



Newsletter-24

Mysore Chapter

November 2005

From Chairman's desk...



Dear Friends,

Warm Greetings to you all!

The festival season and the prolonged monsoon season are already behind us. The Silver Jubilee year of the Chapter is nearly over. Several of the programs conducted were well received. The only regret being that few of the members being not able to attend the programs due to busy schedules. The last program was on "Managing Constraints" held at the Rotary Club Silver jubilee hall, which again was attended by over 45 corporate participants including seven members.

One of the major events chalked out was a Mega Event with support of Bangalore Chapter for this year. For strategic reasons it was decided to postpone the event to January 2006. Members have been kept updated by the Silver Jubilee Committee and through the monthly newsletter on the plans for this event. Chapter needs the inputs from each and every member to enhance the quality of the activities and a Mega event like the one planned needs everybody to chip in. I request the members to participate in the meetings called by the Silver Jubilee committee and lend a helping hand. In fact the responsibility sharing by members is the need of the day. May I take this opportunity to request the members to get in touch with the Chapter office and start working for the Mega Event? I also request the members to contribute articles to the souvenir, which is to be brought out on the occasion of the Mega event.

It is surprising that few of the members could not find time to visit the Chapter office even once in this year and could not attend a single event. The members are requested to join in the Career Counseling, as the Chapter has not been able to meet its target of Career Counseling due to busy schedule of the members of the career counseling Committee.

The Newsletter of the Chapter is being sent to all the members. The Newsletter has been eliciting good response from people from near and far. Only regret being, so far no response from the Chapter members was received. Is it not unfortunate? Please introspect.

I sincerely request the members to make it a practice to visit the Chapter office at least once in a week. I had quoted in one of my earlier letters that "None of us is as strong as all of us". It is only the combined efforts of all members that can help the Chapter develop.

I am sure that most of the members have already subscribed to "Chartered Secretary". The members who are yet to subscribe to the Journal "Chartered Secretary" are requested to subscribe and also to get subscriptions from their friends and acquaintances. The members are also requested to subscribe to the "Company Secretaries Benevolent Fund" if not already subscribed.

D D Bhat

Chairman - Mysore chapter

Mysore, 18th November 2005.

Inside...

Managing
Constraints... Report

Copyright
Protection... a debate

Life Maker – Triple
filter

News Highlights

Legal round up

**Real India needs
real answers...**

Special
Announcement

MANAGING CONSTRAINTS - A SESSION

A Report



Managers and business leaders at all levels face a variety of constraints in today's context, in achieving his/her goal be they in their employment, profession or personal lives. Ever since the world famous author Eliyahu Goldarth's best seller "The Goal" was published, several books have been published on the subject of managing constraints and converting them into opportunities. In today's world of speed, constraints are to be handled more effectively and efficiently. Surprisingly, the topic has not been as much debated and practiced, as it deserves.

Mysore chapter, of The Institute of Company Secretaries of India took pride in organizing an interactive session on "Managing Constraints" on **29th October 2005 Saturday between 5.00 PM to 7 PM** the session at Rotary Seminar Hall of Mysore.

Mr. Vikram Talaulikar, a Mechanical Engineer from BITS, Pilani, with over 19 years of experience in management and an eloquent speaker on the topic led the session.

Mr. Vikram Talaulikar took the reference of the financial constraint identification, which could be applied to all other fronts of life.

Over 45 corporate executives from various companies in and around Mysore have participated in the session. Session was well received by all.

Cabinet clears 3 bills on accounting regulators

Times News Network [Friday, November 18, 2005]

DELHI: The Cabinet on Thursday cleared three bills aimed at amending the laws governing regulators of the accounting profession. It approved the amendments to the Chartered Accountants (Amendment) Bill 2005, Cost and Works Accountants (Amendment) Bill 2005 and the Company Secretaries (Amendment) Bill 2005 as recommended by a group of ministers (GoM).

Information and broadcasting minister Jaipal Reddy said the GoM had endorsed all the recommendations made earlier by a parliamentary standing committee on finance. The amendments relate to the disciplinary mechanism, election to the governing councils of the institutes and the voting rights of members who are co-opted in the councils.

Offences by the members would be classified as major and minor and an independent body would sit in judgement. Presently, cases are referred to High Courts.

Other recommendations include - the members, who are co-opted to the councils, should not have voting rights, instead these members, who are experts in certain areas, take part in only those council meetings where the subject is debated and three terms of three years each to council members.

The ICAI had opposed the new bill saying the government's intent is to reduce the institute's autonomy by giving it directions.

Copyright Protection - a debate

Compiled by: **H M Dattatri**

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There are many e-groups with common interest across World Wide Web to share their ideas, knowledge and experiences. Sometimes interesting “Samudra Manthan” takes place in these groups. Here is one such discussion on copyrights, which took place in a renowned e-group. Spencer Johnson's "Who Moved my Cheese?" is a best selling book. The gist of the book was converted into a Power point Presentation and the same was circulated in the group. The circulator had not taken consent from the author. Another member condemned this. The circulator put forth his arguments and that another member responded for the same. What do you feel? Read and inform.

Defense 1:

One possible factor behind free sharing could be the inherent culture. Though India is progressing fast in every field, it still retains and attaches importance to some of its traditional culture like community sharing, joint family system, et all. The beauties of these traditional systems are: the highest or the most efficient in the hierarchy shares their knowledge and wealth with others, expecting nothing in back. For them the happiness derived by doing so is more than enough in return. As this is still inherent in the system, people continue to practice the same 'for good'. If you observe nature, the strongest and experienced in the clan does this too.

In fact free sharing has been there since time immemorial. If the greatest scientists and philosophers had insisted on copy rights, we would not have got the chance to learn their great works in schools and colleges. That would have cost us a lot. Rather by sharing them they have complimented the growth.

Also from the business point of view, sharing (especially knowledge sharing) will compliment the growth. To give you a true account, back in 2002 when i first received this ppt "Who Moved my Cheese?" by email from one of my colleague, i found it to be good. Immediately i bought a hard copy as i felt having one at home will serve a larger audience. Also i recommended this book to few during the tech slowdown. It helped them a lot.

Thus if the sole intention being knowledge sharing alone and not profit-making, then a person sharing a copy righted material need not be branded a thief.

Response:

Sorry. I disagree strongly.

Let me explain. I have NOTHING against sharing between those willing to share. Look at my web site - I post ALL of my work for the express purpose of sharing. BUT... it is something I'm choosing to do.

You CANNOT, by law, by ethics, or by definition 'share' the work of someone who does not agree to the sharing. I can assure you that the author of the book in question has NOT agreed to this 'sharing'. It is copyright violation by definition.

AND... if your definition of 'theft' is 'to take without permission', then what has occurred on this list is theft.

Defense 2:

However considering the effort involved in creating a copy righted material, members should try their level best to get the permission from the author before sharing the same in knowledge forums like these. Am sure the authors too would support the cause if the real intention is presented properly.

Response:

That's nonsense. I challenge you to get Spencer Johnson's permission to do what was done on this list. I'll bet any amount that you wish that such permission will not be forthcoming. Would you like me to contact him for you and point out to him what happened on this list? He's a best selling author, he has the financial resources necessary to sue this list and the individual in question.

Defense 3:

After all such sharing would certainly compliment their business plans. India (and the whole World) is a big ocean and there is enough space for everyone. Hope small drops like this HR forum

would compliment your growth. After all, creating demand does successful businesses.

Also, request not to point fingers at a particular section alone. There were instances where few ancient and traditional systems of India were just documented by few from outside and got it patented.

Response:

Agreed. Injustice takes place all over the place. That does NOT make doing it on this list any less wrong.

Now, dear readers, its your turn to speak...

Life maker

Triple filter...

In ancient Greece, Socrates was reputed to hold knowledge in high esteem.

One day an acquaintance met the great philosopher and said, "Do you know what I just heard about your friend?"

"Hold on a minute," Socrates replied. "Before telling me anything I'd like you to pass a little test. It's called the Triple Filter Test."

"Triple filter?"

"That's right," Socrates continued. "Before you talk to me about my friend, it might be a good idea to take a moment and filter what you're going to say. That's why I call it the triple filter test."

The first filter is Truth. Have you made absolutely sure that what you are about to tell me is true?"

"No," the man said, "actually I just heard about it and..."

"All right," said Socrates. "So you don't really know if it's true or not."

Now let's try the second filter, the filter of goodness. Is what you are about to tell me about my friend something good?"

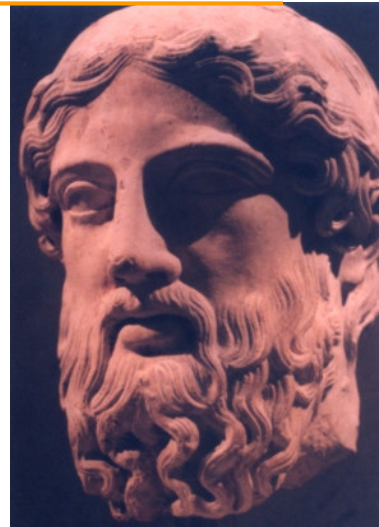
"No, on the contrary..."

"So," Socrates continued, "you want to tell me something bad about him, but you're not certain it's true. You may still pass the test though, because there's one filter left: the filter of usefulness. Is what you want to tell me about my friend going to be useful to me?"

"No, not really."

"Well," concluded Socrates,

"if what you want to tell me is neither true nor good nor even useful, why tell it to me at all?"



NEWS HIGHLIGHTS...

Govt releases concept paper on Limited Liability Partnership law

Business Line Bureau New Delhi, Nov 2

The Ministry of Company Affairs has released a concept paper on limited liability partnership (LLP) law. The paper has proposed LLP as a body corporate and separate legal entity under a new law. The paper does not restrict the LLP form to the services sector alone, but has also recognised it for small businesses.

Important Points:

1. Liability of partners would be limited except in case of fraud.
2. The LLP would be registered with the Registrar of Companies (RoCs)
3. Conversion of firm, private company, and unlisted public company into LLP is allowed.
4. An LLP would comprise a minimum of two partners. No cap on maximum number of partners.
5. Appointment of 'manager' is compulsory who is responsible for compliances.
6. Annual 'declaration of solvency' of an LLP would be filed by the manager with the RoC.
7. Annual accounts are to be maintained and preserved by LLPs for such period as may be specified in the rules.
8. RoC can strike off defunct LLPs.

The paper has been put up at the Ministry's Web site (www.dca.nic.in) so that all interested may express their opinions and also suggest formulations for the consideration of the Ministry on various aspects of LLP law, an official release said. The comments may be sent latest by December 31.

Bad news! Your IT refund may be delayed

Manoj 18th October, 2005 *CAinIndia*

This year if you don't get your income tax refunds or worse still, you are handed a notice for defaulting tax payments, don't panic. The reason is a major goof-up on part of the banks that collected your tax last year.

They have mismatched PAN with challan identification number and failed to update the IT department with payment details. This has resulted in accumulation of funds in the suspense account to the tune of Rs 5,000 crore.

Sources said banks have expressed helplessness in implementing the department's Online Tax Accounting System (OLTAS) initiated last year. "Large sums are still coming into the suspense account since bank employees don't follow the OLTAS norms while accepting tax payments," an IT official said. Still, the magnitude of the problem is huge that refunds are expected to be delayed this year.

Source: Business Standard -- October 18 2005

A large number of expatriate employees are deputed to work in India from the side of foreign companies. Their salary may be paid by the foreign companies, or, by Indian counterparts or, by both.

Further the salaries and other facilities may be paid/provided partly in the foreign country and partly in India. The taxation of salary income creates a complex problem, since the entire salary income may not accrue in the foreign country, or, in India.



Tax rules for expatriates

To overcome this difficulty, the tax treaties usually contain a specific provision declaring that such income should normally be taxed in the employees' country of residence, but the same may become taxable in India, if the employee stays in India for more than 183 days in a fiscal year.

However, in order to claim exemption from tax in India, the following conditions should be satisfied:

The total duration of employee's stay (in aggregate) in India does not exceed 183 days in a tax year (April 1 to

March 31) The remuneration for services rendered by the employee is paid by, or on behalf of, an employer who is not a resident of India; and the remuneration is not borne by a permanent establishment or fixed base, which the employer has in India. Whereas there is no difficulty in interpreting conditions specified in para (i) and (ii) above, the interpretation of (iii) is not so easy because the words "borne by a permanent establishment" are not explained in any of the tax treaty.

In the above context, a recent case of DHV Consultants (2005) 147 Taxman 521 (AAR) - may be referred to. A Dutch company had set up several projects offices in India for providing consultancy services in India. For this purpose, the Dutch company sent its employees from Netherlands to India. During their stay in India the employees continued to receive salary in Netherlands.

In the above background, the Dutch company raised a question before the Authority for Advance Rulings as to whether the salary paid to an individual either in India or outside India in respect of services rendered by him in India will be chargeable to tax in India or not.

As per the tax treaty with Netherlands, the remuneration paid for employment exercised in India

would be exempt from tax in India if all the three conditions are satisfied.

The Authority observed that the Dutch company is charging royalty and fees for technical services on which, it is liable to pay tax at concessional rate of 20% under section 115A of the Act inscribed in section 115A is clearly due to the fact that tax on such income is computed on gross basis whereas for other income (other than royalty and fees for technical services) of a foreign company, tax is computed on net basis. Providing for lower rate of tax under section 115A as compared with the rates prescribed in the Finance Act is clearly for allowing margin for the deduction of expenses which include remuneration paid to employees working in India.

The implication of the aforesaid case is that when a foreign company pays tax at a concessional rate provided in section 115A as compared with rates prescribed in the respective Finance Act, it is a clear case of allowance of margin for expenses including remuneration paid to employees working in India.

In such cases, employees' salary will be liable to tax in India even if their stay in India is for less than 183 days.

Resign, Change Your Mind, Keep the Job

Source: 24-10-05 The Statesman Delhi Edition
Compiled by www.naukri.com

The Supreme Court has held that an employee can withdraw his resignation during the notice period and is entitled to consequential benefits from the company if he is not allowed to work. While giving this ruling the Court referred to several of its earlier verdicts by which it has been settled that an employee remains in service if he withdraws his resignation within the notice period and thus the relationship of an employer and

employee did not come to an end. The judgment came on a petition by an employee who had challenged the Karnataka High Court verdict dismissing his plea that he was entitled to be in the service of the company with all benefits after he withdrew his resignation during the notice period as per the rules of the company. Setting aside the High Court verdict, a Bench of Justice Mr. B. N. Srikrishna and Justice Mr. C. K. Thakker directed the company to treat the employee in continuous service up to the age of superannuation and give him all benefits, including arrears of salary.

Bar Council wants other professional to stop practice law...

New Delhi November 03, 2005

The Delhi High Court has issued a notice to the Centre on a petition filed by the Bar Council of India seeking restraint on permitting persons other than advocates, like chartered accountants and cost accountants, from "carrying out" the legal profession.

It has also sought restraint on persons other than advocates from appearing before the Income Tax Appellate Tribunal (ITAT) and the Appellate Tribunal Sales Tax (ATST).



The statutory body has sought directions to ITAT and ATST from prohibiting persons other than advocates enrolled under the Advocates Act 1961 to carry out full-fledged law practice.

Division Bench comprising Chief Justice Markandey Katju and Justice Madan Lokur has issued notices to the Union of India, Government of NCT Delhi, the ITAT and ATST and has fixed November 21 as the next date for hearing.



Legal Roundup....

Income Tax

Can Ignorance be an excuse?

Income Tax Appellate Tribunal: If surrounding circumstances not only indicate but lead to inevitable conclusion that assessee could not have knowledge of law, he cannot be penalized for his default.

[2005] 96 ITD 163 (Jodh)(TM)

Warranty Cost - is it contingent?

Income Tax Appellate Tribunal: Once liability arising on account of warranty claims is in-built in sale mechanism itself, it cannot be said that it is contingent in nature.

2005] 4 SOT 30 (Delhi)

Revision of monetary limits for filing appeals by Department before various appellate bodies or appellate authorities:

Appeals will henceforth be filed only in cases where the tax effect exceeds the revised monetary limits given hereunder:-

INCOME-TAX	TAX EFFECT
Appeal before Appellate Tribunal	Rs.2.00,000/-
Appeal u/s 260A	Rs.4.00,000/-
Appeal before the Supreme Court	Rs. 10,00.000/-

In cases involving substantial question of law of importance as well as in cases where the same question of law will repeatedly arise, either in the case concerned or in similar cases, should be separately considered on merits without being hindered by the monetary limits.

Income Tax Circular No.2 /2005 File No.279/Misc.-64/05-ITJ
Date.24/10/2005

Intellectual Property Rights

The Court of Appeals held that dismissal of the plaintiff's infringement action is affirmed where plaintiff did not qualify as an "effective patentee" and therefore lacked standing under the Patent Act to sue for infringement.

Sicom Sys. v. Agilent Tech.

Can you Trade Mark Colour Combination?

The Plaintiff claimed that they are the proprietors of the well-known trademark "COLGATE". The distinctive and prior use of the get up of the red and white colour scheme has attained great reputation and goodwill. The plaintiff alleged that the defendant's product's "AJANTA" in red and white colour scheme is an imitation of the plaintiff's product. Therefore, the plaintiff filed a Suit for permanent injunction restraining infringement of Trademark and Copyright, passing off, unfair competition, damages claiming that the following rights have been violated.

It was held that Trademark Registration had been filed for the word 'COLGATE' in white colour on the red background and not the red and white colour scheme alone. The essential feature of the plaintiffs' mark is 'COLGATE' inscribed in white colour on a red background and not red and white colour combination alone.

Thus, the adoption of the mark 'AJANTA' written in white colour on a red background does not constitute infringement by the defendants of the plaintiffs' mark. Red is a basic colour and the red & white colour combination is common to the toothpaste trade in the domestic as well as the international market and cannot be monopolized by any party. However the defendants are liable to be restrained for passing off since there was sufficient resemblance between the plaintiffs' and the defendants' product. Therefore, the Court stated that there would be no passing off once the product is marketed by the defendants as per the approved packaging.

Substitution of 'gold' for 'white' in the Hindi inscription 'AJANTA HEALTH' & the swirls surrounding the Hindi inscription is to be incorporated in packaging marked 'XX'. The defendants are permitted to market their product provided it is as per packaging modified by this order to the extent of the addition of 'Ajanta Health' in Hindi in Gold on the packaging

Colgate Palmolive Co.Ltd & Anr v Mr. Patel and Anr

Customs

Input includes Damaged Goods

No material distinction can be drawn between loss on account of leakage and loss on account of damage. The

benefit under notification no.13/97-Cus.can not be denied as inputs were intended for use in the manufacture of final product but could not be used due to shortage / leakage / damage. .

BPL Display Devices Ltd. Vs. CCE (2004) 174 E.L.T 5 (SC)

DGFT

Importability of Alternative inputs allowed as per SION under DFRC Scheme

Policy Circular No. 30 (RE-2005)/2004-2009 Dated 10.10.2005: The Directorate General of Foreign Trade, vide this circular, has decided to inform all concerned that since the objective of SION is to allow duty free import of the inputs which are actually used or are capable of being used in the export product, the exporter has the flexibility to import the alternative input/product mentioned in the SION as long as the same can be used in the manufacture of the exported product under the DFRC scheme.

Case Laws - Valuation

The Tribunal, in CC. Vs. Uma Parameswari Mills Ltd. (2005 (188) ELT 199), has held that the transaction value of goods cannot be enhanced in the absence of any contemporaneous imports at higher prices and where there is no doubt about the genuineness of the documentation produced.

In Sundek India Ltd. Vs. CC (2005 (70) RLT 504), the Tribunal has held that the transaction value of goods can only be rejected for the reasons specified under the Customs Valuation Rules (CVR).

The Tribunal, in Precot Mills Ltd. Vs. CCE (2005 (70) RLT 541), has held that the transaction value of second hand machinery cannot be rejected on the basis of contemporaneous imports without considering the distinction between the two imports and where no valid grounds exist for rejection of the declared transaction value.

In Andhra Sugars Ltd. Vs. CC (2005 (127) ECR 80), the Tribunal has held that the transaction value of imported goods cannot be rejected if the transaction does not fall under any of the exceptions mentioned in Rule 4 of the CVR.

In Natwar Steel Pvt. Ltd. Vs. CC (2005 (70) RLT 708), the Tribunal has held that value of imported goods cannot be determined on the basis of selling prices of locally manufactured goods, in view of the specific prohibition to that effect under the CVR.

FTP

Notifications

The Central Government has amended the Foreign Trade Policy such that imports of second hand personal computers/laptops, photocopier machines, air conditioners and diesel generating sets will only be allowed against a license issued in this regard.

(Notification No. 31 (RE-2005)/2004-2009 dt. 19/10/2005)

Excise/CENVAT

No duty is payable on removal of used capital goods.

The Tribunal, in Madura Coats (P) Ltd Vs CCE (2005 (70) RLT 730), has held that removal of used capital goods cannot be equated with removal of goods 'as such' under the Cenvat Credit Rules and in the absence of specific provisions, the manufacturer is not required to pay duty on removal of used machinery from the factory.

Valuation

The Tribunal, in Procter & Gamble Vs CCE (2005 (70) RLT 582), has held that two subsidiary companies of a common holding company are not related persons for that reason alone.

Service Tax

Where respondent-assessee obtained technical advice and consultancy assistance from foreign companies for modernization of their plant, since respondents had only received services from foreign companies who were consulting engineers and respondents were not their agents, service tax could not be demanded from them

[2005] 2 STT 99 (Bang.-CESTAT)

Software Maintenance is a 'Service':

Supreme Court in the case of Tata Consultancy Services vs State of Andhra Pradesh (Civil Appeal no 2582 Of 1998) has observed that all the tests required to satisfy the definition of goods are possible in the case of software and in computer software the intellectual property has been incorporated on media for the purpose of transfer and software and media cannot be split up.

Therefore, sale of computer software falls within the scope of sale of goods. Supreme Court has also observed that they are in agreement with the view that

there is no distinction between branded and unbranded software.

Software, being goods, any service in relation to maintenance or repair or servicing of software is liable to service tax under section 65(105)(zzg) read with section 65 (64) of the Finance Act, 1994

CIRCULAR NO 81/2/2005-ST, dated 7-10-2005

Sales Tax

Supreme Court, in, has held that supply of spare parts and goods under predominantly service agreements and the supply of consumables in the execution of works contracts would amount to sale and liable to tax even though no price was separately charged for such supply. Also the fact that at the time of commencement of the contract, no indication of any such future sale of goods was available was of no relevance.

Xerox Modicorp Ltd Vs. State of Karnataka [(2005) 142 STC 209]

Labour Laws

Director's liability under Minimum Wages Act:

[2005] 63 SCL 109 (SC) - Directors of company have no personal liability for payment of wages under Payment of Wages Act

Corporate Laws

[2005] 63 SCL 126 (Guj.) - In terms of section 274(1)(g) of Companies Act, once default is committed, disqualification starts, which cannot be postponed or deferred on assumption that if scheme of repayment proposed by company is sanctioned, date of redemption would be deferred and in that case there would not be any violation of section 274(1)(g)

[2005] 63 SCL 25 (MP)(CLP) - Bank is custodian of cheques entrusted to it for collection and, therefore, if cheques are lost in transit, bank would be liable to make good loss of value of cheques

Negotiable Instruments Act:

[2005] 148 Taxman 128 (SC) - Merely being a director of a company is not sufficient to make person liable under section 141 of the Negotiable Instrument Act; managing director or joint managing director, who admittedly would be in charge of company and responsible to company for conduct of its business and signatory of cheque, who is clearly responsible for incriminating act, can be proceeded against under section 141 even in absence of specific averments in complaint.

SEBI

Amendments to SEBI (DIP) Guidelines

Securities and Exchange Board of India (SEBI)'s DIP (Disclosure & Investor Protection) guidelines have been amended vide circular dated September 19, 2005 issued to all Registered Merchant Bankers/ Stock Exchanges. The highlights of the amendments are :

1. Specific allocation of 5% for mutual funds within the category of qualified institutional buyers (QIBs)
2. Eligible bids by mutual funds to be considered in the said 5% and also in the balance available for allocation to QIB category
3. 10% margin to be collected from QIBs
4. Allocation to QIBs to be made on proportionate basis as is presently being done for retail individual investors and non institutional investors.

These amendments are applicable to the public issues through book building route, draft offer documents in respect of which, are filed with SEBI on or after the date of this circular. Full details of the amendments may be seen from the circular available in SEBI website at www.sebi.gov.in under head "Issues and Listing".

Further full text of SEBI (DIP) guidelines 2000 including the amendments issued vide this circular are also available in SEBI's website under "Issues and Listing".

Chapter News:

Ms. Pracheta M intermediate student of ICSI has secured first rank to Mysore University in B Com. She is from Mahajana Degree College. Ms. Pracheta had scored 9th Rank in ICSI Foundation Examination too.

Chapter has organized Model examination for Intermediate Students from 13th to 20th 2005. This aims at making students more confident for the ensuing December examination.

Oral coaching classes started for third Batch of Intermediate students during the month.



Real India needs real answers



Sunita Narain

Editorial in CSE E-Newsletter



Pali is a textile town deep in water-scarce Rajasthan. It is well known for the cloth it produces. But it is even better known for the filth it also produces, best seen in the colours in its mostly dry river, the Bandi. Pali's pollution, and the protest of residents and neighbouring farmers, is part of the environmental movements of this country. The protests resulted in the setting up of a common effluent treatment plant, one of the first in India. This town has reinvented the polluter pays principle. It charges a 'pollution cess' on every bale of cloth to pay for its water treatment costs. It should have been the story of successful pollution management. It should have taught us how small textile dyeing units, located in water-scarce areas, can mitigate environmental stress. Pali should have been textbook material.

But this is not the case. Farmers continue to cry for clean water, demanding their right to cultivate. So what is the problem?

Visiting the town I learnt that Pali is still textbook

Centre for Science and Environment - CSE is an independent, public interest organisation that was established in 1982 by Anil Agarwal, a pioneer of India's environmental movement. CSE's mandate is to research, communicate and promote sustainable development with equity, participation & democracy.

Contact CSE:

<http://www.cseindia.org> E-mail: cse@cseindia.org

Registered Address: 41, Tughlakabad Institutional Area, New Delhi-110062

material. It is a case study of how pollution by small factories, owned by the relatively less rich, using technologies that aren't state-of-the-art, can destroy the homes and livelihoods of the even lesser rich. How the poor can become the enemies of the poorer. Pali, ultimately, is about the poverty of India where answers to pollution will have to be reinvented.

Small-scale units are vastly superior to

their powerful competitors in the large-scale and organised sector because they provide jobs. But they are relatively poor: in technology, in money to invest in efficiency and pollution control. They all operate in the unorganized sector. Some operate illegally.

The problem is these units vastly pollute. Pali is in a region that, even in the best of times, is starved of water. Its only river is a seasonal drain. But the little water it gets in the monsoon is critical since the aquifer gets recharged. Wells fill up. Farmers have some water to grow crops.

In this region, there is no scope for pollution. There is no water here that will wash away colour and chemical sins. Here, the chemical becomes the river. It becomes the irrigation water. It fills up the seasonal river with poison, which then seeps into underground aquifers and into the wells. This is the challenge of pollution by the relatively poorer, in the land of the poor.

What about pollution control? Hardware exists: Pali has three common effluent treatment plants that can treat 22.4 million litres of wastewater daily. The local administration told me they have asked industry to build more plants to treat waste. They also plan to relocate illegal units to an industrial estate. I was told of plans - without deadlines - to build, repair and renovate town drains. The industry association says, in turn, existing plants are efficient, meeting standards. But the industry needs to find better technologies to further reduce pollution. The association says little research exists on cost-effective ways to rid water of colour and chemicals. It says they are doing their best.

Farmers of the region do not believe this. They say their river is poison, and this has, in turn, destroyed their fields. They wanted me to see. We drove for an hour along the river, downstream of the town, for 50 kilometres. What I saw shook even the experienced drain-inspector in me. The river was only chemical. The water smelt toxic. Its banks were caked with sludge. A farmer whose field adjoined the river said

he could not use his well anymore. To test, I took a little sample. My hands soon smelt of a chemical and began to itch.

Clearly there was something in this water.

In a 2004 survey of pollution in Pali, the Central Groundwater Board found that pollution has seeped into the underground lifelines of the region; that chemicals have invaded wells. Remember, this is a region where farmers will kill for a little water. Consider, then, what happens when water cannot be used because it is contaminated. It breaks the economy of the region. It drives farmers to desperation.

Pollution anywhere is terrible. But in Pali, pollution is deadly and shattering.

The pollution control game can never come true. Drains are never completed and even as illegal units are relocated or closed down, more come up in its place. All this while, the river shrinks.

The factories use groundwater. The river gets lesser recharge. It only gets the chemicals the factories discharge. In other words, it cannot assimilate any more waste.

Pali needs a plan that can work fast. First, it must estimate the quantum of pollution. Even today, after years of investment and planning in pollution control, nobody really knows how much waste the town generates, and so, how much pollution it must treat. Second, Pali must map the drains that bring the waste to the river, so that it can be intercepted and taken to the effluent treatment plants. All the waste should be trapped - official or illegal. Currently, no one knows how much waste the main drain - the Gandhi Nagar drain; surely an ironic reference to the Father of the Nation - carries, and how to treat its effluents before it joins the river. Instead, all plans focus on refurbishing the drain upstream - until the drain is picture-perfect, pollution cannot be controlled.

The difficult part is to completely treat the effluents so that the dry river gets water and not waste. This is the real challenge. This is where new technology is desperately needed. This is where we need science, not rocket science but real science: to find answers for poor industries, in poor areas, to combat pollution cheaply.

Pali is not just about rogue industry and wretched farmers. It is about the failure of modern society to find answers for the real India.



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