

Edition 106
November 2012


Mysore Chapter

eMagazine

Perceptions on the Role of CS

**EVA for Effective Value
Measurement**

**IPR, Competition &
Public Interest**

**Happy
Deepavali**



**E- Magazine from
The Mysore Chapter of the
Institute of Company Secretaries
of India**

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Message from Chairman



Dear Readers,

Dasara, as usual was celebrated in a grand scale in Mysore and hope you have all enjoyed the grandeur of the festival.

Now the festival of lights is nearing, I wish you all a very happy Deepawali festival.

For the past one month there are lots of activities in the Political & Government front and ministries have been reallocated to gear up the Government functioning. Hope these actions will result in positive growth in industrial and Corporate Sector which in turn will benefit our profession. There is a fear that, the impact of Super Storm in US will adversely impact the US economy and the countries which have business interest in US.

The Chapter has conducted Students Study Circle Meet on all Sundays in October and the response was commendable. Good number of students participated in the SSC. The activities include Accounting Quiz Competition, Group Discussion and Pick & Speak. Chapter is contemplating to introduce more such activities in the future to encourage students and members of the Chapter.

The examination for Foundation Course under new syllabus is being conducted on 1st & 2nd December 2012. I wish all the students good luck and success in the examinations.

*Yours in CS fraternity,
CS. S Badrinarayanan*

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Activity Report

October 2012



Impromptu Speaking Competition

On 21st October 2012 Pick & Speak competition was organised at the Chapter premises. Out of attending 29 students, 11 took up the challenge. Competition was judged by CS Sunil Kumar BG and CS Dattatri H M. First



prize was awarded to Mr. Akshay Pai & second place was grabbed by Mr. Pavan.

CS Dattatri HM gave valuable inputs on the importance of Pick & Speak and explained the requirement of such skill sets in the professional life. CS Sunil Kumar BG Vice-Chairman Mysore Chapter addressed the gathering about scope available for CS in practice. Vote of thanks was given by Ms. Arshiya Banu.

Student Study Circle Meetings

The Chapter organized Student Study Circle Meetings on 7th, 14th 21st and 28th of October. Various topics relevant to the students were discussed and the members and senior students clarified the doubts raised by the students. On 21st October 2012 Mr. Suresh lecturer PESIT College Accounting Dept Mandya explained meaningfully the concepts of issue of share capital. He designed and solved one master question. Students were benefited immensely by his teachings and presence in study circle.

Crash Course On Tax Laws

A Crash Course on Tax Laws for Executive students was started on 26th October 2012. The Classes were conducted by Mr. Mahesh, Chartered Accountant, the Faculty explained the provisions of Tax Laws and the students were greatly benefited by this program.

Regulatory Updates

Filing of financials in xbrl mode – last date extended

In continuation of the Ministry's General Circular No. 16/2012 dated 06.07.2012, on the 'Filing of Balance Sheet and Profit and loss Account in Extensible Business Reponing language (XBRL) [Mode for the financial year commencing on or after 1.4.2011, the time limit to file the financial statements in the XBRL mode without any additional fee or penalty has been extended up to 15th December,2012 or within 30 days from the date of Annual General Meeting of the company whichever is later.

[General Circular No. 34/2012 from the Ministry of Corporate Affairs, GoI]

MCA starts framing rules for new Companies Act

With the Cabinet clearing the modified Companies Bill, activity has gathered pace in the Ministry of Corporate Affairs (MCA). The ministry has appointed an advisory group to verify and oversee the rule-making process of the new Companies Act. It

is learnt that an expert group comprising seven to eight people has been formed. This group will verify the various rules under the Act and give suggestions.

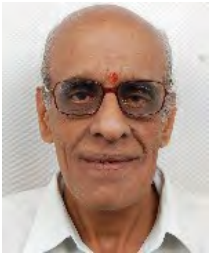
The Companies Bill, 2011, aimed to give a modern legislation for growth and regulation of corporate sector was approved by the Union cabinet earlier this month with certain modifications.

SEBI seeks help from banks, KRAs to verify Sahara investors

Market regulator SEBI has decided to seek help from public sector banks and KYC Registration Agencies (KRAs) for carrying out 'in-person verification' of about 3 crore investors in the high-profile Sahara case .

SEBI is already in the process of hiring outside investigating agencies to assist it in the matter involving two Sahara group companies, which have been asked by the Supreme Court to refund to their bondholders Rs 24,000 crore along with interest of 15 per cent per annum for violating norms in raising funds from public.

Perceptions on the Role of CS



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Many of the respondents agreed that the current focus on corporate governance gave the profession an opportunity to 'step up to the plate'

Recently All Party Parliamentary Corporate Governance Group of United Kingdom conducted a research on the role of Company Secretaries. It has conducted extensive research including questionnaires and interviews with 252 Board Directors and 166 Company Secretaries for this purpose. The Group published its report titled 'Elevating the Role of the Company Secretary'. The report is available in this link: http://www.appcgg.co.uk/documents/role_of_company_secretary_may2012.pdf

There were several key findings included in the report that profile the role of company secretary as an increasingly important one. Many of the respondents agreed that the current focus on corporate governance gave the profession an opportunity to 'step up to the plate'.

A recurring theme throughout the review was the 'uniqueness of the position of the company secretary as the interface between the board and management.'

However, the report also indicates that many who hold the role of company secretary have some way to go in gaining credibility amongst board members.

Key findings of the report include:

- 70% agree that the role of company secretary is often combined with another position. The most common was that of general counsel or head of legal.
- 95% of those surveyed stated that the main area where the Company Secretary added value was in relation to directing the focus of the board.
- Company Secretaries and board members have different views on how the role of Company Secretary is characterized. Company Secretaries believe that they strike a balance of carrying out both strategic and

administrative tasks, whereas the board members surveyed believe the role to be mostly administrative.

- There is a perception that the role is compromised by the fact that the term 'Secretary' is in the job title.

Over the past five years, the responsibilities of the Secretariat have increased. The most common reason given for this was the plethora of governance rules, following numerous additions and revisions in the wake of the financial crisis.

Simon Osborne, Chief Executive of ICSA, commented that, 'It is a valuable report that delivers a clear message that the Institute needs to take fully on board. There is a lack of a representative body that supports all company secretaries, presenting ICSA with both a challenge and an opportunity.' However, Osborne also felt that: 'There might have been different reactions from a larger

group of FTSE 100 chairman. Executive directors can have slightly jaundiced views about Company Secretaries anyway, perceiving them perhaps as a bit of a threat to their own relationship with the Chairman,' he said.

'Chairmen and non-executive Directors usually have a more constructive outlook on the nature and breadth of the Company Secretary's role,' Osborne concluded.

Importantly, this report has profiled the role of the Company Secretary as an important one moving forward, with a majority of respondents feeling positive about the future of the role, despite some threats to the profession being identified.

An important message to take away from the report is that the role ought to enjoy a higher position within a business, but this should be dependent on the individual being able to demonstrate the ability to add value beyond administrative efficiency: sufficient commercial expertise will continue to be a benchmark for a Company Secretary to be considered at a more elevated position.



EVA: Effective Value Measurement Tool



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Performance always pays! But how should we measure the performance of a business entity? The first and primary measure of performance that we know is profit – an accounting measure of operation. There is a saying “Profit is an opinion, not the fact”. Had it not been the case, we would not have seen debacle of big companies like Enron, WorldCom etc. All such companies managed their earnings well and have shown better performance in terms of Profit After Tax (PAT) & Earning Per Share (EPS), however, failed miserably.

Companies like General Electric in the 1950s, and academics have shown how to overcome the limitations associated with traditional measures by using an alternative performance measure, originally called residual income (RI). The concept of residual income dates back Alfred Marshall in the late 1880s. In 1920s, General Motors used the concept to evaluate its business segments. Residual income is often called Economic Value Added (EVA) as copyrighted by Stern Stewart & Co, a consulting firm, in 1994.

A revolution in thinking occurred in the late 1980s, when several consulting firms published studies that showed a high

correlation between the change in companies’ residual incomes and change in stock market valuation. The move towards the RI measure received even greater publicity when it was renamed into a far more accessible and acceptable term “Economic Value Added” by the Stern Stewart consulting firm, a prime advocate for the EVA concept.

EVA is not a totally new concept. One of the criteria of accounting performance is the operational profit after subtracting capital costs. In fact EVA is just an improvement with adjustments with respect to profit and capital. This index is the most superior performance criteria since it considers cost of capital, opportunity cost of stockholders and time value of money as an evaluation criteria and eliminates the deviation arising from using accounting principles. Unlike common criteria of profitability, EVA helps the management understand capital cost of stockholders and is regarded as real index of the company's success in value creation or value elimination. It can be calculated by using following formula:

$EVA = \text{Net Operating Profit After Tax} - \text{Capital Employed} \times \text{Weighted average cost of capital}$

Let’s consider a company with the following financials:

Tax Rate	34%	Market Value of Debt	1000000.00
Cost of Equity	15.00%	Market Value of Equity	4000000.00
Before-Tax Cost of Debt	10.00%	Market Value Capital	5000000.00
EBIT/Capital	20.00%		
After-Tax Cost of Debt	6.60%	WACC	13.32%
Traditional Net Income			
(EBIT)	1000000.00	Economic Value Added	
- Interest	<u>100000.00</u>	Market Value of Capital	5000000.00
Taxable Income	900000.00	x Cost of Capital	<u>13.32%</u>
- Taxes	<u>306000.00</u>	Cost of Capital at Market Value	666000.00
Net Income	594000.00	Operating Profit Before Taxes	1000000.00
Return on Capital	11.88%	- Cash Operating Taxes	340000.00
Return on Equity	14.85%	Net Operating Profit Less Taxes	660000.00
		- Cost of Capital	<u>666000.00</u>
		Economic Value Added	-6000.00

Continued in Page 12



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www.one-stop-survival-guide.com

In the universe there are two vital elements: Men and Nature. Men can do wonders but he cannot go beyond Nature. Nature has its own way- sometimes soothing, sometimes ferocious; whenever it vents out its fury, it is known as disaster. Man has been victimized by the fury of nature from the very beginning of his existence on the earth.

Here is a website which will help one for physical and financial survival during the times of natural disaster and even at the times of extreme climatic conditions.

It gives the guidelines under 3 major heads:

Outdoor Survival

Wilderness Survival
Survival Psychology
Winter Survival
Water Survival

Disaster Survival

Earthquakes
Hurricanes
Volcanoes
Tornadoes
Floods, Fire & Nuclear

Financial Survival

Economic Problems
Financial Preparedness
Tips for Abundance

It further provides for survival products, survival resources, survival e-books and the most predicting end of world in 2012. Sometimes natural disasters occur without any indication or signs due to drastic changing climatic condition, they are the manifestation of nature and they can take place anywhere anytime. We may call it good common sense to be prepared for the natural disasters and face the rigors with more preparedness. **Be alert! Accidents hurt.**

Tech News:

Migration of current version of Internet Protocol IPv4 to IPv6

Internet Protocol is the underlying technology that makes it possible for us to connect our devices to the web. Whenever a device access the Internet (whether it's a PC, Mac, smartphone or other device), it is assigned a unique, numerical IP address such as 99.48.227.227. To send data from one computer to another through the web, a data packet must be transferred across the network containing the IP addresses of both devices. Without IP addresses, computers would not be able to communicate and send data to each other. It's essential to the infrastructure of the web.

Since the current version of Internet Protocol (IPv4) has almost run out of addresses, the broadband revolution is sure to ride on next generation Internet Protocol (IPv6). Therefore Government of India has undertaken the initiative of migration from IPv4 to IPv6.

Government has expressed that the migration of all payment gateways, banks, financial institutions, insurance companies, etc. including their websites should be completed preferably by December 2012.

Source: RBI/2012-13/288, November 08, 2012



IPR, Competition & Public Interest



Viral Shrinath Tripathi

ACS, LL.M (IPR), PGDIRPM & B.COM

Company Secretary

Gateway Technolabs Private Limited, Ahmadabad

On one Competition brings down the price levels, on the other hand IP Protections takes the price levels up and up! Competition law curbs monopolistic practices where as IP rights protects monopoly!

There are intrinsic tensions between IPRs and competition.

In a market economy, competition is seen by most as generally important and indeed essential to curb market distortions, induce efficiency in the use of resources, prevent monopoly or oligopoly, maintain prices at fair levels or as low as possible, prevent excessive or monopoly profits and promote consumer interests and welfare.

An IPR is seen by many as a privilege granted in recognition of the need of the holder to recoup costs incurred in the research and innovation process, so as to maintain incentives for further innovation. Thus an IP entails an exclusive right for a limited time, enabling the holder to charge a higher price than the marginal cost of production. That higher price reduces access of consumers to the product, and access of other producers to production inputs and methods.

The monopoly granted prevents or deters competition from rivals that can sell at lower prices. These are costs that are seen to be short-term (since the exclusive right is of a limited duration), but which are supposed to be outweighed by the long-term benefits brought about by the innovation which IPRs encourage.

The optimal degree of protection (where social benefits are judged to exceed social costs) will also vary widely by product and sector and will be linked to variations in demand, market structures, R&D costs and the nature of the innovative process. In practice IPR regimes cannot be tailored so precisely and therefore the level of protection afforded in practice is necessarily a compromise. Striking the wrong compromise – whether too much or too little – may be costly to society, especially in the longer term.”



There is thus a balancing required between the monopoly privilege granted to the IP holder and the public interest (including consumer welfare, the competition from other producers, and national development prospects). IPR be appropriately given for right reasons, to the right parties and only for an appropriate period. Flexibilities, exemptions and exclusions shall be provided to safeguard vital public interests. Else IP holder gains unduly and society will have to bear it! Also there could be prevention of access to goods and services (including essentials

such as medicines, food and information, and important inputs for production), curbing of industrial development, an overall reduction in competition and its benefits for resource allocation, and monopolization in products, sectors or the economy as a whole.

It is thus important, especially for developing countries, that the standards of IP be appropriate and competition too be protected – in the vital public interest.

Living Room.....

PERCEPTIONS AND SOLUTIONS!



One day a tiger felt that it was more powerful than the lion and wanted to challenge the lion. It went near the lion's den and started shouting and making all kinds of sounds. It was noon and the lion was fast asleep after a meal. The sounds created by the tiger woke up lion.

The lion came out of its den and stood in front of the tiger that was shouting continuously.

Staring deep into the tiger's eyes the lion asked: Why are you disturbing me, you can go to any other place in the forest and shout as loudly as you can. But I never allow you to disturb me any more.

The tiger looked furiously at the lion and said: Look this forest belongs to all and so is this place too. You have no right to ask me to vacate this. I shall continue to be here and shout, as I like.

In the meantime there came Dr. Dove. It has inquired: What is going on here? Generally I do not see a tiger and a lion together?

The Lion reported the matter briefly.

That's the entire problem? Yelled Dr.Dove.

Don't you think it is not a problem at all? : The Lion asked.

Yes it is very much a problem but not at all a difficult one to solve! Saying this Dr.Dove started flying in-between the tiger and the lion. The tiger and the lion got disturbed with this.

Seeing them giving a pause to their loud arguments, Dr. Dove proposed: Dear friends you can solve the problem.

How? Both the tiger and the lion shouted.

That's very simple. The tiger can continue to shout and the lion can continue to sleep: said Dr. Dove.

You stupid Dove, You are fit only to pull out the thorns from the feet, clear dust from the eyes and treat cut injuries of the animals but not the problems like this – yelled the lion.

The tiger joined the lion and said: leave us alone we shall solve our problems ourselves.

No my dear friends, please listen to me.

Dr. Dove requested the lion to follow and enter the den quickly. The lion thought for a while and then followed Dr. Dove. As the lion entered the den, Dr.Dove took out two lumps of cotton from its kit and approached the Lion.

Mr. Lion please listen to me these lumps of cotton help you proof yourself from the sound pollution being made by the Tiger. Please place these lumps one each in to your ears and experience for yourself.

The lion did as suggested and both the lion and Dr.Dove came out the den silently.

Dr. Dove told the tiger: Mr. Tiger please shout as loudly as you can you will have no objection from the Lion.

The tiger shouted loudly and the lion felt no disturbance.

The lion returned to its den greeting the Pigeon by waving its paw. The tiger got furious at this gesture and continue shouting at its best – also puzzled as to why the lion has become so calm.

Seeing this confused state of the tiger Dr. Dove told: Mr. Tiger I told the lion of your power and advised him not to quarrel with you. You are more powerful than the lion. See the lion itself has agreed to it.

Tiger felt very happy and gently stroked Dr .Dove with its claw in appreciation of its help. Then Dr. Dove told: Mr. Tiger you should not stay here that too before a lion's den. Because seeing you here other animals might feel that you are serving the lion. So I suggest that you should go to that hilltop and live there.

Yes, Dr. Dove, I shall follow your advice and I thank you for this: saying this, the tiger proceeded to the hilltop.

Dr. Dove fluttered its wings and flew towards south.

Now we know, the story entirely applies to our approaches too!

Having smile on your face is a good compliment to life; putting a smile on other's face by your efforts is the best compliment to life.





Compilation:
CS. Ajay Madaiah, Mysore

IGCRDMEG Rules 1996

Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996 applies to an importer who intends to avail of the benefit of an exemption notification issued under sub-section (1) of Section 25 of the Customs Act, 1962 (52 of 1962) and where the benefit of such exemption is dependent upon the use of imported goods covered by the notification for the manufacture of any excisable commodity.

Manufacturer intending to avail of the benefit of an exemption notification referred to in sub-rule (1) of Rule 2, shall obtain a registration from the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise having jurisdiction over factory.

Manufacturer after obtaining a certificate to import any goods for use in his factory at concessional rate of duty, should make an application to this effect to the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise indicating the estimated quantity and value of such goods to be imported, particulars of the notification applicable on such

import and the port of import. The manufacturer may, at his option, file the application either in respect of a particular consignment, or indicating his estimated requirement of such goods for a quarter

Manufacturer, who is obtaining benefit under these rules, should give information of the receipt of the imported goods in his factory, within two days (excluding holidays, if any) of such receipt, to the Superintendent of Central Excise having jurisdiction over his factory; and maintain a simple account indicating the quantity and value of goods imported, the quantity of imported goods consumed for the intended purpose, and the quantity remaining in stock, bill of entry wise and shall produce the said account as and when required by the department.

Further, monthly return in the prescribed form shall be filed with Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise on or before 10th of every month providing details of import, utilisation and stock of goods cleared in previous month under these Rules.

Did you know?

www.watchoutinvestors.com

This is a national web-based registry covering entities including companies, intermediaries and individuals who have been indicted for an economic default and/or have been non-compliant of laws/guidelines and/or are no longer in the specified activity.

This information which was disorganized, difficult-to-use and was spread across a large number of sources i.e. websites, databases, publications, notifications and orders of the government and of other organizations, agencies, courts of law, tribunals and commissions, has now been aggregated, indexed, standardised, reformatted and re-presented on this website in a form and manner that can be accessed in a user friendly manner.



Pick of the Month

Tenure of Auditor

Q. At an Annual General Meeting (AGM) held on 25th September, 2010, the auditor was appointed to hold office up to conclusion of next AGM. The next AGM was convened on 20th September, 2011 but stood adjourned without transacting any business. Does the retiring auditor continue in office?

Answer: According to section 224(1) of the Companies Act, 1956 an auditor appointed at an AGM holds office from the conclusion of that AGM to the conclusion of next AGM duly convened but which stood adjourned. As the adjourned meeting is merely a continuation of the original meeting, the AGM remains unconcluded and the retiring auditor continues to hold the office till the conclusion of the meeting.



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CA. Ashit Shah, Team Genicon, CS. Kasturi S.,
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CUSTOMS & FTP Notifications/ Circulars

CBEC hereby determines that the rate of exchange of conversion of each of the foreign currency specified in column (2) of each of Schedule I and Schedule II annexed to the notification into Indian currency or vice versa shall, with effect from 2nd November, 2012 be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods.

No. 97/2012-Customs (N. T.), DATED THE 1st November, 2012

Change in Tariff Value of RBD Palmolein, Brass Scrap (All Grades) Poppy Seeds, Gold & Silver Notified.

Notification No. 96/2012 - Customs (N. T.) -31.10.2012

Seeks to exempt from customs duty to Machinery, equipment, instruments, components, spares, jigs, fixtures, dies, tools, accessories, computer software, raw materials and consumables required for the Long Range Surface to Air Missile (LR-SAM) Programme of Ministry of Defence.

No. 57/2012-Customs dated 18th October 2012

Under the EXIM Policy and Procedure, wherever certification by a Chartered Accountant was required, the exporters would be able to get certification done by a Cost Accountant also.

PUBLIC NOTICE NO. 22(RE-2012)/2009-14

Arrangements for operationalisation of Border Haats between India and Bangladesh have been harmonized with addendum dated 15th May, 2012 to the MOU dated 23rd October, 2010.

PUBLIC NOTICE NO. 23 (RE-2012)/2009-2014

Under existing Policy Conditions, import of arms (including parts thereof) & ammunition is permitted freely, inter alia, to National Rifle Association of India (NRAI) for its own use and for transfer to its State/district affiliates by due certification by Sports Authority of India. The phrase due certification by Sports Authority of India has been substituted by self certification by NRAI.

NOTIFICATION NO. 23 (RE-2012)/2009-2014

The Directorate General of Foreign Trade hereby notifies a new SION bearing number C- 2049 in respect of the export product Copper based pre-alloyed powder R-800.

Public Notice No: 24 (RE: 2012)/2009-2014

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Prohibition on export of edible oils has been extended till further orders. But, the same will not apply to relaxations/exemption as mentioned in para 3 & 4 above. Export of fish oil continues to be free as per Notification No. 60 dated 20.11.2008

Notification No 24 (RE - 2012)/2009-2014

Details of RCMC would be made available (uploaded) by respective EPCs/Commodity Boards Development Authorities/other competent authorities. Accordingly, submission of physical copy of RCMC by the applicants will not be required. This will be with effect from 01/12/2012.

NOTICE NO. 25(RE-2012)/2009-2014

Directorate General of Foreign Trade hereby notifies new SIONS in respect of the export product Aluminium Beverage Cans.

Public Notice No: 26(RE: 2012)/2009-2014

RA's have issued duty credit scrips during this period i.e. from 05.06.2012 to 26.7.2012 with a validity of 24 months. Keeping in view this situation and in order to avoid any increased transaction cost to exporters, it is clarified that duty credit scrips issued upto 26.07.2012 will continue to have validity of 24 months and duty credit scrips issued after 26.7.2012 will have validity of 18 months.

Policy Circular No. 7 (RE-2012)/2009-14

Case Law

The expression 'sufficient cause' may be required to be construed liberally, provided adequate and proper reason exist. Liberal approach is advocated in condoning the delay and not being liberal to sufficiency of the cause where it does not exist.

Commissioner of Customs v. Karan Monomers P. Ltd.

INCOME TAX Notifications/ Circulars

CBDT has extended the time limit for filing ITR-V form relating to returns filed electronically without digital signatures for the AY 2010-11 and AY 2011-12 filed on or after 1st April, 2011 upto 31st December, 2012 or within a period of 120 days from the date of uploading return, whichever is later.

CG has authorised the entities mentioned in column (2) of the following Table to issue, during the fy 2012-13, tax-free,

secured, redeemable, non-convertible bonds, aggregating to amounts mentioned in column (3) of the said table, subject to the conditions specified. [Notification No. 46/2012](#)

PAN Application - Persons authorized to make Credit card / Debit card / Net banking payment

Category of Applicant	Payment by Credit Card / Debit Card / Net Banking can Sbe made by / for
Individual	Self, immediate family members (parents, spouse, children)
HUF	Karta of the HUF
Company	Any Director of the Company
Firm / Limited Liability Partnership	Any Partner of the Firm / Limited Liability Partnership
Association of Person(s) / Body of Individuals / Association of Person(s) Trust / Artificial Juridical Person / Local Authority	Authorized Signatory covered under section 140 of Income Tax Act, 1961

Case Law

The company-in-liquidation admittedly does not own the property. The Court cannot force respondent either to sell or let it out to 'W'. Interim arrangement was made at the stage of admission of appeal considering the balance of convenience and inconvenience. Such interim arrangement could not be made permanent. Court cannot create tenancy without the consent of the landlord. In short, tenancy is a contract between landlord and tenant.

[Wellman Wacoma Ltd.v. Tivoli Park Apartments \(P.\) Ltd. SEPTEMBER 4, 2012](#)

Regulatory Developments

Notifications/ Circulars/ News

Gross direct tax collections during April-October of the Financial Year 2012-13 was up by 6.59 percent and stood at Rs. 3,02,810 crore as against Rs. 2,84,081 crore in the same period last year. Net direct tax collections was up by 14.63 percent and stood at Rs.2,50,866 crore, as compared to Rs. 2,18,850 crore in the same period in the last fiscal.

Protocol Amending the Convention between India, UK and the Northern Ireland Signed for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains

MCA enlarges the list of cases where companies should get their cost records audited

[Order \[F. No. 52/26/CAB-2010\], Dated 6-11-2012](#)

Cost auditors to intimate their appointment to till 17-12-2012 to avoid disciplinary proceedings.

[GENERAL CIRCULAR NO. 35/2012](#)

In continuation of the Ministry's General Circular No. 16/2012 dated 06.07.2012, on the subject cited above, it is stated

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that the time limit to file the financial statements in the XBRL 'mode without any additional fee/ penalty has been extended up to 15th December, 2012 or within 30 days from the date of Annual General Meeting of the company whichever is later.

[General Circular No. 34/2012, Dated 25.10.2012](#)

Central Excise/CENVAT

Notifications/ Circulars

Seeks to extend excise duty exemption to Long Range Surface to Air Missile.

[Notification No. 38/2012-Central Excise 18thOctober, 2012](#)

Case Law

Learned counsel for the appellant submits that even if the duty has been paid in excess of the amount finally held to be payable, unless the excess duty paid has been refunded, the assessee could claim cenvat credit as the department could not get the duty twice.

[V.G. Steel Industry v. Commissioner of Central Excise](#)

Cenvat Credit cannot be denied if invoice number was handwritten or rubber stamped

[Pepsico India Holding Pvt. Ltd. Vs. Commissioner of Central Excise, Mumbai-II \[2012-TIOL-787-CESTAT-MUM\]](#)

Service Tax

Case Law

Tribunal upheld that Small Service provider exemption is per year and per assessee or individual and since the aggregate value does not exceed Rs. 10 Lacs individually, per year; appellants are individually eligible for Small Service provider exemption as provided under Notification No. 6/2005 dated 01-03-2008.

[\[Smt. K. D. Chaudhary - Order No. S/1833-1835/ WZB / Ahmedabad / 2012\]](#)

Service provided by a visa facilitator, in the form of assistance to individuals directly, to obtain a visa, does not fall under any of the taxable services under section 65(105) of the Finance Act, 1994. Further, Board had also clarified vide Circular No. 137/6/2011 dated 20-04-2011 and hence service tax is not attracted.

[\[VFS Global Services P. Ltd. - Order No. S/1016/2012/CSTB/C-1 - Mumbai Bench\]](#)

Hon'ble High Court relying on the pronouncement of Terana Sahakari Sakhar Karkhana Ltd. 2001 (138) ELT 1225 (Mum) upheld that when once the demands are dropped, then in such a situation, the question of imposing the penalty does not arise.

[Krishna Sahakari Sakkare Karkhane Niyamit - \(2012\) 25 Taxmann 272 \(Kar\)](#)

Once, a person pays the tax, he is entitled to avail the credit and subsequently utilize the same. At any rate, for the fault of the department, the assessee cannot be made to suffer. Accordingly, Cenvat Credit is allowed.

[\[Himalaya Drug Co. Ltd. - \(2012\) 25 Taxmann 165 \(Kar\)\]](#)

Law as amended on date of filing of refund claim shall apply for grant of refund; accordingly, if certain conditions are deleted between date of export and date of filing of refund claim, such conditions shall not apply for grant of refund. Hence refund allowed.

[\[Faizen Shoes \(P\) Ltd. - \(2012\) 24 Taxmann 264 \(Tri\)\]](#)

VAT, Sales Tax and Entry Tax Notifications/Circulars

The Department of Trade and Taxes had framed the assessment of quarterly return filing dealers for the Tax period First Quarter 2012-13, on the basis of mismatch in the data filed by the dealers in Annexure 2A and 2B online. This assessment was framed on the basis of data as on 21/09/2012 at 09.00 pm.

Public Notice - DVAT - November 2012

No Manual Annual Return in Form VAT 20 after 31st October 2012 for Assessment Year 2011-12 under Punjab Value Added Tax Act, 2005:

Public Notice, Excise & Taxation Dept. Punjab

Case Law

The recent judgment of Bombay High Court in case of has caused further hardship to genuine flat buyers. The Hon'ble Court has upheld the constitutional validity of the amendment made to definition of Sale. The Court has also upheld recent scheme of Maharashtra Govt. to levy VAT of 1% on agreement value of flat purchased or 5% of value of accretion made by the Developers over immovable property. The composition scheme of 1% is applicable in respect of agreement registered on or after 1st April 2010. However, set-off or deductions earlier claimed in respect of such agreements will have to be reversed.

MCHI vs. State of Maharashtra

FEMA & RBI

Notifications/Circulars

As per the extant guidelines, only designated branches of AD Category I banks maintaining accounts of FIIs are allowed to act as market makers to FIIs for hedging their currency risk on the market value of entire investment in equity and/or debt in India as on a particular date.

RBI/2012-13/258 A.P. (DIR Series) Circular No.45 22.10.12

It has been decided to allow ADs to sell foreign exchange to a unit in the DTA for making payment in foreign exchange to a unit in the SEZ for the services rendered by it (i.e. a unit in SEZ) to a DTA unit. It may, however, be ensured that there is an enabling provision of supplying these goods/services by the SEZ unit to the DTA unit and for payment in foreign exchange for such goods/services to the SEZ unit, in the Letter of Approval (LoA) issued to the SEZ unit by the Development Commissioner(DC) of the

SEZ. A. P. (DIR Series 2012-13) Circular No. 46

It has now been decided to permit scheduled Urban Cooperative Banks to undertake ready forward contracts in corporate debt securities subject to adherence to conditions prescribed by Urban Banks Department, Central Office, Reserve Bank of India, from time-to-time.

RBI/2012-13/270 IDMD.PCD. 1423/14.03.02/2012-13 30.10. 2012

The recent global slowdown has adversely impacted the Indian economy in general and more specifically the Micro and Small Enterprises (MSEs). The MSEs suffer the most in such situations especially from discontinuity of business, which they normally are not in a position to bear and become sick immediate.

RBI/2012-13/273 RPCD.CO.MSME & NFS.BC.40/06.02.31/2012-2013, November 1, 2012

CTS-2010 standard" is a set of benchmarks towards achieving standardisation of cheques issued by banks across the country. These include provision of mandatory minimum security features on cheque forms like quality of paper, watermark, bank's logo in invisible ink, void pantograph, etc., and standardisation of field placements on cheques. The benchmark prescriptions known as "CTS-2010 standard" are to be implemented by December 31, 2012.

CIRCULAR DNBS.PD/CC.NO. 308/03.10.001/2012-13, Dt 6-11-2012

SEBI has, vide General Order dated October 9, 2012, notified framework for rejection of draft offer documents filed with the Board.

CIRCULAR No. CIR/CFD/DIL/15/2012, Dt October 15, 2012

EVA: Effective Value Measurement Tool

Continued from Page 5

Thus we see the profit and ROI figures of the company presents a bright picture but it does not take into account the opportunity cost of capital and hence, the EVA is negative. The value of the company is actually eroded as it is not even able to cover its cost of capital.

In India companies like NIIT, Godrej and TCS have successfully implemented EVA as a performance measurement and evaluation system linked with incentives. EVA implementation helped Godrej in segregating the entire business into several units to see which of them are creating EVA or which are not. As a result of this exercise, Godrej demerged the consumer products division and turned around low- EVA segments like chemicals. Some other companies like Infosys, Dr. Reddy's

Laboratories and Hindustan Lever also report EVA as additional information in their annual reports.

However, we need to understand that EVA is based on past accounting performance derived from financial statements. **Like most ratios a single EVA value is meaningless.** The easiest way to interpret it is to express it as percentage of capital employed. It can be compared with that of peers to see whether it is higher or lower.

Absolute EVA may not be comparable across industries due to peculiar characteristic of diverse businesses as well as different level of capitalization. Therefore it is recommended to be cautious while applying it as a value measurement tool.



Pakistan on Track to Normalize Trade with India by Year's End

Pakistan is on track for granting its neighbour - and often political rival - India most favored nation (MFN) status by year's end. The two sides also recently outlined a timeline for reducing their sensitive lists for each others' imports under the South Asia Free Trade Area (SAFTA) Agreement, as part of their ongoing efforts to boost bilateral trade ties.

Canada to lose WTO green energy dispute

Canada is set to lose a dispute at the World Trade Organization brought by the European Union and Japan over support for renewable energy in Ontario. Ontario's green scheme aimed to guarantee prices for renewable energy as long as it was generated with Canadian made equipment, which Japan described as protectionism when it brought the case against Canada. The WTO adjudication panel says Canada was breaking WTO rules by requiring firms in the scheme to source up to 60 percent of their equipment locally.

Apple loses name battle to iFone

A Mexican telecommunications firm named iFone has declared victory in a trademark battle with Apple's iPhone, exposing the US company to a potential compensation payment. The Mexican firm said in a statement that a court denied Apple's bid to protect the iPhone name in a case that began in 2009, when iFone sued the California-based company because the similar-sounding names caused confusion. Apple introduced the iPhone to the Mexican market in 2007, four years after the Mexican telecom services and Systems Company says it registered the name iFone.

WTO appellate body rejects China's appeal in U.S. steel dispute

WTO Appellate Body rejected China's appeal against a panel rulings in a dispute over China's import duties on U.S. grain oriented flat-rolled electrical steel (GOES) and upheld the panel's findings. The Appellate Body found that the panel did not make a mistake in its application of certain WTO agreements and did not act inconsistently with its duty to make an objective assessment of the price effects analysis of China's Ministry of Commerce (MOFCOM).

WTO appoints panel to probe China, US auto dispute

WTO established a panel of experts to investigate a complaint by the United States over Chinese duties on auto imports.

In the dispute, one of many involving the world's two biggest economies, the US described China's actions as having "profound procedural and substantive deficiencies and the duties were also in breach of international trade rules.

US moves WTO accusing India of giving fresh export subsidies to textile industry

The US has accused India of wrongfully giving fresh export subsidies to its textile industry instead of phasing them out as mandated by the World Trade Organisation.

It has also complained to the multilateral body about the country ignoring its requests for bilateral discussions on the issue. Turkey, too, has expressed its unhappiness at the alleged rise in textile exports from India and its industry being pitted against subsidized Indian products.

Pollution control body to raise Delhi smog concerns in Supreme Court

Taking cognizance of the dense smog that has enveloped the city since October 28 and Delhi's steadily worsening pollution levels, the Environment Pollution Control Authority appointed by the Supreme Court has decided to take up the matter with the top court. It will be taking up three issues into the court – fast increasing diesel vehicles in the city, no progress in the western peripheral expressway and Delhi's inadequate public transport, requesting the SC to issue directions to all concerned Governments.

Prime Minister's panel for India-ASEAN FTA on services by November 19

The meeting of the Trade and Economic Relations Committee (TERC), presided over by Prime Minister Manmohan Singh, "was of the view that the aim should be to conclude this agreement before the India-ASEAN Summit to be held in Cambodia on 19th November," sources said.