



October 2006

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*From Chairman's desk,.....*



*Dear Friends,*

*The month of September posed a few issues on the students' front. The excellent results from the students in June exam posed the problem of finding Management Training arrangements for the eligible students! With the kind help of Mr. S. Badrinarayan & Mr. K.R. Ganapathy and our ever dependable Mr. Sabareeshan we could accommodate some students for management training. I request other members to come forward to take students for Management training in their organizations so that the enthusiasm of the eligible students gets a further boost.*

*I want to thank Mr. G.D. Ramarao for sparing his valuable time for career counseling at Vidya Vardhaka Degree College. I request other members to join in this effort.*

*The efforts of the Chapter to enhance the visibility of the Course through the support of the members & students has ensured that the student Registration is on the expected lines. Mysore Chapter has now the distinction of Graduate Engineer registering for the course!*

*I request the members to go through the News Letter and give suggestions for enhancing the quality further. Contributions of articles are most welcome.*

*Members who have not yet subscribed to the "Company Secretaries Benevolent Fund" are requested to subscribe.*

*Let the festival of lights bring prosperity, peace of mind, health and wealth to all the members!!*

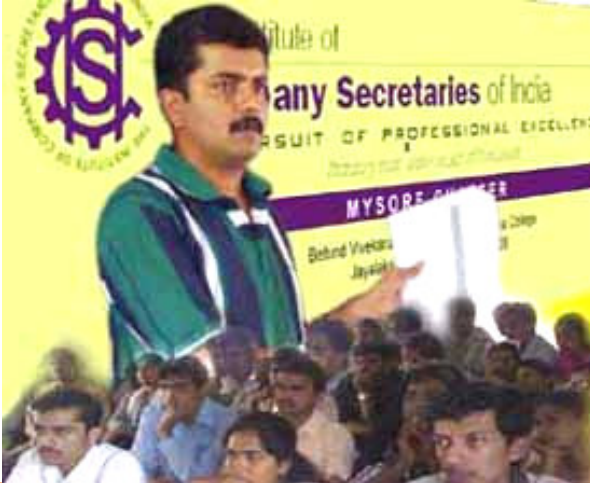
**D D Bhat**

Chairman - ICSI Mysore chapter

## Election to The Council/Regional Council- 2006

As per Rule 21(3) of the Company Secretaries (Election to the Council) Rules, 2006 (Election Rules, 2006), polling shall be held on two consecutive days in a place having more than 2500 voters. Delhi/New Delhi and Mumbai have more than 2500 voters each and therefore polling shall be held at these locations on two consecutive days i.e. 15th and 16th December, 2006. At other locations polling shall be held only on 15th December, 2006. Time to vote: From 8.00 AM to 7.00 PM.

The counting of votes will commence on 26th December, 2006 at ICSI-NIRC Building, 4, Prasad Nagar, Institutional Area, New Delhi



# “Save environment to save yourself”

Session on Environment Legislations -A Report by  
**Ms. Ashwini** (ACS Inter)

**Various** developments in all the sectors has definitely seen a rise in the GDP and made our life more comfortable, however at the cost of environmental degradation. We as Company Secretaries have an onerous role in environment protection and ensuring its sustenance. Thus the Mysore Chapter of ICSI had organized a session on ‘Safety and Environment’ on the 17th September, 2006 presided by **Sri. Om Guru Prakash**, Heading Environment & Safety teams at Sigma Aldrich, Bangalore.

Mr. Om Guru Prakash highlighted various aspects pertaining to environment. “Save the environment and save yourself” was the call. His vast experience in this area in various capacities enabled us to get an insight into the procedures involved in obtaining environment clearance certificates, practical problems involved, etc. He also emphasized the need to conserve natural resources.

Its significance is not only from the point of view of legal compliance but also to ensure peaceful co-existence of all beings. He dwelled upon the legal framework, role of pollution control boards, safety standards, consequences of non compliance and so on. He also elaborated on the steps to be taken while setting up an industry and precautions to be considered. The constant exposure to noise has the threat of causing hearing impairment

amongst the employees. Further the importance of precautions to be taken while handling hazardous substances need not be over emphasized.

The focus was then on the provisions of the Factories Act, 1948 pertaining to the safety and health of workers such as ventilation, sanitation facilities, medical checkups, canteen facilities, adequate lighting, provision of drinking water etc., The role of welfare officer and safety officer was also stressed upon.

On a query about the safety standards of the aerated drinks, he said that the issue of pesticides was secondary. At the elementary level, the contents i.e, carbonated water is evidently harmful and thus its consumption must be refrained.

The session was very interesting and interactive. The enthusiasm of students to learn more in this regard was commendable. In fact it inspired the audience to introspect on their own activities and they endeavored to do whatever possible to curtail environmental degradation. Indeed a true sign of professionalism!!

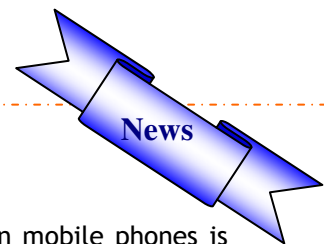
Let us join our hands in making the world a better place to live in. Do not forget “**Tiny drops of water make a mighty ocean**”.

## Companies can claim service tax on mobiles as Cenvat

The Mumbai Customs, Excise and Service Tax Appellate Tribunal has ruled that service tax paid on mobile phones is available as credit to eligible service providers of output service and manufacturers. Giving its judgement on a case between Indian Rayon and the commissioner of customs and excise, Bhavnagar, the tribunal made it clear that the department could not rely on the old Central Board of Excise and Customs circular of '03 to deny the credit of service tax.

Also, the tribunal pointed out that there was no provision anywhere in the rules disallowing the credit of service tax paid on mobile phones, which in any case was fast replacing fixed line phones in many establishments. It was held that the term ‘cellular phone’ would include all kinds of phones which would work on cellular technology.

Cenvat credit on mobile phones was never intended to be disallowed under the present Cenvat credit rules. The judgement delivered by the Mumbai bench will give great relief to assesses for availment of Cenvat credit.



# Your Unlimited Potential



A "potentiality" is the capacity for growth or improvement; a possibility; a power. For example, if you were sitting on a box of dynamite, you would be sitting on a potentiality. The dynamite isn't exploding . . . but it could.

The fact is: You ARE sitting on a box of dynamite; and it's big! "Your potentialities are a great deal better than anyone ever permitted you to believe." -- L. Ron Hubbard

Right now, you are capable of making improvements in your career, your finances and your life that are more significant and satisfying than anything you have ever done. You can potentially shatter your past achievement records, eliminate your worst problems and feel absolutely great. Everything you have done in the past becomes minor compared to what you can do in the future.

Most people have the wrong idea about success. They believe "you can only do so much," or "you just need to keep on trying" or "success takes time." Such thinking slows you down and limits your lifetime achievements.

Instead, simply take a new view of yourself, your habits and your thinking. And then ACT!

To make a significant, instant improvement in your career and life, you must jump out of your rut.

Overcome your addiction to safe, conservative plans. Break out of old patterns and find new attitudes.

Don't settle for small improvements. Do something bold and exciting. Find a destination you passionately want and make it happen!

## Your Destination

When you plan a vacation, you don't start by examining the route. You start by choosing a destination. The route becomes obvious when you focus on the goal. And the bigger the destination, the more exciting the trip.

What is the most exciting destination you can imagine for yourself? What objective makes your heart pound? What goal lifts your mood?

These are your potentialities. These are your dreams. These are what you can believe in!

To get there, start by concentrating on the end result. Put yourself in the picture your dreams. Create a vision of you reaching your goals.

Then act. Take a small step, a large step or a leap. Any progress will lead to more progress, as long as you remember to think of your ultimate success.

The time to start is now. Focus on a goal and light the fuse!

# IEPORT.Com

[www.ieport.com](http://www.ieport.com) - an encyclopedia for FTP

## Web gatra

Srinivasa D (ACS Inter) &  
N G Omkar (ACS Final)

**We** all know that only the change is constant in this constantly changing World. One of the best examples of such change is provisions relating to Foreign Trade Policy. To cope up with International developments and effective regulation, DGFT frequently issues Notifications, Circulars, Import Export Code number and many more guidelines. Moreover Foreign Trade is directly or indirectly deals with many aspects like Customs, Service Tax, RBI, etc. Tracking all these changes is a master task.

Now every one can be achieve this task easily with the help of [www.ieport.com](http://www.ieport.com) . It is an encyclopedia for Foreign Trade, as it consolidates all informations relating to FTP at one place. Moreover it provides advanced search engine, free help desk and we can install ieport toolbar free of cost. Have a look at the site and become a master of FTP.

# NEWS OF USE

Compiled from various sources.



## Pardon subject to judicial review: SC

NDTV 11.10.2006: The SC observed while setting aside the remission of sentence granted by former Andhra Pradesh Governor Sushil Kumar Shinde to a Congress leader who was convicted for 10 years in a murder case involving TDP workers but was pardoned after serving only 5 yrs in jail.

The Supreme Court has said that improper pardon granted by the President or the Governor is subject to judicial review. It also ruled that the power of pardon shouldn't just benefit the convict who is pardoned. Undue consideration of caste, political loyalty and religion are prohibited from being grounds of clemency. Clemency is not only for the benefit of the convict. President/Governor has to keep in mind its effect on the family of victims and on the society as a whole. There has to be some requisite material to grant pardon and improper pardon is subject to judicial review.

Wednesday's strong statement by the SC can be read as a message on granting clemency to Mohd Afzal, who has been sentenced to death in the Parliament attack case. President APJ Abdul Kalam is currently considering Afzal's clemency plea.

## Now e-file cases in Supreme Court:

NEW DELHI: From Monday, October 2, any advocate-on-record or petitioner-in-person can file a case in the Supreme Court here through the Internet, from anywhere in the world.

This is the first time e-filing is being made available by any court in the country. The Court will be accessible through the website:

<http://www.supremecourtofindia.nic.in>

## Good response to MCA 21

Mamuni Das New Delhi , Sept. 28 : The e-governance project of Ministry of Company Affairs that envisages electronic filing for company transactions, appears to have got off to a good start.

Till Tuesday, while about 3.66 lakh e-filings of various forms have been made, 16,761 new companies have been registered using the online system.

"As on September 26, a total of 3,66,729 e-filings had been done and 16,761 new companies have been incorporated using e-forms," a senior Ministry official told Business Line. Total e-filings include various kinds of forms.

## No retrospective withdrawal of exemption notification

By TIOL, OCT 03, 2006: State must act validly for discernible reasons, not whimsically for any ulterior purpose; doctrine of promissory estoppel operates even in legislative field

## Expenses on bonus shares non taxable, says SC

<http://www.dnaindia.com/report.asp?NewsID=1055723>

NEW DELHI: The Supreme Court on Thursday resolved a prolonged legal controversy over the nature of expenses incurred by a company in issuing bonus shares, ruling that it can't be taxed. The court agreed with the earlier rulings of Bombay and Calcutta high courts on the same issue and held that the views of Gujarat and Andhra Pradesh high courts were erroneous.

The judgment is a fall out of a dispute between General Insurance Corporation and Commissioner of Income Tax, Mumbai, over the on whether the expenditure incurred in issuing bonus shares is entitled to tax relief.

A Bench of Justices Ashok Bhan and Markandey Katju observed that issuance of bonus shares does not result in any inflow of fresh funds or increase in the capital employed, the capital employed remains the same. Issuance of bonus shares by capitalisation of reserves is merely a reallocation of company's fund, they said.

For more details and further news, visit this link →

[www.esnips.com/web/ICSIMysore](http://www.esnips.com/web/ICSIMysore)



Dear friends,

We discussed about the concept and functioning of the Hedge Funds. Hedging is made only based on the long term trading and investment strategies and hence impact of market fluctuations doesnot affects the Hedge Funds.

Hedge Funds are of two types:

1. Domestic Hedge Funds
2. Offshore Hedge Funds [Investment outside the country]

### Strategy for Investment

Rather than investing in individual securities a Hedge Fund invests in the companies which involve in trading these individual securities. These funds combat risk by achieving manager diversity, because of the different strategies employed by the underlying managers.

There is not a single strategy available for making an investment in Hedge Funds. Every Hedge Fund follows its own strategy. However, they can be broadly classified as

- i) Event Driven Strategies - Strategy used for taking advantage of price movements generated by corporate events like - Merger & acquisitions news, Diversification, Profitability etc.
- ii) Global Macro - Strategy used for taking advantage of economical trends like Govt Policies on trade, Opportunities in the world market.

- iii) Market Neutral - Investment partially into fixed income securities to avoid market risks.

### Size of Hedge Fund Market

India is yet to foresee this kind of portfolio management strategy. The US market was introduced this theme during 1988 and it is still growing.

The global hedge funds volume has increased from US \$50 Billion in 1988 to US \$ 1 Trillion in 2006 with CAGR of nearly 28%. In Europe the overall volume is about \$ 100 Billion in 2005 as compared to US market.

The Asian Market is still starting to take off. A report says the total volume of trade in Hedge Funds was \$ 150 billion in 2003.

### Conclusion

Would you ever think of any investment that gives you a return of 12% - 28% with zero risk? Well, it's the Hedge Funds that prove profitable venture to those who can invest at large like High Network Individuals, Institutional investors etc., compared to direct investment in the market.

One should be careful in selecting the Hedge Fund Managers as aforesaid, the Hedge Funds' return and risks are correlated to the skills of the underlying managers.

## Defacement of names on bills allowed

The Director General of Foreign Trade (DGFT) has allowed defacement of the name and address of the foreign buyers in the shipping bills and other documents when presented to the regional authorities for claiming benefits under various export promotion schemes. The DGFT has issued Policy Circular no. 18/2006 dated September 4, 2006 conveying the above decision

The decision will greatly help exporters make it difficult for their competitors to know the names and addresses of the foreign buyers through their connections in the licensing offices. The regional licensing authorities can now accept shipping bills where the name and address of the foreign buyers are so defaced, for processing under various export promotion schemes, if the applications are otherwise in order.

Having now taken a very sensible and practical decision, DGFT should take up the matter with the Central Board of Excise and Customs (CBEC) and ask for issue of similar instructions in regard to submission of documents as proof of exports. Similar instructions are also needed from the sales tax authorities wherever exports are made by merchant exporters. Banks should also try to institute systems whereby the names and addresses of the foreign buyers do not leak to the competitors of the exporters.





**Many** thoughts started flowing fast in my mind about various kinds of behaviors of members in any organization when I saw a report in the newsletter I received from [www.workforce.com](http://www.workforce.com) last week (October 8 - 14, 2006 Vol. 7 Issue 42).

The report reads like this: *“Ninety-three percent of people work with someone who is rude, abrasive, doesn't follow through and hogs the credit—yet who never suffers corporate consequences for such misbehaviour. So says a new on-line poll by VitalSmarts, a corporate training firm in Provo, Utah.*

*Labeling these people as “untouchables,” the poll said these Neanderthals damage morale, harm productivity and prompt valued employees to look elsewhere for work. Most startling are these revelations: 94 percent claim that peers, direct reports and bosses are “usually fully aware of what is going on,” and 91 percent say the problem has persisted for more than a year without being addressed.”*

It is an eye opener. I floated it over mails and invited the views of friends. Most feel that they have been a witness to this at some time or the other.

Mr. Ranjan is little more careful in accepting the report. He says “I think it depends on the type of corporates the survey has been conducted across and percentage participation in each. It could even be places like Walmart, StarBucks here..!!

Mr. K R Sathish opines that “HR Policy in general and top Management Policy in particular could only resolve such issues. It is again, the extent to which the Management or employees could compromise, is a big question.” However compromising happens when there is no way but to tolerate. But smart employees can always find a way 'out' rather than to compromise. That will be a real loss for the organisation.

Mr. Sandesh asks “when situation is same everywhere, WHERE to GO?” Agreeing with the study, he says ‘even we come across these unhealthy situation in our work places. The most unfortunate thing is that it is not addressed in right time or never addressed. Why? It is an 'yaksha prashne' for us. Though we cannot say that it is same everywhere I do agree the fact that majority of cases may

be same. But the question is not who and how should bell the cat! Merely trimming may not help to resolve this deep rooted problem and has to be uprooted and required to plant a good seed.”

Ms. Sarina says that ‘it does happen in an organization and such things are quite repulsive...personally, I feel this’. Yes of course.

Mr. Eshwar Bhat also agrees with the report. He says “most of the problems are known to the boss. Many a time well thought decision may be “not to take decision now” as the available solution may be generating many more new problems. It is certainly to be solved when it hinders or slows down the progress of work towards achieving the GOAL.

Ms. Pracheta feels that “at every work place we can find people who are arrogant and who do not allow others to grow above them. This may be because of the fear of losing importance. This kind of attitude is generally found in the people with higher experience than their peers.” Good observation.

Mr. Omkar feels it difficult to understand why action is not being taken by Management.

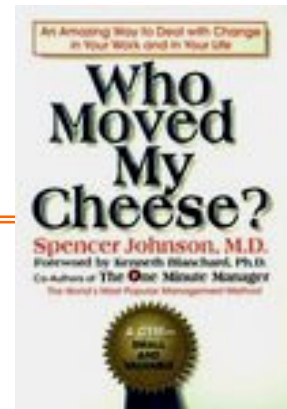
Many of us don't! May be following reasons are being contributed for this:

1. Such persons may be having some strength which over weigh the problems being created by them.
2. Decision maker in not ready to take risk of facing such person.
3. Having weakness within decision makers which may come out if there is a head on with such guys.
4. Not being aware of the implications on the organisation in the long run - No vision in the leadership.
5. Resistance towards change in the decision maker himself.

Whatever the organization, whichever the country, they are all a mass of people; a cross section of people from diversified backgrounds and having different behavioral patterns. Though we cannot put a full stop, we can contribute to a conducive environment by not being one of these ‘Untouchables’!

# Who Moved My Cheese?

Nimmoo Kinger,  
PCS, Mysore



Visit: <http://www.whomovedmycheese.com/>

"Change is inevitable, growth is optional" is the central message of *Who Moved My Cheese?*, by Spencer Johnson.

Simple, yet thought provoking, this short story presents four characters, two mice (Sniff and Scurry) and two 'little people' (Hem and Haw). They live in a maze chasing after cheese

The "cheese" is a clear metaphor for all that people desire to achieve in life, occupation, relationship, material wealth, physical well-being, or peace. The "maze" is the environment a person lives in: the company one works in, a family or community one lives in. The author uses this analogy to illustrate the common reactions that people experience as they face unexpected change in their lives. He provides some timeless truths on how to handle change.

One can either be flexible and willing to change or rigid and closed. Sniff and Scurry are adaptable and move on when their cheese run out. They are not attached to the cheese, they enjoyed it while it lasted, realized that their happiness and success did not depend on one particular piece of cheese.

Accepting that change was a natural phenomenon, they were able to let go when the time came to find new cheese. The solution was simple: It was time to move on.

Hem and Haw, on the other hand, demonstrate what happens when people react negatively to change. Initially, their discovery of cheese brought excitement and energy. However, as time passed, they grew comfortable in following the same routine. The cheese was easily available, it was theirs and they felt immensely secure. They failed to see what was happening and unprepared for the change. Hem became irate, frustrated, and blamed others for his misfortune. Shock, denial, endless "why's" and the "how come," drained their energy, made

them irritable and kept them paralyzed. They could not see any alternatives; they were stuck in their circular thinking. Their inability to see clearly what was required of them; their fears left them helpless and prevented them from moving forward. Once Haw realized the truth of the situation, he could explore new avenues and find more cheese. He had a choice.

Spencer suggests that people who are struggling with their fears should ask themselves the question, "what would you do if you weren't afraid?" They should also practice visualizing their desires. Being in touch with, and creating a worthwhile goal, propels people to move past their fears.

Though the author focuses on work related issues, the principles can be applied to relationships also. Sniff and Scurry recognized that their fulfillment did not revolve around one particular piece of cheese. In relationships one person alone can't give you everything. At the end of the story, despite Haw's pleading with Hem to come with him to find new cheese, Hem's fears and excuses kept him chained to the past. Haw realized that if he stayed, he too, would lose out and become fearful and resentful. Consequently, Haw left and ended up finding even bigger and better cheese.

Spencer seems to imply that change starts with each person. We cannot change anyone but ourselves. Each of us is required to acknowledge our own responsibility to make our own choices. When we honour and actualize who we are and what is important, we are more enriched and freer because of it.

All said and done, this parable of change serves as a reminder that change and growth go hand in hand.

## Large Taxpayers Units

The Finance Minister in his Budget Speech 2005-06 announced the proposal to set up Large Taxpayer Units (LTUs) in the country, which would act as a single window facilitation centre for all large entities paying excise duty, corporate tax/income tax and service tax. In this regard Notifications have been issued providing jurisdictional authority for LTU and for making changes in the Central Excise Rules, 2002, Cenvat Credit Rules, 2004, and Service Tax Rules, 1994.

**The first LTU has been set up at Bangalore, and it has since commenced operation from 3rd October, 2006.**

For important changes made in the rules and procedures with regard to LTUs please visit [www.esnips.com/web/icsimysore](http://www.esnips.com/web/icsimysore) and read MS Word document 'News of Use October 2006'.



# ECS & Investors

**S Ravindra**

AT&S India Private Limited, Nanjangud

With the recent launching of Electronic Fund Transfer (EFT) and the Electronic Clearing System (ECS) among member banks is a response to customers who were looking forward to catching up with the time-is-money concept. Here is a look at what gives and the many-a-slip-between cup-and-lip even as domestic banks spruce up their act.

**The Electronic Clearing System (ECS) is an online transmission system which permits the electronic transmission of cheque information by the banks / branches to the Automated Clearing House (ACH) via a communication network.**

Never mind the vagaries of the stock market. For those who are and will always make equity investments is the way of life, ECS has made that life a lot easier as far as dividend payments go. All a person has to do is provide the company with details about the bank where the deposits should be made. The firm can then directly deposit the dividends into the shareholder's account.

Earlier, it was taking weeks and months to receive refund or allotments in public issues, but now thanks to SEBI, the time period came down to a fortnight. SEBI vide its circular dated Jan 20, 2006 has permitted use of ECS for refunds in the issue process. To start with, SEBI has made it mandatory that the applicants in 15 cities viz Ahamadbab, Bangalore, Bhubaneshwar, Kolkatt, Chandigar, Chennai, Guwahati, Hyderabad, Jaipur, Kanpur, Mumbai, Nagpur, New Delhi, Patna and Thiruvananthpuram will get refunds through ECS. Applicants in other cities will get refunds through normal practice of registered/ ordinary post. SEBI made it applicable to all issues whose offer documents are filled with SEBI on or after Jan 20, 2006.

Even though, SEBI has been contemplating to shorten the time between submission of application and allotment to the minimum possible extent, the infrastructures have certain limitation. These were mainly two. One was the lack of effective system that can take and maintain allotments in demat format. The other hurdle was the banking system that can handle ECS refunds. Earlier there was no depository system that can receive directly the

allotment advices in the demat form. This is no more a hurdle as the depository systems are not only functioning efficiently, but also has their geographical spread to at least major cities and towns in India. Even today, the banking system has not improved drastically. But, it is able to cater the needs of ECS in the cities mentioned above.

Hereinafter, all companies has to include relevant disclosure pertain to this facility in the prospectus, abridged prospects and application forms. In order to get the refund through ECS applicant to public issue should a bank account in banks in one aforesaid 15 centers. For the issues that are entirely in dematerialized form, it is not necessary to fill-in the bank accounts details. The bank account details will be directly taken from the depositories data base. Only thing investors have to get refunds is to update his account, particulars, with depository where he has demat account. The applicants are required to ensure that bank details including MICR code (a ten digit code which appears in the cheque leaf) maintained at the depository level are updated.

The applicants will get individual intimations about details of the bank where refunds shall be credited along with amount and expected date of electronic credit of refunds. These individual intimations will be dispatched by the registrars within 15 days (in case of a book built issue) and 30 days (in case of fixed price issue) of closure of the issue. Accordingly the concerned applicant can check with relevant bank on the status of the refund.

## BENEFITS OF THE ECS

- The process of cheque clearance is made more efficient with online transmission of cheque information.
- Banks are able to "deliver" their cheque information to ACH in a shorter time through electronic transmission.
- Processing time required by ACH will also be shortened.
- With electronic processing, the ACH is better positioned to handle future increases in the volume of cheques.
- With an electronic network in place, more value-added clearing services can be introduced to the banking community.

## Service Tax: Payment of service tax through Internet:

With effect from 1st October 2006, the following category of assesses shall deposit the service tax liable to be paid by them electronically, through internet banking: Who has paid service tax of Rs. 50,00,000/- or above in the preceding financial year; or Who has already paid service tax of Rs. 50,00,000/- in the current financial year.

(Notification no. 27/2006 dated 21.09.2006)



# LEGAL ROUNDUP...

For more updates visit:

[www.esnips.com/web/ICSIMysore](http://www.esnips.com/web/ICSIMysore)



## INCOME TAX ACT

### AAR Ruling on Residential Status of Employees deputed outside India

In its recent decision the Authority for Advance Rulings (“AAR”) has held that Indian citizens posted abroad on deputation are not ‘resident’ for the purposes of Income-tax, if they do not stay in India for a period aggregating to 182 days or more in the relevant year.

British Gas (I) (P) Ltd. vs. Commissioner of Income Tax 204 CTR 177,

### Contribution to PF before due date for filing return

In the above case, the Honourable Gauhati High Court by dismissing the appeal filed by the Department held that, the contribution made to provident fund etc, after the close of accounting period but before due date for filing return will amount to deduction under Section 36(1)(va) and 43B(b). The Honourable High Court also relied on the decisions given in the cases of CIT vs. Assam Tribune (202) 253 ITR 93 CIT vs. Bharat Bamboo and Timber Suppliers (1996) 219

Commissioner of Income-Tax vs. George Williamson (Assam) Ltd. (Gauhati.- HC)

### Whether loan or advance.....

While deciding the below case, the Honourable Madras High Court held that, deposit and withdrawal of money from current account by the director of a company could not be considered as a loan or advance within the meaning of Section 269SS.

Commissioner of Income Tax vs. Idhayam Publications Ltd. (HC- Mad.)

## Customs Law

### Enhancement of Transaction value

The Tribunal has held that transaction value of imported goods cannot be enhanced on the basis of contemporaneous imports made by the same supplier where there are valid commercial reasons for different prices.

Sundek India (P) Ltd. Vs.CC (2006 (200) ELT 381)

### Notifications/Circulars

The Central Government has recently clarified that the value of imported materials supplied free of cost by the foreign buyer should be added to the free on board (FOB) value of exports for the purposes of calculation of value

addition while determining the brand rate of duty drawback.

(Circular No. 25/2006 dt. 19.09.06)

Tribunal has held that **excess duty debited** through DEPB scrip is refundable by way of credit in the scrip itself and not in cash.

Laminates Ltd. Vs. CC (2006 (76) RLT 52

## CENVAT

Tribunal has held that credit on capital goods is not deniable where the manufacturer has foregone the benefit of depreciation claimed on such goods, by filing revised income tax returns.

In Anand Pipe Industries Vs. CCE (2006 (137) ECR 78)

## RBI

### Guidelines on internet banking amended

RBI has, by way of a circular dated August 22, 2006, amended the guidelines on internet banking to permit banks to offer internet based foreign exchange services, for permitted underlying transactions, in addition to the local currency products already allowed to be offered on internet based platforms. Terms and conditions:

- i. banks will remain responsible for secrecy, confidentiality and integrity of data;
- ii. the data relating to Indian operations will be kept segregated;
- iii. the data will be made available to RBI for inspection / audit as and when called for;
- iv. the services offered through internet, for banks' customers on an internet based platform for dealing in foreign exchange, must allow only reporting and initiation of foreign exchange related transactions, with the actual trade transactions being permitted only after verification of physical documents; and
- v. banks must comply with foreign exchange regulations in respect of instructions involving cross-border transactions.

### Foreign Trade Policy: NFE Computation

The Directorate General of Foreign Trade has amended the Foreign Trade Policy to include supplies from 100% EOUs/ units in STPs/EHTPs/BTPs to the Domestic Tariff Area (DTA), against foreign exchange remittances received from overseas, in the Net Foreign Exchange earnings computation of these units.

(Notification 31(RE-2006)/2004-2009 dt.8.9.06)

"You got to be little different if you want to get noticed. After all would anyone give PISA TOWER a second glance if it were standing straight?"

## Spectrum this Month...

Hello Friends,

After the celebrations over the awesome results, it was time for some serious ground work for the December session. We had exam oriented study circles on all the 4 Sundays. To begin we had a session on environment and safety followed by Consolidation of Accounts and Interpretation of Statutes and so on. In order to facilitate preparations we had several study meets on weekdays as well.

That's all for now. We will be back with lotz more to say in the next month. Meanwhile we wish all of you the very best for your preparations. Make sure all of you study hard and not hardly!!!

**Spectrum friends**

Dear friends, Last month we asked you to tell us which question was toughest for you in the recent examination – it may be in foundation, inter or final.

We received several questions and few of them are answered here. We could not accommodate all due to space constraint. Other answers will appear in coming issues. Stay with us...

**Spectrum friends.**

## Spectrum Answers Part 1

**Friends, These answers are suggestive. You need to elaborate it as may be required.**

### ICSI Inter June 2006: General & Commercial Laws

**Question No 8(b):** One morning, scientists at the atomic research centre found a rude nuclear message splashed across their computer screens. Someone has breached the atomic research center's advanced security system and sensitive mail. What offence has been committed in the atomic research centre?

**Answer:** The following offences have been committed in the atomic centre:

1. Tampering with computer source documents
2. Securing access to any computer, computer system or computer network declared by the appropriate government to be a "protected system"
3. Hacking with computer system.

Section 66 of information technology Act 2000 defines hacking as under:

"whoever with intent to cause or knowing that he is likely to cause wrongful loss or damage to public or alters any information residing in a computer resource or diminishes its value or utility or effects it injuriously by any means, commits hacking."

"Whoever commits hacking, shall be punished with imprisonment up to three years or with fine which may extend up to two lakh rupees or with both".

### ICSI final June 2006: Advanced Company Law and Practice.

Answer to question no. 2(b): **Valuation of Shares – judicial observations:**

In amalgamation as well as other forms of business restructuring valuation of shares is the most debated aspect. This is the hot point where shareholders of different companies come across with various controversies ultimately resulting in litigations. Some of the judicial observations are listed below:

#### 1. Shahibag Enterprises (P)limited case:

- The method of valuation must depend on the income yield.
- In case of investment companies, asset backing method is recommended.
- Earning "capacity" should not be viewed at par with yield or return, as it is a qualitative aspect which must be taken independently.

#### 2. CWT Vs Mahadeo Jalan:

- In case of listed company, stock market quotations can be taken as value of shares.
- Otherwise method of valuation based on yield or dividend should be resorted to.
- Further where yield method is adopted the capital expenditure on commercial ventures is added back to profits.
- Where stock market valuation is low in a period because of temporary setback in earning, then market value before such setback is taken ad proper discounting is made.
- In case of non going concern, break up value is more suitable.