



Congratulations CSMysore! It's the 8th Birthday

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CS S Badrinarayanan
Chairman,
Mysore Chapter

-: Editorial Team :-

CS Dattatri H M

CS Sarina C H

CS Omkar Gayatri

CS Abhishek Bharadwaj

CS Ajay Madaiah

CS Vijay Shyam Acharya

CS Madhur N Agrawal

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Greetings from Mysore Chapter of ICSI!!

I am very happy to meet you again through this journal. The month being ASHADA, it also belongs to goddess Chamundeswari. I pray for HER blessings to the people of the country. There were lot of hopes on the economic front as the parliament winter session was convened in this month. The nation is eagerly awaiting for the introduction of historic indirect tax reform bill GST which if enacted will simplify the tax structure and result in substantial GDP growth. But the political climate is very hostile and the Government has to overcome its minority status in the UPPER House of the Parliament to get this legislation passed. However the growth story is continuing and we do hope there will be a massive turnaround in the economy of the country in the coming years.

On the Chapter side the flurry of activity is maintained in this month also. The Chapter has conducted five career awareness program in and around Mysore covering around 700 students of various colleges. The student community is showing more interest in pursuing company secretary profession and it is our responsibility to guide the students to take up the company secretary course.

The CS foundation results has once again proved our Chapters strength as the pass percentage was around 45%. Hope this will grow further. For the professional members national conference for PCS is scheduled in Cochin in the 2nd week of August 15 and Members are requested to participate in the conference to further their career prospects.

Wish you all a very happy independence day

..o0O

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Career Awareness Programs

Maharani's Commerce & Management College

On 21.07.2015 & 29.07.2015 Mysore Chapter of the ICSI organised a Career Counselling Programs at Maharani's Commerce & Management College, Mysore. Around 400 students from B. Com. Department attended the programme. CS Manjunath S, Management Committee Member of the Mysore Chapter explained in detail about the course offered by the Institute and the criteria for eligibility for the course, examination, requirements of training etc.



Career Awareness Programme Held at Chinmaya Composite PU College

On 22.07.2015 Mysore Chapter of the ICSI organised a Career Counselling Programme at Chinmaya Composite PU College, Mysore. Around 60 students from Commerce stream attended the programme. CS Pracheta M, Secretary, Mysore Chapter of ICSI explained in detail the course offered by the Institute and the criteria for eligibility for the course, examination, requirements of training etc.



Career Awareness Programme Held at Rangarao Memorial PU College

On 24.07.2015 Mysore Chapter of the ICSI organised a Career Counselling Programme at Rangarao Memorial PU College, Mysore. Around 75 students from Commerce stream attended the programme. CS Pracheta M, Secretary, Mysore Chapter of ICSI explained in detail the course offered by the Institute and the criteria for eligibility for the course, examination, requirements of training etc.



Career Awareness Programme Held at Mahajana PU College

On 28.07.2015 Mysore Chapter of ICSI organised a Career Counselling Programme at Mahajana PU College, Mysore. Around 225 students from Commerce stream attended the programme. CS Sabareeshan C K, Past Chairman, Mysore Chapter of ICSI guided the students and explained in detail the course offered by the Institute and the criteria for eligibility for the course, examination, requirements of training etc.



The Speakers in all the above sessions also highlighted the importance of making the right career choice so as to be successful in life. They then spoke about the role of a Company Secretary and importance of the profession of Company Secretary in the changing economic scenario. Brochures containing brief details of the Company Secretaryship Course was distributed to the participants. Various doubts and issues raised by the participants were clarified.



Gold Monetisation Scheme

The most widespread topic in India currently, is the new proposed scheme of GOLD MONETISATION. The word monetization means harnessing the wealth of the nation to reduce the deficit. Gold monetization in simple words means harnessing the latent power in terms of value, of idle gold to reduce the deficit and channel such harnessed value towards contribution to productivity and growth.

In India, currently there is no avenue for public, at large, to deposit their gold accumulations with any organization or earn any kind of revenue out of the same. This Scheme intends to provide such avenues.

Operation of the Scheme:

The Gold is a Non-Productive Asset. At best, Gold in a financial portfolio acts as a hedge against inflation. According to World Gold Council, rough estimates, Indian household and other trusts are holding around 18000 - 20,000 tons of Gold. One of the objectives of a Gold Monetization Scheme is to unlock the value of this non-productive asset.



As per the draft rules circulated by Reserve Bank of India, Government intends to operate the scheme like any other normal savings bank account. In other words, individuals who possess idle gold will deposit such idle gold with banks authorized for this purpose. The banks will melt the gold and provide certificate to the extent of value of gold received from the valuer. The maturity period of such deposits shall be for a period of 1 Year. The depositor has to exercise an option at the time of deposit itself, if he/she will take the gold back on maturity, or money in lieu of the gold. The customer will also be paid an interest on the value of gold, as may be decided by the banks. The Banks will sell such gold to jewelers. The Banks

can also make use of such gold as deposits for CRR and SLR requirements. Banks are also permitted sell the gold to obtain foreign currency.

Black Money and Gold Monetization Scheme

Gold Monetization Scheme is a good way to unlock the black money parked in the form of gold. The gold investment returns is currently in negative territory. Persons who are holding gold will be willing to convert it into a productive asset.

Current Account Deficit

Gold Monetization scheme will increase the supply of Gold in the market, which in turn will reduce the import of Gold. Lower import of Gold will help to control the current account deficit. CAD means higher outflow of the dollar compared to dollar inflow from exports. Current Account Deficit of last 2 years is 4.2% and 4.8% respectively. India's major import bill is of Gold and Crude Oil. To control the deficit control in demand of gold is essential.

Boost to Jewellery Sector

Jewelers currently, buy gold from gold importers or trading houses. Small jewelers buy from big jewelers. Gold Monetization Scheme will facilitate the availability of gold through banks on the loan. Gold will be treated as a Raw material for Jewellery sector. Thus, monopoly of gold importers will reduce. Secondly, if the jeweller will buy gold on loan from the bank then it will slowly bring the stability in Gold Prices. Speculation will be reduced.

Gold Prices will come down

If Gold Monetization Scheme is successful then there will be a sudden increase in the supply of gold which in turn will decrease the Gold Price. Therefore, Gold Monetization Scheme is good news for people who are waiting to buy gold at the lower price provided the scheme is a success. It has a flip side also. The drop in Gold price may result in out of proportion increase the demand which will defeat the whole purpose of launching this scheme. Therefore, the government should control the gold deposits in Gold Savings Account. Many business analysts have currently predicted a drop in gold price in future.

Norms of the Gold Monetization Scheme:

1. Need to value gold at BIS approved hallmarking centers
2. Open a Gold Savings Account from a Bank with certificate from BIS Centre.
3. Individual and Institutions can deposit as less as 30 Gms.
4. Declaration of intention of the depositor that the interest will either be paid in cash or gold and interest earned will be exempt from income tax, capital gains and Wealth tax.
5. Interest earned percentage will be decided shortly and the interest earnings will be 1% of deposit of the gold. For example if the gold deposited is 100 gms interest earned will be 1 gm.
6. Lock in period of 1 year will be maintained on deposits.
7. Gold deposits made available with the bank will be given to the jewellers. Jewellers can obtain physical gold loan in their metal accounts.
8. RBI is open to permit utilization of such gold deposits as Cash Reserve Ratio and Statutory Liquidity Ratio with banks or even purchase of foreign currency against such gold deposits.



Brief Benefits of the Scheme:

1. Individuals possessing, gold in their homes have an opportunity, to make it safe, but also earn interest on it.
2. The idle value of gold is brought into the monetary lifeline which in turn, helps in creating more growth and financial stability.
3. The huge reservoir of gold with temples like Padmanabhaswamy temple or Tirupati temple of Balaji Venkateswara can be brought into the main stream instead of lying idle.
4. A tool to control black money.

Major disadvantage of the Scheme:

The disadvantage of this scheme is that, the gold you deposit will not be in the form of jewelry you purchased, it will be melted, once you deposit it in your metal account. So those who preserve jewelry as passion with attachment, because of affection of their parents for so many years, will hesitate in using this scheme.

Conclusion: Gold Monetization Scheme apparently seems to be a win-win situation for all the parties involved. The depositor earns income out of idle gold along with tax exemptions. The government unlocks the gold value for the growth and betterment of the economy and thirdly the banks earn alternate source of revenue apart from their banking revenue. It would be worthwhile to see how such, sudden influx of such value in the economy, which was idle, can cause a counter effect of drop in gold price and increase in demand, along with black money unleashed in the economy, will be handled by the government.



Words Worth Millions

Progress is implied in independence. Without self-government neither industrial progress is possible, nor the educational scheme will be useful to the nation...

- Bal Gangadhar Tilak



Sharath Mahendra Kumar
B.Com, MBA, LLB, MPhil, PGDMM. (ACS, LLM)
Bangalore
sharathm_kumar@yahoo.com

Key points for HR-Legal: What we should know!

Continued from previous edition...

32. Even if the contract labour performs core nature of the job like the one performed by the permanent employees of the principal employer that is not an absolute ground for claiming **Co-Employment or Permanency**. It only calls for paying equal remuneration to both contract workmen and permanent employees.
33. Merely **working for 240 days** in a year would not entitle contract workmen to claim regularization. Supreme Court in SAIL case in 1997 & in Secretary, State of Karnataka Vs. Uma Devi, 2006, SC.
34. **Non-registration** by the Principal employer and **not possessing the license** by the Contractor is not a ground for regularization. P&H HC, 2010LLR, 1165.
35. The only time when the contract labour will be considered for co-employment or permanency is that when the principal employer knowingly engages in having a **camouflage contract** for avoiding having headcount and depriving such labors from the regular benefits that is extended to his regular employees.
36. The provision of the contract labour are applicable to industrial establishments carrying on non-intermittent and non-seasonal works engaging 20 or more Contract labours on any day of the preceding 12 months – need to obtain **registration under Sec 7** of the said Act. Contractors engaging 20 or more contract workmen – need to obtain **license under section 12** of the said Act.
37. In the **State of Andhra Pradesh**, the threshold limit for coverage both on the part of Principal Employer and Contractor is **05**. It is clearly stated as to what is core and non-core job on which contract labour can be engaged.
38. Sales promotion employees are covered by the “**Sales Promotion Employees (Conditions of Service) Act, 1976**”.
39. The said Act has the object of regulating certain conditions of services of sales promotion employees in certain establishments.
40. It is applicable to whole of India w.e.f 06.03.1976
41. Every sales promotion employee to be issued appointment letter by the employer in FORM – A
42. Sales promotion employee shall be eligible for Earned Leave (EL) & encashment of EL if not availed.
43. On full wages, EL for not less than 1/11th of the period spent on duty.
44. On one – half of the ages for not less than 1/18th of the period of service.
45. Maximum EL accumulation – 180 days out of which employee himself can avail up to 90 days at a stretch.
46. Encashment of leave – up to 120 days.
47. Medical leave – on production of medical certificate.
48. Quarantine leave – up to 30 days on the recommendations of authorized medical attendant or Public Health Officer (PHO).
49. Casual leave : 15 days in a calendar year
50. Applicability of other enactments:
 - a. Employees Compensation Act, 1923 / 2010
 - b. Industrial Disputes Act, 1947
 - c. Minimum Wages Act, 1948
 - d. Maternity Benefits Act, 1961
 - e. Payment of Bonus Act, 1965
 - f. Payment of Gratuity Act, 1972

To be continued...



Web Yatra

Guruprasada Bhat

CS Professional Student, Bangalore
guruprasadbhatcs@gmail.com



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Do you know... !!! A heavy coat of dust on a light bulb can block up to half of the light produced by it. This site gives the tips to consume less electricity by using efficient appliances, some suggestions, consistency is crucial and why we have to save the electricity on our house as well as in office.

This site broadly consists of Save Electricity, Air Conditions, Fans, Refrigerators, Lights, Information Resources, Historical Tariffs Case Studies, Top Ten Appliances, Using Renewable, Infographics, News, Pumps Etc.,

Since Electricity has become the lifeline of households and offices alike it is almost impossible to imagine life without electricity. Save the electricity, contribute towards a better environment.

e-Tools for the Professionals

Manjunath S. Bhat, M.Com, LLB

CS Professional Student, Bangalore
msbhat321@gmail.com



Microsoft OneNote:

An Android application for mobiles

Microsoft OneNote is a digital notebook for our to-do list and meeting notes, vacation plans or anything we want to organise and remember. Note or other data that we enter will sync across the device so we can access them wherever we go. It will allow us to create simple or complex notes from scratch, organise them into searchable notebooks and sync them among a variety of platforms including Windows PCs, Macs, iPads and iPhones, Windows Phones, Android devices and the Web. We can insert pictures, documents, videos and more into our notes. If we insert an Excel spreadsheet, we get a preview of charts and diagrams right next to our notes. An amazing device to make our own table headers and quickly move rows and columns also.

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News Room

- Column by CS Chakri Hegde and CS Vijayalakshmi Karur



NEWSROOM EXPRESS

- ICICI Bank Chairman M K Sharma says rewrite **'POORLY-DRAFTED'** Companies Act
- Snapdeal to invest \$100 million in its Bangalore based Multimedia Research Lab
- ISRO to launch 9 nano / micro satellites for the US in 2015-16
- Government approves proposals for selling its 11.36% stake in NTPC and 5% stake in NHPC
- Finance ministry to seek cabinet nod for Monetary Policy Panel; no veto power, but a casting power for RBI governor.
- SEBI to align governance norms with Cos Act
- offshore units come under SEBI lens for share manipulations
- SC calls for new law to regulate Social Media
- Government defers free trade agreement talks with European Union post ban on pharmaceutical products
- India has extended anti-dumping duty on import of all forms and grades of Vitamin-C from China for five years
- International finance corporation plans big investment in india's renewable energy space

EPFO SET TO MAKE RS 5,000 CRORE MAIDEN INVESTMENT IN EQUITIES

For the first time in its 64-year history, the EPFO started investing in equities as an asset class, marking a watershed in the history of the country's financial markets. The state-run pension fund, which has thus far stuck to safer debt instruments, is looking to ensure that it can preserve returns to subscribers via this move.

COMMONWEALTH BANK OF AUSTRALIA EXITS ADANI GROUP'S CARMICHAEL MINE PROJECT

Adani Group's financial advisor for its ambitious \$7-billion Carmichael mine project, Commonwealth Bank of Australia, has exited after a federal court at Australia revoked environmental clearance. At a time when Adani Mining is struggling to raise funds as lenders are wary of the project's financial viability and local protests against it, this comes as a big setback to Adani Group

RBI ALLOWS BANKS TO SHIFT, MERGE OR SHUT URBAN BRANCHES

The RBI has allowed banks to shift, merge or close branches in urban areas without seeking its prior permission. In a notification on its website, RBI said banks can "shift, merge or close all branches except rural branches and sole semi-urban branches at their discretion". Shifting, merging or closing a branch in a rural area or a sole branch in a semi-

urban area would, however, continue to require prior permission from RBI, the notification said.

INDIA DEFERS EU FTA TALKS

India put off its negotiations for a free trade agreement (FTA) with the European Union (EU), scheduled for this month, following an import ban imposed by EU on 700 drugs tested by Hyderabad-based GVK Biosciences.

INDIA RECEIVES US\$20BN IN FDI FROM MODI-VISITED NATIONS

India received FDI worth US\$19.78bn from 12 countries visited by Prime Minister Narendra Modi in FY 2014-15. During the same period, Indian companies also invested US\$3.42bn in countries such as Bhutan, Brazil, Nepal, Japan, USA, Myanmar, Australia, Fiji etc.

INDIA MIGHT NOT RATIFY WTO TRADE FACILITATION PACT

In a repeat of events a year ago, India is unlikely to ratify the WTO Trade Facilitation Agreement (TFA), even as it has decided to seek a permanent solution on the food stockholding issue.

The government is believed to be again taking a tough stance, as it did last year when it decided to veto the protocol of amendment of the TFA that made it a legal agreement under WTO.

CCI SET FOR SWEEPING POWERS UNDER IFC

The Competition Commission might exercise sweeping authority during formulation of financial market norms, including powers to issue binding directions, if certain provisions in the Indian Financial code become a reality.

To ensure fair competition in the marketplace, including at the time of framing of new regulations, the latest draft of IFC has mooted a raft of provisions that could eventually lend sharper regulatory teeth for the Competition Commission of India (CCI).

CCI QUESTIONS BAN ON DUBBING FILMS AND TV SHOWS IN KANNADA

The Competition Commission of India (CCI) has issued show cause notices to the Karnataka Film Chamber of Commerce, Karnataka Directors Association and the Kannada Chalanachitra Academy, among others, seeking an explanation as to why dubbing of films and television programmes into Kannada is not allowed in the state. CCI has sought a response from the associations by December 4.

Municipal Bonds

Compilation:

CS Phani Datta D.N.

Founder Partner,
ComplEx Advisors LLP, Mysore
phanidatta.dn@gmail.com



Ashwin Bhat B.com

Asst. Manager - Compliance
ASA & Associates LLP, Mysore



Municipal Bonds are the bonds / securities issued by the Municipalities or Urban Local Bodies (ULBs) in India which are entitled to borrow funds. This powers is endowed upon them by the Constitution (74th Amendment) Act, 1992. The increasing trend of urban population and demand for urban infrastructure has given raise to the need for issuance of these kind of bonds by ULBs. In India, over Rs. 13,531 millions have been mobilized by the ULBs through issue of various kinds of Municipal Bonds. Bangalore Municipal Corporation was the first municipal corporation to issue a municipal bond of Rs.1250 million with a state guarantee in 1997 and Ahmedabad Municipal Corporation (AMC) issued the first municipal bonds in the country without state government guarantee.

The Municipal Bonds are issued as regular bonds / taxable bonds, tax free bonds (vide Finance Act 2000) and pooled finances. SEBI has come out with a consultation paper for making regulations for such securities and their issue. The salient features of the guidelines include usage of investment only for specified infrastructure, issue clearly embarking on defined project, financial viability of the project, creation of escrow for debt servicing, fund raising through public issue or private placement and other such features.

Did
You
Know?

“&”, “and” – ‘Ampersand’

We all know “&” means ‘And’ and it is widely called ampersand. The symbol came up with the combination of letters ‘e’ and ‘t’ representing the letter ‘et’ which means ‘and’ in Latin. Originally, ‘And’ was a very old word of English which dates back to about 1011. As per many modern English books, ‘&’ is also considered as a letter of English alphabets. Thus, ‘A’, ‘I’ and ‘&’ were only alphabets which were also proper English words. ‘A’ and ‘I’ were pronounced same as both words and alphabets but only ‘&’ was pronounced as ‘and’. Hence, the sequence was read as A,B,C,D,...X,Y,Z, and per se ‘&’ (per se meaning by itself in Latin) and thus the symbol was known as “and per se ‘and’” which became ampersand later.

Any Amount Received By a Company From Any Other Company

Pursuant to Section 73 of Companies Act 2013 read with the Companies (Acceptance of Deposits) Rules 2014, the companies shall not accept any money in contradiction with these provisions. However, the Deposit rules provides certain exclusions which do not amount to Deposit. One amongst them is ANY AMOUNT RECEIVED BY A COMPANY FROM OTHER COMPANY. This amount is supposed to be received under the provisions of Section 186 only; hence the companies shall not take the shelter under this clause if any money received from another company which is in non compliance of Deposits provisions of the Companies Act 2013.

Pick of
the
month

Regulatory Updates

Compiled by:

CS Abhishek Bharadwaj A.B.

Partner, AAA & Co, Bangalore

csabhishekbharadwaj@gmail.com



CUSTOMS & FTP

Notifications/Circulars/News

The Central Government has appointed Central Excise Commissioner Amitabh Kumar as Joint Secretary (TRU-II) at the Central Board of Excise and Customs (CBEC).

No. 99/2015-20, dated 17 July, 2015

The Central Government has amended the area/ region of operations of specified Pre-Shipment Inspection Agencies (PSIA) designated for issuing certificate for import of metallic waste scrap.

No. 24/2015-20, dated 2 July, 2015

The Central Government has made the following changes in the Merchandise Exports from India Scheme (MEIS):

–Norway, Switzerland, Iceland, and Liechtenstein shifted from country group C to country group A;

–Hong Kong shifted from country

Group C to country Group B;

–Some products have been removed, and some have been included in MEIS scheme; and

–Rates of many specified products have been amended.

No. 27/2015-20, dated 14 July, 2015

Case Law

Transaction value of imported goods could not be enhanced without a speaking order in case desired by the importer, since this is a justifiable right of importer.

CC v Kruti Stainless Steel Pvt Ltd (2015 (321) ELT 290)

The assessee's right to a speaking order could not be denied merely on the ground that loading had been done automatically by the computer system.

CC v Foss India (P) Ltd (2015 (321) ELT 323)

If contemporaneous import was available at higher price, then Authorities should re-determine the value of imported goods by sequentially following the Customs Valuation Rules, and could not directly go to the residual method.

CC v Saccha Souda Pedhi (2015 (321) ELT 348)

Disclosure in balance sheet as customs duty recoverable was sufficient evidence to pass the test of unjust enrichment.

HCL Infosystems Limited v CC (2015-TIOL-1363-CESTAT)

Amendment to exemption notification was prospective in case it was not clarificatory in nature.

Andhra Sugars Ltd v CC (2015 (321) ELT 11)

Under section 110 of the Customs Act, 1962, Customs Authority was not empowered to attach bank accounts.

M Z Handicrafts v UOI (2015-TIOL-1446-HC)

HC had no jurisdiction to deal with matters relating to rate of duty or valuation of goods under Customs Act.

CC v BSES Kerala Power Ltd (2015-TIOL-1523-HC)

For claiming SAD refund, limitation of one year had to be counted from the date of finalization of provisional Assessment, and not from the date of payment of duty under provisional assessment.

Fenwal India Pvt Ltd v CC (2015 (321) ELT 333)

Commissioner (Appeals) had no authority to direct payment of 5% Extra Duty Deposit (EDD) while remanding the matter to the Original Authority for fresh order.

Terumo Penpol Ltd v CC (2015-TIOL-1423-HC)

The assessee was liable to pay duty, interest, rent and penalty on expiry of warehousing period since it was considered as deemed removal.

Bharat Tissues Pvt Ltd v CC (2015 (321) ELT 266)

Entitlement of benefits of Served from India Scheme could not be denied to an Indian company which was a subsidiary of a foreign company.

Yum Restaurants (I) Pvt Ltd v Union of India (2015 (320) ELT 781)

The conversion of EPCG (Export Promotion Capital Goods) shipping bills into DEEC (Duty Exemption Entitlement Certificate) shipping bills was permissible in case invoices submitted with the shipping bills for export had both, EPCG Licence number and Advance Licence numbers

Dynamatic Technologies Ltd v CC (2015 (320) ELT 616)

Neither the Central Government nor DGFT had the power to amend FTP retrospectively.

Malik Tanning Industries v Union of India (2015 (320) ELT 508)

Redemption fine could not be imposed in case goods were not available for confiscation.

CC v National Leather Cloth Mfg Co (2015 (321) ELT 135)

The 'Normal Value' determined by designated authority for Anti-dumping duty could be set aside when there was no strong basis for the same.

Hindustan Organic Chemicals Ltd v Union of India (2015-TIOL-142-SC-CUS)

The duty exemption under EPCG scheme could be withdrawn in case export obligation was not fulfilled in the prescribed period or extended period by DGFT, if any.

Cerebra Integrated Technologies Ltd v CC (2015 (321) ELT 297)

Ministry of Corporate Affairs

Notifications/Circulars/News

It is clarified that a company holding a general meeting after giving a shorter notice as provided under section 101 of the Act may also circulate financial statements (to be laid/considered in the same general meeting) at such shorter notice.

The Ministry in consultation with ICAI and it is clarified that in case of a foreign subsidiary, which is not required to get its accounts audited as per legal requirements prevalent in the

country of its incorporation and which does not get such accounts audited, the holding/parent Indian may place/file such unaudited accounts. To comply with requirements of Section 1C6i1) and 137(1) as applicable These, however, would need to be translated in English, if the original accounts are not in English Further, the format of accounts of foreign subsidiaries should be, as far as possible, in accordance with requirements under Companies Act, 2013 in case this is not possible, a statement indicating the reasons for deviation may be placed/held along with such accounts.

General Circular 11/2015 dated 21st July 2015

Case Law

The Bombay High Court has held that an agreement entered into by shareholders of a listed company containing rights of pre-emption in favor of a shareholder does not constitute a restriction on free transferability of shares as envisaged in section 111A of the Companies Act, 1956. The Bom HC also made certain observations, in obiter, regarding the position under the Companies Act, 2013.

Bajaj Auto Limited v. Western Maharashtra Development Council

CENVAT

Case Law

Excise duty was not payable on sample drawn for quality control, in absence of any evidence of clearance of such sample from the factory.

Dr Writer's Food Products Pvt Ltd v CCE (2015-TIOL-1464-CESTAT-MUM)

Physicians' sample cleared to principals was liable to duty under section 4, and not under MRP-based assessment.

Meghdoot Chemicals Ltd v CCE (2015 (320) ELT 643)

Performance bonus received after clearance of goods was not includible in the assessable value.

Vishwakarma Refractories P Ltd v CCE (2015 (320) ELT 622)

The recovery of 5%/10% amount from the customer, which already stood paid to the Department, could not be held as liable to be added in the assessable value of the goods.

Bharat Heavy Electricals Ltd v CCE (2015-TIOL-1226-CESTAT-DEL)

Erection and installation charges being post clearance expenses, were not includible in the assessable value of the goods.

Delta Electrotrade Control Pvt Ltd v CCE (2015-TIOL-1273-CESTAT-MUM)

Advertisement expenses initially incurred by the appellant, which were recovered later from dealers, was not includible in the assessable value, since it promoted the dealers' sales.

Hero Honda Motors Ltd v CCE (2015-TIOL-1495-CESTAT-DEL)

CENVAT credit was admissible on fuel (furnace oil) used in generation of electricity cleared to Electricity Board for synchronization and subsequently received back after synchronization.

Jindal Stainless Ltd v CCE (2015-TIOL-1397-CESTAT-DEL)

CENVAT credit on renting services could not be denied merely because the premises were not included in the registration certificate.

Vako Seals Pvt Ltd v CCE (2015-TIOL-1296-CESTAT-MUM)

There was no requirement to maintain separate accounts under rule 6(2) of CENVAT credit rules for inputs consumed in the

emergence of exempted byproduct; further demand of 8% of the price of exempted byproduct was also not sustainable in law.

CCE v Aditya Birla Nuvo Ltd (2015-TIOL-1244-CESTAT-KOL)

Rule 6 was not attracted on goods supplied under International Competitive Bidding. It rejected the department's contention that rule 6(6)(vii) was not applicable to goods manufactured in India, but was applicable only to imported goods.

CCE v Bharat Heavy Electricals Ltd (2015-TIOL-1317-CESTAT-DEL)

Held demand of 5% of the exempted services was not sustainable merely because assessee had not submitted an option letter under rule 6 at the beginning of the financial year.

Mercedes Benz India (P) Limited v CCE (2015-TIOL-1550-CESTAT-MUM)

That exemption on captive consumption was not extendable to goods sent to other

Bata India Ltd v CCE (2015 (321) ELT 194)

VAT, Sales Tax and Entry Tax Notifications/Circulars/News

Relying on the Supreme Court decision in State of Himachal Pradesh v Gujarat Ambuja Cements (2001-121-STC-273), held that declaration forms could be filed at a stage subsequent to completion of assessment, and not necessarily along with returns.

Weir BDK Valves v The Assistant Commissioner of Commercial Taxes (TIOL-1547-HC-KAR-VAT)

HDPE bags/ packing material used for packing of cement should be taxed separately at the rates provided for such packing materials under the relevant schedule, and should not be integrated with the sale of cement itself as one single sale. The HC observed that HDPE bags were not provided free of cost, considering their significant cost, and the invoices produced established such separate sale of packing material.

Andhra Cements Company Limited v The Commissioner of Commercial Taxes Andhra Pradesh (TS-276-HC-2015(TEL & AP))

The words, 'relating to' in the context of an exemption notification for construction of roads, had a wide meaning and could not be restricted to putting of concrete, grit, coal tar, etc., but it should mean everything related to roads. The Court observed that expressions such as 'arising out of', 'in respect of', 'in connection with', 'in relation to', 'in consequence of', 'concerning' or 'relating to' were of the widest amplitude and content, and included even questions as to the existence, validity and effect (scope).

Commercial Tax Officer v Penar Industries Limited (2015-TIOL-1660-HC-RAJ-VAT)

Input tax credit claimed by a buyer could not be reversed merely because the seller had failed to deposit the tax in the Government treasury.

Shanmuga Traders v The Commercial Tax Officer (2015-TIOL-1597-HC-MAD-VAT)

When goods were moved under cover of an invoice and other supporting movement documents, the goods could not be detained merely because the vehicle driver had changed the route from the regular route.

Green Agency v The Commercial Tax Officer (2015-TIOL-1508-HC-MAD-VAT)

Service Tax Case Laws

The amended section 35F of the Central Excise Act, which stipulated mandatory pre-deposit of 7.5%/10% while filing an

appeal before the Commissioner (Appeals) or the Tribunal, would be applicable to all appeals filed on or after the date on which the amendment came into effect, even if the proceedings were initiated before the amendment date. The High Court distinguished the view taken by the Kerala High Court in *Muthoot Finance Ltd v Union of India* (2015-TIOL-632-HC-KERALA-ST) wherein it had been held that the provisions prevailing at the time of initiation of proceeding would be applicable, irrespective of the fact that the appeal was filed after the amendment date.

Ganesh Yadav v Union of India and 3 Ors (2015-TIOL-1490-HC-ALL-ST)

The amendment in section 35F of the Central Excise Act, which stipulated mandatory pre-deposit of 7.5%/10% while filing an appeal before the Commissioner (Appeals) or the Tribunal, was not retrospective in nature. The HC relied on the Kerala HC decision in *Muthoot Finance Ltd v Union of India* (2015-TIOL-632-HC-KERALA-ST), and held that the provisions prevailing at the time of initiation of proceeding would apply irrespective of the fact that the appeal was filed after the date of amendment.

•The Kerala HC, in *Geojit BNP Paribas Financial Services Ltd v CCECST* (2015-TIOL-1602-HC-KERALA-ST) held that excess service tax paid inadvertently was merely a deposit and could not be treated as tax paid under the law. Accordingly, the limitation period specified under section 11B of the Central Excise Act would not be applicable for filing the refund claim towards such excess payment.

Fifth Avenue Sourcing Pvt Ltd v CST (2015-TIOL-1592-HC-MAD-ST)

A two-year course in management is a professional course, and could not be considered as vocational course. Accordingly, services provided by the appellant would not be eligible for the exemption under Notification No. 24/2004-ST, which was available only for vocational training courses.

Sadhana Educational and People Development Services Pvt Ltd v CCE (2015-TIOL-1200-CESTAT-MUM)

In direct selling model activity of distributor of roping in second level distributors/ sub-distributors for the trading company/ manufacturer was covered under the category of 'business auxiliary services'. Accordingly, the commission received by the sponsoring distributor from the trading company/ manufacturer on account of sale effected by the second level Distributor/ sub-distributor was held liable to service tax. The Tribunal further held that distributors were not acting as agents selling goods belonging to their client. The sale of goods by distributors was on

their own account, and the commission received by the distributors was on account of goods purchased by them from the trading company/ manufacturer, and not towards sale effected. Accordingly, the commission was held to be volume discount not liable to service tax.

Charanjeet Singh Khanuja and Ors v CST and Ors (2015-TIOL-1205-CESTAT-DEL)

In the case of construction services, conditions prescribed in the abatement notifications were amended to deny the CENVAT credit of input services in addition to input and capital goods with effect from 1 March, 2006, credit of input services availed before this date would still be available to contractor.

Archivista Engineering Projects Pvt Ltd v CCE (2015-TIOL-1278-CESTAT-MUM)

In the 'show cause notice' (SCN) and the adjudication order, the service category under which the demand had been confirmed was not specified, both the SCN as well as the adjudication order were defective and unsustainable in law.

Shubham Electricals v CST (2015-TIOL-1339-CESTAT-DEL)

FEMA/RBI/DIPP

Notifications/Circulars/News

The Department of Industrial Policy and Promotion has introduced composite caps for investments made by various classes of non-resident investors under different foreign investment routes. Earlier in July 2015, the Union Cabinet had approved a proposal to introduce composite caps. However, there were certain ambiguities in the Cabinet Release, which have now been clarified by the DIPP.

Press Note 8 (2015 Series) dated July 30, 2015

The Reserve Bank of India has liberalized the conditions for the issue of shares by Indian companies to persons resident outside India under an employee stock option ("ESOP") scheme.

A.P. (DIR Series) Circular No.4 dated July 16, 2015

The RBI has clarified that the 3-year minimum residual maturity requirement for investments made by foreign portfolio investors ("FPIs") in corporate bonds will not be applicable to investments made by FPIs in security receipts ("SRs") issued by asset reconstruction companies ("ARCs").

A.P. (DIR Series) Circular No.6 dated July 16, 2015

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