

eMagazine

Edition 127

August 2014



**Happy
Independence
Day!**

**7th
Anniversary for
CSMysore eParivaar**



**ICSI Bangalore Chapter Inaugurates
its new premises on 30th August 2014**



Date: 30th August 2014 Time: 10 am

No. 5, 1st Main Road, Rajajinagar Industrial Estate,
West of Chord Road, Rajajinagar, Bangalore 560 044

“Congratulations to CS Fraternity”

Visit: www.icsi.edu/bangalore for more details

Welcome to all Corporate Professionals, Students and well-wishers

ICSI Bangalore Chapter is inaugurating new Chapter premises!

Fact Sheet of this mega project:

Building is spread into:

Basement, Ground Floor
First Floor & Second Floor

**with total Built up area
of 20,686 Sq feet**

Facility includes:

150 Seats Auditorium, Six class
rooms, library, Training facility,
Board Room, well furnished office
rooms and cafeteria apart from
parking space in the basement.

About 4000 Sq.ft ground space is
reserved for future expansion.

CSMysore eParivaar is celebrating 7th Anniversary

CSMysore, an elite eParivaar of people associated with Company Secretaryship, was initiated from Cultural Capital city of Mysore. Like tiny drops of water make a mighty ocean, members joining this eParivaar have made it a mighty ocean of knowledge. Let us move together to make it mightier! Over 3700 members from across the country regularly discuss on various topics of professional interest, elevating the knowledge level of Corporate Professionals to the newer heights!

Congratulations all eParivaarians!

Visit eParivaar at: <https://groups.google.com/d/forum/csmysore>



Dear Readers,

Wish you all a very happy Independence day !!

Today, the nation is celebrating its 68th year of independence and it is a golden day in our history. As we pay tribute to our heroes who have laid their life in freedom struggle, it is also time for us to look at our journey since then as what we have achieved and what is left to achieve as country.

During the month of July, the Chapter witnessed series of events. The Chapter conducted 5 career awareness programs, Live Budget session with CII Mysore branch, Investor awareness program with Mysore Chamber of Commerce & Industry. **My appreciations to Mr. Ashwin Bhat & Mr. Eshwar Shetty students of Mysore Chapter of ICSI who had represented SIRC of ICSI** in the final round of Company Law quiz competition, and congratulations to the winning team of Bhuvaneshwar Chapter.

I thank all the members who had actively involved in conducting career awareness program through which Chapter could reach over 300 students during the month. I also appeal to the members who have not yet become the members of CSBF to join soon. We have another festival which is awaited during the month, wish you all a happy Ganesha festival.



CS. Ajay Madaiah B.B.
Chairman,
Mysore Chapter

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CS. Dattatri H M
CS. Sarina C H
CS. Omkar Gayatri
CS. Abhishek Bharadwaj A B

Support Team:

CS. Ravishankar Kandhi
CS. Ajay Madaiah

**Join
3700+ members'
strong**

"CSMysore" eParivaar

<http://www.groups.google.com/group/csmysore>

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Freedom from 5 Regrets

A Nurse reveals the top 5 regrets people make on their deathbed



For many years I worked in palliative care. My patients were those who had gone home to die. Some incredibly special times were shared. I was with them for the last three to twelve weeks of their lives. People grow a lot when they are faced with their own mortality. When questioned about any regrets they had or anything they would do differently, common themes surfaced again. Here are the most common five:

1. I wish I'd had the courage to live a life true to myself, not the life others expected of me.

Most people had not honoured even a half of their dreams and had to die knowing that it was due to choices they had made, or not made.

2. I wish I didn't work so hard.

All of the men I nursed deeply regretted spending so much of their lives on the treadmill of a work existence. By simplifying your lifestyle and making conscious choices along the way, it is possible to not need the income that you think you do. And by creating more space in your life, you become happier and more open to new opportunities, ones more suited to your new lifestyle.

3. I wish I'd had the courage to express my feelings.

Many people suppressed their feelings in order to keep peace with others. As a result, they settled for a mediocre existence and never became who they were truly capable of becoming. Many developed illnesses relating to the bitterness and resentment they carried as a result. We cannot control the reactions of others. However, although people may initially react when you change the way you are by speaking honestly, in the end it raises the relationship to a whole new and healthier level. Either that or it releases the unhealthy relationship from your life. Either way, you win.

4. I wish I had stayed in touch with my friends.

Many had become so caught up in their own lives that they had let golden friendships slip by over the years. There were many deep regrets about not giving friendships the time and effort that they deserved. Everyone misses their friends when they are dying.

5. I wish that I had let myself be happier.

This is a surprisingly common one. Many did not realize until the end that happiness is a choice. They had stayed stuck in old patterns and habits. Fear of change had them pretending to others, and to their selves, that they were content. When deep within, they longed to laugh properly and have silliness in their life again. When you are on your deathbed, what others think of you is a long way from your mind. How wonderful to be able to let go and smile again, long before you are dying.

Life is a choice. It is YOUR life. Choose consciously, choose wisely, choose honestly. Choose happiness.

Words Worth Millions

India is the cradle of the human race, the birthplace of human speech, the mother of history, the grandmother of legend, and the great grandmother of tradition. Our most valuable and most instructive materials in the history of man are treasured up in India only."

- **Mark Twain, American author**

"It is already becoming clear that a chapter which had a Western beginning will have to have an Indian ending if it is not to end in the self-destruction of the human race. At this supremely dangerous moment in history, the only way of salvation for mankind is the Indian way."

- **Dr Arnold Toynbee, British Historian**

FDI

in multi brand retail trading: – the policy framework

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Foreign direct investment (FDI) in the multi brand retail trading (MBRT) sector has been a sensitive and controversial topic since its first introduction and was one of the key topics of debate during the recent elections. The key changes brought forth last year and consolidated in the FDI policy effective from 17 April 2014 are summarized in this article. Essentially a flashback to see what key changes were introduced to facilitate investments in the sector, which hopefully will not be rendered meaningless merely based on the change of guard as a result of the elections.

Investment in back end infrastructure: One of the key concerns raised by investors on conditions imposed for FDI in MBRT was that 50% of the total FDI brought in should be invested in back end infrastructure within 3 years of the first tranche of FDI.



This would have meant that if USD 50 million is invested in the first 3 years, 50% of that amount, i.e. USD 25 million would require to be invested in back end infrastructure within 3 years of the first tranche of FDI. A question however remained in respect of FDI that is brought in after the 3 year anniversary of the first tranche of FDI. Perhaps there was an assumption that the entire FDI of USD 100 million would be brought in within 3 years. This provision could also have led to a situation where 50% of the amounts brought in towards the fag end of the third anniversary of the first tranche of FDI are also required to be invested to ensure compliance, unless prior investment in back end infrastructure was sufficient to cover for this.

With a subtle modification and a clarification, two points stood resolved. Firstly, the first tranche of FDI can be an amount that is computed taking to account the

investment required in back end infrastructure. 50% of this amount will be required to be invested in back end infrastructure within the third anniversary of the first tranche of FDI. Secondly, it was also clarified that any further investment in back end infrastructure would

only be required to be made based on business requirement.

‘Back-end infrastructure’ has been defined to include capital expenditure on all activities (excluding that on front-end units), investment made towards processing, manufacturing, distribution, design improvement, quality control, packaging, logistics, storage, warehouse and agriculture market produce infrastructure. Any expenditure on land cost and rentals is not counted for purposes of back-end infrastructure.

Local procurement: Another key concern raised by investors was the obligation to make procurement locally to the extent of 30% of the value of procurement of manufactured/ processed products. The eligibility criteria of the Indian party from whom local procurement was required to be made was originally set at a maximum of

USD 1 million in terms of total investment in plant and machinery, without providing for depreciation. Though compliance with the 30% procurement requirement was permitted in the first instance as an average of 5 years of total value of manufactured/ processed goods purchased, thereafter the same would require to be met on an annual basis. Further, it was also specified that once the Indian party from whom procurement is being made crosses the eligibility criteria (i.e. a maximum of USD 1 million in terms of total investment in plant and machinery), such entity would not qualify and the retailing entity would require identifying another Indian entity to ensure compliance with the local procurement norms.

The change introduced was a welcome one, since the investment amount in plant and machinery (of the eligible Indian party from whom procurement should be made) was set at USD 2 million. It was also clarified that the 'small industry' status would be reckoned only at the time of first engagement with the retailing entity, and such Indian entity shall continue to qualify as a 'small industry' even if it outgrows the said investment of USD 2 million. This again addressed the concern of the industry on two counts – one, by providing a higher investment limit, there is more comfort on the expected level of sophisticated process/ order with the local entity. Secondly and more importantly, the retailing entity can continue with the same entity without having to continuously scout for a local entity when an existing local entity crosses the threshold.

Location of retail sales outlets: Previously, retail sales outlets could be set up in cities having a population of more than 10 lakhs as per the 2011 census. There was also a permission to cover an area of 10 kilometers around the municipal/urban agglomeration limits of such cities. In respect of States not having cities with a population of more than 10 lakhs as per the 2011 census,

retail sales outlets could be set up by the retailing entity in a city of its choice, preferably the largest city with the same permission available, i.e. to cover an area of 10 kilometers around the municipal/urban agglomeration limits of such cities.

With the change introduced, the State government would decide the location of retail sales outlets in respect of cities not having a population of more than 10 lakhs as per the 2011 census.

To summarise, while the changes seem to have been intended to operate as a balance and an encouragement

for investments in the MBRT sector, it will need to be seen what future the sector itself holds in India given political considerations.

It would be necessary for any government to take a holistic view of the sector and its benefits while taking any decision in the matter. It is also imperative to note that FDI in MBRT is currently allowed only upto 51%, that too under

the Government approval route. One would expect that the Department of Industrial Policy & Promotion which would process the application and the Foreign Investment Promotion Board which would grant the approval would duly scrutinize such proposals taking into account the larger economic interest and benefits.

A well informed objective approach would provide the necessary protection to the unorganized local mom and pop/ kirana stores in small cities while also ensuring that the country as a whole benefits from the investment that will be made as also the consequential employment and other benefits that will follow and continue. If State governments come forward and provide their consent and also clearly specify the cities where the retail sales outlets could be set up, it would provide the much needed clarity to an investor while looking at India as a destination.

NDA does not favour FDI in multi-brand retail

Economic Times Aug 13, 2014

Clearing government stand on FDI in multi-brand retailing, Commerce and Industry Minister Nirmala Sitharaman today said the NDA government will not "entertain" foreign direct investment in multi-brand retail. She said during Question Hour in Rajya Sabha that BJP got a massive mandate on the basis of its election manifesto which opposes FDI in multi-brand retail. However, the government has not initiated any move to scrap the policy of allowing FDI in multi-brand retail approved by the previous UPA government.

RBI and Department of Revenue through FIPB takes critical look at the kind of investment coming into India, she said. On steps taken to boost FDI, she said various set ups are in place to attract foreign investment. These include five joint commissions with Hungary, Poland, Sweden, Belarus and Libya and CEOs forum with nations like Japan, France, Russia, Malaysia and South Africa. India has also signed BIPA with 83 countries and CEPA with 9 countries, she said.

Career Awareness Programs

@Rangarao Memorial PU College



On On 05.07.2014 Mysore Chapter of ICSI organised a Career Awareness Programme at Rangarao Memorial PU College, Mysore. 53 students from various streams attended the programme. CS Sabareeshan C K, Member of the Mysore Chapter explained in detail the course offered by the Institute and the criteria for eligibility for the course, examination, requirements of training etc. He also highlighted the importance of making the right career choice so as to be successful in life. He also highlighted the opportunities available to anyone who has completed a Company Secretaryship course. Brochures containing brief details of the CS Course were distributed to the participants. CS Sabareeshan C K also clarified the various doubts and issues that were raised

by the students and thanked the management for providing the Institute this opportunity.

@ GSSS Simha Subba Mahalakshmi First Grade College

On 18.07.2014 Mysore Chapter of the ICSI organised a Career Counselling Programme at GSSS Simha Subba Mahalakshmi First Grade College, Mysore. 44 students from various streams attended the programme. CS Pracheta M, 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. She also highlighted the importance of making the right career choice so as to be successful in life. Brochures containing brief details of the Company Secretaryship Course were distributed to the participants. CS Pracheta M also clarified the various doubts and issues that were raised by the participants.



@Vidhyaashram First Grade College

On 19.07.2014 Mysore Chapter of the ICSI organised a Career Counselling Programme at Vidhyaashram First Grade College, Mysore. Around 50 students from various streams attended the programme. CS Pracheta M, Member of the Mysore Chapter & CS Ajay Madaiah B B, Chairman, Mysore Chapter explained in detail the course offered by the Institute and the criteria for eligibility for the course, examination, requirements of training etc. Brochures containing brief details of the Company Secretaryship Course were distributed to the participants.



@ JSS College for Women

On 25.07.2014 Mysore Chapter of the ICSI organised a Career awareness Programme at JSS College for Women, Saraswathipuram, Mysore. More than 100 students from various streams attended the programme. CS Ajay Madaiah B B, Chairman 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. Brochures containing brief details of the Company Secretaryship Course were distributed to the participants.

@ Vijaya Vittala Composite PU College

On 28.07.2014 Mysore Chapter of the ICSI organised a Career Counselling Programme at Vijaya Vitthala PU College, Mysore. Around 120 students from various streams attended the programme. CS Sabareeshan C K, Member of the Mysore Chapter addressed students. He highlighted the importance of making the right career choice so as to be successful in life. He 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 were distributed to the participants. CS Sabareeshan C K also clarified the various doubts and issues that were raised by the participants.



Live Union Budget 2014-15 & Post Budget Analysis

On 10.07.2014 Mysore Chapter of ICSI in association with CII Mysore conducted a Live Union Budget 2014 session & Post Budget Analysis in SDMIMD Institute, Mysore. In this programme Mr. Subramanian Krishnamani, Senior Director, Deloitte Haskins & Sells along with his team presented the Post Budget Analysis to enable members to understand the implications of the Budget on various sectors. The key objective of the session was to analyze the budget from the view of various industries and to enlighten the members on the key aspects of the Direct & Indirect Taxes. A large number of Members, Students and Industrialists were participated in the session and discussed the key issues in the budget with the experts.



Chapter Level Quiz Competition

Mysore Chapter of SIRC of ICSI has conducted first round of Quiz Competition at Chapter level among CS students on 20.07.2014 & two students Mr. Ashwin Bhat & Mr. Eshwar Shetty were adjudged as Winner & Runner-Up respectively based on the marks obtained. Both of them had represented Mysore Chapter of SIRC of ICSI at Regional level at SIRC of ICSI, Chennai on 30th July, 2014 for Regional Level completion round & secured first place.



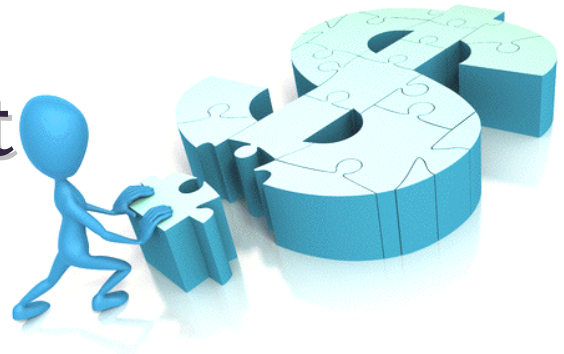
Investor Awareness Program held on 29.07.2014

On 29.07.2014, Mysore Chapter of ICSI in association with Mysore Chamber of Commerce & Industry organized Investor Awareness Programme in the Topic **“Financial Planning – a Perspective”** at 10.30 am at S.P. Bhat Hall, Institute of Engineers, Mysore. Mr. Keerthi Thej, Asst. Registrar of Companies, Bangalore attended as Guest of Honour, Mr. Sudhakar Shetty, Chairman, Dist. Co-ordination Committee, FKCCI, Bangalore was the Chief Guest & Mr. Venkitesh Iyer, Former Regional Manager - UTI was the resource person of the Programme. CS Ajay Madaiah B B, Chairman, Mysore Chapter of ICSI had presided over the function. A large number of public, students & members were participated in the event. The programme was very interactive and appreciated by the participants.





Strategic Cost Management @ banking industry



Proven Approaches to Operating an Efficient and Scalable Organization

1. Strategic Outsourcing

One obvious solution to achieving a degree of scalability that captures economies and utilization efficiency is the outsourcing of functions that can be performed by another entity more cost-effectively due to the outsourcer's scale economies and utilization efficiencies.

A wide-array of services is available to banks on a sliding scale tied to volumes. Perhaps the best example of such services for bankers today is cheque processing. As overall check volumes decline, individual banks find it makes more economic sense to outsource this back-office function. This can reduce expenses as volumes decline rather than burden them with high fixed internal costs.

Selecting a strategic partner for a full range of business processes and IT outsourcing is critical. Key considerations when selecting a partner include:

- The reputation for regulatory compliance, service quality and financial soundness of the service provider can be determined with proper due diligence
- The willingness of the partner to enter volume-sensitive/scalable pricing arrangements that reflect decreases as well as increases in volume which generate reduced unit pricing as volumes increase
- Clear, unambiguous service-level agreements for all key business outcomes critical to the bank's customers and the bank's internal operations, as well

as clear processes for escalating problems for prompt remediation.

2. Branch Rationalization and Delivery Channel Optimization

Larger offices are more cost-effective to operate. With the volume of branch-based transaction activity in ongoing decline, and the use of alternative sales and service channels continuing to expand, the second obvious candidate for improving scale is to evaluate branch consolidations and outright existing of low potential markets.

The keys to sound decision-making in this sensitive arena are:

- Household trends – Understanding the demographics of a bank's households is critical. The propensity for acquisition of financial services in each customer segment as a determinant of the market potential surrounding branches needs to be understood, as well as the anticipated household growth within a specific trade area.
- Competitive environment – Evaluating market share in relationship to investment in branches in any given market and evaluating the potential to alter results is also key. A simple metric worth considering is fair share. Fair share assumes that a bank should capture a percentage of deposits equal to its percentage share of branches in a market.
- Profit contribution/funding effectiveness results – Assessing the branch's ability to generate deposits as

a low-cost funding source at a target profit contribution level is also important. A bank should evaluate the potential to improve through increased revenue generation or cost management.

3. Process Re-engineering with Enabling Technologies:

Substituting technology for manual inputs has always been a key to improving productivity. The application of emerging technologies (and expansion and adaption of even older IT platforms such as document imaging solutions where usage has been sub-optimized and under-leveraged by many banks) remains a key to improving productivity and further reducing overall costs. Critical elements for encouraging positive performance and improved business processes include:

- Eliminating unnecessary work that consumes time without adding perceived value in the eyes of the customer
- Simplifying tasks that must be completed to produce quality service achieve sales objectives and manage risk effectively
- Utilizing available technologies more effectively and implementing new systems to improve processing throughput and ensure quality outcomes
- Streamlining organizational structures to support both revised and enhanced workflows and achieve reasonable management spans of control across the company
- Realigning responsibilities and tasks to ensure that personnel with appropriate skills are assigned to complete required work.
- Restructuring employee compensation, including variable incentives, to more closely align with all sales and service objectives in all units of the bank
- Aligning goals and measurement plans with the strategic objectives and metrics by which the bank's performance is assessed
- Integrating a complete understanding of micro-market sales potential, with all other elements of sales management activities, including goal-setting and performance-coaching



4. Staff Capacity Management

Systematically and consistently allocating human resources with the support of staffing and scheduling tools to satisfy strategic objectives and achieve business goals is critical to efficiency. Key points of staff capacity forecasting include:

- Establishing targets and supporting staffing levels to achieve them, driven by market business development potential (as opposed to using “business as usual” as the sole determinant of new sales goals)
- Staffing both branch and support functions using criteria driven by service expectations consistent with the bank's desired image in the marketplace and commitment to the communities it serves
 - Allocating time consistent with prudent, compliant controls and statistically justified assessments of actual risk
 - Allocating staff to incorporate sufficient time for training and education, coaching and counseling, and general oversight of all frontline and back-office units
 - Utilizing a well-conceived and consistently applied approach to determining capacity over time. This is essential to realize long-term benefits from more effective staff allocation and avoid single, quick-fix staff cuts that never produce lasting results

Conclusion

The industry's limited improvements seen in a few productivity metrics have been offset in totality by an inability to maintain revenue levels. Revenues will not likely make a strong recovery – banks' best opportunity in that arena is to slow a decline achieved by some combination of new products and service offerings and reinvigorated attention to pricing disciplines.

It is imperative that banks focus more attention and investment on reducing operating costs commensurate with declining revenue to avoid further erosion of profitability. The approaches discussed above have proven to be effective in achieving this objective.



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Dear friends, this month I am introducing an international platform called, "Transparency International". This is an International non-governmental organization that monitors and publishes corporate and political corruption index and related stuffs. <http://www.transparency.org/> is the official web site of the Transparency International.

<http://www.transparency.org/> provides information about the corruption level in every country and differentiates by their rankings. This platform develops and promotes practical tools that reduce the opportunities for corruption by introducing good governance, ethical practice and openness to greater transparency.

Also this site mainly consists of the following:

- What we are
- About us
- What we do
- Focus areas
- Get involved
- research
- News
- Media
- Donate etc.,

Transparency International has more than 100 chapters. These chapters are staffed with local experts who are ideally placed to determine the priorities and approaches best suited to tackle corruption in their countries.

Friends, as per the index of this organisation, India is at 94th position in corruption (Rank "1" is for corruption free). This is the time to make India as corruption free and let us hope "Good Days are coming"!



e-TOOLS FOR THE PROFESSIONALS



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Quick PDF Scanner

Quick PDF Scanner, an Android application which allows us to scan, export and share multipage documents in PDF formats from Android devices. The application uses device Camera to capture and scan the documents/images and converts it into PDF format. It allows us to fully customize the output PDF file. The application also allows the import of documents/images from device and customize it. Features like customization of page size, creation of cover page for documents, page orientation, documents filter are proved in this application which is user friendly.

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Statute in 'action'!

Is overhaul proposed in Factories (Amendment) Bill, 2014 adequate to reward expected mileage?

One of the principal legislations governing Industrial environment in India is the Factories Act, 1948 ['Act'] which came in to force effective 1st April 1949. The Act was drafted keeping in mind the social-economic-scientific and industrial atmosphere prevalent six and half decades ago during independence era. Industrial dynamics has transformed manifold since 1949 to 2014 both locally and globally, but the Factories Act was amended in substance a bare 3 times (1954, 1976 and 1987) in 65 years - a major change was brought about only once i.e., in 1987, enhancing the safety measures and revamping penal provisions after Bhopal Gas tragedy in 1984. After 27 years since previous amendment in 1987, now the law maker has proposed and tabled the Factories (Amendment) Bill, 2014 in Lok Sabha on **07th August 2014**. Let us run through the momentous amendments proposed in this Bill.

Key amendments proposed in Factories (Amendment) Bill, 2014:

1. Definition of 'hazardous process' and 'manufacturing process' amended.
2. New definition introduced - 'hazardous substance' and 'disability'.
3. Definition 'prescribed' amended and new Section 112A added giving right to Central Government to make Rules in consultation with State Governments to bring uniformity in the areas of occupational safety, health or such other matters as deemed necessary.

4. 'Occupier' for factory owned or controlled by Government (Central or State or Local authority) to be person or persons appointed to manage the factory by such Government.
5. Empowers State Governments to allow working of women in factories between 7pm and 6am with certain conditions and exemptions to women workers for 16 weeks before and after childbirth for working in night shifts.
6. Removal of absolute restriction on women to work on certain machines in motion and near cotton-openers. However, restriction imposed on employment of pregnant women or persons with disability in certain works or processes.
7. Increase in **overtime** limit of workers for any **quarter** from the present limit of 50 hours to **100 hours**.
8. Factory with more than 75 workers (as against 150 workers) should provide separate shelters or restrooms for male and female workers.
9. Eligibility criteria for annual leave with wages is reduced to **90 days** from the present limit of 240 days.
10. All factories must provide cool drinking water in hot weather irrespective of strength of workers.
11. Permits **compounding of offences** listed in new Schedule IV before commencement of the prosecution. There was no provision for compounding in the Factories Act, 1948.

Continued in page...18



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Maintenance and Inspection of e-documents

UNDER THE COMPANIES ACT, 2013

Section 120 of the Companies Act, 2013 permits a company that any document, record, register, minutes, etc. required to be kept by a company; or allowed to be inspected or copies to be given to any person by a company under the Act, may be kept or inspected or copies given, as the case may be, in electronic form in such form and manner as may be prescribed.

Rule 27 of the Companies (Management and Administration) Rules, 2014 contains the prescription for the above matter. However, the rule seems to deviate from the Act to the extent that it specifies that *“Every listed company or a company having not less than one thousand shareholders, debenture holders and other security holders, shall maintain its records, as required to be maintained under the Act or rules made there under, in electronic form.”*

It further contains by means of an explanation that *“For the purposes of this sub-rule, it is hereby clarified that in case of existing companies, data shall be converted from physical mode to electronic mode within six months from the date of notification of provisions of section 120 of the Act.”*

For the purpose of this rule, the term “records” means any register, index, agreement, memorandum, minutes or any other document required by the Act or the rules made there under to be kept by a company.

The Rule contains that the documents can be maintained in electronic format in the manner the Board deems fit however subject to following conditions:

- (a) the records are maintained in the same formats and in accordance with all other requirements as provided in the Act or the rules made there under;
- (b) the information as required under the provisions of the Act or the rules made there under should be adequately recorded for future reference;
- (c) the records must be capable of being readable, retrievable and reproducible in printed form;
- (d) the records are capable of being dated and signed digitally wherever it is required under the provisions of the Act or the rules made there under;

(e) the records, once dated and signed digitally, shall not be capable of being edited or altered;

(f) the records shall be capable of being updated, according to the provisions of the Act or the rules made there under, and the date of updating shall be capable of being recorded on every updating.

The above provision specified in the rule seems to have added fuel to the fire which listed and other companies were already facing under the provisions of the Companies Act, 2013. The time of six months granted to existing companies to convert their entire existing records in electronic format also does not seem to be sufficient at all. However these companies can now heave a big sigh of relief as the MCA has notified the Companies (Management and Administration) Second Amendment Rules, 2014 by virtue of which in rule 27, in sub-rule (1) and in the Explanation, for the word “shall”, the word “may” has been substituted. The Rule after amendment reads as follows:

“Every listed company or a company having not less than one thousand shareholders, debenture holders and other security holders, may maintain its records, as required to be maintained under the Act or rules made there under, in electronic form.

Explanation: “For the purposes of this sub-rule, it is hereby clarified that in case of existing companies, data may be converted from physical mode to electronic mode within six months from the date of notification of provisions of section 120 of the Act.”

The above amendment has restored the position of listed company and a company having not less than one thousand shareholders, debenture holders and other security holders as was prescribed under the Act. However, the amended rule still gives rise to a doubt that whether the conditions/limitations prescribed for maintenance of documents in electronic format is applicable only to listed company and a company having not less than one thousand shareholders, debenture holders and other security holders or to all companies since the Act does not contain any threshold or classification of companies but the rule talks about only certain class of companies.



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India files appeal in steel products dispute

India filed a notice of appeal against portions of the WTO order in a case relating to imposition of countervailing duty by the US on domestic steel products.

FDI in Retail to Get a Boost as Govt Mulls Scrapping Domestic Sourcing Clause

If implemented, the move promises to open up a plethora of opportunities for global players.

Double Standards by Rich Countries@WTO

(WSJ Report)

The collapse of a global trade deal last month over India's right to stockpile food has some crying "double standards": Rich countries grouse about poor countries' agricultural subsidies, the complaint goes, while doling out handsomely to their own farmers back home.

The U.S. government, for instance, supports grain producers so massively that it ends up subsidizing the production of high-fructose corn syrup and fueling obesity. The European Union, meanwhile, pays off everyone from Spanish citrus farmers to Greek olive growers to French dairy producers—mostly, cynics would say, to keep them from taking to the barricades.

Express News →

- RBI, SEBI looking at barring willful defaulters from raising funds from the capital market
- India refused to meet the July 31 deadline for adopting the WTO trade facilitation agreement claiming lack of progress on food security measures
- Law Commission working on 'HATE SPEECH' definition and thinking of empowering EC to de-recognize a political party or disqualify its members for making 'HATE SPEECH'
- Central Government considering establishment of an independent regulator for the railways to strengthen the rail infrastructure
- Government turns down a move by the RBI management to appoint a chief operating officer for the central bank, instead asked it to seek amendments to the RBI Act to appoint a fifth deputy governor.
- CCI slapped Rs 6,715 crore fines on cement companies

The current WTO rules are vague on a lot of issues, including what exactly gets counted as trade-neutral and how inflation affects subsidy calculations. And because the group operates on the basis of disputes launched by one or several member governments against another, policing the rules is inherently political.

India isn't alone among developing countries in having waded into hot water over farm subsidies. China, Brazil and Indonesia have also seen growing levels of trade-distorting support in the last decade. None of those countries refused to back the WTO trade-easing deal last month.



Real Estate Investment Trusts (REIT)

REITs have been in the news lately ever since SEBI issued guidelines for REITs to come in to existence within the regulatory framework. Investors, both wholesale and retail, now will have another avenue to invest in the real estate sector through a regulated fund route. REITs will help investors channelise their investments into India's realty sector through a regulated mechanism. As the investment in REITs is asset-backed, it is helpful for investors to invest in real estate without the hassle of going through the checks on property titles and the plethora of regulatory formalities. Investopedia defines REITs as a security that sells like a stock on the major exchanges and invests in real estate directly, either through properties or mortgages. REITs typically offer investors high yields, as well as a highly liquid method of investing in real estate."

As with all market related investments options, there are always certain risks to be factored into. Some investments have more some less. REITS falls in to the low risk and moderate return type of investment. As REITs get launched and market participants see them delivering results, they could become a very useful asset class for investors wanting stable income with some capital appreciation prospects in the long run. Over time, advisors may start looking at adding REITs as retirement income solutions.

Did You Know?

What is a prior art search?

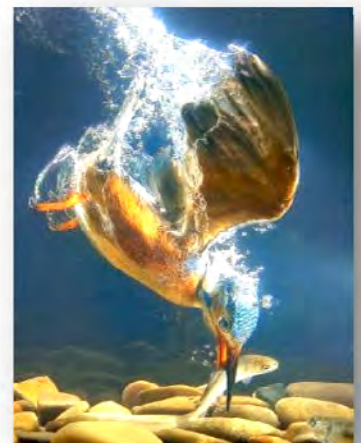
For an invention to be patented, the criteria of novelty and non obviousness have to be met. A prior art search is undertaken to ascertain whether an invention is new and non-obvious, or not. Prior art would include previous patents, trade journal articles, publications (including data books and catalogs), public discussions, trade shows, or public use or sales anywhere in the world.

What are the circumstances a company shall file form 5INV with ROC?

Under IEPF (Uploading of Information regarding Unpaid and Unclaimed amounts lying with companies) Rules, 2012 within 90 days from the holding of Annual General Meeting or the date on which it should have been held according to Companies Act. The statement shall be filed / uploaded every year till the completion of seven years for the following unpaid amounts;

- (a) Unpaid dividend accounts of the companies;
- (b) The application moneys received and due for refund;
- (c) Matured deposits;
- (d) The interest accrued in the amounts referred to in clauses (a) to (d);
- (e) Matured debentures;
- (f) Grants and donations by the Central Govt., State Govt., companies or any other institutions;
- (g) The interest or o other income received out of the investments made from the Fund.

Pick of the month





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CS. Abhishek Bharadwaj A.B.
Bangalore



Service Tax Updates
CA. Ashit Shah,
Mumbai

FEMA Updates
Team Genicon,
Chennai



CUSTOMS & FTP

Clarifies that import of any sub-standard CRGO sheets/strips in contravention of the Steel and Steel Products (Quality Control) Order, 2012 should not be allowed.

The CBEC Instruction F. No. 450/71/2014- Cus IV dt July 9, 2014

Seeks to impose definitive anti-dumping duty on imports of Rubber Chemicals originating in or exported from from China PR and Korea.

35/2014-Cus (ADD), dt. 24-07-2014

Seeks to impose provisional anti-dumping duty on imports of Purified Terephthalic Acid (PTA) originating in, or exported from the People's Republic of China, European Union, Korea RP and Thailand for a period of six months.

36/2014-Cus (ADD), dt. 25-07-2014

Seeks to levy definitive anti-dumping duty on imports of sodium nitrite, originating in or exported from the European Union, for a further period of five years

37/2014-Cus (ADD), dt. 08-08-2014

Case Law

The High Court of Madras held that when stay application is pending before the Tribunal, revenue should not resort to any coercive action for collection of any amount, till stay application is disposed of by the Tribunal.

Tamil Nadu Newsprint and Papers Ltd. Vs. Commissioner of Customs [2014-TIOL-1086-HC-MAD]

The Tribunal dealing with provisional assessment of period prior to July 13, 2007 held that when an amount becomes refundable to an assessee upon finalization of provisional assessment by appropriate authority, the same has to be refunded immediately and assessee is not required to file any refund claim under Section 27 of the Customs Act, 1962.

Indian Oil Corporation Ltd. Vs. CCE [2014-TIOL-1303-CESTAT-AHM]

Ministry of Corporate Affairs

Notifications/Circulars/News

Announcement of Company Law Settlement Scheme (CLSS), 2014. Companies Who Have Not Filed Their Annual Reports, Financial Statements and Related Documents Due For Filing on Or Before 30/06/2014 Can File These Documents Before 15/10/2014

General Circular No. 34/2014 dated 12th August 2014

Applications or forms pending before Central Government, Regional Director or Registrar of Companies.- Any application or form filed with the Central Government or Regional Director or Registrar (hereinafter referred to as 'the authority') prior to the commencement of these rules but not disposed of by such authority for want of any information or document shall, on its submission, to the satisfaction of the authority, be disposed of in accordance with the rules made under the Companies Act, 1956 (1 of 1956)

Companies (Miscellaneous) Amendment Rules, 2014 dated 17.07.2014

Declaration in respect of beneficial interest in shares shall not apply in relation to a trust which is created, to set up a Mutual Fund or Venture Capital Fund or such other fund as may be approved by the Securities and Exchange Board of India

Companies (Management and Administration) Second Amendment Rules, 2014 dated 24.07.2014

'Related party' referred to in the second proviso to Section 188 has to be construed with reference only to the contract or arrangement for which the said special resolution is being passed. Thus, the term 'related party' in the above context refers only to such related party as may be a related party in the context of the contract or arrangement for which the said special resolution is being passed. It is clarified that transactions arising out of Compromises, Arrangements and Amalgamations dealt with under specific provisions of the Companies Act, 1956/Companies Act, 2013, will not attract the requirements of section 188 of the Companies Act, 2013.

Contracts entered into by companies, after making necessary compliances under Section 297 of the Companies Act, 1956, which already came into effect before the commencement of Section 188 of the Companies Act, 2013 will not require fresh approval under the said section 188 till the expiry of the original term of such contracts. Thus, if any modification in such contract is made on or after 1st April, 2014, the requirements under section 188 will have to be complied with.

General Circular No. 30/2014 dated 17.07.2014

It is clarified that resolutions approved or passed by companies under relevant applicable provisions of the Old Act during the period from 1st September 2013 to 31st March 2014, can be implemented, in accordance with provisions of the Old Act, notwithstanding the repeal of the relevant provision subject to the conditions (a) that the implementation of the resolution actually commenced before 1st April 2014 and (b) that this transitional arrangement will be available upto expiry of one year

from the passing of the resolution or six months from the commencement of the corresponding provision in New Act whichever is later. It is also clarified that any amendment of the resolution must be in accordance with the relevant provision of the New Act.

General Circular No. 32I2014 Dated: - 23rd July 2014

CENVAT

Notifications/Circulars/News

Clarifies that in respect of fertilizers for which subsidy the Government, excise duty, provides will be chargeable on MRP and not on subsidy component provided by the Government.

TRU Circular No. 983/7/2014-CX dated July 10, 2014

Case Law

The Tribunal held that an independent body builder building body on a chassis received from chassis manufacturers on which cess has been paid, would not be liable to pay Automobile Cess once again.

JEBL Ltd. Vs. CCE [2014-TIOL-1235-CESTAT-DEL]

The Tribunal held that interest is payable on differential duty paid on supplementary invoices on price escalation.

Dynamic Technologies Ltd. Vs. CCE [2014-TIOL-1244-CESTAT-MAD]

The Tribunal held that Bagasse and Press Mud are waste products arising during manufacture of sugar, which cannot be considered as excisable goods or final products., Therefore, question of invoking Rule 6(3) of the Cenvat Credit Rules, 2004 does not arise at all.

Baramati Agro Ltd. Vs. CCE [2014-TIOL-1288-CESTAT-MUM]

The Tribunal held that Cenvat credit taken on M.S.Angles, M.S.Beams, M.S.Channels and TMT bars by assessee for erection of new plant and machineries in their factory by treating the same as components is admissible in law.

CCE Vs. India Cements Ltd. [2014-TIOL-1185-HC-MAD-CX]

VAT, Sales Tax and Entry Tax

Case Law

The High Court of Madras held that coercive steps shall not be taken for recovery of dues before expiry of appeal period and recourse taken by assessing officer to recover arrears even without giving adequate time to assessee to prefer an appeal is arbitrary.

Flextronics Technologies India Pvt. Ltd. Vs. Assistant Commissioner (CT) [2014-VIL-171-MAD]

The High Court of Gujarat held that wooden boards of different sizes and types which are used for manufacturing of switch boards can be said to be spare part and accessory of switch boards. Accordingly, wooden boards are classifiable under Entry 113 of Schedule II-A of the Gujarat Sales Tax Act, 1969.

State of Gujarat Vs. Jayprakash & Company [2014-VIL-172-GUJ]

The Maharashtra Sales Tax Tribunal held that it is permissible for dealer to obtain declaration Form 'F' from appropriate tax officer, even in respect of consignment received during the period he was not registered.

Kotak Mahindra Bank Ltd. Vs. Maharashtra [2014-VIL-04-MSTT]

The High Court of Karnataka disallowed claim of deduction of trade discount given as per credit notes from sale price as discount does not find a place in the tax invoice.

State of Karnataka Vs. Samsung India [2014-VIL-184-KAR]

The High Court of Karnataka held that assessee is liable to pay tax on supply of food and non-alcoholic beverages to employees on subsidized rates for a valuable consideration through canteen run by assessee as per the requirements of the Factories Act, 1956.

TVS Motors Company Ltd. Vs. Karnataka [2014-VIL-185-KAR]

The Maharashtra Sales Tax Tribunal held that dealer is entitled to interest under Section 53(1) of the Maharashtra Value Added Tax Act, 2002 on delayed refund be it provisional or final, provided there is delay in granting refund as per law.

Indo Count Industries Ltd. Vs. Maharashtra [2014-VIL-05-MSTT]

Service Tax

Case Law

Appellant is eligible for interest on refund from the date of receipt of refund application after removal of deficiency till the receipt of refund. [Section 11BB of Central Excise Act, 1944].

State Bank of India - (2014) 34 STR 579 (Tri - Mum)

Cenvat Credit on service tax paid on factory workers' accident insurance (covers business risk) and medical insurance premium (employee be given proper treatment so that they report to work faster) being an activity in relation to manufacture is admissible. However, Cenvat credit on premium attributable to the families of employees is not admissible since it does not have any direct nexus with the manufacturing activity.

Sundaram Brake Linings - (2014) 34 STR 583 (Tri - Chennai)

Where the assessee was under obligations to provide insurance cover (group insurance / medi-claim / life insurance) to the employees under Section 38 of the Employees State Insurance Act, it was held that the same would constitute an activity in relation to manufacturing and accordingly credit of service tax paid on such insurance premium is admissible.

Samruddhi Cement Ltd. - (2014) 34 STR 592 (Tri - Del)

Appellant had taken registration with service tax authority belatedly and paid service tax and filed returns after pointed out by the department but before issuance of Show Cause Notice (SCN). It was held that penal provisions of penalty as provided under section 78 cannot be attracted.

Gujarat Ambuja Exports Ltd. - (2014) 34 STR 445 (Tri - Ahmd)

The High Court of Madras held that Section 35F of the Central Excise Act, 1944 ("the Excise Act") makes it amply clear that whenever any appeal is filed, person filing appeal should deposit before adjudicating authority duty demanded or the penalty levied, unless same is dispensed with by the Tribunal. In case such deposit as contemplated under Section 35F of the Excise Act is not deposited, appeal is liable to be dismissed.

NSK Builders Pvt. Ltd. Vs. CCE [2014-TIOL-1188-HC-MAD-ST]

The High Court of Allahabad held that once finding of adjudicating authority that claim for refund was filed within period of limitation of one year under Section 11B of the Excise Act was not challenged by revenue before the first appellate authority, such a ground cannot be urged for the first time in an appeal before High Court.

Indian Farmers Fertilizer Cooperative Ltd. Vs. CCE [2014-TIOL-1157-HC-ALL-ST]

The Tribunal held that service of procuring export orders /sales orders through overseas agent is certainly a service which has nexus with manufacturing business of assessee.

Accordingly, ST paid on commission paid to agent under reverse charge mechanism is an Input Service and is admissible as Cenvat credit.

Raghu Exports (India) Pvt. Ltd. Vs. CCE [2014-TIOL-1304-CESTAT-DEL]

The Tribunal held that reinsurance service is an input service for assessee engaged in life insurance business. Therefore, Cenvat credit of service tax paid on the same is admissible.

PNB MetLife India Insurance Company Ltd. Vs. CCE [2014-TIOL-1314-CESTAT-BANG]

The Tribunal relied on decision of larger bench of the Tribunal in the case of Agarwal Colour Advance Photo System [2011-TIOL-1208-CESTAT-DEL-LB] and held that assessee is liable to pay service tax on gross amount charged and exclusion from assessable value of value of paper and other consumables and chemicals used for providing photography service was not permissible.

CCE Vs. Chaman Color Lab & Studio [2014-TIOL-1321-CESTAT-DEL]

The Tribunal held that service tax paid on rent-a-cab service during the period October, 2009 to September, 2010, is eligible for Cenvat credit as input service.

CCE Vs. Bharat Sanchar Nigam Ltd. [2014-TIOL-1327-CESTAT-DEL]

The Tribunal held that Cenvat Credit taken of service tax paid on services of road construction, photocopying, fees for valuation of construction, fees for rating for bank loan, excavation of pond, insurance policy for employees, JCB piston repairing, security charges on railway siding, transportation of coal from plant to railway siding are Input Services as they have been availed by assessee for their activity of coal washing. Therefore, assessee is entitled for Cenvat credit of service tax paid on these services.

CCE Vs. Gupta Coal Field Washeries Ltd. [2014-TIOL-1345-CESTAT-MUM]

The Petitioner contended that an assessing officer can call for records in respect of any period during which the Department seeks to intensively scrutinize receipts, etc., i.e. under a Special Audit under Section 72A of the Finance Act. It was further argued by the Petitioner that the Finance Act does not contain any substantive power to call for records for scrutiny as is permissible

under Rule 5A(2) of the Service Tax Rules or for the purpose of scrutiny by any authority outside of those created under the Finance Act, such as the Comptroller and Auditor General's office.

Travelite (India) Vs. Union of India & Ors. [W.P. (C) 3774/2013, C.M. No. 7065/2013]

FEMA/RBI/SEBI

Case Law

RBI has decided to restore the limit of Overseas Direct Investment to 400% of the net worth of the Indian Party. It has, however, been decided that any financial commitment (FC) exceeding USD 1 (one) billion (or its equivalent) in a financial year would require prior approval of the Reserve Bank even when the total FC of the Indian Party is within the limit under the automatic route (i.e., within 400% of the net worth as per the last audited balance sheet)

A.P. (DIR Series) Circular No.1 dated 03rd July 2014

RBI has decided to switch over to National Industrial Classification 2008 (NIC 2008) from the NIC 1987 version. Also, it has also been decided to introduce a uniform State and District code list for reporting of details of foreign direct investment by Indian companies in Form FCGPR.

A.P. (DIR Series) Circular No.5 dated July 17,

2014 has decided to increase the limit under LRS for any permitted current or capital account transaction or combination of both to USD 125,000 per financial year (April-March) from USD 75,000. Further, it is clarified that the scheme can now be used for acquisition of immovable property outside India.

A.P. (DIR Series) Circular No. 6 dt 18.07.2014,

As per existing provisions issue and transfer of shares including convertible instruments shall be at fair value or above the fair value as arrived under the discounted cash flow method. Similarly during January 2014 RBI has introduced pricing mechanism for exit of foreign investor from the Indian Company. In order to provide greater freedom and flexibility to the investor and the Companies, RBI has introduced the new pricing guidelines for Issue/Transfer of Shares or Convertible Debentures.

A.P. (DIR Series) Circular No. 4 dated July 15, 2014

IE Law Café: Statute in 'action'!

Continued from page...12

12. Liability is cast by way of duty on every person who erects or installs any article in a factory to ensure that such article so erected or installed does not make it unsafe or a risk to health when that article is used in the factory.

Full text of the Bill as introduced in Lok Sabha on 07th August 2014 can be downloaded from http://164.100.24.219/BillsTexts/LSBillTexts/asintroduced/93_2014_En_LS.pdf.

Labour law reform is need of the day, not only just to attract foreign investment to India but also to bring-in balance between workmen and employers. Is overhaul proposed in Factories (Amendment) Bill, 2014 adequate to reward expected mileage? It is just a beginning; the Bill has to travel a long way to become an 'Act'. Thereafter, as administration of Factories Act is through Rules, contemporary and constructive amendments to the Factories Rules are looked for from State and Center to accomplish the spirit and intent behind the Bill. Let us hope to see progressive and productive labour law reforms in action soon!