013 and the students from different colleges and institutions in and around Mysore had active participation. 24th March, 2013 was mega event show day and the students from different parts of the country participated in the event. The whole day was packed with lot of student activities, technical presentations by students and experts, management games for students and the cultural extravaganza at the end, the true meaning of student event was exhibited throughout the day. More update on Umang'13 is available in this e-Magazine in Activity Report of the Chapter. I would like to thank all the participants, colleges, institutions, sponsors' and all the student organizers of our Chapter; their efforts paid the best interest on the day of the event. We are gearing up for one more professional seminars to be held in the month of May'13, more details will be made available shortly.

Having enrolled for the examination, the student fraternity is gearing up for the upcoming examinations of the June session. I advise the students to dedicate the next two months for preparation and make the best effort to achieve success in the examination. Bring out the best in you & be confident. Wishing all the students 'Good Luck'.

*Yours in CS fraternity,
CS. Sunil Kumar B G*

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Activity Report

March 2013



Umang 2013

...zeal to excel



The students of Mysore Chapter celebrated the Annual Talents' Day of the Chapter- UMANG'13 on Sunday, the 24th March, 2013 at Rani Bahadur Auditorium B N Bahadur Institute of Management Science Manasa Gangotri, Mysore.

The program was inaugurated by the Chief Guest Sri. Pavan G. Ranga, CEO, Rangsons Electronics Pvt. Ltd., the Guest of Honour Sri. Ashwini Kumar, CPO, Vikram Hospitals Group and Special Invitee Sri. Sutanu Sinha, CEO, ICSI Delhi and Sri. GopalKrishna Hegde, Member, Central Council of ICSI, CS. Sunil Kumar B.G, Chairman of Mysore Chapter, CS. Ajay Madaiah B.B, Vice-Chairman, CS. Kiran T, Secretary and CS. V.J. Balakrishnan, Treasurer of Mysore Chapter were present during the occasion.

Final rounds of competitions in Elocution, Business Quiz and Essay writing were organized as part of the program. Preliminary round of these competitions were held at inter college level on Sunday, the 17th March 2013. Winners in these competitions participated in the finals held during Umang. The post lunch sessions included Technical Presentations and Management games.

In the Cultural Extravaganza which followed, the audience was thoroughly entertained by the versatile talents of the students. Winners of the competitions were awarded at the Valedictory session.

CAREER GUIDANCE PROGRAMS

The Chapter had arranged Career Awareness Program on 16th of March 2013 at JSS Arts & Commerce College, Nanjangud. Chairman of the Mysore chapter CS. Sunilkumar B.G and the Vice Chairman CS. Ajay Madaiah B.B. spoke about the Company Secretaries' Course and the Career Prospects for a Company Secretary. Sri. M Shanmugappa addressed the students over the importance of the professional course. Around 85 students benefitted by this program.



TENTH STUDENT INDUCTION PROGRAM

The Tenth Student Induction Program was conducted by the chapter from 25th March to 31st March 2013 at the chapter Premises. The participants were trained by eminent faculties including Members of Mysore Chapter, Academicians and Industry Representatives. 28 sessions were held during this week long training program on various topics of academic interest, personality development, Soft Skills etc.

PLANTING OF SAPLINGS BY THE DIGNITARIES

As a green initiative, a program of planting of saplings was done at the Chapter premises on 24-03-2013. Dignitaries including the Sri. Sutanu Sinha, CEO, ICSI Delhi and Sri. CS GopalaKrishna Hegde, Member, Central Council of ICSI planted saplings.





Earth Day





Earth Day 2013

22nd April is celebrated as **Earth Day**. Events are held worldwide to demonstrate support for environmental protection.

After witnessing the ravages of the 1969 Santa Barbara oil spill, and inspired by the student anti-war movement, Gaylord Nelson, a U.S. Senator from Wisconsin, called for an environmental teach-in, later called "Earth Day", to be held on Wednesday, April 22, 1970.

This year's global theme for Earth Day 2013 is "**The Face of Climate Change**" according to the Earth Day Network, a group founded by the organizers of the first Earth Day to coordinate the annual day of action that builds and invigorates environmental practices.

In the face of huge environmental problems, we may feel overwhelmed and even powerless to change things. We may find ourselves asking what we can do to make a difference or if one person doing something...anything...really matters in the grand scheme of things. Well, the answer is that it makes a big difference. One of the excellent living examples is Mr. Aabid Surti.

"Save every drop or drop dead"

That's all Aabid Surti has to say to each one of us. The National Award winning septuagenarian author and artist, along with a partner, plugs drips in homes in a Mumbai suburb, free.

The 77-year-old celebrates all his Sundays like none else, picking a building in Mumbai's far-flung suburb Mira Road and, with his plumber and a volunteer in tow, searching it for leaking taps to plug. Free of charge. Annually, Surti visits an average of 1,600 homes and fixes around 400 leaky taps, saving around 414,000 litres water.

Do you like to know more? Visit this link:

<http://thealternative.in/environment/abid-surti-the-painter-who-catches-every-drop/>
<http://www.citehr.com/455133-world-water-day-housing-societies.html#ixzz2Pvxox0tJ>

Like to see him over face book? Visit this link: <https://www.facebook.com/aabid.surti>



Green Photos Contributed by Mr. Ram Kumar G.

"I started my Trekking & photography as Hobby in 2009 Dec, now it has developed into passion. I work in Dell Bangalore - Talent Acquisition Sr. Analyst. Mother Nature gives us lot of good things to us like water and air. We should in turn do some thing for her, this earth day let bring in new ideas to save planet"

(Drought photos are from internet.)



CRR: Implications and Controversies



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CRR impacts on the funds available in the hands of Banks and thereby public. It has been an effective tool to regulate inflation.

However, there are arguments that CRR must be abolished or at least RBI must pay interest on the money locked up as CRR.

The term "Cash Reserve Ratio", is a reserve maintained by Scheduled/Commercial banks with Reserve Bank of India (The Central Bank) as a percentage of Demand and Time Liabilities. At present the Cash Reserve Ratio required to be maintained by the banks is 4% of the time and demand Liabilities of a bank. Cash Reserve Ratio was reduced from 6% in December 2011 to 4.25% in December 2012. Source: <http://www.rbi.org.in/scripts/WSSViewDetail.aspx?TYPE=Section&PARAM1=4%0A>

Banking by definition means being, in the business of borrowing and lending money, and making a margin between the rates of borrowing and lending to meet their administrative costs and profits. The Financial resources of a bank are mainly the deposits received from the public, apart from share capital and reserves.

CRR or Cash Reserve Ratio is used as a tool, for controlling the liquidity, inflation and growth by RBI. CRR is hence an essential tool in the hands of Reserve Bank of India to monitor the Indian economic situation and apply appropriate levers by increasing or decreasing the CRR for controlling the economic situation as desired by the Central Bank in



the larger welfare of the Country.

A cut (decrease) in CRR rate denotes release of money from the reserves by RBI to the Banks. Hence a reduction in CRR leads to availability of more money in the economy. Increased supply of money increases the availability of the foremost factor of production. The principle of demand and supply, under circumstances of decreased CRR ensures that Capital/ Finance become cheaper leading to deployment of more money for higher industrial growth and production.

A hike (increase) in CRR rate denotes that banks will have to increase their reserves (CRR) with RBI, and hence will have to fund the additional CRR from their own funds. This means that there will be a reduction in funds availability with banks and hence increase in interest rates on lending. The natural principles of demand and supply control the forces of the economy. An increase in CRR reduces money availability in the economy and consequently growth.

To illustrate:

If a depositor deposits Rs.1000/- in bank, it increases the deposit by Rs.1000/- and if the CRR is currently 9%, banks will have to hold Rs.90/- and will be able to use only Rs.910/- for its lending and borrowing activities. If suppose the CRR rate was reduced to 7%, then banks will have to keep Rs.70/- as Cash reserve (CRR) with RBI and hence will be having Rs.930/- for its banking business activities. Hence @7% the liquidity in the economy will be higher than at 9% as the availability of money is Rs.930/- against Rs.910/- respectively.

It will be most appropriate to note that the money from public raised as deposits etc., are the funds which are kept with RBI as CRR. The Banks will have to pay interest on such deposits but will not be able to earn any money on such funds which are kept idle with RBI as CRR.

Reserve Bank of India does not pay any interest on the money; they receive as CRR from the Commercial/Scheduled Banks. Considering prudent

Management Principles, to keep scarce resource of production namely "Capital" as reserves without any economic activity is not considered good. However the larger principles of economy of balancing and directing the course of economic activity take priority over the prudent Management policies in the case of Cash Reserve Ratio.

From the individual banks perspective, it is mandatory requirement for the bank to abide by and keep their licenses going. Hence, they will have to maintain the Reserve.

CONTRARY VIEWS OF PIONEERS OF TWO BANKS ON CRR:

In recent article from "The Times of India" <http://timesofindia.indiatimes.com/business/india-business/SBI-chairman-presses-for-abolition-of-CRR/articleshow/15880121.cms>, it is revealed that, **SBI Chairman, Mr. Pratip Chowdhry** has asked for abolition of CRR or atleast payment of some interest on the amount of CRR blocked with RBI without being put into effective use. His argument is based on the facts that banks are basically in the business of borrowing and lending. To have such amounts of money, locked up in the chest with RBI without being productively used in the business of banking is not a good managerial practice of using resources to its optimum productivity.

ICICI Bank Chairman Mr. K.V. Kamath opines that CRR is part of Indian Monetary Policy and it cannot be done away with. RBI in its wisdom uses the various instruments of monetary policy for monitoring the economy of the country. Hence CRR cannot be done away with. He totally differs with the views of Mr. Pratip Chowdhry.

Sourced by: <http://businesstoday.intoday.in/story/crr-issue-kv-kamath-disagrees-with-sbi-chairman/1/187682.html>

VIEWS OF RBI ON CRR:

On the Contrary replying to the request of the Chairman of SBI, the RBI Deputy Governor Mr. Chakrabarty tells SBI that CRR is a legal mandatory requirement to be followed by various scheduled / Commercial banks.

It is a Cost on the banks and that they will have to manage it, from other profits of the banks. He also states that SBI has to work within the legal frameworks as provided by the Central bank.

Sourced by <http://www.thehindu.com/business/Economy/crr-is-a-cost-manage-it-chakrabarty-tells-sbi/article3828606.ece>



VIEWS OF FINANCE MINISTRY ON THE ISSUE:

Finance Ministry has recently taken over the Financial Statements of Reserve Bank of India to review its claims of being unable to pay interest on the CRR. Finance Ministry wants RBI to pay 7% interest on CRR deposits with various Commercial/Scheduled banks.

Sourced, http://articles.economictimes.indiatimes.com/2012-08-13/news/33182443_1_deposit-rates-crr-rate-repo-rate

CONTEMPLATED REASONS FOR THE CONTRARY VIEWS OF PIONEERS OF THE TWO BANKS

SBI Net profit was Rs. 11,707/- Crores, for financial year ending 31st March 2012, compared to Rs. 8,264 Crores in the previous year, up by 42% as sourced by the article: <http://indiatoday.intoday.in/story/state-bank-of-india-net-zooms-in-january-march-fourth-quarter/1/189481.html>

ICICI Bank Standalone Net profit for financial year ending 31st March 2012 was Rs.6465 Cr against Rs.5151 Cr, up by 26 %. The bank's consolidated net profit for 12 Month period increased by 25% to Rs.7, 643/- Crore from Rs. 6,093/- Crores as sourced by the article <http://indiatoday.intoday.in/story/icici-bank-reports-31-per-cent-jump-in-q4-net/1/186450.html>

Considering the size of the two banks ICICI and SBI, it is understood that the amount of CRR maintained by SBI will be higher than that of ICICI Bank. Hence in all probability, SBI will be more benefited in terms of its profitability, in either way that is, if CRR is abolished or interest is paid on CRR.

Hence contrary views expressed by the Chairman's of both the banks are substantiated.

CONCLUSION:

CRR is definitely an essential tool for controlling the various parameters of the economy. However at what cost the essential tool is to be maintained? CRR is an artificial tool to create demand or supply of most essential factor of production that is "CAPITAL". While hoarding up of commodities to create artificial scarcity and jacking up prices is prohibited by law for a trader etc., it is being followed as principle for economic parameters control by Central Bank as part of monetary policy in the guise of CRR.

Considering the contrary stands of RBI and Finance Ministry on the requirement of paying interest on CRR deposits, it would be worth watching the future course of direction of the issue contemplated in this article.

Most of the people earn and spend money only thinking present, but only few plan their spend to meet present and also to maintain the same lifestyle even after they stop earning (after retirement). Planned spending of money earn fruits in best utilization of it and savings for the days to come.

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Know your 'Neta'

<http://myneta.info/>

US SC judge Felix Frankfurter, one of the top legal luminaries of the 20th century, famously said that **“active citizenry is an essential condition for democracy to succeed. Democracy involves hardship, of unceasing responsibility of the active citizen. Where the entire people do not take a continuous and considered part in public life, there can be no democracy in any meaningful sense of the term. Democracy is always a beckoning goal, not a safe harbor. For freedom is an unremitting endeavor, never a final achievement. That is why no office in the land is more important than that of being a citizen”**.

The Association for Democratic Reforms (ADR) was established in 1999 by a group of professors from the Indian Institute of Management (IIM) Ahmedabad. In 1999, Public Interest Litigation (PIL) was filed by them with Delhi High Court asking for [or requesting] the disclosure of the criminal, financial and educational background of the candidates contesting elections. Based on this, the Supreme Court in 2002, and subsequently in 2003, made it mandatory for all candidates contesting elections to disclose criminal, financial and educational background prior to the polls by filing an affidavit with the Election Commission. It conducts multiple projects aimed at



increasing transparency and accountability in the political and electoral system of the country.

If you want to know about your 'Neta' who you had voted or who has filed nomination to contest elections, SMS MYNETA <pin-code> to 56070 or to 92465-56070.

Here is a sample – names removed - “Lok Sabha constituency XXXXX, MP YYYY, Party-name ZZZZ, Criminal cases – Yes (1), Assets Rs. 5.4 crore, Liabilities Rs. 3.3 crore, Education 12th Pass”

During elections, the voters can retrieve this basic information on the criminal background, the financial summary and the educational qualifications of the contesting candidates. During non-election period, citizens will be able to access complete background information of sitting MP and MLA of their area.



Managing Opposing Currents!

White river rafting is an extreme outdoor sport and the risks faced by the river rafters provide the thrills and challenges that fascinate those who engage in this sports activity. One rafter relates how his first experience was quite different from his second outing and each experience had a valuable lesson to teach about team building.

During his first trip, the guide was an American who obviously had a lot of experience, judging by the number of stories he had to tell. This made every raft passenger confident to brave their fears of running against the strong water currents. They obeyed every instruction on how to master their paddles while still at the gentle reaches. They listened intently to the guide's instructions, once their inflatable vessel meets with the fury of the white water rapids.



The time came and their guide started bellowing out orders, as if their lives were hinged at his every command; hence it was important for everyone to listen intently to the guide's strong and forceful voice since it seemed to drown under the roar of the waters. At last, they were able to reach their journey's end and everybody felt like they could tackle almost anything since they were able to triumphantly overcome the powerful strength of the river.

The narrator's story went on to tell of his second trip in which the guide was a soft-spoken Kiwi native. The rafters were quite anxious that their guide's voice was too soft for comfort; it was obvious that with that kind of voice, his commands will be drowned by the mighty roars of the great rapids.

As they met with the first challenge, there was no sense of urgency when the guide started giving out instructions on what to do. Instead, there was a sense of calm with the way their vessel surpassed each challenging moment. The Kiwi native knew the river by heart as he steered the rafters away from every whirlpool quite effortlessly. There was no drama with the experience but a sense of communing with the river gave the rafters a different feeling.



They became aware of the beauty that surrounded them and felt a sense of inner peace, as their Kiwi guide gave each rafter a chance to act as a leader. Although some rafters would prefer the excitement that was provided by the American guide, the narrator regarded the experience as a humbling one.

Throughout the whole trip, he recalled that the Kiwi guide never attempted to take command but only to lead by his experience and knowledge of the river.

It instilled the value of knowing how to become one with opposing currents instead of challenging their might.

<http://www.brighthubpm.com>



Compilation:
CS. Ajay Madaiah, Mysore

Public Provident Fund (PPF)

PPF is a savings-cum-tax-saving instrument in India. It also serves as a retirement-planning tool for many of those who do not have any structured pension plan covering them. The account can be opened in designated post offices and branches of some nationalised banks. ICICI Bank was the first private sector bank which was authorized to open PPF accounts. Individuals who are residents of India are eligible to open an account under the Public Provident Fund scheme. Each person is eligible for only one account under his/her name.

A minimum yearly deposit of Rs. 500 is required to open and maintain a PPF account, and a maximum deposit of Rs. 1,00,000 can be made in a PPF account in any given financial year. The investments can be made in multiples of Rs. 5, either as a whole sum, or in installments (not exceeding 12 in a year, though more than one deposit can be made in a month). The current interest rate effective from 1 April 2013 is **8.70% Per Annum**(compounded annually). Interest is calculated on the lowest balance between the close of the fifth day and the last day of every month.

The minimum tenure of the PPF account is 15 years, which can be further extended in blocks of 5 years each for any number of blocks. The extension can be with or without contribution. An account holder, continuing with fresh subscription, can withdraw up to 60% of the balance to his credit at the commencement of each extended period in one or more installments but only once in a year. However, pre-mature withdrawals can be made from the end of the sixth financial year from when the PPF commenced. The maximum amount that can be withdrawn pre-maturely is equal to 50% of the amount that stood in the account at the end of 4th year preceding the year in which the amount is withdrawn or the end of the preceding year whichever is lower.

Interest earned is fully exempt from tax without any limit. Annual contributions qualify for tax rebate under Section 80C of Income tax Act. Contributions to PPF accounts of the spouse and children are also eligible for tax deduction. Balance in PPF account is not subject to attachment under any order or decree of court. But, Income Tax authorities can attach the account for recovering tax dues.

(Source: Wikipedia, the free encyclopedia)

Did you know?



Pick of the month

Can approval of annual accounts be delegated?

In the absence of any specific provision in section 215, the power of the directors to approve the annual accounts cannot be delegated to a committee of directors or some of the directors.

Interalia, states that the approval of annual accounts which are to be ultimately placed before the shareholders of the company is not to be treated as a routine or part of day to day work. Hence, the board of directors must consider the annual accounts and approve them before the accounts are handed over to the statutory auditor of the company.

The department is further of the view that as the authentication by the secretary is "on behalf of the board of directors" and not in his personal capacity.

Terms used in social media marketing

CPC	Cost per Click
CPM	Cost per Thousand Impressions
CTR	Click Through Rate : Percentage of Clicks to the number of Impressions
IMPRESSIONS	Total number of views
ACTIONS	Every action related to your page, that the user performs after having clicked on an ad
REACH	Number of Unique Users who have seen an advertisement
FREQUENCY	Number of times a user has seen an advertisement



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CUSTOMS & FTP Notifications/ Circulars

Amends Notification No. 69/2011-Cus. Dated July 29, 2011 to reduce basic customs duty on import of specified goods from Japan

No. 17/2013-Cus. dated March 26, 2013

Exemption to import of pulses from payment of custom duties extended upto April 1, 2014.

No. 18/2013-Cus. dated March 26, 2013

Amends the notification No. 96/2008-Customs, dated 13th August, 2008 so as to include "Republic of Yemen" in the list of Least Developed Countries eligible to avail of the benefit of duty free tariff preferences (DFTP) scheme

19/2013-Cus, dt. 02-04-2013

Extends the levy of anti-dumping duty imposed vide notification No. 49/2008-Customs, dated the 10th April, 2008 on imports of 'Sodium Nitrite', originating in, or exported from, European Union for a further period of one year i.e. upto and inclusive of 10th April, 2014

04/2013 - Customs (ADD), dated 10-04-2013

Extends the levy of anti-dumping duty imposed vide notification No. 127/2008-Customs, dated the 3rd December, 2008 on imports of 'Sulphur Black', originating in, or exported from, People's Republic of China for a further period of one year i.e. upto and inclusive of 10th April, 2014

05/2013 - Customs (ADD), dated 10-04-2013

The Central Government has increased Baggage exemption limit in respect of jewellery. The limit is enhanced to value to Rs. 50,000 for per gentleman passenger and Rs. 1,00,00 per lady passenger. Hitherto, the Baggage exemption limit of Jewellery was limited to Rs. 10,000 and Rs. 20,000 per gentlemen and lady passenger, respectively.

No. 25/2013- Cus (NT) dated 01.03.2013

The supply of goods under an invalidation letter issued under Advance Authorization, supply of goods under International Competitive Bidding (ICB) or supply of goods to EOUs are exempted from payment of Excise duty (i.e. Terminal Excise Duty). In this regard, it is clarified that in such cases, TED

should be exempted and TED should not be claimed as refunded. *Policy Circular No. 16 dated 15.03.2013*

Case Law

Levy of SAD - 100% EOU - clearance of machine as scrap - SAD is not payable on the capital goods as there was no levy of that duty at the time of its importation. -

M/s kumar's cotex ltd. Versus commissioner of customs, guntu

Regulatory Developments Notifications/Circulars/News

GST to be introduced by 2014: Parthasarathi Shome, Advisor to Union Finance Minister said that he was hopeful that GST would be introduced by 2014.

Restraining infringement of patent - similarity of pharmaceutical composition of the products cannot be a ground for infringement.

Merck Sharp And Dohme Corporation & Anr. Versus Glenmark Pharmaceuticals Ltd.

Where a contract falls for interpretation, the Arbitrator is the final judge to interpret the contract and findings of fact arrived at by an Arbitrator cannot be questioned.

JSW Ispat Steel Limited Versus Ariba India Private Limited

CENVAT Notifications/ Circulars

Seeks to amend the notification No. 64/95 - CE dated 16th March, 1995 to provide exemption to project ASTRAs.

13/2013-CE, dt. 25-03-2013

Case Law

The Tribunal observed that captive power plants and manufacturing units are treatable as integrated units. Therefore, assessee is prima-facie entitled to take Cenvat credit of duty paid on inputs/ capital goods and input services received in captive power plant for manufacture of electricity

which is further used in the manufacture of cement which is cleared on payment of duty. Accordingly, pre-deposit of duty, interest and penalty is waived.

Ambuja Cements Ltd. Vs. CCE [2013-TIOL-466-CESTAT-MUM]

The Tribunal held that as per explanation to Rule 2(k) of the Cenvat Credit Rules, 2004 ("the Credit Rules") storage tanks have been specified as capital goods and, therefore, inputs such as M.S. angle and H.R. Sheet which are used in manufacture of storage tank are also eligible for Cenvat credit.

LSR Speciality Oils Pvt. Ltd. Vs. CCE [2013-TIOL-491-CESTAT-MUM]

The High Court of Bombay held that expression "directly or indirectly" employed in definition of 'input service' with regard to use of input service in or in relation to manufacture of final products has a very wide import. Accordingly, Cenvat credit of input service used by ONGC Mumbai Offshore in manufacture of crude oil which is exempted goods would be available as crude oil is subjected to further process of manufacture at Uran plant of ONGC for production of dutiable final products. Production of these dutiable products is possible only on continuous supply of crude oil. However, as ONGC manufactures both dutiable and exempted goods, it would be required to comply with Rule 6 of the Credit Rules and would be entitled to take Cenvat credit only on that quantity of input service which is used in manufacture of dutiable products.

Oil & Natural Gas Corporation Ltd. Vs. CCE [2013-VIL-26-BOM]

Relying on judgment of High Court of Ahmadabad in CCE Vs. Cadila Healthcare Ltd. [2013-TIOL-12-HC-AHM-ST] wherein it has been ruled that service of various agents cannot be stated to be a service used directly or indirectly in or in relation to manufacture of final products or clearance of final products from place of removal, the Tribunal held that Cenvat credit of service tax paid on commission paid to commission agents is not admissible.

CCE Vs. Paras Motors Mfg. Co. [2013-TIOL-525-CESTAT-AHM]

The Tribunal held that assessee is eligible to avail Cenvat credit of service tax paid on services rendered by insurance company on group insurance taken by assessee for employees.

CCE Vs. Gujarat Flurochemicals Ltd. [2013-TIOL-508-CESTAT-AHM]

Valuation - inclusion of cost of software in the value hardware - equipments have been cleared from the factory without the software being loaded in the equipments - no addition.

M/s. Mic Electronic Ltd. Versus The Commissioner Of Customs & Central Excise, Visakhapatnam

Service Tax

Notifications/Circulars

Date for filing of the Form ST-3 for the period 1-7-2012 to 30-9-2012 has been extended from 15-4-2013 to 30-4-2013.

Order No. 02/2013-ST dt. 12-04-2013

Case Law

Levy of service tax on interest charged by credit card company for late payment of dues - prima facie in favor of assessee - stay granted.

Canara bank versus commissioner of c. Ex. & cus. (Itu), bangalore no. - st/3083/2011

Refund - export of services - foreign exchange ICICI Bank (their banker) confirms that payment of Canadian company was converted into Indian currency and paid to the appellant - refund allowed.

Sterling hoffman software consultant p. Ltd. Versus c. C. E., vadodara

The appellant had claimed Cenvat Credit on inputs that were lost in transit due to difference in reading of weighing scales, human error in recording of weight and shortage due to dryage during transit it was held that there was no human error in recording the measurements, there was loss of material due to natural dryage of the same. Thus, credit of duty cannot be denied or varied where input has become waste in or in relation to manufacture of final product; and more of practical approach is required to be taken in these matters.

Hindustan Zinc Ltd. - (2013) 31 Taxmann 376 (Rajasthan)

The Appellant had availed Cenvat credit of the service tax paid on input services during the period April 2008 to March 2009, after getting the service tax registration on 23 March 2009. Revenue authorities contended that appellant should not have availed the Cenvat credit before the registration, as provided under Rule 3 of Cenvat Credit Rules, 2004, also that the appellant neither provided nor received services during the said period as they were not registered with the department. Hon'ble Tribunal observed that re is no provision in the rules that credit was not available to unregistered entities. Moreover, it is recorded that the appellant has shown or recorded the service tax paid on input services in a register which is considered as a cenvat account. Therefore, the appellant is eligible for Cenvat credit, post registration.

C. Metric Solution (P) Ltd. - (2013) 31 Taxmann 344 (Ahmedabad)

Appellant had availed Cenvat Credit on Capital Goods, which was intended to be used for providing output services which was not taxable at the time of receipt of capital goods in factory premises. Such output service was taxable at a later date. The adjudicating authority has held that the Cenvat credit could not be availed on duty paid on such Capital goods as such goods were received in the premises of the service provider i.e. respondent before the services were taxable under the Finance Act, 1994. Hon'ble Tribunal observed that Cenvat credit eligibility is to be determined with reference to the dutiability of the final product on the date of receipt of capital goods. Since at the time of receipt of capital goods, output services were not taxable, credit for the same is not allowable.

[Aneri Construction - (2013) 31 Taxmann 394 (Ahmedabad)]

The Tribunal held that work order given by assessee to transporters clearly indicates that it is for loading and transportation of clinkers and rate for transportation is far higher than that for loading. In transportation, loading and unloading is incidental and, therefore, predominant and essential nature of service is transportation and not 'Cargo Handling'. Therefore assessee should have discharged service tax liability on GTA service availed by it.

Ultratech Cement Ltd. Vs. CCE [2013-TIOL-529-CESTAT-MUM]

VAT, Sales Tax and Entry Tax

Notifications/ Circulars

The Commissioner, Department of Trade & Taxes, Government of NCT of Delhi has notified that for dealers having Gross Turnover of more than or equal to Rs. 10 crores (except dealers dealing in tax free goods), Form T -2 shall come into force with effect from April 1, 2013.

No. F.7(433)/Policy-II/VAT/2012/1349-1359 dated March 21, 2013

The Commissioner, Commercial Taxes Department, Government of Bihar has notified that rate of Central Sales Tax shall be one percent on sale of such products made in the course of inter-State trade or commerce which are manufactured by micro, small and medium industries registered by the industries department.

Notification dated March 14, 2013, Commercial Taxes department, Government of Bihar

Case Law

The dispute before High Court of Allahabad was whether refund of amount which was not deposited by dealer himself but by his agent with return is permissible under Section 42(4) of the Uttar Pradesh Value Added Tax Act, 2008 ("the UP VAT Act"). High Court observed that for the purpose of Section 42(4) of the UP VAT Act payment of tax is relevant and not by whom it is actually paid or deposited. Accordingly, it has been held that if net tax has been deposited on behalf of industrial unit that has been granted exemption under the Uttar Pradesh Trade Tax Act, 1948 or the Central Sales Tax Act, 1956, refund of the same is admissible.

The Commissioner, Commercial Tax Vs. S/s U.P Petrochemicals Complex [2013-VIL-24-ALH]

Income Tax

Notifications/Circulars

CBDT clarifies conditions to be fulfilled for treating a development centre in India as a contract R&D service provider with insignificant risk.

Circular No. 03/2013 CBDT, 26th March 2013

The Income-tax Act, 1961 ('the Act') was amended last year to provide, inter alia, that where a nonresident taxpayer wishes to claim benefit of a double tax avoidance treaty, such taxpayer should obtain a TRC. Finance Bill, 2013 proposes to amend the Act to provide that a TRC containing prescribed particulars is a necessary but not sufficient condition for availing benefits of the DTAA.

(Press Release dated 01.03.2013)

The CBDT has issued two Circulars on the transfer pricing approach in respect of intangibles transactions and Indian contract R&D centres. The first of these circulars clarifies on the factors that should be borne in mind while selecting the PSM as the most appropriate method in determining the arm's length price of transactions involving intangibles. The second of these circulars provides for conditions that would have to be satisfied for a captive Indian R&D centre of a foreign principal company to be regarded as contract R&D service providers with insignificant risk from an Indian transfer pricing standpoint.

Circular no 02/2013 and 03/2013 dated 26.03.2013

Case Law

Re-opening of assessment u/s 147 of the Act based on D.V.O.'s report - the opinion of the DVO per se is not information for the purposes of reopening assessment.

The Commissioner of Income Tax Versus Abdul Azeem

Escaped assessment U/s 147 - retrospective amendment not sufficient for reopening an assessment beyond a period of four years unless there was a failure on the part of the assessed to fully and truly disclose all material facts.

Voltas Ltd. Versus Assistant Commissioner of Income-tax

Cash loan / advances - the amounts were received in cash because of urgency of business needs. - amount received from brother - question of reasonableness established - no penalty.

Commissioner of Income Tax-Iv Versus Harivadan Bhatt

FEMA & RBI & SEBI

Notifications/Circulars

On a review, it has been decided that the all-in-cost ceiling as specified under paragraph 4 of A.P. (DIR Series) Circular No.28 dated September 11, 2012 will continue to be applicable till June 30, 2013 and subject to review thereafter. All other aspects of Trade Credit policy remain unchanged.

RBI/2012-13/475 A.P. (DIR Series) Circular No. 98 April 9, 2013

On a review, it has been decided that Authorised Money Changers (AMCs) may sell Indian rupees to foreign tourists /visitors against International Credit Cards / International Debit Cards and should take prompt steps to obtain reimbursement through normal banking channels.

RBI/2012-13/473 A.P. (DIR Series) Circular No. 96 April 5, 2013

Please refer to our circular No. UBD.BPD.(PCB) Cir No.21/13.05.000/2010-11 dated November 15, 2010 on 'Maximum Limit on Unsecured Loans and Advances' prescribing that the total unsecured loans and advances granted by a UCB to its members should not exceed 10 per cent of its total assets.

RBI/2012-13/468 UBD.BPD.(PCB) Cir No.45 /13.05.000/2012-13 03 April 2013

The Central Government in consultation with Reserve Bank of India (RBI) and SEBI has been progressively liberalizing/rationalizing the scheme for foreign investment in G-Secs and Corporate bonds keeping in view the evolving macroeconomic scenario and financing needs of the economy.

On a review, to simplify the existing limits, it has now been decided to merge the existing debt limits into two broad categories as under: (i) Government Debt limit: Government securities of USD 25 billion by merging the existing sub-limits under Government securities [(a)USD 10 billion for investment by FIIs in Government securities including Treasury Bills and (b) USD 15 billion for investment in Government dated securities by FIIs and long term investors];

RBI/2012-13/465 A.P. (DIR Series) Circular No.94 April 01, 2013

Exporters were earlier given limited powers of write-off of unrealized export bills up to prescribed limits. The Reserve Bank of India (RBI) now proposes to further liberalize and simplify procedures and provide flexibility in the limits of "write-off" of unrealised export bills, limits prescribed will be related to total export proceeds realized during the previous calendar year and will be cumulatively available in a year and subject to conditions specified in the circular.

A.P. (DIR Series) Circular No. 88 dated 12.03.201



US Claims India's Solar Program Defies WTO Principle

India's renewable Solar Energy program is currently under threat from Barack Obama's administration, who claims the country's program violates a 'core World Trade Organisation principle' that requires countries to treat foreign goods and services the same way they treat those of domestic.

However, India has argued that its solar policy measures are legal under WTO government procurement rules that permit countries to exempt projects from non-discrimination obligations.

Novartis loses Indian patent fight in landmark SC ruling

The Supreme Court denied a patent request by Swiss drug giant Novartis for its cancer drug Glivec in a landmark decision seen as crucial for India's status as a global source of cheap medicines. The apex court ruled that the compound for which Novartis was seeking a patent "did not satisfy the test of novelty or inventiveness" required by Indian law. Novartis fought a seven-year legal battle to gain patent protection for an updated version of its blockbuster cancer drug Glivec, arguing that the compound was a significant improvement because it is more easily absorbed by the body. This upheld the view of India's patent office which refused to grant protection on the grounds the amended form of Glivec was not vastly different from the earlier version.

Drug patent row: Delhi High Court seeks Glenmark's response

The Delhi High Court has sought response of Glenmark Pharmaceuticals on US drug major MerckSharp and Dohme's appeal against the single judge bench order refusing to restrain the Indian firm from manufacturing and selling anti-diabetes drugs Zita and Zita-Met. The American drug major is involved in a patent row with Glenmark which has recently come out with the two medicines in alleged violation of intellectual property rights (IPR) used in its drugs Januvia and Janumet.

On April 5, a single judge bench of Delhi High Court, in an interim order, had refused to restrain the Indian company from manufacturing and selling its anti-diabetes medicines.

HC helps FDA ban on 'height increasing' powder

A well publicized 'Body growth formula powder' has been banned by the FDA, and recently the Bombay High Court has held up the FDA's (Food and Drug Administration) decision to take the ads off air. The advertisement had suggested that it had the capability to increase a person's height at any stage in their life. The FDA had asked GMT Teleshopping Pvt Ltd to stop advertising its body growth powder, since it was against the Drugs and Magical Remedies (Objectionable Advertisements) Act, 1954, which prohibits advertisements of drugs for diagnosis or treatment of diseases.

India may drag Egypt to WTO against levy on cotton yarn

India is considering filing an official complaint against Egypt at the WTO for "wrongful" imposition of penal duties on cotton yarn imported from the country. With Turkey recently withdrawing similar duties on Indian cotton yarn after the country filed a WTO complaint, New Delhi is hoping for a similar outcome with Egypt. India has argued that its cotton yarn imports to Egypt have not surged or disrupted the local market and there is no justification for the safeguard duties.

MCA Directs Distribution of Monies realized from Assets of Defunct Companies

It was observed that there were 4,988 companies awaiting dissolution in various High Courts out of which 1,046 companies are pending dissolution for more than 20 years. There were 728 companies which had no assets – the Minister MCA directed that rapid progress must be made in the next three months in respect of these companies. Similarly, the Minister further directed that the sum of Rs 3,270 crore, realized by selling off the assets of defunct companies and lying with the banks at different places should be expeditiously distributed amongst all the claimants including workers, creditors and other stakeholders.

MSMEs can buy or sell Intellectual Property Rights on IPR Exchange

Micro, Small and Medium Enterprises (MSMEs) in India will now be able to buy or sell their Intellectual Property Rights

(IPRs) with the help of online IPR Exchange which has been set up by the industry body FISME with support from the British High Commission here.

Be it IPRs of technological inventions, literary and artistic works, symbols, names, images and designs or copyrights of poems, films, music, paintings or radio or TV recordings, each of them can be traded online on the IPR Exchange set up by the Federation of Indian Micro, Small and Medium Enterprises (FISME).

Airbus wins \$24bn Lion Air order

Airbus achieved a coup by winning a \$24bn order for more than 200 passenger jets from Lion Air, the fast-growing Asian low-cost carrier. Lion Air has previously bought aircraft from Boeing, Airbus's arch rival, but it is now planning to purchase 234 single aisle jets from the Toulouse-based manufacturer owned by EADS, the European aerospace and defense group.

Trade to remain subdued in 2013

World trade growth fell to 2.0% in 2012 — down from 5.2% in 2011 — and is expected to remain sluggish in 2013 at around 3.3% as the economic slowdown in Europe continues to suppress global import demand, WTO economists reported.

African out of WTO leadership race

The field of candidates to lead the World Trade Organization shrank to five as the Jordanian, Kenyan, Costa Rican and Ghanaian contestants were asked to withdraw. No Africans are now under consideration, which may trigger a race for African support among the other candidates as they enter the second of three rounds. The remaining candidates are New Zealand's Tim Groser, Mexico's Herminio Blanco, Brazil's Roberto Azevedo, South Korea's Taeho Bark and Indonesia's Mari Pangestu, the only woman still under consideration.

Guidance Note on Report under Section 92E of the IT Act, 1961

The ICAI recently released the Guidance Note on Report under Section 92E of the Income Tax Act, 1961 (Transfer Pricing). The Finance Act, 2012 made significant changes such as Definition of International Transaction, Advance Pricing Agreement (APA), Specified Domestic Transaction, Expansion of TPO Power Amendments relating to Penalties, etc.

Guidance has been introduced with regard to how the accountant should exercise due diligence while inspecting international transactions in view of the increased scope of the definition of International Transactions. Therefore, the

Committee on International Taxation has brought out the revised edition Guidance Note on Report under Section 92E of the Income Tax Act, 1961 (Transfer Pricing) for its members.

Disappointed India Inc. seeks interest rate cut by RBI

FICCI and CII opine that "The Index of Industrial Production (IIP) data for February calls for serious attention. It is important that RBI focuses on bringing down interest rates to stimulate investments which will further boost the demand. RBI would reduce repo rate and Cash Reserve Ratio (CRR) by 50 basis points, each, while announcing the annual monetary policy on May 3"

Trading in bullion falls in last couple of months

Average gold daily turnover on MCX, the market leader in trading in bullion, has been on the decline since January, as prices have remained weak and volatile. In January, the average daily turnover of gold stood at Rs. 1,971 crore, which fell 14 per cent to Rs 1,693 crore in March. The average turnover of gold fell in February as well to Rs 1,833 crore. In early days of April, the situation is not much different.

Infosys stock falls the most in 10 years, fear of downgrade looms

Infosys, once a software bellwether, fell 21% triggering a 1.62% fall for the Sensex which ended at its lowest level in seven months. The Nifty fell 1.17%. Infosys has a weightage of 7.19% in the sensex and 6.24% in the Nifty.

India Inc. to post worst results in 3 year?

India Inc. seems set to post its worst ever quarterly earnings growth in the last quarter of fiscal 2013 since the end of the global financial crisis, thanks mainly to lack of demand in the economy, the slowdown in government spending and the inability of some manufacturers to pass on full cost escalation to their consumers, estimates made by leading brokerages and research firms.

The earnings per share (EPS) of sensex companies, which was originally expected to grow by around 14% in FY13, would advance by a mere 5-6% to Rs 1,180, projections showed. "We expect the sensex EPS to post a modest 5.8% growth in FY13 with significant contribution from BFSI (banking, financial services and insurance) stocks, followed by stocks from IT and FMCG sectors," a report by Angel Broking said.