



Mysore Chapter

eNewsletter - 77

June 2010

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Based on

GRI

Framework



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Company Deposits:

A tool for Financial Planning

For Private Circulation Only

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Message from Chairperson



Dear CS Fraternity,

It is good to be communicating with you once again.

The students have gone through yet another bout of exam. Though 100% success rate is too wishful, I wish all deserving students a resounding success! All of us shall keep in mind that "the success is a journey, not a destination" (in the words of Ben Sweetland) and therefore each success shall be taken as a motivation for achieving more.

With over 400 Students appearing from Mysore Centre, it has truly grown in size from the past attendants in the examination hall in mid 90's when the examination centre had just commenced. It has grown from multiples of 10 to multiples of 100. The increase in number has thrown open a big challenge of sustaining the success rate and quality levels. Team at Mysore is gearing up for this huge task. Certainly your suggestions and advises will help us a lot in keeping up the momentum and in rising to a greater heights.

Chapter is lining up several activities in the coming days including regional level students' conference. Our main focus has been students since they are the future of the profession. The detailed communication of the activities will reach you soon. It will be our privilege to have your participation in the chapter activities.

Yours in CS fraternity,

CS K. Sarina Chouta Harish

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Session on Financial Management

A session on “Financial Management” was organized by Chapter on 1st, 2nd and 9th May, 2010 at Mysore Chapter of ICSI. CA Vagheesh Hegde was the speaker for the session on the topic - “Capital Budgeting”. Nearly 15 Professional Program students were benefited out of these interactive sessions.

Session on Company Law

A session on “Company Laws” was organized by Chapter on 2nd May, 2010, addressed by CS. Abhishek Bharadwaj. The interactive session was very helpful to executive program students appearing for exams in June 2010. About 25 participants actively participated in the session.

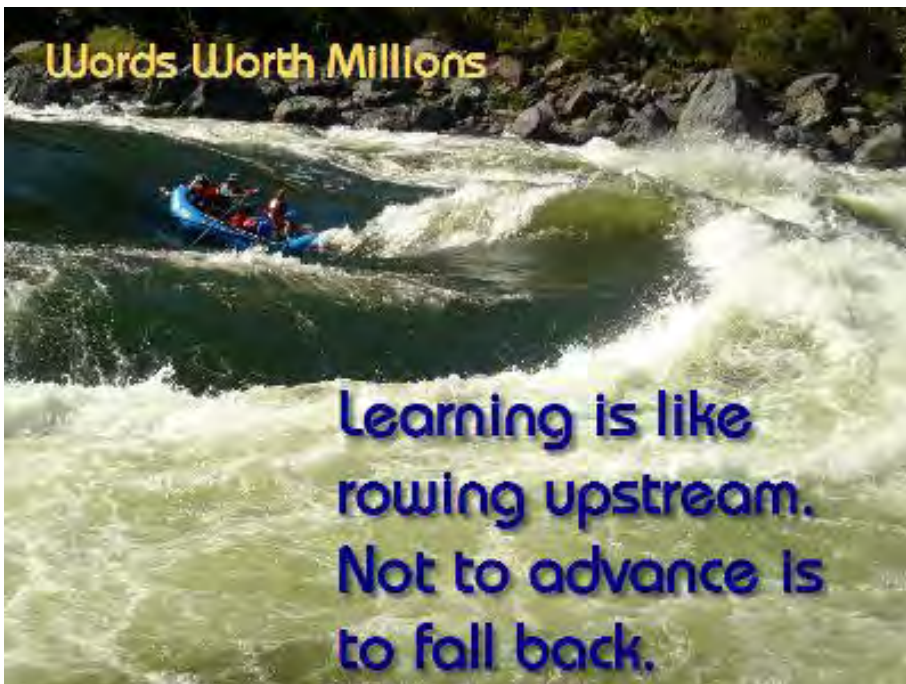


Session on Economic Laws

A session on “Economic Laws” was organized by Chapter on 8th and 9th May, 2010. Speaker CS. Abhishek Bharadwaj, spoke eloquently on this topic. It was an interactive session. A number of students from Executive program attended the session.

Session on Direct Tax

A session on “Direct Tax” was organized by Chapter on 16th May, 2010 addressed by Mr. Hrushikesh B. Around 10 executive program students participated actively and made full use of the session.



Session on Income from Business and Profession

A session on “Tax on Income from Business and Profession” was organized by Chapter on 18th and 19th May, 2010. Mr. Venkatesh Prasad K. was the speaker for the session. The session was very informative and about 15 Executive Program students availed the benefit.

Session on Business Management

A session on “Business Management” was organized by Chapter on 30th May, 2010 addressed by Mr. Hurshikesh B., the interactive session was helpful to Foundation Program students. A number of participants were benefited out of the programme.

State Level Quiz Competition

Two teams from our chapter participated in “IQ Blaster-2010”, State level quiz competition organized by National Institute of Personnel Management on 29th May, 2010 at Rani Bahadur Auditorium, Mysore. One of the team was sponsored by CS. D. D. Bhatt, Past Chairman of the Chapter.

Study Circle Meetings

The chapter conducted study circle meetings for foundation, executive and professional programme students on 2nd, 9th, 16th, 23rd and 30th May, 2010. Members like CA. Vageesh Hegde, CS. Abhishek Bharadwaj, CS. Omkar N. G. were present and answered the queries of students.

News from ICSI:

No more Pass Certificates for Foundation & Executives:

Henceforth (i.e. from June, 2010 Examination Session onwards), Pass Certificates will be issued only to such students who pass Final Course/ Professional Programme.

However, Mark Sheets will continue to be issued to students of all stages viz. Foundation, Executive and Professional Programmes as per existing practice.



CSR based on GRI framework



CS. Padma A V

Company Secretary,
Totem Infrastructure Limited, Hyderabad
upadmashenoy@gmail.com

Sustainability reports based on the GRI (Global Reporting Initiatives) framework can be used to benchmark organizational performance with respect to laws, norms, codes, performance standards and voluntary initiatives; demonstrate organizational commitment to sustainable development; and compare organizational performance over time. This framework sets out the principles and indicators that organizations can use to measure and report their economic, environmental, and social performance. The cornerstone of the framework is the Sustainability Reporting Guidelines. The third version of the Guidelines - known as the G3 Guidelines - was published in 2006

Declaring an Application Level

A GRI Application Level grid should be included in the report to show which level is being declared, and who has made this assessment. For a report to be recognized as GRI-based, self-declaration of a level is required. Report makers may exercise their option to seek opinions from a third party or the GRI secretariat on the accuracy of their self-declaration.

GRI: Environment

The Aspects in the Environment Indicator set are structured to reflect the inputs, outputs, and modes of impact an organization has on the environment. Energy, water, and materials represent three standard types of inputs used by most organizations. These inputs result in outputs of environmental significance, which are captured under the Aspects of Emissions, Effluents, and Waste. Biodiversity is also related to the concepts of inputs to the extent that it can be viewed as a natural resource. However, biodiversity is also directly impacted by outputs such as pollutants.

GRI: Economic

Performance data generated in response to the Indicators in this section are expected to illustrate the flow of capital amongst different stakeholders; and the major economic impacts of the organization throughout society.

An organization's economic performance is fundamental to understanding the organization and its basis for sustainability. Financial statements provide information about the financial position, performance, and changes in

the financial position of an entity. They also indicate the results achieved in managing the financial capital provided to the organization. Economic Performance Indicators are intended to measure the economic outcomes of an organization's activities and the effect of these outcomes on a broad range of stakeholders.

GRI: Human Rights

Human Rights Performance Indicators elicit disclosures on the impacts and activities an organization has on the civil and political human rights of its stakeholders. The Aspects within these Performance Indicators are based on internationally recognized standards, primarily the United Nations Universal Declaration of Human Rights and the ILO Declaration on the Fundamental Principles and Rights at Work of 1998 (in particular the eight Core Conventions of the ILO). Human Rights Indicators focus on how the reporting organization maintains and respects the basic rights of a human being, whereas the Indicators on Labor Practices reflect the quality of the work and the working environment. Incidents typically include 'points of impact' on stakeholder groups as well as risks for the organization where violations have occurred

GRI: Labour Practices

The structure of the Labor Indicators is broadly based on the concept of decent work. The set begins with disclosures on the scope and diversity of the reporting organization's workforce, emphasizing aspects of gender and age distribution. The approach to dialogue between the organization and its employees, and the degree to which employees are organized in representative bodies are covered by Indicators LA4 (which complements Indicator HR5 on Freedom of Association and Collective Bargaining) and LA5.

The physical protection and well-being of people at work is covered by Occupational Health and Safety Indicators (LA6, LA7, LA8, LA9), which address both the scope of programs as well as statistical performance on health and safety.

GRI: Product Responsibility

The Product Responsibility Indicator set addresses the effects of products and services management on customers and users. Organizations are expected to

exercise due care in the design of their products and services to ensure they are fit for their intended use and do not pose unintended hazards to health and safety. In addition, communications related to both products and services and users need to take into consideration the information needs of customers and their rights to privacy. The Indicators are primarily structured in pairs, with a Core Indicator seeking disclosure on the processes in place to address the aspect, and an additional Indicator to report on degree of compliance.

GRI: Society

The categories of Labor, Human Rights, and Product Responsibility address social impacts associated with specific stakeholder groups (such as employees or

customers). However, the social impacts of organizations are also linked to interactions with market structures and social institutions that establish the social environment within which stakeholder groups interact. These interactions, as well as the organization's approach to dealing with social groups such as communities, represent an important component of sustainability performance. The Society Performance Indicators therefore focus on the impacts organizations have on the communities in which they operate, and how the organization's interactions with other social institutions are managed and mediated. In particular, information is sought on bribery and corruption, involvement in public policy-making, monopoly practices, and compliance with laws and regulations other than labor and environmental.

LIVING ROOM

Cockroaches in life

Three women met. Yeah you can guess; exchange of news, views and loads of information! One of the ladies, with a lot of amazement, was telling how a cockroach can run three miles in an hour and can change directions 25 times in a second. A cockroach could live a week without its head. A cockroach has amazing adaptability. It can survive in any climate, in any house condition, inside any crack, etc. Its antennae, which rivals NASA's Global Positioning System, helps it to locate other cockroaches with state of the art precision. Cockroaches could be used to place surveillance devices in military installations. In fact a cockroach can survive even an atomic explosion! So on....

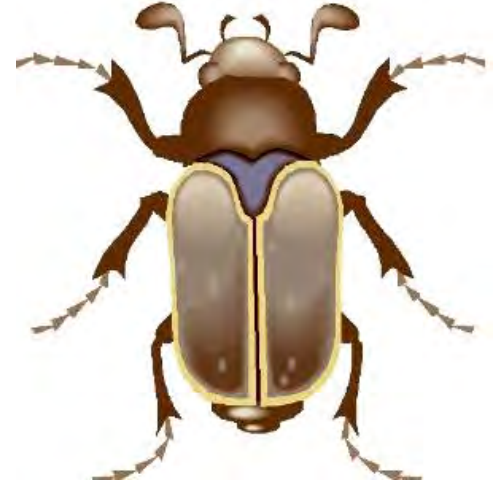
Suddenly, a cockroach flew from nowhere and sat on her. I wondered if this was the cockroach's response to all the glory that was spoken about it! She started screaming out of fear. With panic stricken face and trembling voice, she started doing stationary jumping, with both her hands desperately trying to get rid of the cockroach. Her reaction was contagious, as everyone in her group got cranky to what was happening. The lady finally managed to push the cockroach to another lady in the group. Now, it was the turn of the other lady in the group to continue the drama. The waiter rushed forward to their rescue. In the relay of throwing, the cockroach next fell upon the waiter. The waiter stood firm, composed himself and observed the behavior of the cockroach on his shirt. When he was confident enough, he grabbed and threw it out with his fingers.

Sipping my coffee and watching the amusement, the antenna of my mind picked up a few thoughts and started wondering, "was the cockroach with too many capabilities responsible for their histrionic behavior? If so, then why was the waiter not disturbed? He handled it near to perfection, without any chaos. It is not the cockroach, but the inability of the ladies to handle the disturbance caused by the cockroach that disturbed the ladies."

I realized even in my case then , **it is not the shouting of my father or my boss that disturbs me, but it's my inability to handle the disturbances caused by their shouting that disturbs me. It's not the traffic jams on the road that disturbs me, but my inability to handle the disturbance caused by the traffic jam that disturbs me. More than the problem, it's my reaction to the problem that hurts me.**

I understood, "I should not react in life. I should always respond. " The women reacted, whereas the waiter responded. Reactions are always instinctive whereas responses are always intellectual.

From the collections of CS. S.S. Satishkumar (sks@mangalorechemicals.com)





Company Deposit: A tool for Financial Planning

PART - 1

CA. K. C. Agrawal B.Com; LL.B; FCA
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Introduction and Scope of the series

Large and medium sized Public Limited Companies in India have many options of raising funds in the form of debt. Common among them are Debentures / Bonds, Bank Borrowing, Trade Bill Discounting, Inter Corporate Deposits (ICDs), **Public Deposits**, External Commercial Borrowing (E.C.B), Commercial Paper (C.P.), Borrowing from Mutual Funds and Insurance Companies etc.

However, small Companies having net worth of say, Rs. 4-5 crores, generally find it more feasible to raise fund through **Public Deposit**, Bank Borrowing, Trade Bill Discounting, I C D s, etc.

Public Deposit is a preferred source of fund for every category of Companies i.e. small, medium, large and very large. Like Banks, several Public Limited Companies in India, whether manufacturing or financing, government or non-government, listed or unlisted, are aggressively collecting deposits from their shareholders and public to meet their short and medium term fund requirements.

This series aims to discuss briefly the 'law and practice' pertaining to invitation, acceptance, maintenance and repayment of deposit by Manufacturing as well as Non-Banking Finance Companies (NBFCs) in India. Some intricate issues like acceptance of deposit by private limited companies and un-incorporated bodies have also been dealt with.

Further an attempt has been made to analyze the company deposit from company as well as depositors perspective. As a matter of fact, the subject of Company Fixed Deposit is very vast. However, keeping in view the limited scope of a series, only vital issues and grey areas in the realm of company Fixed Deposit have been discussed.

Fixed Deposit - a regular and convenient source of fund for Companies

The **Public deposit** commonly known as **Fixed Deposit** is a very convenient and cheap source of fund for all types and sizes of companies. Contrary to common belief, very large companies and corporations, having net worth of

say, Rs. 50,000 crore or more, too invite and accept Fixed Deposit from public and their shareholders.

The magnitude of Public Deposit in Corporate India is very high, beyond any one's imagination. **The figure is whopping, well over Rs. 1,00,000 (One Lac) Crore**. As a testimony to aforesaid deposit figure, appended in the box is the figures of 'Deposit' held by some randomly selected companies as on 31st March 2008 / 31st March 2009.

Name of Company	Rs in Crore
PNB Housing Finance Co Ltd.	1,883
Tata Motors Ltd.	1,232
Sardar Sarovar Narmada Nigam Ltd	1,041
Jai Prakash Associates Ltd.	190
United Spirits Ltd. (Formerly Mc-Dowell & Co. Ltd.)	56
DHFL Ltd.	47
First Leasing Company of India Ltd.	44
Jindal Saw Ltd.	33
J.K. Tyres Ltd.	40
Jagatjit Industries Ltd.	32
CNBC TV18 (India) Ltd.	32
JSL Ltd.	29
Surya Roshni Ltd.	20
Unitech Ltd.	11
TOTAL	Rs. 4,690

In fact, Fixed Deposit is an excellent tool for financial planning, both for companies as well as depositors. On the one hand it is a cheap and convenient source of fund for the companies as compared to other form of borrowings and on the other, it offers investors an opportunity to invest their monies in companies and earn higher returns as compared to bank fixed deposit.

It is pertinent to note here that a **Private Limited Company** by virtue of its definition, contained in section 3(1)(iii)(d) of Companies Act, 1956, can not invite or accept deposit from persons other than its members, directors or their relatives.

Therefore, these companies can't raise fund via FD route for meeting their short and medium term fund requirements.

In next issue:

Fund raising through Public Deposit vis-à-vis Bank Borrowing and Provisions pertaining to FDs

Letters from Readers...



The efforts put in for wide coverage, lucid language, informative contents and fine get up deserves appreciation to all individual members and the team effort. The News letter is valuable and covers variety of information to be noted and kept in record.

CS. V. S. Tapadia, M.Com., FCS, FICWA
Vice Chairman, Bhilwara Chapter ICSI/ICWAI
Bhilwara (Rajasthan)

It is a great pleasure to read the Mysore Chapter's eNewsletter, particularly the quality of articles and other content is very good. I look for a day where every chapter in the country competes with each other so that the overall professional standards of ICSI members is lifted to newer heights.

Undoubtedly, the eNewsletter is very valuable and I, from Hyderabad feel so happy that our brothers in other parts of the country are immensely contributing to the professional improvement. May God bless you with many successes. Keep going ahead.

CS S.V. Rama Krishna,
Advocate, High Court of A.P,

Yes, this is really a commendable achievement. Many initiatives generally start with bubbling enthusiasm in the beginning. But sustaining its momentum and

making it grow is not a mean task. If the past is graded First Class, we are sure to achieve distinction in future. Kudos to all team members.

CS. Alagar, Chennai

Greetings! as usual always prompt to releasing the Mysore(CS) eNewsletter and we are all privileged to receive the same, thanks for your sharing, all the best.

Ramakrishna
VCRKK - Observer & Well Wisher

Your news letters are very good and informative. Thank you and all the best.

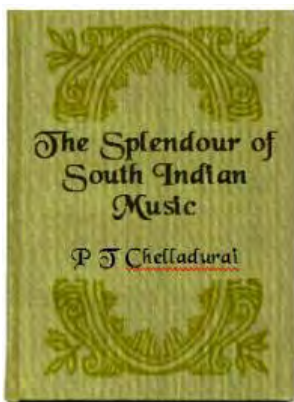
CS. Ajay Kadhao
Mahindra Ugine Steel Co. Ltd

There could not have been any better news than this. I'm amazed at the consistency of the Mysore CS Chapter and more particularly, the editorial team. Super. I'm a fan of the legal round up section of the Newsletter - crisp and clear.

Vishwas Krishna, Mysore

The news letter is getting better day by day covering all the professional topics and also touching on important topics like environment, IT, book review etc., - Keep it up and keep rocking...Best wishes for your 100th edition.

CA. Simhan, Bangalore



Book Review

Meenakshi Ramamurthy
MA (Music), Chennai



As corporate professionals, all of us are so busy in our routine chores that we seldom realize the need for relaxation and rejuvenation. Of the several ways of relaxation, music is one of the most ancient forms. What is more, it rejuvenates you in an enjoyable manner.

The learning and experiences of music are such that a man is turned into professional. Dr. P. T. Chelladurai the creator of hundreds of carnatic singers in India, has put in beautifully the music learning in celestial form in "[The Splendour of South Indian Music](#)".

This book contents is divided into ten parts and all together contains 30 chapters covering all aspects of South Indian music namely Ragam, Thalam, Musical forms, Creative music, musical instruments, sruthi, acoustics, biographies of music luminaries and history of south Indian music.

The Book talks about the primordial scale of Indian music; compares the conventional explanations with that of modern scholars; brings to fore the important seats of music and how they have inspired the promotion of music in South India There is a clear exposition of the 72 Melakartha Scheme and a thorough explanation of 66 important ragams and of the various musical forms. The book is available in both Tamil and English version.



IT for Professionals

Amitkumar Hegde,
B.Com, MCA, Bangalore



I was looking for a better system that can organize my ToDo's and remind at the right time. Now a days mobiles come with an option to set reminders, Even our Microsoft Outlook does it.

But I was looking for something more reliable and more versatile. My search ended at Google Calendar (<http://www.google.com/calendar>). Let me tell you why.

First and foremost it's available everywhere where I can have internet access. That makes the information more available than a list of To Do's maintained with Outlook on my laptop. One can search for events on Google calendar which comes very handy. That rules out mobile as a mode to maintain my ToDo's.

Moreover if I change my mobile again so many hassles come in to picture such as how do i take a backup of from my old mobile, what if the new mobile has an incompatible operating system and so on. Having said that let us explore the features of Google Calendar:

- ✚ You can set reminder on important events. You can configure it to send an email or SMS to your mobile. I found this feature to be very handy. Once I forgot to pay my credit card bill so now I have created an event which keeps sending SMS at right time to remind me.
- ✚ You can share your calendar with your friends/colleagues so that it will help a group of people to be organized.
- ✚ Search events so that you need not scratch your head to recall the date of payment of vehicle insurance.
- ✚ Set events to occur periodically so that a reminder is sent regularly to avoid any hassles.

So login to your Google calendar today and get more organized.



Web Yatra

Pavan Kumar M S,
CS Final Student, Mysore



Hi friends, Want to know the best stocks to buy or what IPO brokers are recommending? Here are the hot tips from the Street at www.moneycontrol.com, a portal developed by CNBC TV18, both in Hindi & English.

Site provides useful information like Business News, Markets, Stocks, IPOs, Commodities, Wealth, Portfolio Management, Corporate Strategy, along with expert opinions. Site acts as financial guru by providing step by step guide to our finance, snapshots of investing options, our asset allocation etc with experts' comments.

Further, site provides online Chatting facility with members of BSE, NSE and other resourceful persons. One of the important features is that we can add our favourite stocks after creating login id free of cost, which provides present price of stocks and guides us the right time to sell or buy particular share.

The site also provides details pertaining to ETFs, Top performing Mutual Funds, Commodity Prices, Loans and Property and Risk analysis. As long as we enjoy investing, we will be willing to do the homework and stay in touch with the market. Hope this site serves your purpose. Wish you a very safe, happy and profitable trading.





Compilation:
CS. Ravishankar Kandhi,
Bangalore

Learners' Corner

What's New in LLP

Compiled by CS. Sunil Kumar BG, PCS-Mysore



1. As on 14th June 2010, **1582 LLPs have been registered** with Registrar of LLP , all over India

2. **Reserve Bank of India** is planning to amend its rules to pre-empt non-banking finance companies (NBFC) from misusing the liberal rules governing limited liability partnership firms (Source: Business Standard)

3. **Select LLPs may get 49% FDI**

Foreign investors may soon be able to set up LLPs in India, as the government is all set to allow foreign direct investment in this new form of business organisation. Initially, FDI up to 49% may be allowed in LLPs in select sectors such as manufacturing. (Source: The Economic Times)

4. **Conversion of Company into LLP is now exempt from Capital Gain**

As per the Union Budget 2010-11, the conversion of the exiting private limited companies and unlisted public limited companies into LLP will be exempt from the provisions of the capital gain, if the specified conditions are complied with. Moreover, post conversion, LLP will also be allowed to carry forward the accumulated profit & losses and unabsorbed depreciation of the previous year under the Income Tax Act.

5. **Applicability of certain provisions of Companies Act 1956 on LLP**

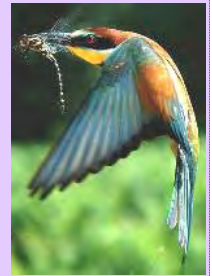
The Ministry of Corporate Affairs made applicable the following sections 441, 443, 445, 446,448, 450, 451, 453, 454, 455, 456, 457, 458, 458A, 460, 463, 464, 465, 466, 467, 468, 471, 474, 476 to 479, 481to 484, 486, 487, 488, 494, 497, 511, 511A, 512, 514, 515, 517,518, 519, 528 to 556, 558 to 560 and 584 of the Companies Act, 1956 related to company winding up, declaration of company as defunct & winding up of foreign companies , to a Limited Liability Partnership, except where the context otherwise requires, with certain modifications by notification no GSR 6(E) dated 6th Jan, 2010 which shall come in force w.e.f. 6th Jan, 2010.

6. **Expert panel says no to LLP in road sector**

"The LLP may be permitted in roads only after gaining more experience on the operational aspects. Hence tax exemption under section 80-IA to LLPs may not be granted at this stage," the panel has said in its report. (Source: The Economic Times).

Pick Of the Month

Company Law Settlement and Easy Exit Schemes by MCA



The Ministry of Corporate Affairs has introduced a 'Company Law Settlement Scheme, 2010' to give defaulting companies an opportunity to make their default good by filing belated documents and to become regular in future

The Ministry has also introduced an 'Easy Exit Scheme, 2010' under section 560 of the Companies Act, 1956, that offers an opportunity to defunct companies for getting their names struck off from the register of companies.

These Schemes came into force on the 30th May, 2010 and shall remain in force up to 31st August, 2010

What is

NFCG?



NFCG stands for National Foundation for Corporate Governance.

It has been established by Ministry of Corporate Affairs (MCA) in partnership by Confederation of Indian Industry (CII), Institute of Company Secretaries of India (ICSI) and Institute of Chartered Accountants of India (ICAI) with the goal of promoting better corporate governance practice in India.

The vision of NEFG is to act as a catalyst in making India the best in corporate governance.

Legal Roundup

CENVAT

Notifications/Circulars

Mandatory electronic filing of periodic ER-2, ER4, ER-5 and ER-6 returns/documents by the manufacturers notified.

(Source: CBEC Circular No 21/11/2010-CX dated 10/5/2010)

Case Laws - Manufacture/ Durability

An intermediate product sent outside for job work, does not establish marketability, hence not excisable.

Bata India Ltd Vs CCE (2010) (252) ELT 492

Waste and scrap arising during the course of dismantling of old and used machinery, on which credit was not taken, is not leviable to excise duty.

Treveni Engg. & Indus. Ltd Vs. CCE (2010) (174) ECR 231

Case Laws - Valuation

Excisable goods have to be assessed to duty in the form in which they are cleared and not based on activities undertaken subsequent to clearance.

Colgate Palmolive (I) Ltd. Vs. CCE (2010) (253) ELT 144

Case Laws - CENVAT/MODVAT

No one to one correlation is required for usage of inputs in export goods and the exporter is hence entitled to refund of unutilized credit on inputs.

CCE Vs. Motherson Sumi Electric Wires (2010) (252) ELT 543

Credit is admissible on HR sheets and steel used for manufacture of storage tank and machinery parts.

Subramaniya Siva Co-op Sugar Mills Ltd. Vs. CCE (2010) (175) ECR 106

Case Laws - CENVAT/MODVAT

High Court of Bombay has set aside a Tribunal order, delivered after six months from the date of hearing, on the ground of delayed delivery of judgement.

Shantilal Jain Vs. UOI (2010) (252) ELT 326

The rebate sanctioning authority should only examine the admissibility of the rebate of duty and cannot question the correctness of assessment.

CCE Vs. Maini Precision Products Pvt. Ltd. (2010) (252) ELT 409

No refund claim of excise duty is maintainable on the ground of downward

**CS. Abhishek Bharadwaj,
Bangalore**

**CS. Alagar,
Team Genicon, Chennai**

and

CA. Ashit Shah, Pune



CG has clarified that no permission of the Board of Approval is required by IT/ ITES SEZs for broadbanding as IT/ITES include both hardware and software.

(SEZ Instruction No. 52 dt 20-04-2010)

CG has amended the export policy so as to restrict the export of specified forms of cotton and cotton waste

(Policy Notn No. 44/2009-14 dt 21/05/2010)

revision of prices after clearance of goods from the factory.

CCE Vs Shri Nithyakalyani Textiles Ltd (2010-TIOL-590-CESTAT)

Customs

Notifications/Circulars

CG has increased the export duty on iron ore and concentrates, all sorts from 10% to 15%.

(Customs Notification No. 56/2010 dated 29/04/2010)

Case Laws - Classification

For the purpose of classification the Department cannot rely solely on the survey report, in absence of the same chemical test can be conducted.

Tamil Nadu Newsprint & Papers Ltd. Vs. CC (2010) (253) ELT 153

Case Laws - Valuation

The declared TV cannot be rejected in case of related party transactions where the relationship has not influenced the price of the imported goods.

Henkel Chembond Surface Technologies Ltd. Vs. CC (2010) (175) ECR 126

Case Laws - Others

Refund claims cannot be rejected as time barred where they are filed in terms of the directions of the High Court.

Apan Knitwears Vs CC (2010) (253) ELT 113,

Refund of ADC cannot be denied merely on the ground that the words used in the sales invoices were not similarly worded as mentioned in the notification and where all other conditions are fulfilled.

Singhania Chemicals Vs CC (2010) (175) ECR 058

Foreign Trade Policy

Notifications/ Circulars

CG has directed the Development Commissioners of SEZ to put in place a mechanism for clearance of import and export cargo on holidays as well.

(SEZ Instruction No. 53 dated 29/04/2010)

CG has restricted the import of second hand computers / laptops and spares thereof even by school / educational institutions and other specified agencies, as donations.

PN No. 62/2009-2014 dated 13/05/2010

CG has issued guidelines for issuance of the Free Sale and Commerce Certificate.

(Public Notice No. 64/2009-14 dt 18/05/2010)

CG has clarified that all Status holder exporters can avail the benefit of the 12 months period for submission of BRC.

(Public Notice No. 52/2010 dt 11/05/2010)

CG has extended the benefit of preferential tariff rates to Republic of Somalia, Maldives, Bangladesh and Burundi.

(Customs Notifications No. 63/2010, Dated 13/05/2010 and 64/2010 dated 14/05/2010)

Case Law

On clearance of goods from the EOU to the DTA, excise duties equal to the aggregate of customs duties will be levied.

Sarla Performance Fibres Ltd. Vs CCE (2010) (253) ELT 203

Benefit under the EPCG Scheme on import of cars cannot be denied, where the export obligation has been fulfilled.

Kumarakom Lake Resorts Vs CC (2010) (253) ELT 262

For fixation of brand rate of duty drawback, the original copy of the export promotion shipping bill is not required photocopy of the shipping will sufficient.

Suzlon Structures Pvt. Limited Vs CCE (2010) (253) ELT 93

Antidumping Duty

Notifications/ Circulars

CG has continued the imposition of definitive anti dumping duty on import of PTFE originating in or exported from Russia.

(Customs Notification No.57/2010 Dated 03/05/2010)

Service Tax

Notifications/ Circulars

'Detention charges' levied by shipping companies / steamer agents on account of delays in return of marine containers, are not chargeable to service tax.

(CBEC Circ No. 121/3/2010-ST dt 26/04/10)

The arrangement between an insurance company and the reinsurer is only for sharing of expenses and is not chargeable to service tax.

(CBEC Cir No. 120(a)/2/2010-ST dt 16/04/10)

Case Laws

Trading activity is neither a service nor manufacture and hence not avail credit of service taxes in relation thereto and only avail the balance CENVAT credits.

Orion Appliances Ltd Vs. CST (2010-VIL-10)

At the time of removal of inputs as such, the credit availed on input services would not be liable to be reversed.

AR Casting (P) Ltd. Vs. CCE & ST (2010 (25) STT 244)

An assessee is not liable for payment of service tax on services received from outside India prior to the enactment of Section 66A on 18/04/2006.

CST Vs. Unimark Remedies Ltd. (2010 (25) STT 419) and CCE Vs. Reliance Industries Ltd. (2010 (25) STT 319)

The limitation period of one year prescribed for filing of refund claims is applicable even service tax was collected without authority of law.

CCE Vs. Manorath Builders (P.) Ltd. (2010 (25) STT 323)

Service tax paid on mobile services, provided by the employer to the employee for business purposes, is an eligible input service.

Sidel India (P) Ltd Vs. Commissioner of Central Excise 2010 (25) STT 433)

Updates from CA Ashit Shah:

Notifications/ Circulars

Board has issued Clarification on applicability of Service tax on lying of cables or alongside roads and similar activities.

Circular No. 123/5/2010 - TRU dt 24/05/10

Case Laws

Turnkey contracts can be segregated and classifiable as well as valued for levy of service tax.

(BSBK Pvt. Ltd. v/s CCE, Jaipur - 2010 TIOL 646 CESTAT - DEL - LB)

Del Credere Agents liable to Service tax from 2005 and onwards.

(Sreenidhi Polymers (P) Ltd. - 2010 TIOL 377 Kar HC)

Service tax paid on Group Health Insurance, Security Services and Pest Control Services were considered to be Input Services and Cenvat Credit can not be denied.

(Hindustan Coca-Cola Beverages P. Ltd. - 2010 - TIOL - 722 - CESTAT - Bang)

Service tax paid on Outdoor catering services is Input Services and Cenvat Credit can not be denied.

(Ace Designers Ltd. - 2010 - TIOL - 715 - CESTAT - Bang)

Provisions of Rule 6(2) and 6(3) of Cenvat Credit Rules, 2004 are not applicable in a case where an assessee is providing "taxable output services" and also undertaking "trading activity".

(Orion Appliances Ltd. - 2009 - TIOL - 1285 - CESTAT - AHM)

Availing service of transportation by goods carriages not operated by GTA, are not liable to tax under the head Goods Transport Agency service.

(Bellary Iron & Ores P. Ltd. - 2010 TIOL 704 CESTAT - Bang)

Renting of immovable property by itself can not be regarded as a service, hence service tax cannot be claimed.

(Home Solution Retails Ltd. - 2010 - TIOL - 341 - HC - DEL)

Services rendered by non-resident to resident recipient could not be taxed as a service at the hands of the resident recipient.

(S. R. Batliboi - 2010 - TIOL - 376 - HC - DEL) and (SKF India - 2010 - TIOL - 375 - HC - KAR)

Mere paying of Service tax along with interest before issuance of Show Cause Notice (SCN) does not give relief from imposition of penalty.

(Science Centre -10 TIOL - 691- CESTAT - DEL)

Sales Tax

Case Law

A non speaking order causes prejudice to the person against whom it is pronounced, and will cause impediment in his taking adequate and appropriate grounds before the higher court in the event of challenge to that order.

(ACCT Vs. Shukla And Brothers (2010) 30 VST 114 (SC))

Interest leviable under Kerala General Sales Tax Act, is compensatory in nature and is payable in all cases where the tax

assessed and demanded is higher than the tax paid by the dealer.

(State of Kerala Vs. Kaycee Distilleries [(2010) 30 VST 93 (Ker.)])

An assessment framed on the basis of the report of the bureau of investigation, without communicating the contents of the report to the petitioner, is liable to be set aside.

(West Bengal Taxation Tribunal, in Nand Kishore Garg Vs. Sales Tax Officer [(2010) 30 VST 101 (WBTT)])

FEMA & SEBI

Updates from CS Alagar:

SEBI has inserted a Chapter XA on "Issue of specified securities by small and medium enterprises" and also issued the Model Listing Agreement to be with Stock Exchanges by SME's.

Sources: Notification dated April 13, 2010 & May 17, 2010 issued By SEBI

The foreign exchange buy limit from AD has been enhanced from USD 2000 to USD 3000 for per visit to abroad accept Republics of Commonwealth of Independent States.

Sources: AP DIR Circular No.50 dt May 04, 2010

The Government is proposing to increase FDI form 26% to 74% in Defence Sector subject to the FIPB approval.

Sources: DIPP.

Others

Notifications/Circulars:

Ministry of Finance in its notification dated 04th June 2010 has notified the Securities Contracts (Regulation) (Amendment) Rules, 2010 that the minimum threshold level of public shareholding to be 25%.

(Notification dated 04th June 2010)

Associated persons, i.e., distributors, agents or any persons employed or engaged or to be employed or engaged in the sale and/or distribution of mutual fund products, shall be required to have a valid certification from the National Institute of Securities Markets (NISM) by passing the certification examination as mentioned in the NISM.

(NISM/Certification/Series-V-A: MFD/2010/01 dated May 05, 2010.)

Case Laws:

In case of continued tenancy after merger/amalgamation the new Landlord Company can evict tenants after merger.

(Speedline Agencies vs T Stanes & Co)



Brazil, U.S. locked in trade disputes over cotton subsidies, meat

"While pressuring developing countries to adopt pro-trade measures, the U.S. does not enforce its WTO commitment on cotton subsidies," said the Council on Hemisphere Affairs, a non-profit organization. Brazil has been campaigning against the subsidies paid out to U.S. cotton producers, which it argues damage Latin American cotton trade. Alongside the unresolved issues with the subsidies, Brazil has suspended exports of processed meat to U.S. markets following controversy over traces of a medicine exceeding the limit found in the meat.

World exports log in 27 pc growth in Q1: WTO

With significant increase in exports from China, Japan, India and other Asian countries, the global merchandise exports grew by a healthy 27 per cent in the first three months of the year. "Global exports rose by 27 per cent (during January-March 2010)," the World Trade Organisation (WTO) has said in its international trade statistics report. India's exports during the period increased by a robust 33 per cent while that of Japan and China surged 48 per cent and 29 per cent, respectively.

WTO members want more transparency from China

"Certain aspects of China's legislation and the regulatory process remain complex and unclear," said Turkish ambassador Bozkurt Aran, who chaired the two-day WTO trade policy review on China. "Members remain concerned over certain aspects of China's export regime, notably restrictions, licensing, quotas, export taxes and partial VAT rebates," he said.

Greater market access against gains only

India won't open its markets beyond said limits unless it is assured of certain gains in WTO talks, said chief negotiator for the country D K Mittal, who is also the additional secretary with the commerce ministry. "No market access above the level of that is agreed by the developing countries can be given for free.

If countries agree to give, then they have to be rewarded. This is the language of WTO," Mittal said. "We have to make a balance between the protection of the right of farmers and the protection of the rights of the consumers," he said.

Endangered crocodiles hatched in Cambodia

Conservationists in Cambodia are celebrating the hatching of a clutch of eggs from one of the world's most critically endangered animals. Thirteen baby Siamese crocodiles crawled out of their shells over the weekend in a remote part of the Cardamom Mountains in south western Cambodia. Experts believe as few as 250 Siamese crocodiles are left in the wild and to be able to find a nest is a very big success story, to be able to hatch eggs properly is an even bigger success story.

Pak in a fix over VAT imposition

While the PPP government has deferred the imposition of Value Added Tax (VAT) regime till October 1, 2010, international donors like the International Monetary Fund (IMF) are not ready to budge an inch from their key demand that this levy should be enforced at the earliest in Pakistan. VAT is surely a pre-requisite to qualify for future IMF loans.

Fuel Subsidies are a Preferential Tax Treatment

According to the OECD, fuel subsidies are a form of preferential tax treatment and need to be addressed by Governments worldwide. The phasing out of worldwide fuel subsidies would be a cost-effective measure to meet environmental protection targets set out during the UN climate conference in Copenhagen.

Nestlé Accused of Bio-piracy

Nestlé, the world's largest food company, is facing allegations of bio-piracy after it applied for four international patents involving two plants found rooibos and honeybush, both of which are commonly used to make herbal teas in South Africa, without having negotiated permission to use them with the South African government. Berne Declaration, a Swiss advocacy organisation, and Natural Justice, a South African environmental group, are accusing Nestlé of having violated South African law and the Convention on Biological Diversity (CBD). Patent applications are for using the plants or their extracts to treat hair and skin conditions such as acne, wrinkles, and hair loss. A fifth application sought patent protection for using rooibos as an anti-inflammatory. It is seeking patent protection in a large number of countries around the world, including South Africa.