



Newsletter - 30

The Institute of
Company Secretaries of
India,
Mysore Chapter
May 2006

"Let's grow together"

Dear Reader,

We are delighted to delight you this month too by enriching the newsletter on a hat-trick with two more new columns.

"Observer": This column witnesses and analyses the happenings in the professional world. This platform welcomes you to convey your opinions and thoughts to co-readers. (Page 4)

"Living Room": The valuable principles of life brings in, the true professional excellence. Having said that, this newsletter will not be complete without focusing on these principles. To make life beautiful, we need to keep learning living rules and improve the quality of our life. Let us share our learning with co-readers. (Page 7)

Awaiting your feedback,
Meet you again next month...

Dattatri
Sarina and Kasturi
Editorial Committee

For past issues of newsletter visit
www.esnips.com/web/ICSIMysore

From Chairman's desk,.....

Dear Friends, Good wishes to you all!



The members are aware that the Chapter organised a Half- day Program on 14th April, 2006 on MCA21. Shri V.C. Davey, the Registrar of Companies with his Team Mr. Santhosh Kumar and Mr. Sanjay Kumar Gupta, made the presentation/ interacted with the participants. The Program was found very useful by the participants. The members who missed the Program lost a golden opportunity. The topics for the Programs organised by the Chapter are chosen keeping in mind the requirement and need of the members to keep abreast of the latest developments. The sole intention being to help in development of the Professional skills at Mysore. The thin attendance by the members at such important Programs has been a trend observed during last 2 years, while the people from different walks of life attend by paying the fees and sparing the time, is a matter of concern for the Chapter.

In fact, the last Meeting of the Management Committee after lot of deliberation decided to slow down on the frequency of the conferences / workshops etc organised by the Chapter at least till October 2006, in view of poor attendance by the members. The only activity during this period would be Career counseling for which I request the members to spare time.

The members are aware that the Regional Conference is being held at Bangalore on 26th & 27th May, 2006. The members are requested to register themselves as delegates and also to get advertisements/ sponsorships for the same.

I request all the members to pay your annual membership fee in time. This year the fee includes the subscription for Chartered Secretary too. The members who have not yet subscribed to the "Company Secretaries Benevolent Fund" are requested to subscribe.

With warm Regards,
D D Bhat

Inside....

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NEWS OF USE

Compiled from various sources.



Private security guards not entitled to minimum wages

(Source: TOI dt. 8th may 06)

The Supreme Court, in a recent judgment in the case 'Lingegowd Detective & Security Chamber (P) Ltd Vs Mysore Kirloskar Ltd', held that workmen of private security agencies were not entitled to minimum wages as Karnataka has not included this in the purview of Act.

Lingegowd had employed several persons to render security services to the principal employer Mysore Kirloskar. Concerned state authority passed an order asking the private security agency to pay minimum wages to its employees. Lingegowd challenged this before HC, where a single judge set aside order for enforcement of Act but directed Mysore Kirloskar to pay Rs 1 lakh as ex-gratia to workmen, being the principal employer.

Chitradurga District Mazdoor Snagha filed appeal before a Division Bench of HC, which set aside single judge's order. It reasoned that since the principal employer's activities were included in list of scheduled employments under Act, there was no need of a state notification to include

private security guards within purview of law to ensure minimum wages.

Lingegowd moved the SC. Its counsel Dayan Krishan not only assailed the Division Bench judgment in toto, but also argued that the HC was not correct in holding the private security agency jointly liable for payment of Rs 1 lakh ex-gratia to the concerned employees.

A Bench comprising Justices Arijit Pasayat and Tarun Chatterjee agreed with Krishnan. It held that a legislation "cannot be extended to those not intended to be covered by the statute concerned".

FDI Policy 2006

The Government of India has recently undertaken a comprehensive review of the FDI policy and associated procedures. As a result, a number of rationalisation measures have been undertaken which, inter alia include, dispensing with the need of multiple approvals from Government and/or regulatory agencies that exist in certain sectors, extending the automatic route to more sectors, and allowing FDI in new sectors. The latest changes in the FDI policy were notified vide Press Note 4(2006 Series).

“Championing Corporate Compliances”

Dear Professional Colleagues,

This is to invite you to join hands for “Championing Corporate Compliances”

Yes. This is the theme of forthcoming **32nd Regional Conference** to be held at the Grand Ashok, Kumara Krupa, High Grounds, Bangalore during 26th & 27th May, 2006. Shri H. D. Kumaraswamy, Hon'ble Chief Minister, Karnataka will inaugurate the program and Shri Jerry Rao, Chairman & CEO, Mphasis BFL Ltd will deliver the Keynote Address.

There will be five Technical Sessions to quench the thirst of the knowledge hungry. Then will be a great escape on 26th May, Friday evening to picturesque resort on the outskirts for Cultural Extravaganza, including Yakshagana, Cocktail & Dinner. Valedictory Session will be on Saturday, 27th May, 2006. His Holiness Shree Brahmanandji, Chinmaya Mission, will Grace with Spiritual Valediction.

As the conference is being held at Bangalore, we have the responsibility to play the dual role, that of a *Host* and a *Delegate*. I am sure you will join me there. Please register as a delegate first and the second role will then be only a formality. I believe that all of you will participate actively and make the Conference a Grand Success.

Thank You So much, Yours Sincerely,

Gopalakrishna Hegde
Chairman, Bangalore Chapter

Capital Market Instruments

Prasanna Patil CS Final, Bangalore



Hi friends, lets' go for second round...

Have you heard about the IPO Cornering Scandal that happened last week? SEBI had banned Karvy and Indiabulls from opening new a/c and trading for some days. I guess that you know that there are more than 10000 a/cs with the same address but with different names. Naturally, SEBI would like to meet such families where a large family of ten thousand members live under the same roof and trade with these DPs!

The more the instruments are released for making profit; more the SEBI tries to tighten the norms. STILL, market intermediaries find out loopholes to ensure that their bread and butter is safe.

Anyway, last month we had intro into the Capital market instruments. Few more instruments lined up this week too.

1. Security Premium Notes - SPN

Tata Iron & Steel Company (Tisco - now changed its name to TATA STEEL LTD) and Reliance took the first step to issue this kind of Security. SPN are issued as debt securities with detachable warrants. These securities are redeemable after a period of 5-7years.

SPN will have lock in period (Say min of 2years). During the lock-in period, no interest will be paid. The holder has an option to sell back the SPN to Company at par value after the lock-in. If the holder keeps it further, he is repaid with the principal and accrued interest at the time of redemption. Simultaneously the detachable warrants are converted into Equity Shares.

Advantages-

For the Company- The Company has lesser risk exposure of redeeming these securities during the lock-in. Hence Company can focus on its utilisation part than on repayment threat.

For holders- The term of SPN provides that ROI was treated as Long Term Capital Gain (As the lock-in is exercised). Consequently, the rate tax applicable is lower.

2. Sweat Equity

Many of us tend to think that Sweat Equity/Employee Stock Option Plan [ESOP]/ Employee Stock Option Scheme [ESOS] are different. But logically all these indicate equity issued to long time employees and directors who have toiled towards the growth of the Company.

Indirectly, it's a method used to purchase the inventions made by the employees in the organisations like Pharmacy and Software by the company.

Normally these are issued at a discount. The company selects those employees as per the norms approved by the BOD based on know-how provided or IPR created for the value addition of the business.

3. Mortgage Backed Securities

UK & US Corporates issue this kind of security which assures a fixed return that is derived from performance of specific assets. They are issued with a maturity of 35years. These specific assets are backed by mortgages.

Features of assets:

- i) The cash-flow generated from the assets should be received periodically
- ii) The actual cash-flow should be predictable
- iii) The assets should be large in number and shall have more value than the security issued.
- iv) The assets should be marketable.

Example: Machine X has been purchased on a Mortgage Loan of Rs.10Lakhs. The machine's life expected to be 10years. Meanwhile, the production of such Machine is confirmed at IRR of 18%, then, the Company can issue MBS carrying interest rate at 6-8% on the performance(i.e. proportionate of such revenue) and utilise such funds for developing the business.

Advantages: These instruments have a relatively low credit risk since the securities are backed by good quality collateral and offer a higher yield than Government securities.

Meet you next month for next round, bye bye...

The great “Retrospective Effect”

Dattatri H M,
AT&S India Pvt Ltd, Nanjangud

It is said from ages that the time is irreversible, just like bullet shot from a pistol! But wait; here are people who always think that anything is possible, reversal of time too... To test it they keep experimenting with it. They are very optimistic. Who are these great people? None other than our bureaucrats! What is the method to achieve this? Make legislations applicable from time immemorial (retrospective), prescribe fines for non compliance and make entire country busy running back to the past..... and lose time for the future!

We shall like to present to you some such instances...

Case 1: ITC excise duty evasion case:

On September 10, 2004, the Hon'ble Supreme Court of India pronounced judgement in favour of ITC Limited on the Appeals before the Court on the Excise Dispute for the period 1983 to 1987. The Court, inter alia, set aside the demand made by the Excise authorities against the Company. Further, the Excise Department's appeal has been dismissed.

Immediately Government woke up and made an amendment **retrospectively applicable from 1983** to retain revenue and to make court decision ineffective.

ITC, deeply exhausted from the 17 year long battle, surrendered and compromised with government and signed a settlement agreeing not to claim Rs 350 crore it had paid as deposit in 1996 in relation to the excise case.

Case 2: E-TDS initiative

Income Tax department implemented its ambitious e-governance project during 2003-04. Was it from that year? No!. IT dept asked entire country to go back to 2002-03 and start digitalizing entire data and file form 24 electronically! The Department had no proper knowledge at that time, but it expected expertise from assessees! Corporates suffered huge loss of time and resources. Consultants thanked government!

Case 3: Service Tax on Software Maintenance

The latest is the Service Tax issue. The CBEC vide Circular No. 70/19/2003-S.T., dated 17-12-2003 emphatically stated that “It is to clarify that maintenance of Software

is not chargeable to Service Tax.” Reasoning given was as follows: “In the instant case, repair is not of tangible goods but that of intangible program/software which is in installed condition and thus the maintenance and repair of software is not maintenance and repair of 'goods'. Then came Tata Consultancy Services vs State of Andhra Pradesh (Civil Appeal no 2582 Of 1998) judgment wherein software was considered as goods. The Board making the best of this decision held that **maintenance or repair or servicing of all computer software is taxable under section 65** in [Circular No. 81/2/2005-Service Tax dated 7th October 2005.](#)

But the CBEC did not stop here. It issued a ‘clarification’: “This exemption was rescinded by notification No. 7/2004-ST dated 9.7.2004. Hence such services became taxable since then; further, vide circular No. 81/2/2005-ST dated 7.10.2005, Board based on Supreme Court's decision, also clarified that computer software is leviable to service tax. Accordingly, Board decided that the **Chief Commissioners should be directed to recover the service tax payable on the above said services after 9.7.2004, the date when the exemption was withdrawn.**”

Now soldiers of service Tax department started expeditions to taxpayers. Assessee said ‘It is not fair, I have never collected service Tax from my customer and our customers’ particularly foreign customers will never entertain this kind of issues! Our profit margins are very low due to stiff competition and you are eating away our profits....” Simple answer- ‘If you have not collected service tax, it is your fate. You simply calculate and pay. Else be ready to face action!

Case 4: Another latest! Finance Act 2006.

The Punjab and Haryana High Court held in *Vipan Khanna vs CIT (255 ITR 220)* that where no notice under Section 143(2) is served on the assessee within the stipulated period of 12 months and the return as such has become final, the assessing officer could not assess or reassess the escaped income and he cannot also assess any other income chargeable to tax which has escaped assessment and which comes to his knowledge subsequently.

This view of the court has been followed by the Madras High Court in *CIT vs M. Chellappan and another (281 ITR 444)*.

Section 142 provides that a notice calling for the filing of the return can be issued at any time after the due date for filing the return of income. In the *Motorola Inc vs DCIT (95 ITD 269 Delhi)* case, a Special Bench of the Tribunal has observed that a notice under Section 142 has to be issued after the end of the period under Section 139(1), that is, the due date of filing of the return but before the end of the relevant assessment year.

How can the government sit quiet? It amended Section 148 of the Income Tax Act through Finance Act, 2006. A proviso is inserted in Section 148(1) for this purpose. It revalidates notices issued under Section 143(2) and such revalidation is made retrospective during the period October 1, 1991, to September 30, 2005, wherever return has been filed in this period after the expiry of 12 months specified in Section 143(2) but before the expiry of the time limit for making the assessment or reassessment. **The amendment takes effect retrospectively from 1st October 1991.**

Clause 35 of the Finance Act, 2006 amends Section 142 and permits the assessing officer to serve a notice under Section 142(1) even after the end of the assessment year calling upon the assessee to furnish his return of income. **Here again, the amendment is made with retrospective effect from 1-4-1990.**

By revalidating time barred notices, the Finance Act legitimizes the action of the Department which has been rendered illegal by judicial authorities. Further the

sanctity of proceedings under Section 142, 143, 147 & 148 is thus violated and vitiated.

So now reopen all past 15 years cases! Dear assesses and auditors, enjoy hectic days!

What justifies...?

Why can't government understand the basic truth that past should not be touched unless it is an absolute necessity? Why should the people be made to bear the brunt for the folly committed by the government? Waste of valuable resources absolutely never brings great fortune, either to government or to assessee. It only widens the gap between the people and bureaucrats.

Important issue here is, in few of the cases, government is disrespecting courts. By enacting new laws it is sending message that 'dear Judiciary, your function is to interpret what I write. If I don't like your interpretation, I will change law and thereby bend you to interpret in my favour'. If so called leaders and executors do not respect judiciary, who else can we expect to do so?

Mr. T. C. A. Ramanujam, former Chief Commissioner of Income-Tax, in his article in Business Line some time back says on this issue "Truly, it has been said that retrospective amendment is the bureaucrats' dream and the taxpayer's nightmare."

Post your thoughts at dattatrics@yahoo.com

Online submission of applications

POLICY CIRCULAR NO. 3 (RE-2006)/2004-2009, DATED 18-4-2006

The system of remitting license fee through the EFT mode was made optional till 31.03.2006 for certain categories of applications. It has now been decided that all applications for Advance License (excluding Para 4.7 and DFRC applications), Advance License for Annual Requirement, EPCG License and DEPB License (for EDI shipping bills from notified EDI Ports w.e.f. 01.10.2005) and Duty Free Import Authorisation scheme will have to be submitted with digital signature on the DGFT website dgft.gov.in (as is being done now) and payment of license fee will also have to be made through the EFT payment gateway of the DGFT designated banks on the DGFT website dgft.gov.in **compulsorily from 01 May 2006.**

In case of third party exports in case of DEPB claims based on EDI DEPB shipping bills, the applications will also need to be filed through the ECOM mode only on the DGFT website and no manual DEPB applications will be allowed. Regional Licensing Authority will however need to check on the admissibility of the third party claims from the documents submitted by the third party claimants in this behalf before passing such claims.

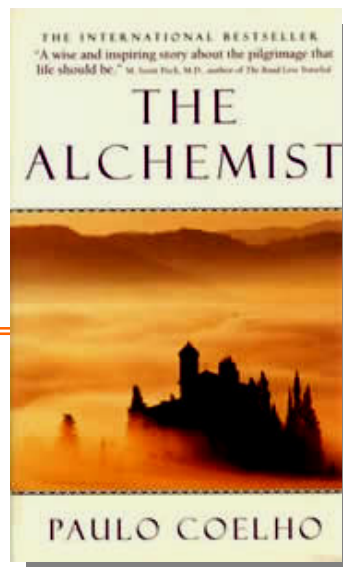
Tax status just a click away for PAN-holders

Taxpayers, who hold permanent account number (PAN), can now view their annual tax statement online as the income-tax (I-T) department launched Form 26AS online wherein tax payers can avail the facility by registering themselves at the tax information network (TIN) website www.tin-nsdl.com.

With this move, every tax payer can ensure that the amount of tax deducted by the deductor by way of income-tax, tax deducted at source goes to the exchequer. Similarly, the tax payers can also ensure that the bank furnishes to the tax department the details of self-assessment tax, advance tax or regular assessment tax paid by him/her to the bank.

The Alchemist

Kalindee Antani,
Lehman Brothers, Mumbai



If I was asked to select a book which I can read again and again and that too with a different insight every time, it would be *The Alchemist* by *Paulo Coelho*. It is a book anybody can correlate with one's own life and that too with different facets of life.

It is a book about dreams, how we perceive things viz-a-viz our dreams, how to work continuously towards them to make them come true. It tells us what is the importance of passion and the ultimate inner urge and at the same time about the essential wisdom of listening to our heart, learning to read the omens strewn along life's path which is the common language of the universe, and above all following our dreams.

It is a story about the journey of a shepherd boy, Santiago, who travels in search of worldly treasures and his meeting with The Alchemist. The book takes you through different roads, some smooth, some difficult, some unpredictable and some just beautiful and as you travel with this shepherd, you realize so many things in life or rather you register them somewhere deep within your heart. It is like a spiral, where after reading the book, you probably stand at the same place but at different level.

If I am to sum up in one line, the gist of the story is that when you want something, the entire universe conspires in helping you to achieve it.

The book firms the belief that helps you that there is a mysterious force which appears to be negative but actually shows you how to realize your destiny. It prepares your spirits and your will, because there is one great truth on this planet, whoever you are, or whatever it is that you do, when you really want something, it is because that desire originated in the soul of the universe and that is your mission on earth.



"No, you weren't downloaded.
You were born."

At certain point of life, we lose control of what's happening to us, and our lives become controlled by fate. This is the world's greatest lie and this book teaches us, how not to accept failure under pretext of fate. We have the ability to choose our destiny. The book is very inspiring for people of all ages and all professions.

This fable is a roseate amalgam of spiritual quest, existential puzzle, lovely sensitivity and deep strength. The mystic quality is the odd adventures of this shepherd boy which brings closer to recognizing and reaching the inner destinies and above all seeing the world through ones own eye.

The latest edition is the thirty sixth reprint and is priced at Rs. 195. It is published by the HarperCollins Publishers India.

You may read excerpts from the book Alchemist in the e-library of ICSI Mysore chapter at <http://www.esnips.com/web/EBooksReviewed>.

"Nothing great will ever be achieved without great persons. And persons are great only if they are determined to be so."

Banking Ombudsman

S Ravindra Nayak,
AT&S India Pvt Ltd, Mysore

The Banking Ombudsman Scheme, 2006

[Press Release](#)
[Scheme](#)
[Complain Form](#)
[Addresses of Banking Ombudsmen](#)
[FAQs on Banking Ombudsman Scheme, 2006](#)
[Consumer Cases on Banking](#)

We had an impression that all our problems with nationalized banks will be over with the entry of private banks. Now we realized that new systems bring new problems. High tech banks come with high tech problems! Thanks to Reserve Bank of India. Realizing this, it has introduced an online scheme, Banking Ombudsman". Now simply log on to www.bankingombudsman.rbi.org.in

The new scheme provides a forum to bank customers to seek redressal of their most common complaints against banks, like problems with credit cards, service charges, promises not kept by the sales agents of banks, delays in delivery of bank services, non-payment or any inordinate delay in payments or collection of cheques towards bills or remittances by banks, non-acceptance of small denomination notes and coins or charging of commission for acceptance of small denomination notes and coins by banks so on and so forth. The complaint can also be made by an authorized representative who is not an advocate(!).

In the website we can register our complaint in the prescribed form. Though there is a prescribed form for filing the complaint, it can also be filed on a plain paper. As on date, 15 banking Ombudsmen have been appointed all over India. The Reserve Bank may appoint one or more of its officers in the rank of Chief General Manager or General Manager to be known as Banking Ombudsmen to carry out the functions entrusted to them by or under the Scheme.

In addition to above, the site widely cover the Types of Complaints before banking ombudsman, Applying to banking ombudsman, Procedure before banking ombudsman, Award given by banking ombudsman, & Appeal against the award. So the Complainant is having full information about the scheme.

However, the Banking Ombudsman shall have the power limited to pass an award of actual loss suffered by the complainant or 10 lakh rupees whichever is lower. Time may change the scheme to be more effective and help to tune better the understanding between the banker and its customer.

Living Room

THE BRICK

A young and successful executive was traveling down a neighborhood street, going a bit too fast in his new Jaguar. He was watching for kids darting out from between parked cars. As his car passed, no children appeared. Instead, a brick smashed into the Jag's side door! He slammed on the brakes and backed the Jag back to the spot where the brick had been thrown.

The angry driver then jumped out of the car, grabbed the nearest kid and pushed him up against a parked car shouting, "What was that all about and who are you? Just what the heck are you doing? That's a new car and that brick you threw is going to cost a lot of money. Why did you do it?"

The young boy was apologetic. "Please, mister...please, I'm sorry but I didn't know what else to do," He pleaded. "I threw the brick because no one else would stop..." With tears dripping down his face and off his chin, the youth pointed to a spot just around a parked car. "It's my brother," he said. "He rolled off the curb and fell out of his wheelchair and I can't lift him up." Now sobbing, the boy asked the stunned executive, "Would you please help me get him back into his wheelchair? He's hurt and he's too heavy for me."

Moved beyond words, the driver tried to swallow the rapidly swelling lump in his throat. He hurriedly lifted the handicapped boy back into the wheelchair, then took out a linen handkerchief and dabbed at the fresh scrapes and cuts. A quick look told him everything was going to be okay. "Thank you and may God bless you," the grateful child told the stranger. Too shook up for words, the man simply watched the boy! push his wheelchair-bound brother down the sidewalk toward their home.

It was a long, slow walk back to the Jaguar. The damage was very noticeable, but the driver never bothered to repair the dented side door. He kept the dent there to remind him of this message: **"Don't go through life so fast that someone has to throw a brick at you to get your attention!"**

-Contributed by Mr. D D Bhat

LEGAL ROUNDUP...

Compiled from various sources



Income Tax Act

Interest should be granted till the Refund order

In the above mentioned case the Rajasthan High court held that the interest should be granted till the date when the refund order regarding payment of interest has been signed. Refund is granted the moment the concerned officer has signed the order regarding payment of interest under section 244A of the Income tax Act.

Rajasthan State Electricity Board vs CIT (Raj HC - Jaipur Bench)

Customs

Import of re-manufactured/second hand capital goods

The DGFT clarified that the second hand capital goods could be freely imported without any specific license. However, the importer would have to file a declaration at the time of clearance that the capital goods imported are second hand capital goods, which did not fall within the purview of remanufactured capital goods.

Foreign Trade Policy/RBI

“Policy Focus Product Scheme” replaces Target Plus Scheme

The objective of this Scheme is to incentivise export of products which have high employment intensity so as to offset the inherent infrastructural inefficiency and other associated costs involved in marketing the products. Under this Scheme, exports shall qualify for benefits like entitlement to duty credit scrip equivalent to 2.5% of the FOB value of exports for each licensing year, commencing from 1st April, 2006. However, the Policy states that only 50% of the export turnover in such products shall be counted for benefits under the Scheme. This scrip and the items imported against it would be freely transferable.

Export of goods and services - extension of period of realization

RBI has now decided to increase the invoice value limit to US\$ 1 million from existing US\$ 100,000 with immediate effect. Accordingly, AD banks may henceforth grant extension of time for realization of export proceeds beyond prescribed period from the date of export up to

the invoice value of US\$ 1 million subject to existing terms and conditions.

Karnataka VAT

Amendment of section 2(7): “Capital goods”

Section 2(7) has been amended by inserting the words “for the purpose of section 12” and there by deleting “whose total cost is not less than an amount to be notified by the Government or the Commissioner”. The result of the above amendment is that henceforth the **input tax credit in respect of capital goods will be given instantly on the same lines as other inputs.**

Amendment of Section 30(3): Any registered dealer who receives or issues, credit notes or debit notes shall declare them in his return to be furnished for the tax period in which the credit note is received or debit note is issued and claim reduction in tax or pay tax due thereon. Now on, tax credit in respect of a sales return may be availed in the month of receipt of credit note. This will avoid going back to the month of original sale and rectifying the same.

Sales Tax

Banks must check sales tax dues...

Banks providing mortgage loans will have to periodically verify whether the borrower has been clearing his sales tax dues. In an important judgment, the Bombay high court has held that the sales tax department will have the first right over a defaulter's property and assets

Excise/CENVAT

New procedure for excise duty refund

Circular No. 828/5/2006-CX dt 20/04/06

In a major booster dose for the exporting community, the Finance Ministry has come up with a new procedure to ensure quick refund of accumulated excise duty and service tax credit to exporters. Under the new procedure, once preliminary scrutiny is completed, **80% of the refund amount due would be sanctioned within 15 days** of making the claim. The balance amount would be paid

after verification and other formalities in the prescribed manner within 45 days from the date of filing of the claim.

Service Tax

Increase in Service tax Rate from 10.20% to 12.24% effected

The President gave his assent to the Finance Act 2006 on April 18 2006. Service tax to be applicable on 15 new services from May 1, 2006. The new services made taxable include services provided by share transfer agents and registrar to issues, recovery agents, maintenance and management of Automatic Teller Machines, sale of advertising space or time (except for print media), sponsorship of events by companies (except for sports), public relations management services, ship management services, international air travel (excluding economy class), rail container handling services (excluding haulage charges), cruise ship travel, Internet telephony services, business support services and credit card, debit card and other payment card-related services.

Service Tax (Determination of Value) Rules, 2006

- ✚ Where the consideration received for taxable service is not wholly or partly in money, the value of taxable service would be equal to the gross amount charged by the service provider for similar service as sole consideration to any other person.
- ✚ Where such value of similar service is not available, the value of taxable service shall be determined by the service provider and shall not be less than the cost of provision of such services.
- ✚ Any expenditure or costs incurred in providing taxable services shall be included in the value of such services.
- ✚ Only such expenditure as is incurred as a pure agent of the service receiver shall be excluded from the value of taxable services.
- ✚ In case of services imported into India, the value of taxable services will be equal to the actual consideration charged.
- ✚ The Central Excise Officer has powers to question the valuation of such services and to re-determine the value after giving reasonable opportunity of being heard to the assessee.

The Services (Provided from Outside India and Received in India) Rules, 2006

- ✚ The taxable services should be provided from outside India and received in India
- ✚ The service recipient is required to get registered and to pay the tax in accordance with the relevant provisions of law

- ✚ The taxable services under these rules shall not to be treated as output services for the purpose of availment of CENVAT credits on inputs/input services

Export of Services Rules, 2005

The benefit of exemption from service tax would be available on services if the following conditions are met:

- ✚ The taxable service is delivered outside India and is used outside India and
- ✚ Payment for such service is received by the service provider in convertible foreign exchange.

Necessary changes for determination of the newly introduced services as exports have also been effected.

Exemptions

The following exemptions from service tax, which have become redundant as a result of amended Section 66A and The Services (Provided from Outside India and Received in India) Rules, 2006, have been withdrawn with effect from 19-04-2006

- ✚ Specified services provided by non-residents in the course of sailing ship.
- ✚ Services received and consumed by an individual outside India.

Labour Law

The respondents retired after attaining superannuation and claimed benefit of the scheme introduced after his retirement whereby those retired prior to introduction of the scheme were discriminated in matters of fixing pension and other terminal benefits. The writ petition was filed seeking direction to treat them at par with other employees retired on or after 1.7.1990. Both the Single Judge and the Division Bench accepted the same. Hence the present appeal.

The Apex Court held that the settlement arrived between the employer and employee was just and fair. Exclusion of workmen retiring before the date fixed is no good ground to characterize settlement as unjust or unfair. If the settlement had been arrived at by a vast majority of concerned workers and was also accepted by them in its totality, it must be presumed to be just and fair and not liable to be ignored while deciding the reference made under the Industrial Disputes Act merely because a small number of workers were not parties to it or refused to accept it.

Transmission Corpn., A.P. Ltd. and Ors. Vs. P. Ramachandra Rao and Anr.



Spectrum this month..

Friends,

This month was hectic with lot of activities and discussions. The highlight of this month was the 'Preparatory Examinations' conducted by the Mysore Chapter for students appearing in June exams.

Study circles were conducted on all the 5 Sundays. The topics of discussions were as follows:

- 2nd April- Code of Civil Procedure (Hierarchy of Courts, Revision, Review etc)
- 9th April- Dividends and Derivatives
- 16th April- Books of Accounts and Ratio Analysis
- 23rd April- Finance Act,2005
- 30th April- Preparatory Examination Papers review

We have great news friends,

We are pleased to inform that Ms. Pracheta M, a member of Spectrum was awarded as the 'Best Participant' at the Training Orientation Program conducted by the Hyderabad Chapter. **Congratulations Pracheta, keep it up and tell others the secret of your success!**

*Until next month, have a great time,
Spectrum friends*

“Plural of I is WE”

Deferred Taxation For Starters...

Raghuveer ACS Final and ACA Final

As per matching concept of accounting, Income tax should be accrued in the same period in which the associated cost and revenue are related. However there may be temporary or permanent difference between accounting income and income tax income. This may arise due to the following two reasons:

1. Difference in nature of income/expense considered in arriving the above two income.
2. Difference in quantum of items recognized.

The recognition of tax effect of difference between accounting income and income tax income gives rise to the concept called deferred tax. AS 22 provides the basis for accounting for income tax after considering temporary difference between taxable incomes and accounting income.

AS 22 defines deferred tax as the tax effect of timing difference.

Concept of timing (temporary) difference and permanent difference:

Timing difference: Timing difference is the difference between taxable income and accounting income which originate in one period and are capable of reversing in one or more subsequent periods.

Ex: Expenditure u/s 43B of the IT Act 1961 deducted in computing accounting income is allowed as a deduction for taxable income only in the year of actual payment.

Permanent Difference: Difference between accounting income of a year and taxable income of the year that will never reverse.

Ex: 20% of Payments in excess of Rs 20000 in cash is inadmissible for computation of taxable income but deductible in computing accounting income.

Since AS 22 defines deferred tax as tax effect arising out of temporary difference permanent difference should be ignored while calculating deferred tax.

Deferred tax may be a deferred tax asset or a deferred tax liability.

Deferred tax should be included in determination of net profit or loss for a period but however subject to prudence. Deferred tax assets and liabilities should be measured using the tax rates and tax laws that have been enacted or substantively enacted by the balance sheet date.

To all our friends preparing for June 06 exams....

Be confident, “YOU CAN WIN”. Wish you a great success.