

Revaluation of Depreciable Assets

Impacts of increase in EPF Ceiling

Board Meeting through VC





Dear Readers,

As the Kashmir valley remains under flood water in the unprecedented floods that wreaked havoc in the lives of many, incessant rains, overflowing and breach in the embankments of the Jhelum and Chenab rivers have damaged infrastructure and homes, apart from the human casualties. Indian military personnel along with the National Disaster Response Force have relentlessly engaged in evacuating survivors and have done a commendable job. We wish and hope to get things better soon at the valley and people get back to the normalcy.

At the outset congratulations to the students who have cleared their exams successfully during the June 2014 exams. Mysore chapter during the month of August could reach out to 250 students at various colleges in the city through career awareness program. Chapter had performed its duty on 15th of August with the hoisting of National Flag and celebrated Independence Day with members and students.

Chapter also conducted a seminar on Companies Act, 2013 during the month. Chapter has scheduled to conduct Investor awareness program and student events for the coming month. I welcome all members and students for these events.



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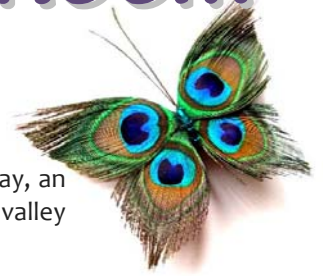
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Disclaimer

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Born To Win – Conditioned To Lose



Once upon a time, at a large mountainside there was an eagle nest with 4 large eagle eggs inside. One day, an earthquake rocked the mountain causing one of the eggs to roll down to a chicken farm, located in the valley below.

The chickens knew that they must protect the eagle egg. Eventually, the eagle egg hatched and a beautiful eagle was born. Being chickens, the chickens raised the eagle to be a chicken.

The eagle loved his home and family but it seemed his spirit cried out for more. One day, the eagle looked to the skies above and noticed a group of mighty eagles soaring. "Oh," the eagle cried, "I wish I could soar like those birds."

The chickens roared with laughter, "You cannot soar like those. You are a chicken and chickens do not soar." The eagle continued staring at his real family up above, dreaming that he could be like them. *Each time the eagle talked about his dreams, he was told it couldn't be done.*

That was what the eagle learned to believe.

After time, the eagle stopped dreaming and continued to live his life as a chicken. Finally, after a long life as a chicken, the eagle passed away.

You become what you believe you are. If you ever dream to become an eagle, follow your dreams, not the words of chickens.

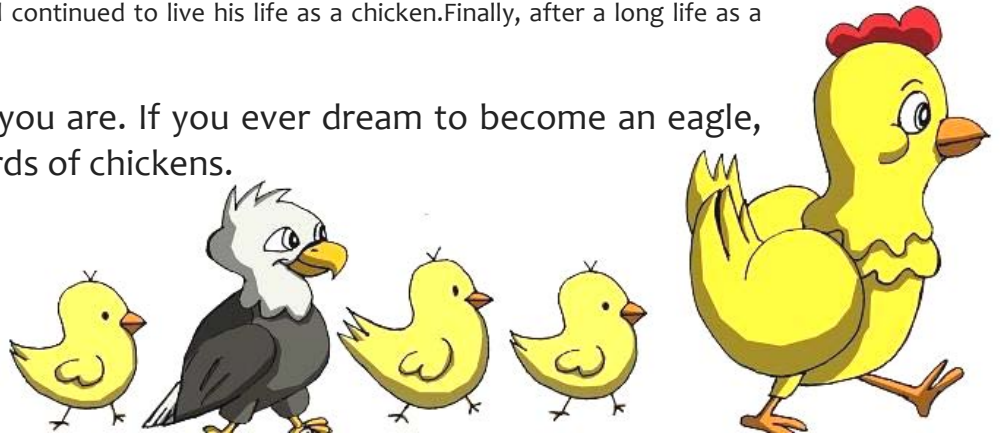
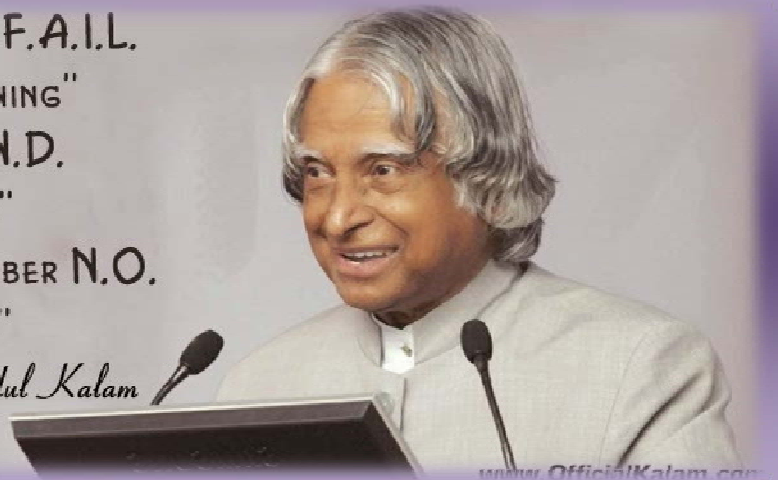


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Words Worth Millions

IF YOU FAIL, NEVER GIVE UP BECAUSE F.A.I.L.
MEANS "FIRST ATTEMPT IN LEARNING"
END IS NOT THE END, IF FACT E.N.D.
MEANS "EFFORT NEVER DIES"
IF YOU GET NO AS AN ANSWER, REMEMBER N.O.
MEANS "NEXT OPPORTUNITY"

Dr. Abdul Kalam



www.OfficialKalam.com



ICSI Bangalore Chapter Inaugurated its new Chapter premises on 30th August 2014

For Photos, Videos and Press Reports:
www.icsi.edu/bangalore



Activities at Mysore Chapter

Career Awareness Programme Held at Vidya Vikas PU College

On 14.08.2014 the Mysore Chapter of the ICSI organised a Career Awareness Programme at Vidya Vikas PU College, Mysore. Around 95 students from various streams attended the programme. CS Pracheta M, Management Committee Member of the Mysore Chapter explained in detail the course offered by the Institute and the criteria for eligibility for the course, examination, requirements of training etc.



Independence Day Celebration

On 15.08.2014 the Mysore Chapter of ICSI celebrated 68th Independence Day in the Chapter Premises. CS. Ajay Madaiah B B, Chairman, the Mysore Chapter of ICSI hoisted the National Flag and delivered the Independence Day speech to the students.

CS Bhagya M G, Treasurer, CS Sunil Kumar B G, Past Chairman of the Mysore Chapter & several Students participated in the event.

Study Circle Meeting

Students' study circle meeting was conducted at the Mysore Chapter on 15th August 2014 relating to the topic "Comparison between Companies Act 1956 & 2013.

About twenty students participated and discussed about the key issues.

Career Awareness Programme Held at Mallamma Marimallappa Science & Business Management College

On 18.08.2014 the Mysore Chapter organised a Career Counselling Programme at Mallamma Marimallappa Science & Business Management College, Mysore. About 75 students from various streams attended the programme. CS Sabareeshan C K, Past Chairman of the Mysore Chapter highlighted the importance of making the right career choice so as to be successful in life. He then spoke about the role of a Company Secretary and importance of the profession of Company Secretary in the changing economic scenario. Institute's video on the CS course and opportunities was played during the session and brochures containing brief details of the Company Secretaryship Course were distributed to the participants.

Career Awareness Programme Held at Vidya Vardhaka First Grade College

On 19.08.2014, the Mysore Chapter organised a Career Awareness Programme at Vidya Vardhaka First Grade College, Mysore. Around 150 students from various streams attended the programme. Mr. N. Dhanabal, Incharge, Mysore Chapter explained in detail the course offered by the Institute and the criteria for eligibility for the course, examination, requirements of training etc. Brochures containing brief details of the Company Secretaryship Course were distributed to the participants.

Career Awareness Programme Held at Badudev Somani College

On 22.08.2014, the Mysore Chapter organised a Career Awareness Programme at Basudev Somani College, Mysore. Around 60 students from various streams attended the programme. CS. Ajay Madaiah B B, Chairman, Mysore Chapter explained in detail the course offered by the Institute and the criteria for eligibility for the course, examination, requirements of training etc. He also highlighted the importance of making the right career choice so as to be successful in life. Brochures containing brief details of the Company Secretaryship Course were distributed to the participants.

Career Awareness Programme Held at Vidya Vardhaka PU College

On 26.08.2014, the Mysore Chapter of the ICSI organised a Career Counselling Programme at Vidya Vardhaka PU College, Mysore. Around 100 students from various streams attended the programme. CS Sabareeshan C K, Past Chairman of the Mysore Chapter explained in detail the course offered by the Institute and the criteria for eligibility for the course, examination, requirements of training etc. Institute's video on the CS course and opportunities was played during the session. Brochures containing brief details of the Company Secretaryship Course were distributed to the participants. CS Sabareeshan C K also clarified the various doubts and issues that were raised by the participants and thanked the management for providing the Institute this opportunity.

One Day Seminar on Companies Act 2013

The Mysore Chapter of the ICSI conducted One Day Seminar on Companies Act 2013 in Chapter Premises on 31.08.2014. Dr. Baiju Ramachandran, Chairman, SIRC was the Chief Guest, he delivered the inaugural address. Mr. Amithraj A N, Senior Manager, PWC & CS Sivasankaran M S, Executive Chairman, 6th Energy Technologies Pvt. Ltd., were resource persons for the seminar.

Seminar covered the topics such as Raising Funds, Loans, Investments, Overview of Managerial Remuneration & Corporate Social Responsibility under the Companies Act 2013. Chairman of the Mysore chapter, CS Ajay Madaiah B B delivered the welcome address. Chief co-ordinator CS Pracheta M conducted the program & concluded with vote of thanks. The programme was well attended by the Members & Students from various parts of Karnataka.



Revaluation of Depreciable Assets

A hitch in accounting and disclosure vis-à-vis para 13.3 of accounting standard-10



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A plethora of literature is available in Accounting Standards and Guidance Note on treatment of Revaluation Reserve issued by the Institute of Chartered Accountants of India, International Accounting Standard No. IAS-16, Australian Accounting Standard AASB-116 and other various standard Reference Books, magazines,, discussion fora, websites, etc., on Revaluation of Fixed Assets, its methodology, accounting treatment and presentation & disclosure in Financial Statements. Though there is very little that can be added in this regard, we, as Company Secretaries who may be involved, (however occasional and exceptional it may be,) in the whole process of Revaluation, tend to be lost in the maze of the literature on this topic and may get confused at different interpretations in accounting, presentation/disclosure in Financial Statements. In furtherance to my Article entitled "Revaluation of Fixed Assets and its Accounting treatment" which appeared in the "Chartered Secretary" of October 1999 Issue, by virtue of little more experience I gained, I present this write-up with additional inputs focused on accounting treatment, presentation/disclosure in Financial Statements in the light of Para 13.3 of our AS -10.

Hypothetically,

(A) Before Revaluation was carried out in respect of Plant and Machinery in the FY 2012-13, the Schedule of Fixed Assets of M/s XYZ Limited appeared as under :

TABLE - 1

Sl	Description	As on 31-3-2012 (Rs)	As on 31-3-2011 (Rs)
1	Opening Balance of Gross Block	4,00,000-00	4,25,000-00
2	Additions during the year	1,50,000-00	15,000-00
3	Sales/Deletions during the year	1,50,000-00	40,000-00
4	Closing Balance of Gross Block	4,00,000-00	4,00,000-00
5	Opening Balance of Depreciation Block	55,000-00	73,000-00
6	Depreciation for the year	15,000 -00	35,000-00
7	Withdrawn on Sales/Deletions during the year	30,000-00	53,000-00
9	Closing balance of Depreciation Block	40,000-00	55,000-00
10	Net Block	3,60,000-00	3,45,000-00
11	Net Block of Previous Year	3,45,000-00	xxxx

(B) Revaluation process was carried out in the FY 2012-13, effective 1-4-2012 and the following data is considered relevant:

TABLE - 2

SI No.	Particulars	Amount (Rs)
1	The original cost of Plant & Machinery of M/s XYZ as on 1-4-2012	4,00,000
2	Accumulated Depreciation as on 1-4-2012	40,000
3	WDV as on 1-4-2012	3,60,000
4	Increase due to Revaluation	1, 00,000
5	Revalued cost	4,60,000

(C) ACCOUNTING FOR AND PRESENTATION OF REVALUATION IN FINANCIAL STATEMENTS:

Para 13.3 of AS-10 issued by the Institute of Chartered Accountants of India reads as under:

Quote:

- (i) *The revalued amounts of Fixed Assets are presented in Financial Statement either by restating both the Gross Book Value and Accumulated Depreciation so as to give a net book value equal to the revalued amount* **OR**
- (ii) *by restating the net Book Value by adding therein the net increase on account of revaluation. An upward revaluation does not provide a basis for crediting to the Profit and Loss Statement for accumulated depreciation at the date of revaluation.*

Unquote:

(D) Prominently among the various Accounting Standards/Pronouncements on this issue, the International Accounting Standard IAS-16 and Australian Accounting Standard – AASB-116 are very similar and are very close to Para 13.3 of our AS- 10, reading as under :

Quote:

When any item of Property, plant and equipment is revalued, any accumulated depreciation at the date of the revaluation is treated in one of the following ways:

- (a) *accumulated Depreciation shall be restated proportionately with the change in the gross carrying amount of the asset so that the carrying amount of the asset after revaluation equals its revalued amount. This method is often used when an asset is revalued by means of applying an index to determine its depreciated replacement cost.*
- (b) *Eliminated against the gross carrying amount of the asset and the net amount restated to the revalued amount of the asset. This method is often used for buildings.*

Unquote:

(a) For short, let me call (a) above Gross Method and (b) above Net amount Method

(E) Para (D) (a) and (D) (b) *supra* appear to be only variants of the first choice of para 13.3 of our AS -10 and the following Journal Entries appear necessary to give effect to them :

GROSS METHOD:

- (a) Debit Asset Account and Credit Assets Revaluation Reserve
 (b) Debit Assets Revaluation Reserve and Credit Accumulated Depreciation.

In our context, “Accumulated Depreciation” is called “Provision for Depreciation” and similarly.

NET AMOUNT METHOD:

- (a) Debit Provision for Depreciation (accumulated up to the date of Revaluation) and credit Asset account and
 (b) Debit Asset Account and Credit Assets Revaluation Reserve (with the increase in the value of asset due to revaluation).

(F) Based on the data in the **TABLE - 2**, the following JEs are passed:

(i) **Net Amount Method:**

Particulars	Debit	Credit
(a) Provision for Depreciation (- P &M)Account Dr To Plant & Machinery Account and	40,000	40,000
(b) Plant & Machinery Account Dr To Assets Revaluation Reserve Account	1,00,000	1,00,000

(ii) **Gross Method:**

Particulars	Debit	Credit
(a) Plant & Machinery Account Dr To Assets Revaluation Reserve Account and	1,11,111	1,11,111
(b) Assets Revaluation Reserve Account Dr To Provision for Depreciation (P &M)Account	11,111	11,111
Or a single JE for the net effect of (a) and (b) Plant & Machinery Account Dr To Provision for Depreciation To Assets Revaluation Reserve Account	1,11,111	1,11,111 1,00,000

Working Notes for Gross Method:

- (a) The increase in carrying cost of Asset is Rs.1,00,000 and is 27.77% of the WDV of Rs. 3,60,000 on the date of Revaluation. Therefore, the original cost of Rs 4,00,000 has to be increased by the same percentage, which works out to Rs. 1,11,111.
- (b) The accumulated Depreciation before revaluation was Rs.40,000 and has to be increased by the above percentage which works out to Rs. 11,111.
- (c) The difference between (a) and (b) works out to Rs. 1,00,000/- which is equivalent to the net increase consequent upon Revaluation. This is represented by Assets Revaluation Reserve Account.

(G) Schedule of Fixed Assets appear as follows after Revaluation is carried out under both the methods after the above said Journal Entries at F (i) or (ii) are passed in adoption of the first choice of Para 13.3 of AS-10 of the ICAI. Please observe it compared with the situation Prior to Revaluation.

TABLE - 3

Sl No.	Description	As on 31-3-2013 Amount (Rs)*	Net method of Accounting As on 31-3-2013 Amt (Rs)**	Gross method of Accounting As on 31-3-2013 Amt (Rs)**
1	Opening Balance of Gross Block	4,00,000-00	4,00,000-00	4,00,000-00
2	Additions during the year	1,50,000-00	1,50,000-00	1,50,000-00
3	Additions due to Revaluation	-	1,00,000-00	1,11,111-00
4	Deletion due to Sales during the year	1,50,000-00	1,50,000-00	1,50,000-00
5	Less deletion due to Revaluation	-	40,000-00	-
6	Closing Balance of Gross Block	400,000-00	4,60,000-00	5,11,111-00
7	Opening Balance of Depreciation Block	40,000-00	40,000-00	40,000-00
8	Depreciation for the year	75,000-00	75,000-00	75,000-00
9	Withdrawn on Sales during the year	30,000-00	30,000-00	30,000-00
10	Add/(Less) to upward Revaluation	-	(40,000-00)	11,111-00
11	Closing balance of Depreciation Block	85,000-00	45,000-00	96,111-00
12	Net Block of Current Year (NBV)	3,15,000-00	4,15,000-00	4,15,000-00
13	Net Block of Previous Year	3,60,000-00	3,60,000-00	xxx

* Before the Revaluation effect is given as per first Option of para 13.3 of AS-10

** After Revaluation effect is given as per first Option of para 13.3 of AS-10.

Figures in Sl No. 2 and 3 above may be clubbed under the heading "Additions during the year" with an explanation to indicate the amount added consequent upon revaluation by way of a Note.

Continued in page...11



Paycheck.in

Employees are the key elements of any industry whether manufacturing or service. There is an increase in labour issues in recent times. Better option to avoid such employer/employee disputes is to comply with applicable laws, contractual obligations and observe good governance practices.

Friends, if you are facing any problem in labour compliance or want to know more about Human relation practices, then please visit the site <http://www.paycheck.in/main/> which is very informative on this subject matter. It provides information about wages, labour law, career advice, information about best jobs and salaries. In this site, you can get answer for your questions through online query. It also helps to know pay rates/scales for hundreds of different jobs in private, public and not-for-profit organisations.

<http://www.paycheck.in/main/> broadly contains the following tabs:-

- ✓ Salary
- ✓ Labour law
- ✓ Minimum wages
- ✓ Salary calculator
- ✓ Legislature for women
- ✓ Companies act, 2013
- ✓ Salary and job updates
- ✓ Pension rights
- ✓ Living wage
- ✓ Legal compliance for employers
- ✓ Women and work hour. Etc.,

Surf many more options available in this site and share with us.



e-TOOLS FOR THE PROFESSIONALS

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Dropbox: An Android application for mobiles

Dropbox, an Android application which allows us to transfer and access files from any remote computer or Mobile device's running dropbox. Dropbox is the easiest way to store, sync and share your files online and between multiple computers. Dropbox allows you to handle unlimited number of file versions, which gives access you to restore a document to prior versions. While you can use 2GB free account, Dropbox only offers subscriptions up to 500GB of storage. For an unlimited storage account, we have to purchase a business account with a minimum of five users. However, there is no limit to the size of the file that you can backup or share. Advantages of *Dropbox* application:

1. 2GB of online storage for free, with up to 500 GB available for paid customers;
2. Sharing of large size files;
3. Sync files of all size and formats;
4. Compatibility to Sync with all kind of Operating systems namely Windows, Mac and Linux;
5. Options for Undelete files/Folders and Automatic backup of files; *and*
6. Limited duration of Undo history for free version and unlimited duration of undo history for paid version;

Specification: 1. Price- Free 2. Required Android- Version 2.4.3 or more

Download Link: <https://play.google.com/store/apps/details?id=com.dropbox.android&hl=en>



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Know the Impact

–‘Increase in EPF Ceiling from Rs.6,500/- to Rs.15,000/- !’

By this time all of you would have read the increase in the EPF ceiling limit finally confirmed through Gazette Extraordinary Notification made on **28th Aug’14** which is effective from **01st Sept’14**. This amendment has several impacts apart from increase in contribution. Key highlights and impact analysis of the amendment are summarized in trail:

- A. Salary ceiling limit for EPF coverage has been increased from Rs.6,500/- to Rs.15,000/- p.m.
- B. Salary means only Basic + DA + VDA + Retaining Allowance + Cash value of any food concession + any other allowance paid in cash & not defined.
- C. Minimum Employee’s Pension w.e.f., 01st Sept’14 will be Rs.1,000/- p.m
- D. Salary ceiling limit for Employee’s Pension will be Rs.15,000/- p.m. Hitherto it was Rs.6,500/-
- E. This means 8.33% of on Rs.15,000/- basic i.e. Rs.1250/-p.m will be diverted to pension fund. Hither to it was Rs.541/- only on Rs.6,500/- @ 8.33%
- F. Those who want to contribute above Rs.15,000/- for pension fund – will have to shell out 1.16% additional contribution on the amount in excess of Rs.15,000/- from employees share &

give declaration (both employer & employee) to that effect **within 06 months** from the date of this notification failing which any additional contribution made above Rs.15,000/- to pension fund would be diverted to EPF fund & will be given the interest as declared from time to time.

- G. Employer in addition to 12% of Basic, now will have to contribute 0.50% of Rs.15,000/- to EDLI A/C, 1.10% on Rs.15,000/- as administration expenses on EPF A/C & 0.01% of Rs.15,000/- as administration expenses for EDLI A/C.
- H. Minimum **Widow Pension** w.e.f., from 01st Sept’14 will be Rs.1,000/-p.m
- I. For dependent children with widow, the **Children Pension** will be Rs.250/-p.m
- J. If the deceased employee is not survived by widow but by the dependent children Rs.750/-p.m will be the children pension.
- K. **Eligibility for pension:** 10 years of service under pension scheme and on attaining the age of 58years – both condition have to be fulfilled.
- L. If the service is below 10 years of service & has not attained the age of 58 years, can withdraw the pension amount or obtain certificate to that effect & resume the count of service in future, if the employee joins for



the employment service covered under EPF&MP Act, 1952.

- M. Pensionable salary up to 31st Aug'14 will be Rs.6,500/- thereafter it will be Rs.15,000/- till further amendment.
- N. If the Employee's Pension contribution is restricted to Rs.15,000/- then the maximum pension at the age of 58 years shall not be more than Rs.15,000/- p.m as on date. Hitherto it was Rs.6,500/-p.m
- O. **Pension calculation:** (Pensionable salary * Pensionable Service)/70
- P. 20% increase in the EDLI claim benefits amount. At present the maximum benefit payable under EDLI is Rs.130,000/- & the increase of 20% would result in Rs.146,000/- as maximum benefit.
- Q. There will be no contribution to pension fund for an **International Worker** assigned to India w.e.f., 01st

Sept'14 if their salary is above Rs.15000/- p.m. This means entire contribution both employer & employees will be apportioned to EPF A/c.

- R. Any International Worker who is an existing member of the Pension Scheme as on 01st Sept'14, 8.33% of the employers share would continue to be contributed to Pension Account.

This amendment will have marginal cost escalation on Employers to the extent as mentioned in point "G" above w.r.t., Permanent Employees as well as for contingent employees whose basic salary is more than Rs.6500/-.

It may be noted that the last amendment w.r.t., ceiling was on 01st June'2001. It is after 13 years the ceiling limit is enhanced, rightly so as economic & business dynamics have changed greatly in the past 13 years!!!

Revaluation of Depreciable Assets

Continued from page...08

(H) What is the Hitch in the Second Option of Para 13.3 of AS-10?

Readers of the Financial Statements , particularly the Schedule of Fixed Assets will be Strangely, left clueless if the second option of Para 13.3 of AS-10 which permits "*restating the Net Book Value " by adding therein the net increase on account of revaluation"* is adopted for disclosure in Schedule of Fixed Assets. This is so , because it is bereft of any support from /co-relation with any accounting entry, which I feel is a basic tenet in the preparation/ presentation of Financial Statements. This situation may leave the FA Schedule little incomprehensible at first sight, since the increase in net Book Value by mere addition of increase due to revaluation is not supported by or co-related with an accounting entry, though latent on the face of the Fixed Assets Schedule. As such this situation may also render the comparison with Previous Year's Figure meaningless, unless, of course, an explanatory Note is given to that effect. However, in addition, an exhaustive Note revealing the entire background of Revaluation is also required to be given explaining the situation. To this extent, I feel that the 2nd option given in para 13.3 of AS-10 appears lacking in clarity and practicality.

Inviting scintillating reactions from my co-professionals, I wish to stand corrected for any errors that may have crept in unwittingly in my understanding or interpretation and thus enlightened.





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Board Meeting through VC

In general parlance, meeting refers to formal or informal deliberative assembly of individuals called to debate certain issues and problems, and to take decisions. Formal meetings are held at definite times, at a definite place, and usually for a definite duration to follow an agreed upon agenda. Meeting can be understood as a meeting of minds, rather than a physical gathering of individuals at a common place, to discuss a common issue. With the advancement in technology, it is now possible to hold meetings virtually also i.e. through means of audio-video conferencing. This mode of conducting meetings has been given due recognition under the Companies Act 2013. In the present article we have highlighted the provisions of Companies Act, 2013, along with the prescription contained in the final rules, relating to holding of board meetings through video conferencing. The requirements listed below are in addition to the general requirements specified for conducting board meetings physically.

REQUIREMENT	RELEVANT PROVISION UNDER THE ACT AND RULES
Meaning of video conferencing or other audio visual means	"Video-conferencing or other audio visual means" means audio-visual electronic communication facility employed which enables all the persons participating in a meeting to communicate concurrently with each other without an intermediary and to participate effectively in the meeting.
Matters which cannot be dealt through video conferencing	<ul style="list-style-type: none"> the approval of the annual financial statements; the approval of the Board's report; the approval of the prospectus; the Audit Committee Meetings for "consideration of financial statement including consolidated financial statement, if any, to be approved by the Board under sub-section (1) of section 134 of the Act; and the approval of the matter relating to amalgamation, merger, demerger, acquisition and takeover.
General Rules regarding quorum, venue and participation	<ul style="list-style-type: none"> Participation of a director through video-conferencing will be counted for the purpose of quorum, unless it is to be specifically excluded for any items of business under any provisions of the Act or the rules. The scheduled venue of the meeting as set forth in the notice convening the meeting, shall be deemed to be the place of the said meeting and all recordings of the proceedings at the meeting shall be deemed to be made at such place. The statutory registers which are required to be placed in the Board meeting as per the provisions of the Act shall be placed at the scheduled venue of the meeting and where such registers are required to be signed by the directors, the same shall be deemed to have been signed by the directors participating through electronic mode, if they have given their consent to this effect and it is so recorded in the minutes of the meeting. No person other than directors, Company Secretary, Chairperson and persons whose presence is required pursuant to a legal provision shall be allowed access to the place where any director is attending the meeting either physically or through video conferencing.
Requirements regarding notice	<ul style="list-style-type: none"> Notice shall contain details regarding availability of facility of video conferencing and all necessary details to enable the directors to participate in the meeting through video-conferencing.
Duties of Individual Directors	<ul style="list-style-type: none"> A director intending to participate through video conferencing or audio visual means shall communicate his intention to the Chairperson or the company secretary of the company by giving prior intimation to that effect sufficiently in advance so that company is able to make suitable arrangements in this behalf. If this intimation is not given, it shall be presumed that the director shall attend the meeting in person. The director, who desires, to participate may intimate his intention of participation through the electronic mode at the beginning of the calendar year and such declaration shall be valid for one calendar year.

<p>Procedural requirements</p>	<p>On Commencement of the meeting:</p> <ul style="list-style-type: none"> - At the commencement of the meeting, a roll call shall be taken by the Chairperson when every director participating through video conferencing or other audio visual means shall state, for the record his name, location, confirmation that he has received the agenda and all relevant papers for the meeting and confirmation that no one other than the concerned director is attending or having access to the proceedings of the meeting at his location. • After the roll call, the Chairperson or the Company Secretary shall inform the Board about the names of persons other than the directors who are present for the said meeting at the request or with the permission of the Chairperson and confirm that the required quorum is complete. <p>On transaction of business:</p> <ul style="list-style-type: none"> • Every participant shall identify himself for the record before speaking on any item of business on the agenda. • If a statement of a director in the meeting through video conferencing or other audio visual means is interrupted or garbled, the Chairperson or Company Secretary shall request for a repeat or reiteration by the Director. • If a motion is objected to and there is a need to put it to vote, the Chairperson shall call the roll and note the vote of each director who shall identify himself while casting his vote. • At the end of discussion on each agenda item, the Chairperson of the meeting shall announce the summary of the decision taken on such item along with names of the directors, if any, who dissented from the decision taken by majority. <p>Requirements throughout the meeting:</p> <ul style="list-style-type: none"> • Every Company shall make necessary arrangements to avoid failure of video or audio visual connection. • Chairperson of the meeting and the CS, if any, shall take due and reasonable care – <ul style="list-style-type: none"> - to safeguard the integrity of the meeting by ensuring sufficient security and identification procedures; - to ensure availability of proper video conferencing or other audio visual equipment or facilities for providing transmission of the communications for effective participation of the directors and other authorised participants at the Board meeting; - to ensure that no person other than the concerned director are attending or have access to the proceedings of the meeting through video conferencing mode or other audio visual means; and - to ensure that participants attending the meeting through audio visual means are able to hear and see the other participants clearly during the course of the meeting. • The Chairperson shall ensure that the required quorum is present throughout the meeting. • From the commencement of the meeting till its conclusion no person other than the Chairperson, Directors, Company Secretary and any other person whose presence is required by the Board shall be allowed access to the place where any director is attending the meeting either physically or through video conferencing without the permission of the Board. <p>On conclusion of the meeting:</p> <ul style="list-style-type: none"> • Chairperson of the meeting and the company secretary, if any, shall take due and reasonable care: <ul style="list-style-type: none"> - to record proceedings and prepare the minutes of the meeting; - to store for safekeeping and marking the tape recording(s) or other electronic recording mechanism as part of the records of the company at least before the time of completion of audit of that particular year.
<p>Requirements regarding minutes and secretarial records</p>	<ul style="list-style-type: none"> • Minutes shall disclose the particulars of the directors who attended the meeting through video conferencing or other audio visual means. • The draft minutes of the meeting shall be circulated among all the directors within 15 days of the meeting either in writing or in electronic mode as may be decided by the Board. • Every director who attended the meeting, whether personally or through video conferencing, shall confirm or give his comments in writing, about the accuracy of recording of the proceedings of that particular meeting in the draft minutes, within seven days or some reasonable time as decided by the Board, after receipt of the draft minutes failing which his approval shall be presumed. • Thereafter, minutes to be entered in minutes book as per provisions discussed under the heading “Minutes”, later in this chapter.



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WTO: India hardens its stand

India clarified that its decision not to ratify WTO's Trade Facilitation Agreement (TFA) is aimed at ensuring that the country's efforts to ensure food security remain consistent with its international obligations. This decision has drawn flak from the U.S. and other developed countries. A recent document from WTO revealed that India has submitted domestic support notifications only for the years from 1995 to 2003.

India has hardened its negotiating position at the regional comprehensive economic partnership (RCEP), expressing dissatisfaction at the way talks are progressing on the plurilateral agreement. India has received support of Pakistan, Bangladesh, South Africa and Russia on its tough stand in the WTO over food security related issues during deliberations of Asia-Europe Meeting in Italy.

"We will be reviewing progress and looking at ways to advance this work starting from next week itself," WTO Deputy Director General Yonov Frederick Agah told PTI over the weekend.

India Drops Proposal to Levy Anti-Dumping Duties on Solar PV Modules

India may have avoided a major confrontation with the United States at the World Trade Organization (WTO) with its decision not to impose anti-dumping duties on imported solar photovoltaic modules. Ministry of Finance has rejected the proposal by the Ministry of Commerce and Industry to levy anti-dumping duties on imported solar PV modules.

Express News →

- ✓ India Appeals to WTO against US Anti-Dumping Duties Case despite chances of getting favourable decision.
- ✓ Malaysia (ASEAN Member), wants India to reduce non-tariff barriers along with scheduled gradual dismantling of tariff barriers to zero.
- ✓ *Delhi high court stays CCI fine \$420 million for anti-competitive practices on Maruti Suzuki*
- ✓ CCI to probe realty body CREDAI, 20 private builders
- ✓ China set to pump billions of dollars in India, outwit Japan
- ✓ India signs free trade agreement in services, investments with ASEAN
- ✓ No. of new Company Registrations drop sharply after new Companies Act comes into force
- ✓ World Bank warns of global jobs crisis again
- ✓ LIC favours raising FDI cap in insurance sector to 49%
- ✓ Delhi Government to charge cess of one rupee on cigarette and liquor
- ✓ Loan Guarantors refusing to pay can be declared wilful Defaulters: RBI
- ✓ FDI rules for multi brand retail shall now apply to e-commerce as well.

India set to notify farm subsidies to WTO

After considering the complaints by rich nations that it doesn't comply with WTO notification requirements by not notifying the domestic farm subsidies after 2003-04, India will notify its domestic farm subsidies to the World Trade Organization (WTO) ahead of the resumption of negotiations in Geneva.



Real Estate Investment Trusts (REIT)

The Internet Corporation for Assigned Names and Numbers (ICANN) is a nonprofit organization that is responsible for the coordination of maintenance and methodology of several databases of unique identifiers related to the namespaces of the Internet, and ensuring the network's stable and secured operation. Most visibly, much of its work has concerned with the Internet's global Domain Name System, including policy development for internationalization of the DNS system, introduction of new generic top-level domains (TLDs), and the operation of root name servers. The numbering facilities ICANN manages include the Internet Protocol address spaces for IPv4 and IPv6, and assignment of address blocks to regional Internet registries. ICANN also maintains registries of Internet protocol identifiers.

ICANN performs the actual technical maintenance work of the central Internet address pools and DNS Root registries pursuant to the IANA function contract. ICANN's primary principles of operation have been described as helping preserve the operational stability of the Internet; to promote competition; to achieve broad representation of the global Internet community; and to develop policies appropriate to its mission through bottom-up, consensus-based processes. ICANN was created on September 18, 1998, and incorporated on September 30, 1998. It is headquartered in the Playa Vista section of Los Angeles, California. On September 29, 2006, ICANN signed a new agreement with the United States Department of Commerce that moves the organization further towards a solely multi stake holder governance model.

Did You Know?

Increase in radioactive forcing

World Meteorological Organization's the Greenhouse Gas Bulletin showed that between 1990 and 2013 there was a 34% increase in radioactive forcing – the warming effect on our climate – because of long-lived greenhouse gases such as carbon dioxide (CO₂), methane and nitrous oxide. It showed that CO₂ levels increased more between 2012 and 2013 than during any other year since 1984. It says the ocean cushions the increase in CO₂ that would otherwise occur in the atmosphere, but with far-reaching impacts. The current rate of ocean acidification appears unprecedented at least over the last 300 million years, according to an analysis in the report.

Is the amount paid to the Registrar of Companies, as filing fee for enhancement of capital is capital expenditure?

Answer: Yes. In a judgment in the case of Punjab State Industrial Development Corp. Ltd. Vs CIT [1997] 225 ITR 792 (SC). Hon'ble Court held that, the fee paid to the Registrar for expansion of the capital base of the company was directly related to the capital expenditure incurred by the company and although incidentally that would certainly help in the business of the company and may also help in profit-making, it still retains the character of a capital expenditure since the expenditure was directly related to the expansion of the capital base of the company.

Pick of the month





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Service Tax Updates
CA. Ashit Shah,
Mumbai

FEMA Updates
Team Genicon,
Chennai



CUSTOMS & FTP

Amends Notification No. 12/2012-Cus. dated March 17, 2012 to increase duty on raw as well as refined/ white sugar from 15% to 25%.
No. 26/2014-Cus. dated August 21, 2014

In supersession of Circular No. 49/2003-Cus. dated June 10, 2003 and Circular No. 10/2007-Cus. Dated February 13, 2007, the CBEC has issued guidelines for considering request for exemption from payment of customs duty under Section 25(2) of the Customs Act, 1962 ("the Customs Act").
No. 09/2014-Cus. dt August 19, 2014

Fixes rate of interest of six percent per annum on delayed refund of pre-deposit.
No. 70/2014-Cus. (NT) dated August 12, 2014

Case Law

The Tribunal held that Section 149 of the Customs Act, 1962 clearly permits amendment of shipping bill without any time limit even after export of goods.

VRA Cotton Mills Pvt. Ltd. Vs. Commissioner of Customs [2014-TIOL-1438-AHM]

The Tribunal held that for refund of interest paid for the period of the goods warehoused as per Section 61(2) of the Customs Act, assessee is not required to pass the bar of unjust enrichment.

Uni Abex Alloy Products Ltd. Vs. Commissioner of Customs [2014-TIOL-1597-CESTAT-MUM]

Ministry of Corporate Affairs

Notifications/Circulars/News

MCA issues Seventh Order for removal of difficulties which relates to appointment of auditors in Partly Government Companies The Ministry of Corporate Affairs has come out with the Companies (Removal of Difficulties) Seventh Order, 2014 dated September 4, 2014 in order to remove difficulties relating to appointment of auditors in partly Government Companies.

Companies (Removal of Difficulties) Seventh Order, 2014 dated September 4, 2014

MCA has further amended Schedule II of the Companies Act 2013 with regards to useful life, residual value and component accounting. With regards useful life and residual value the revised requirements are; The useful life of an asset shall not ordinarily be different from the useful life specified in Part C and the

residual value of an asset shall not be more than five per cent. of the original cost of the asset.

Notification dated the 29th August, 2014

Ministry of Corporate Affairs has clarified the following issues with respect to the capitalisation of borrowing costs in power projects: Borrowing costs incurred during extended delay in commencement of commercial production after the plant is otherwise ready, cannot be capitalised by virtue of AS-10 & AS-16 issued by ICAI.

General Circular No. 35/2014, Dated 27/08/2014

Amendment in the companies (Meetings and Board of powers) rules vide Companies (Meetings of Board and its Powers) Second Amendment Rules, 2014. The following has been removed from the rule "(i) a company having a paid-up share capital of ten crore rupees or more shall not enter into a contract or arrangement with any related party"

Notification dated 14.08.2014

CENVAT

Notifications/Circulars/News

Extends Cenvat credit benefit on the basis of Service Tax Certificate for Transportation of Goods (STTG Certificate) issued by the Indian Railways.

No. 26/2014-CE (NT) dated August 27, 2014

Fixes rate of interest of six percent per annum on delayed refund of pre-deposit.

No. 24/2014-CE (NT) dated August 12, 2014

Case Law

The Tribunal held that the Tribunal does not have jurisdiction to hear and decide the appeals against orders of Commissioner (Appeals) which pertain to rebate of duty of excise in respect of goods exported.

Diamond Power Infrastructure Ltd. Vs. CCE [2014-TIOL-1572-CESTAT-AHM]

The Tribunal held that engineering consultancy Service received for construction of railway siding to facilitate transportation of coal to the factory for running the captive power plant is an Input Service. Accordingly, credit is admissible on the same.

RSWM Ltd. Vs. CCE [2014-TIOL-1567-CESTAT-DEL]

The Tribunal held that cement in 50 kg bags sold to builders/ developers etc. are not required to be affixed with MRP under the Legal Metrology (Packaged Commodities) Rules, 2011.

Heidelberg Cement (India) Ltd. Vs. CCE [2014-TIOL-1433-CESTAT-MUM]

The Tribunal held that aseptic packaging paper is classifiable under Tariff Item 4811 90 92 of the Central Excise Tariff Act, 1985.

CCE Vs. Tetra Pak India Pvt. Ltd. [2014-TIOL-1440-CESTAT-MUM]

The Tribunal held that Cenvat credit taken on fuels used in generation of electricity which is wheeled outside factory premises is not admissible.

Bhushan Steel & Strips Ltd. Vs. CCE [2014-TIOL-1444-CESTAT-MUM]

VAT, Sales Tax and Entry Tax

Case Law

The High Court of Kerala held that parcel/ courier/ transporting and clearing agencies functioning within the State of Kerala are not liable for registration under Section 15 of the Kerala Value Added Tax Act, 2003.

Saurashtra Roadways Vs. Commercial Tax Officer [2014-VIL-219-KER]

The High Court of Karnataka held that portable hand-held electronic ticketing machine is not an IT Product and is exigible to VAT at residuary rate.

Microfx Vs. State of Karnataka [2014-VIL-222-KAR]

The Supreme Court upheld High Court order striking down Notification No. S.O. 53/P. A. 8/2005/S.8/2007 dated November 5, 2007 adding entry 152 in Schedule 'B' to the Punjab Value Added Tax Act, 2005, whereby tax is sought to be levied on sale of sugar imported from outside the State of Punjab.

State of Punjab and Anr Vs. Nand Kishore & Co. [2014-VIL-15-SC]

The High Court of Madhya Pradesh held that any raw material entering local area as specified in the Madhya Pradesh Sthaniya Kshetra Me Mal Ke Pravesh Par Kar Adhinyam, 1976 during the period when exemption certificate is in existence is exempt from payment of entry tax and assessee cannot be denied exemption from payment of entry tax only because assessee/manufacturer did not utilize raw material so brought within the period of subsistence of exemption.

Commissioner of Commercial Tax Vs. Maihar Cement Unit No. 2 [2014-VIL-210-MP]

The High Court of Bombay held that merely because a document is styled as an 'agreement to sell' would not necessarily mean that there was no sale. The said document would have to be examined in the light of definition of word 'sale' and if it is found that there was a transfer of goods as contemplated under Section 2(g), then notwithstanding the fact that the document is styled as an 'agreement to sell' the same would be construed as a 'sale'.

Exide Industries Ltd. Vs. State of Maharashtra [2014-VIL-208-BOM]

The High Court of Uttar Pradesh held that reassessment proceedings under Section 21 of the Uttar Pradesh Trade Tax Act, 1948 can only take place when there is an assessment order and there is reason to believe that there has been a case of under assessment or escaped assessment. In the event, there is no assessment order there can be no reassessment proceedings.

Catalysts Vs. State of Uttar Pradesh and Others [2014-VIL-206-ALH]

The High Court of Karnataka held that as assessee is carrying on business of manufacture and sale of fabrics in respect of which it is liable to pay output tax, input tax paid in respect of job works could be set off against output tax payable in respect of his business.

State of Karnataka Vs. Sri Krishna Spinning and Weaving Mills Pvt. Ltd. [2014-VIL-195-KAR]

The High Court of Punjab and Haryana held that a manufacturer is entitled to rebate of sales tax paid on purchase of material used for packing of crockery under the Haryana General Sales Tax Act, 1973.

Nuware India Ltd Vs. State of Haryana [2014-VIL-193-P&H]

The High Court of Karnataka held that Bitumen Emulsion is liable to be taxed @ 5% under the Karnataka Tax on Entry of Goods Act, 1979.

Sri. H. Narayanappa, Contractor Vs. Additional Commissioner of Commercial Taxes [2014-VIL-205-KAR]

The High Court of Gujarat held that transportation charges of crude oil through pipeline are includible in sale price and assessee is liable to pay tax on the same.

Oil & Natural Gas Commission Vs. Commissioner of Sales Tax [2014-VIL-211-GUJ]

Service Tax

Notifications/Circulars

Amends Notification No. 25/2012-ST dated June 20, 2012 to exempt services by specified organisations in respect of a religious pilgrimage facilitated by the Ministry of External Affairs of the Government of India under bilateral arrangement.

No. 17/2014-ST dated August 20, 2014

Notifies October 1, 2014 as the date on which service tax on radio taxi service and sale of space for advertisement on medium other than print media becomes payable.

No. 18/2014-ST dated August 25, 2014

Amends Service Tax Rules, 1994 with effect from October 1, 2014 to insert new rules to provide for determination of rate of exchange and power to issue supplementary instructions.

No. 19/2014-ST dated August 25, 2014

Case Law

The High Court of Mumbai held that cellular mobile service provider is not entitled to avail Cenvat credit on tower parts & pre-fabricated buildings.

Bharti Airtel Ltd. Vs. CCE [2014-TIOL-1452-HC-MUM-ST]

The High Court of Madras held that there is no provision of law under the Central Excise Act, 1944 which gives power to the Commissioner (Appeals) to review his order.

Venus Rubbers Vs. Additional Commissioner of Central Excise [2014-TIOL-1393-HC-MAD-ST]

The Tribunal held that support services provided by assessee to run the business of their clients by way of assistance in marketing, in obtaining loans from financial institutions, liaisoning with the government agencies for getting various permissions, training of their personnel, etc. is not taxable under Management Consultancy Service.

Tata Autocomp Systems Ltd. Vs. CCE [2014-TIOL-1608-CESTAT-MUM]

The High Court of Madras agreeing with decision of the Tribunal in the case of Bombay Flying Club Vs. Commissioner of Service Tax [2012-TIOL-841-CESTAT-MUM], held that imparting training to

students in various activities such as Higher National Diploma Courses in Nautical Science and Marine Engineering and also conducting short term courses in Oil Pollution and Response Course, Fire Prevention and Fire Fighting Course, Personal Survival Technique Course, Tanker Familiarization Course, Personal Safety and Social Responsibility Course for sea men and students would come within the purview of 'Commercial Training or Coaching service' attracting payment of service tax.

Academy of Maritime Education and Training Trust Vs. Commissioner of Service Tax [2014-TIOL-1327-HC-MAD-ST]

The High Court of Delhi struck down constitutional validity of Rule 5A(2) of the Service Tax Rules, 1994 and held that only type of audit within contemplation of Chapter V of the Finance Act, 1994 ("the Finance Act") is that stipulated for in Section 72A thereof, i.e. a special audit when only certain circumstances are fulfilled. The Parliament had a clear intention to provide for only a special audit. The fact that Section 72A of the Finance Act prescribes conditions meriting such special audit compels the necessary inference that the Parliament did not intend to provide for a general audit that every assessee may be subjected to, on demand. The High Court also struck down the Central Board of Excise & Customs ("the CBEC") Circular F. No. 137/26/2007-CX.4 dated January 1, 2008 which provides clarification on Rule 5A(2) audit on the ground that the circular is patently contrary to the Finance Act.

Travelite (India) Vs. Union of India and Ors. [2014-TIOL-1304-HC-DEL-ST]

Appellant took input service credit of consultancy services received in respect of feasibility studies for cement plant outside India. Department denied credit on ground that said services were not in relation to assessee's activities in India and invoked extended period of limitation on ground that said credit was not disclosed in returns. Tribunal upheld that, admittedly, credit was duly reflected in returns, which were filed with revenue. In absence of any column in returns requiring nature of input or input services, non-disclosure of same cannot attribute any mala fide to appellant. Non-disclosure of information, which is not required to be disclosed or recorded by statutory provisions or prescribed proforma, does not amount to suppression or concealment and hence, demand was barred by limitation.

Ultra Tech Cement Ltd. - (2014) 48 Taxmann.com 99

Appellant was a registered, non-profit making society of labourers, was supplying labourers on daily wage basis. Department demanded service tax thereon under Manpower Recruitment and Supply Agency Services. Appellant argued that society and labourer did not have employer and employee relationship, therefore services did not fall under manpower recruitment and supply agency services. It was upheld that prima facie, appellant had rendered services under the category of manpower recruitment or supply agency services.

Moubhandar Peripheral Development Shramik Swavlambi Sankari Samity Ltd. - (2014) 47 Taxmann.com 323

Appellant were issued notice for recovery of tax, for the period from 16-10-1998 to 31-3-2004 under section 73(1)(a) on 06-10-2004. Appellant argued that section 73 was substituted by new section with effect from 10-9-2004 and there was no provision therein as section 73(1)(a). High Court upheld that provisions contained in section 73(1)(a) were substituted vide Finance (No. 2) Act, 2004 with effect from 10-9-2004. Erstwhile provision related to value of taxable services escaping assessment, while amended provision provided for recovery of service tax not levied or paid or short-levied or short-paid or erroneously refunded. Admittedly, on date of show cause notice i.e., 6-10-2004, provisions contained in section 73(1)(a) prevailing prior to 10-9-2004, were not in existence. In other words, statutory provision,

under which show cause notice issued, was not in existence as on that date. Hence, impugned notice invoking provisions not in force on date of issuance of notice was bad in law.

Peoples Choice - (2014) 46 Taxmann.com 22 (Karnataka)

Appellant were liable to pay service tax during the year 2005-06 to 2009-10 but they failed to pay service tax for these periods. Hence, Show-cause notices were issued to them in the year 2010-2011 by invoking extended period of time limitation. The Department sought penalties under section 76 as well as section 78 for the period up to 09-05-2008 and under section 78 only for period thereafter. Department argued that imposition of penalty under section 76 of the Act was mandatory for failure to pay service-tax for the period prior to 10-5-2008. Penalties could be imposed on the assessee simultaneously under section 76 and as well as under section 78 for the period prior to 10-5-2008, as ingredients of both the sections were present in the cases under consideration. Hon'ble Tribunal upheld that Proviso inserted in section 78 providing that 'no penalty shall be imposed under section 76 if penalty is imposable under section 78' has been inserted with effect from 10-5-2008 and has prospective operation and hence liable for penalty under both the sections.

Om Sai Engg. Works - [2014] 47 taxmann.com 175 (Ahmedabad - CESTAT)

Cenvat credit of input service is available after payment of value of input service (along with tax) and there is no requirement that service tax should have been deposited by service provider before availment of credit; if service provider has not deposited service tax, revenue's remedy lies at end of service provider.

General Manager, BSNL - [2014] 48 taxmann.com 35 (New Delhi - CESTAT)

FEMA/RBI/SEBI Notifications/Circulars

RBI has clarified that the limit under Liberalised Remittance Scheme can also be used for acquisition of immovable property outside India and post facto reporting required under A.P. (DIR Series) Circular No.32 dated September 04, 2013, (Sr. no. 4 of Annexure to the Circular) stands withdrawn.

A. P. (DIR Series) Circular No. 19 dated August 11, 2014

As per existing ECB policy, refinancing of existing ECB by raising fresh ECB at lower all-in-cost is permitted subject to the condition that the outstanding maturity of the original loan is maintained. The cases, where the Average Maturity Period (AMP) of the fresh ECB is more than the residual maturity of existing ECB, are examined by the Reserve Bank under the approval route. Now, RBI simplified the procedure by delegating powers to AD-category 1 Banks for approval even where average maturity period of fresh ECB exceeds residual maturity of the existing ECB under the automatic route subject to the certain conditions as stipulated under the said circular.- *Circ No. 21, dt 27.08.2014*

RBI vide Notification increased the Individual subscription limit under PPF scheme from Rs 1,00,000 to Rs.1,50,000 which is effective from 22.08.2014.- *No. 187/2014-2015, Dt 22.08.2014*

RBI introduced a set of guidelines on lending against shares. As per the above said Notification, NBFCs lending against collateral of shares shall maintain a Loan to Value (LTV) ratio of 50% and accept only Group 1 securities, as collateral for loans of value more than 5 Lakhs, subject to review by the Bank. All NBFCs with asset size of 100 crore and above shall report on-line to stock exchanges, information on the shares pledged in their favour, by borrowers for availing loans. *Notn186 dt August 21, 2014*