

Newsletter - 53

June 2008

For Private Circulation Only

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and

'Spectrum' Team



CONVERSION OF PARTNERSHIP INTO COMPANY

S. Vivekananda B.A.L., LL.B., ACS

Part 3

(Recap: In 2 ways firm can become company: dissolve the firm and incorporate a new Company or Incorporate a Company to take over the business of the firm by firm conversion method. Under option 2, business continuation with all assets and liabilities is recognised. For adopting option 2, increase number of partners to 7, have a proper partnership deed, register the firm, show fixed capital of minimum 1 lakh, make an agreement for conversion of firm into company among all partners. Read on....)

Once firm is ready as detailed in the previous edition to get itself converted into a company, other formalities & procedures as required for incorporating a new company has to be followed. First step is to apply for name availability in Form 1A. Along with the Regular Attachment with Form IA, the following documents are also required to be enclosed:

- i) Letter stating that the name application is for conversion of a Partnership firm as a limited company and the application is made in pursuance of Section 565 of the Companies Act;
- ii) Copy of the Partnership Deed;
- iii) Copy of the last balance sheet;
- iv) Copy of the IT Assessment Order;
- v) No objection Certificate signed by all the partners.
- vi) A copy of true extracts of Register of Firms from the Registrar of Firms, if not, an affidavit of the partners.

Once name is approved, file following documents:

- a) Form No.37 along with Partnership Deed, Form No.39, Form No.40 giving statement of Particulars and Form No.41 giving copy of resolution (No filing fee for these forms);
- b) Original name approval letter;
- c) Form No.1, 18 & 32;
- d) POA on Stamp Paper;
- e) Details of other directorship of the directors of the company;
- f) 3 copies of MOA & AOA duly stamped;
- g) Pay Order towards filing fees.

On verification of above documents, ROC may certify the incorporation.

(... to be concluded)



DISTINCTION

The Master was strolling with some of his disciples along the bank of a river.

He said, "See how the fish keep darting about wherever they please. That's what they really enjoy."

A stranger overhearing that remark said, "How do you know what fish enjoy? You're not a fish."

The disciples gasped at what they took for impudence. The Master smiled at what he recognized as a fearless spirit of inquiry.

He replied affably, "And you, my friend, how do you know I am not a fish? You are not I."

The disciples laughed, taking this to be a well-deserved rebuff. Only the stranger was struck by its depth.

All day he pondered it, then came to the monastery to say,

"Maybe you are not as different from the fish as I thought. Or I from you."

PRIORITIES

According to legend, God sent an Angel to the Master with this message:

"Ask for a million years of life and they will be given you. Or a million million. How long do you wish to live?"

"Eighty years," said the Master without the slightest hesitation.

The disciples were dismayed. "But, Master, if you lived for a million years, think how many generations would profit by your wisdom."

"If I lived for a million years, people would be more intent on lengthening their lives than on cultivating wisdom."

Anthony de Mello, SJ

..... Words worth millions.....

*And in the end, it's not the years in your life that count.
It's the life in your years.*

-- Abraham Lincoln

Chapter News

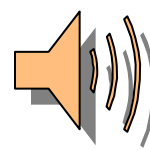
“CREDITORS MEETING ON MERGER OF COMPANIES”

In order to provide practical exposure to the students on the theoretical aspects they study, the students were invited to witness a “Creditors Meeting on Merger”. Our member on the managing committee, CS. Srilatha T.G. facilitated the students to attend the creditors meet in connection with merger of Messrs. Sagas Auto Tec Pvt. Ltd. and one of its sister concerns on 26th May 2008.

STUDY CIRCLE MEETINGS

Study circle meetings are continued to be organized by the chapter every Sunday at 4 PM

04.05.2008	CSP Drafting by Mr. Omkar N.G.
11.05.0208	Securities Laws by CS. Madhwesh K
18.05.2008	BRS by Ms. Rahsmi M.R.
25.05.2008	General Discussions by Ms. Rahsmi M.R.



Mysore is getting ready to host the ICSI 6th All India National Moot Court Competition 2008

The ICSI – 6th All India National Moot Court Competition 2008 will be held in two stages – Regional and National rounds from 4th July 2008 to 03rd August 2008.

For the first time National round will be held from 1st August to 3rd August 2008 in Mysore.

It may be remembered here that Mysore team won the 5th National Moot Court Competition held in Bangalore last year.

Will Mysore Chapter retain the championship?

ROI and Training!

Samvad



By **B Jagadeesh**

Director – Corporate H R
Essilor India Private Limited, Bangalore

In this age of costs and investments, is training worth the investments? What is the Return on investment for Training?

There are various schools of thoughts one of which is the Japanese philosophy – “Training is a way of life”. It is a part and parcel of every day life and therefore the question of return on investment does not arise in everyday life.

There is yet another school of thought – “What gets measured gets done”. Therefore training has to be measured, its effectiveness itself is a Return on Investment. There are various kinds of tests, which measure pre and post training knowledge and skills.

The other day Mr. Sunil Abrol, Director of C-DOT was mentioning that the very definition of training is misunderstood. According to him, “training is all about imparting knowledge and skills wherein we can define the extent of what knowledge and what skill is being imparted. However, application of knowledge and skills is something outside training dependent on the organization, its culture and most important the trainee.”

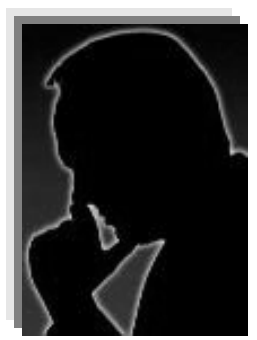
And the debate continues. What are your thoughts? What are the practices that your organization encourages? Let us samvaad, and learn from each other.

Mail your thoughts to:

dattatrics@gmail.com

☺ ☺ ☺ In Lighter Vein...☺ ☺ ☺

The president of a large corporation opened his directors meeting by announcing, 'All those who are opposed to the plan I am about to propose will reply by saying, 'I resign.''



Un “Professional Attitude “!



Few days back, I was talking to a senior professional who was associated with one of our associated companies. As it so happens quite often, company was in need of a certain registration for its new venture within a short duration. When I inquired with him about this requirement, to my utter surprise, he just talked like a government babu “....see, you need to get that registration, this agreement, that permission, this approval..... then come to me... you should give me at least two months for this.. we cannot work as your company requires.... It is so as per law in this state... blah blah blah”. This response left me with no choice but to seek an alternative source. When our senior professional learnt of this, he suddenly woke up, came up for discussion with seemingly enormous concerns, recalling the long standing relations etc with a promise to get the whole thing organized within a week. Paying heed to his words and with due regard to his experience and seniority, company assigned the job to him and the registration did happen in the next one week!

Some time back, a member in one of the professional e-groups was sharing his horrendous experience in a professional firm where he was working. His senior had made his life so miserable that the matter escalated right up to the police station!

I have heard many times from friends and acquaintances that some professionals behave like they are born with horns on their head!

I have witnessed utter disrespect by “qualified” fellows for their “unqualified” friends/colleagues.

Is this something called “Professional Attitude”? We keep discussing about various kinds of training requirements for professionals. Whether ATTITUDE can be imparted!?

Don't you agree that professional education should make professionals humbler? *Why is it that “Vidya dadati Vinayam” (Education brings humbleness) not really true for many professionals?*

.....More Updates More Updates More Updates More Updates More Updates More Updates

COPYRIGHT:

Compulsory licenses to broadcast works available to public through radio broadcast:

By virtue of Section 31 (1)(b), if the owner of copyright refuses to allow communication to the public, complaint to the board for issuance of compulsory license is maintainable. But if it is accepted that voluntary licenses have been entered into by the owners with certain Radio Broadcasters, then the Board can very well deny others compulsory license. However, it can not be said that once compulsory license is granted, Board loses its significance for all time to come. Complainant can approach the Board for compulsory license if there is any unreasonableness in the terms imposed by the copyright owner. Further, since a license may be granted for a limited period also, there is always a chance for others to make an application for license on the expiry of the time period for which license is granted.

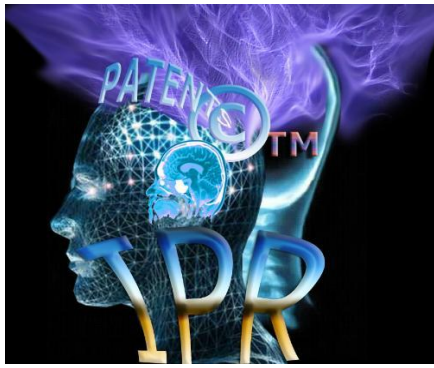
Entertainment Network (India) Ltd. vs. Super Cassette Industries Ltd. (Decided on: 16.05.2008)

PROPERTY LAWS:

Petition after the declaration of award:

As held by the Apex court, writ petition challenging the acquisition proceedings on the basis that there has been non compliance and violation at the intermediary stages of the acquisition, long after passing of the Award and vesting of the land in the State was not maintainable. Regarding issuance of declaration under Section 6 of Land Acquisition Act, it is held by the Apex Court that, it is not the publication of the declaration under Section 6 but the issuance of the declaration which is the material event.

Navnath S/o Kashinathappa Biradar and Ors. V. The State of Maharashtra and Ors. Decided On: 06.05.2008) MANU/MH/0410/2008



Intellectual Property Rights

Unique Design – An USP, Protect & Proceed with Business

Lokesh.V DME,M.Com,PGDBA,
PGDIPRL,AMIMA

IP Management, Strategic Planning and Initiatives L&T Ltd, Mysore Campus

IPR News

(Compiled by CS. Madhwesh, Mysore)

Infosys awarded 2 patents by USPTO

June 3, 2008 www.business-standard.com

Infosys Technologies has announced that it has been granted two patents by the United States Patent and Trademark Office (USPTO) in the area of holography and mobile communications.

Belgian Newspapers Sue Google

May 28, 2008 www.informationweek.com

Newspapers in Belgium want Google (NSDQ: GOOG) to pay for copyright infringements since a Belgian court ruled that the search engine violated copyrights by reprinting headlines and sentences on Google News. Members of the Belgian press are seeking about \$77 million in damages for use of the material. Google launched its news page service in Belgium in 2006. Soon after, papers there sued the company to stop it from linking to their articles.

Satyam to appeal against UK verdict

Friday, May 16, 2008
<http://www.tradingmarkets.com/site/news/Stock%20News/1568368/>

Satyam Computer Services said on Thursday it plans to appeal in the United States against a UK appeals court verdict that went against it in a case of alleged fraud, forgery and intellectual property rights violation filed by a British firm, Upaid Systems.

Contd in adjacent column.....

Design rights relate to the visual appearances of an industrially produced article. When purchasing a certain product or commodity, The customer is not only influenced by the practical utility and efficiency, but also by its appearance. Some may be attracted towards the artistic nature of certain product and some may be attracted towards a product whose design is strange and bizarre. An article may be chosen by the mere fact that it is very catchy to the eyes. It is therefore profitable on the part of the manufacturer to design a product in such a way that it attracts the customers. For this purpose the manufacturer may have invested substantial time, effort and funds to create such design. It's called a design registration in India and design patent in United States.

A design to be registered must be of some shape, configuration, pattern or ornamentation or composition of lines or colors applied to such article in any form by any industrial process. Similar to other intellectual properties, a design can be registered only if it is new or original and has not been published previously. A combination of previous known design can be registered if the combination produces a new visual effect. Colours may form a part of design but the colours by itself cannot constitute a subject matter of the design. For e.g Shape of your favourite soft drink bottle, Biscuits, Car, Bike or a computer Mouse can be protected through design.

An owner of a design is granted with the following rights i.e.:

- The Right to exclusive use of design.
- Right to protect the design from piracy.

In India, the term of a Design is Ten years from the date of filing the Application and additional Five years of renewal and no maintenance fee to be paid. During this period, the Patentee is entitled to use patented product for commercial gain. On the expiry of the term, the design turns out to be a public property. To spread the message "Design Registration Pending" to marked in the product labelling, till the registry issues the Certification of Registration and subsequently "Registered Design No., to be represented to bring into the notice of public. By which you can stop innocent copycats.

.....Contd from adjacent column

Satyam to appeal against UK verdict

The root of the dispute goes back to 1997-98, when Satyam Enterprise Solutions, a subsidiary of Satyam Computer Services, was doing product development work with Intouch Technologies, which was later renamed Upaid Systems, to help it bring its products to the market soon. Upaid Systems wanted to patent this product and asked Satyam to provide support as specified under their contract to Upaid to obtain the patent. Some of the then Satyam employees who worked on developing this product were also named as co-inventors in the patent credits.

However, the relationship between the two companies soured and in 2002, Satyam and Upaid concluded their relationship and based on the settlement agreement signed then, any future disputes were to be tried under UK laws. The concerned employees of Satyam have also since left the company.

In 2006, Upaid filed certain infringement claims against some companies in the US and says that during the proceedings it found out that work done by the two Satyam employees involved misrepresentation and forgery in some documents concerning the patent.

Legal Round-up

Compiled by Pracheta, ACS

INCOME TAX

Residence of employees to office transport-out of FBT net-SC

In this case, an Australian Company's employees were transported from their home country to Mobile Off shore drilling rig. The Hon'ble Apex Court also held that for the purpose of claiming exemption from FBT, residence of an employee is not restricted to the territory of India. Thus, foreign employees will also be covered for exemption from FBT.

-R & B Falcon Pty Ltd (169 Taxman 515)

CENVAT

EOUs-Excise Duty can be paid monthly

The Government has amended the Central Excise Rules to make it optional for a 100% EOU to pay excise duty on a monthly basis instead of on daily basis as at present.

NT. No. 23/2008-CE (NT) dt. 23-5-08)

Availment of Cenvat Credit

The Government Circular under Rule 6(3A) of the CCR. The highlights:

a) No credit is admissible in respect of inputs / services used exclusively in relation to exempted goods/services. Further, such credit would not be considered for the purpose of calculation of the quantum of reversal of credit attributable to exempted goods/services.

b) It is not open to the assessee to opt for two schemes simultaneously i.e. pay 10/8% on a part of the exempted goods/services and reverse credits in relation to the balance exempted goods/ services.

c) Reversal of credit attributable to common inputs used in exempted activity would be

IT For Corporate Professionals

HTTrack WEBSITE COPIER

- Amitkumar Hegde B Com, MCA(Final)

Ever wanted to download a whole website to your computer for offline browsing? Then **WinHTTrack Website Copier**, a free utility which you can download from <http://www.httrack.com> / will help do it.

HTTrack allows you to download a website including all images and media files form internet to a local directory maintaining all hyperlinks properly. Once you have downloaded the website, you can view it as if you are online without any interruption. And what is more, you can update an existing project, i.e. you can update a website on the local folder if there are changes in the website on the internet. It can also resume form interrupted downloads, i.e. if a download is interrupted in the middle, you can always resume the download without losing the downloaded part.

To download a website, go 'File' menu and choose 'New Project'. A wizard opens up in the right side pan; choose 'Next'. Give a proper Project Name in the next screen and choose a proper 'Base Path' and click 'Next'. Base Path is the folder where the downloaded pages will be stored. In the next screen you can select an Action such as 'Download Website'. Enter the web address where you wanted to download files in the text box below and click 'Next'. Now click 'Finish' to start downloading the website.

WinHTTrack supports all windows versions. If you use Linux then a download WebHTTrack, which is also a free download.

CAalley.com

Web Yatra

By CA. Prakash N.
Mysore

Dear Friends,

A Chartered Accountant and Company Secretary offers invaluable services to the economy as a whole. In order to fulfill his duty efficiently, he must keep track of every change that takes place in various laws. There is tremendous amount of matter to be studied on a routine basis.

CAalley aims at easing the stress in the professional life of a CA and CS. Instead of searching through innumerable stacks of journals or going on a searching spree on the Net, you will get all the relevant material right here at CAalley. Information on notifications, accounting standards, auditing standards, CA's Referencer, guidance notes, useful forms, etc., what's more.... it's all for FREE!!

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Website address: www.caalley.com Subscribe membership: Join@caalley.com

required to be done on the basis of actual consumption and records maintained by the manufacturer. Further, a manufacturer may submit a cost certificate in support of the reversal computation.

d) The option of payment of 10/8% or reversal of proportionate credit in relation to exempted activity would not be applicable for Input Service tax Distributor.

e) Credit in respect of Rule 6(5) services would not be taken into account for the purpose of calculation under Rule 6(3A).

Circular No. 868/6/08 - CX dt. 9-5-08

Dutiability

Swaging on MS pipes amounts to Manufacture

It has been held by the Supreme Court that the process of swaging i.e. imparting folds on duty paid MS pipes results in a different marketable product and hence amounts to manufacture under excise law.

Prachi Industries Vs. CCE (08 (225) ELT 16)

Valuation

Rental Charges on cylinders

The Tribunal has held that rental charges collected from customers with regard to cylinders, in which excisable gases have been supplied, are not includible in the value of goods.

- Boruka Gases Ltd. Vs. CCE (2008 (224) ELT 577)

Discounts known to buyers before clearance

The Tribunal has held that discounts known to buyers before clearance and extended by way of credit notes subsequent to clearance of goods are deductible from the value of goods.

- CCE Vs. M/s Texmo Industries (2008 TIOL 623),

Excess freight collected

The Tribunal has held that freight charges collected in excess of the actual amounts paid are not includible in the value of goods.

Article

INDEPENDENT DIRECTORS

- Not just a compliance but *a requirement*



CS. U Padma Shenoy

Company Secretary, CSS Technergy Limited, Hyderabad

PART 1

Indian Corporate Houses continue to function in the same conventional manner as they used to over a couple of decades ago. The quarterly Board Meetings have become a mandatory ritual.... Promoters prefer to appoint their acquaintances to the Board of Directors, in order to restrict the external interference in the management.

Introduction

With India emerging as a prominent player in the global economy, there is an urgent need in the Indian Corporate Sector to upgrade the Corporate Governance System on par with the international norms. It has been widely observed that the Indian MNCs are way ahead than the PSUs in terms of quality of management; the PSUs, however, have an edge in terms of transparency of management.

Foreign Institutional Investors are investing heavily in India and it is for sure that the Corporate Sector in India has to inculcate a lot of professionalism in their functioning methodology. The Corporate Governance in the Indian Corporate Sector has to change rapidly in order to remain a strong force in the global economy.

Barring a few exceptions, the Indian Corporate Houses continue to function in the same conventional manner as they used to over a couple of decades ago. The quarterly Board Meetings have become a mandatory ritual, where trivial issues are discussed.

It has also been observed that the Promoters prefer to appoint their acquaintances to the Board of Directors, in order to restrict the external interference in the management. Law is enforced to bring about a change and that very same Law is usually tweaked to ensure compliance as well as preference. Voluntary compliance to the regulations in strict sense is the only option to ensure a good Corporate Governance system.

Independent Director

The term "Independent Directors" became a part of the Indian Corporate dictionary after the publication of the Kumar Mangalam Birla Committee Report, which led to the introduction of Clause 49 in Listing Agreements.

The appointment of an Independent Director (Non-executive Directors) in the Indian Corporate Sector has become a matter of mere legal compliance.

It is very common to have a retired bureaucrat, a celebrity like a film artist, a retired major general from the army, a retired judge from the High Court or the Supreme Court, etc. as the Independent Director on the Board. There is nothing wrong in this approach per se but more often than not these Independent Directors end up as a decoration on the Christmas tree.

-CCE Vs Cable Corporation of India (2008 (85) RLT 759)

CENVAT Credit

Capital goods destroyed by fire

The Tribunal has held that no CENVAT credit is required to be reversed where capital goods are destroyed in a fire after being put to use. It has further held that credit is not admissible on inputs which have been destroyed before being issued for production.

-Biopac India Corpn. Ltd. Vs. CCE (2008 (224) ELT 548)

Restrictions on Rule 6-not applicable on inputs used in export goods- Tribunal

Further EOU's are entitled to claim refund of unutilized input tax credits pertaining to export goods.

ANZ International Vs. CCE (2008 (224) ELT 573)

Duty on inputs not to be reversed on scrap generation

The Tribunal has held that no CENVAT credit availed on inputs contained in the scrap generated during the manufacturing process is required to be reversed where such scrap has been cleared on payment of duty.

Tulsyan Nec Ltd. Vs. CCE(2008 (225) ELT 65)

Unutilised Cenvat credit available on deemed exports

The Tribunal has held that the refund of unutilized credit under Rule 5 of the CCR is available not only in respect of inputs used in goods physically exported but also with regard to deemed exports.

CCE Vs Shilpa Copper Wire Industries (2008 (153) ECR 222),

Exclusive Privilege Price by Excise Dept:

Excise Department cannot be held to be justified in demanding additional exclusive privilege price for re-location or transfer of shops from one place to another in same city for which the petitioner was authorised to operate such shops without any

Even today, in most of the companies, Independent Directors have no say in management issues. Over the years, "Manpower" played a key role in making or breaking a Corporate Structure. The Independent Director needs to have a prominent role in the management affairs of the Company and should be able to devote considerable amount of time to do the same rather than just remain a namesake.

The rationale for requiring an Independent Director on the Board is to ensure a special check on the finances and functioning of the company particularly through the Audit Committee. The appointment of an Independent Director just to comply with the law defeats the complete rationale behind enforcing such a law.

The Legal Provisions do not define the required qualifications for a person to be appointed as an Independent Director, but rather specify grounds on which a person could be disqualified from being an Independent Director. The Law requires the Independent Directors to have discretion to think and act independently in the management affairs. The Law also mandates that the shareholders should elect an Independent Director.

In practice, however, the Promoters nominate or rather choose the candidates to be elected as an Independent Director. This transforms the "election" of an Independent Director to just "selection" of an Independent Director for the Shareholders point of view.

The Law mandates that the shareholders should elect an Independent Director.

However normally Promoters choose Independent Directors. This transforms the "election" of an Independent Director to just "selection".

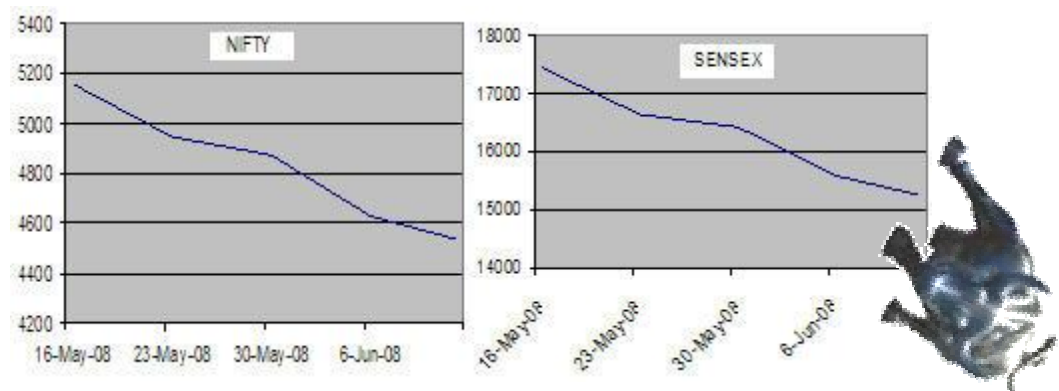
....to be concluded.

Investor Secretary – 9

By Sreeraj M ACS Final

Dear All

Investors had a tough time balancing between long-term growth and short-term valuation concerns as there was a sell-off in the Markets. As of now, the market is testing the patience of investors and the nerves of the traders. I feel the market may trade within a range, with high volatility, in the coming days. This time the markets took cues from the rising crude prices and the oil marketing Companies.



As on 12th June 2008 the SENSEX ended with 15250.20 points and the NIFTY with 4539.35 points.

additional increase in total number of shops because the object of levy of additional exclusive privilege price is only for such additional shops beyond the number of shops for which the licences have already been given to the petitioner against the privilege price already paid by him and not for the transfer or relocation.

Pukhraj Shishodia Murlidhar and Party and Rajendra Kumar v. The State of Rajasthan and Ors. (Decided On: 14.03.2008) MANU/RH/0148/2008

Service Tax

Services received from Person residing out of India

The Rajasthan High Court, has held that the liability for payment of service tax by the recipient of services, for services received from a person based outside India, arises only from 01-01-2005.

Union of India Vs Aditya Cement [2008(10) STR 228],

Procuring of orders on commission

The Tribunal, has held that the activity of procuring orders on commission basis is not chargeable to service tax under the category of clearing and forwarding agent's services.

CCE Vs United Plastomers [2008(10) STR 229],

Sales Tax

Levy of Penalty- Mens Rea to be demonstrated- SC

Bharjatiya Steel Industries Vs. Commissioner, Sales Tax, U.P. [(2008) 31 PHT 406],

Supply of medicines to indoor patients-Not liable to ST - SC

Tata Main Hospital Vs. the State of Jharkhand [(2008) 36 NTN 149],

Customs

CBEC cannot impose limitation on exemption notification by way of circular - SC

UOI Vs. Inter Continental (India) (2008 (154) ECR 1)

Exemption from Basic Customs Duty on Textile items

- Notifies the Central Government under Chapter 61 and 62 of the Customs Tariff when imported

Market Outlook:

I feel that the markets might take some more time to get back to the previous levels. Even getting to lower levels may not be ruled off. Serious money may be made if one has a long term outlook as lot of stocks are available at ever before prices. I am not sure as to how the markets would be in the next 3 or 4 months.

Tan's Portfolio (Status as on 8th May 2008)

	Name of the Stock	Purchase Price (Purchased on 8 th May 08)	Current Market Price (12 th June 08)	Returns (In %)
1.	Garware Wall Ropes	108.15	95.45↓	-11.74%
2.	Vimta Labs	82.20	71.65↓	-12.83%
3.	Neocure Therapeutics	22.65	22.05↓	-2.65%
4.	Sterling Tools	69.20	62↓	-10.40%
5.	Finolex Cables	69.90	63.30↓	-9.44%
6.	Prism Cement	41.70	35.95↓	3.72%
7.	Assam Company	27.20	28.95↑	-13.79%
			TOTAL RETURNS	-57.13%

Note: Send opinions, suggestions and any stock specific queries to rajfoxy@gmail.com

Disclaimer: Trading and investment in stock market is risky and volatile. All the contents/views in this article are for information and not recommendation or an offer or solicitation of an offer to any person with respect to the purchase or sale of the stocks discussed in this article. The author may be trading/investing in, or have positions in the securities mentioned. The author is not responsible for profit/loss incurred by anybody. Please do your home work before investing.

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TRADEMARK:

Delay in filing the application amounts to acquiescence:

If the Plaintiff stood by knowingly and let the Defendants build up an important trade until it had become necessary to crush it, then the Plaintiffs would be stopped by their acquiescence. If the acquiescence in the infringement amounts to consent, it will be a complete defence. And delay would be a valid defence where it has caused a change in the subject matter and action or brought about a situation in which justice cannot be done. Hence, the delay in filing the application for rectification of trademark would amount to acquiescence and/or waiver.

Khoday Distilleries Limited (Now known as Khoday India Limited) v. The Scotch Whisky Association and Ors. (Decided On: 27.05.2008)

RESERVE BANK OF INDIA

Export realisation period extended:

-from six months to twelve months from the date of export, subject to review after one year.

A.P. (DIR Series) Circular No. 50 Dated 03.06.2008

Price risk in crude oil refining & marketing can be hedged now:

A.P. (DIR Series) Circular No. 47 Dated 03.06.2008

ECB - Liberalization:

Entities in the service sector viz. hotels, hospitals and software companies are allowed to avail ECB up to USD 100 million.

A. P. (DIR Series) Circular No. 46 Dated 02.06.2008

Credit to Non Resident (External) Rupee Accounts:

In order to meet the genuine needs of the NRE account holders, RBI has decided to authorize AD Category - I banks to credit proceeds of demand drafts / bankers' cheques issued against encashment of foreign currency to the NRE account of the NRI account holder where the instruments issued to the NRE account holder are supported by encashment certificate issued by AD Category - I / Category - II.

A. P. (DIR Series) Circular No. 45 Dated 30.05.2008

Private Equity (PE)

CS. Madhwesh, Company Secretary, Kurlon Limited

under the India Sri Lanka Free Trade Agreement (ISFTA). The exemption is inter alia subject to a quantity limitation of 3 million pieces in total.

(Customs Notification No. 52/2008 dated 22/04/2008)

Exemptions for Textile items

The Central Government has exempted a number of textile items from basic customs duty when imported from Bangladesh under the South Asian Free Trade Agreement (SAFTA). The exemption is inter alia subject to a quantity limitation of 8 million pieces in total.

(Customs Notification No. 51/2008 dated 21/04/2008)

Valuation

Lowest of the value of identical goods considered when several contemporaneous imports are available - Tribunal

CC Vs. SPK Electricals (2008(224) ELT 563),

Transaction Value not to be increased on the basis of Insurance memos - Tribunal

Mihir Enterprises Vs. CC (2008 (86) RLT 65),

FTP

Customs Duty on EPCG reduced to 3%

Customs Notification No. 64/2008 dated 09/05/2008

EOUs allowed to remove partially processed goods out of India for the purpose of processing on subcontract basis

Notification No.47/2008-Customs, dated 11/04/2008

DGFT can only restrict DEPB credits - Tribunal

-Asha Enterprises Vs. CC(2008 (86) RLT 178)

Private Equity (PE) is primarily an investment made by investors who do not constitute "public", in such companies which have not issued their shares to the public. It includes forms of venture capital also. One may note that venture capital is a subset of a larger PE asset class.

PE may be strategic, i.e., investments may be made by business enterprises in order to gain control over the other or even buy out the other, mainly for business purposes. PE may also be in the form of Venture capital, wherein the investment is made in infant business enterprises with enormous potential, on the basis of "high risk and high return". For business enterprises in financial distress, the PE investment may provide financial assistance, which may or may not be by acquiring the strategic control. For some well established business enterprises, PE may be just another way of additional funding. PE investor earns his return by means of dividend and also by means of a well priced IPO, sale of investment in a mergers/ takeovers or even buybacks.

Some of the benefits of PE:

The time required to raise funds is very less, compared to other source of financing. Apart from providing capital to the business enterprises, PE also provides expertise by deploying their experts on the boards of directors of their investee companies. PE requires high standard of governance and this will also improve the corporate governance of the investee companies.

PE can play a very important role in the development of the Small and Medium enterprises in the country. However, from finance point of view, PE causes the cost of capital to rise, as the investment is made in the equity of the company and normally cost of equity is quite high compared to other sources of funding.

....to be concluded

Law Courses through Distance / Online Learning

Anand A Waddekar, MA Economics, MBA, AMFI, GCIPR, DIT, Pune

'Distance Learning' as quoted by Dr. S B Mujumdar, Founder, Symbiosis International University is, "the education of the 21st century. The traditional method of teaching in a classroom called 'brick & mortar' education has failed to reach millions of those who are thirsty for getting knowledge in an age marked by "Knowledge Revolution". Distance Education and Open Learning fulfill this need. Distance learning opens new directions of opportunities to obtain higher education without the constraints of location and time." This is true considering India's population and the geographical distances.

Amidst GATS, WTO, the Service industry is in a boom and has a bright future. This is true for education also. To take education to the masses and more reachable, distance learning is now being considered as another effective medium. For promoting distance education, Government of India has formed the Distance Education Council.

"Technology, information revolution and Globalization have had their impact on the legal profession too. Legal professionals are always required to upgrade their knowledge. Cyber law, intellectual property law (copyright, patents, trademarks, designs), Technology law (IT), Securities law, ADR (alternative dispute resolution) are some of the emerging areas.

This Article Series aims to highlight the Legal Courses offered through distance /online mode by reputed law schools and Universities in India, in coming two issues of this newsletter.

....to be continued