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Dear Professional Colleagues & Students,

Greetings from Mysore Chapter of ICSI!!

With the freshness of spring lingering on with sprightliness all around; most of us welcomed the new year of lunar calendar by celebrating the festival Ugadi and Gudi Padwa with our family and friends. Hope the new Financial Year 2016-17 will commence on a positive note especially for our profession.

During March 2016, Students of Mysore Chapter successfully conducted the annual students program "Umang 2016". Students from different colleges and various parts of Karnataka had participated and showcased their talent.

A Members' program on the Companies Act 2013 was also conducted and many professional colleagues participated with great enthusiasm.

Mysore Chapter is planning a 3 day **All India Residential Research Circle** Brain Storming residential program in the upcoming month of May/June. **We hope to see members attending this program in good numbers and making it a success.**

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COMPANY LAW QUIZ COMPETITION – CHAPTER LEVEL

ICSI-Mysore Chapter had conducted first round of Company Law Quiz Competition at chapter level for CS students on 23.03.2016. CS Phani Datta, Member acted as Quiz Master. Two students Mr. Prajwal R & Mr. Anuj Mehta were adjudged as Winners based on the marks obtained. Both of them will be representing for ICSI-Mysore Chapter at Regional level round in SIRC, Chennai.

UMANG 2016 – ANNUAL STUDENTS EVENT

The students of ICSI-Mysore Chapter had organized 10th Annual Talents' Day of the Chapter - **UMANG'16**. The Program was conducted in two parts – preliminary round of the competitions were held on 19th March 2016 in which about 60 students from various institutions from in and around Mysore participated.

The main program was held on Saturday, the 26th March, 2016 at Chapter Premises along with the final round of the competitions. The program was inaugurated by CA Sanjay S K, Chairman, ICAI Mysore Branch & Mr. Ramamurthy, Director, Godfrey Philips India Limited, New Delhi. CS M.C. Bhansali Chairman of Mysore Chapter of ICSI welcomed the gathering and Secretary of the Chapter CS Pracheta read the Secretarial Report for the year. The toppers of June & December 2015 CS Exams students were felicitated during the inauguration session. Students of different colleges around Mysore and CS, CMA and CA participated in various Competition viz. Essay Writing, Best Manager, Treasure Hunt, & Quiz.



The program was concluded with the Valedictory address by CS Sabareeshan C K, Past Chairman, ICSI-Mysore Chapter and the Winners of the competitions were awarded prizes. The Event was coordinated by Mr. Anuj Mehta & Team.

SEMINAR ON COMPANIES ACT 2013

The ICSI-Mysore Chapter conducted a One Day Seminar on the Companies Act 2013 on 27th March 2016 at the Chapter premises. In the inaugural session CS Bhansali M C, Chairman, Mysore Chapter welcomed the delegates & the Speakers.

Session 1: CS Dwarkanath C, PCS, Bangalore handled the first session on the topic “SS1-Meetings of the Board of Directors”.

Session 2: In the second session CS Nagendra Rao D, Regional Council Member, SIRC conducted the session on “Form INC 29”.

Session 3: The post lunch session was taken over by CS Sridharan A M, PCS, Chennai on the topic “NCLT”

The seminar was attended by company secretaries, industrialists and students from various parts of Karnataka, Tamilnadu & Kerala.





Crowd Funding

The Alternate Funding Option

'Crowd-funding' connects the Crowd (which means the supporters to the projects) directly to those who need Funds. Crowdfunding is the process of raising money to fund what is typically a project or business venture through many donors using an online platform, such as Kickstarter, Indiegogo and Crowd funder. The fundraising window is usually finite -- 90 days, for instance -- and the fees and rules vary across platforms.

How: Crowdfunding is typically done through an online platform that allows the fundraiser to set up a public campaign for accepting donations. The campaign will advertise details such as the nature of the project or venture, the amount of money the company is hoping to raise and the campaign's fundraising deadline. People can donate a specified amount through the fundraising campaign's website and often receive some sort of acknowledgement or reward in return for their donation.

Applications of crowdfunding: This can range from charitable and educational projects to creative projects -- like funding films -- as well as supporting scalable businesses. Crowdfunding platforms each tend to cater to specific categories, such as Kickstarter which focuses on creative projects or Crowd funder, an equity-based platform which is used for businesses looking to raise investment capital. Crowdfunding is a way of raising finance by asking a large number of people each for a small amount of money. Until recently, financing a business, project or venture involved asking a few people for large sums of money (**Private Equity or Angel Investors**).

Crowdfunding switches this idea around, using the internet to talk to thousands -- if not millions -- of potential funders. Typically, those seeking funds will set up a profile of their project on a website. They can then use social media, alongside traditional networks of friends, family and work acquaintances, to raise money. There are three different types of crowdfunding: donation, debt and equity.

A. Donation/Reward crowdfunding

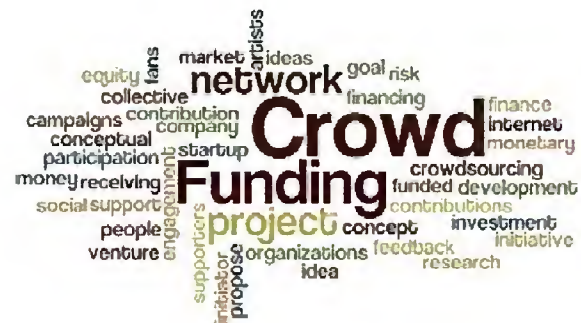
People invest simply because they believe in the cause. Rewards can be offered (often called reward crowdfunding), such as thanks giving & acknowledgements on an album cover, free tickets to an event, regular news updates, free gifts and so on. Returns are considered intangible. Donors have a social or personal motivation for putting their money in and expect nothing back, except perhaps to feel good about helping the project.

B. Debt crowdfunding

Investors receive their money back with interest. Also called peer-to-peer (p2p) lending, it allows for the lending of money while bypassing traditional banks. Returns are financial, but investors also have the benefit of having contributed to the success of an idea they believe in.

C. Equity crowdfunding

People invest in an opportunity in exchange for equity shares. Money is exchanged for a shares, or a small stake in the business, project or venture, if the project is successful the value goes up, If not, the value goes down.



Technology & Electronic money

- Developed under PHP/Drupal, the web platform is based on modern and secure technology, according to current web standards.
- All the funds (payments, account management...) are managed by a payment partner, which has the "Payment Service Provider (PSP)" authorization. It acts as a real trusted third party to receive the funds.
- The platform allows a personalized access according to your profile, entrepreneur, administrator, investor etc..
- The platform is customizable: URL, logo, design, contents... the web design is built with you the website that suits you.
- You can also manage a personalized news section (articles, blog, videos...) and your own community of online investors, the details of the project, business development, projections etc....
- The platform allows to manage several languages and currencies.

One could contribute whatever amount, become part of a community, and see the impact of one's contribution over a period of time.

Creative crowdfunding helps:

- Get instant validation for your idea. Reduce the amount of time you spend on ideas that turn out not to be viable.
- Test markets and assess demand for your project.
- Generate buzz around your brand and establish a marketing platform that resonates with the target market.
- Receive instant feedback during the project-building testing stage. Continue improving your project and receiving feedback at each stage of your crowdfunding process. Improve your project before it launches on a larger scale.

The Indian Scenario

SEBI had released a Consultation Paper on Crowdfunding in India. This consultation paper aims to provide a brief overview of the global scenario of crowdfunding including the various prevalent models, the associated benefits and risks, the regulatory approaches in different jurisdictions etc. The paper also covers the extant legal structure governing the fund raising for start ups and SMEs in India. Crowdfunding is solicitation of funds (small amount) from multiple investors through a web based platform or social networking site for a specific project, business venture or social cause. Crowd sourced funding is a means of raising money for a creative project (for instance, music, film, book publication), a benevolent or public-interest cause (for instance, a community based social or co-operative initiative) or a business venture, through small financial contributions from persons who may number in hundreds or thousands. Those contributions are sought through an online crowd-funding platform, while the offer may also be promoted through social media.

Benefits of Crowd funding

- I. Crowdfunding provides a much needed new mode of financing for start-ups and SME sector and increases flows of credit to SMEs and other users in the real economy.
- II. Financial crisis (2008) resulted in failure of number of Banks and, consequently the Basel III Capital adequacy norms have been made applicable to Banks. As a result, Banks have become increasingly constrained in their ability to lend money to the ventures or start-ups which may have high risk element. Hence, there is a need for funding for SME through alternative sources.
- III. SMEs are able to raise funds at lower cost of capital without undergoing through rigorous procedures in this mode.
- IV. Crowdfunding provides new investment avenue and provides a new product for portfolio diversification of Investors.
- V. It increases competition in a space traditionally dominated by a few providers (providing finance to Start-ups and SMEs).
- VI. The operators of a crowdfunding platform may engage in vetting or due diligence of projects to be included on their website, to maintain their reputation

Risk in Crowd Funding... continued in page ..9



Following a Financial Year Not Ending On 31st March

In India we follow English calendar for all general purposes and Vedic calendar for festivals. A business entity (including a Company) needs to have a fixed financial year (whether same as English calendar or not) for closing books of accounts and filing annual returns to various authorities.

While Section 3(21) of the General Clauses Act, 1897 defines financial year to mean “the year commencing on the first day of April”, this definition under the Companies Act, 1956 was not clearly applicable to companies other than body corporates and insurance companies. This being the case, there was no uniformity in financial year pattern of the companies in India.

Under the Companies Act, 2013 definition of the term ‘financial year’ is provided in Section 2(41) which specifies as below:

First paragraph of the definition makes it clear that every company or body corporate shall follow uniform financial year i.e., a financial year ending as on 31st day of March every year.

As per the first proviso of the definition, a company may (continue to) follow a different financial year other than the above, if it files an application before the Tribunal (at present CLB) and the Tribunal, after being satisfied that the applicant company is a holding company or a subsidiary of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India.

The second proviso of Section 2(41) further requires that a company or body corporate, existing on the commencement of this Act, shall, within a period of two years from such commencement, align its financial year as per the provisions of this clause. **It means that every Company which doesn’t obtain the approval from Tribunal (CLB), shall align its financial year so as to end on 31st March every year.**

Procedure for following or retaining/continuing Financial Year which does not end on 31st March every year:

If a company wishes to follow or retain/continue a financial year which doesn’t end on 31st March, then such Company shall make an application before and obtain order from CLB in this matter. The following procedures are given as a ready reference:

- a. Convene Board meeting to pass resolutions for the following (Considering the time constraint and the urgency of the matter, the resolution may be passed by circulation):
 - I. Approving for making an application to CLB (in the prescribed format) seeking exemption from compliance with the provisions of Section 2(41) of the Companies Act, 2013 (CA 2013) (i.e., to follow a financial year different from that prescribed under the CA 2013);
 - II. Authorise any of the directors for signing documents in connection with the aforesaid application;
 - III. Appoint a practicing professional for representing before the CLB.
- b. Intimate Registrar of Companies (RoC) in Form GNL-1 about making application to the CLB along with a copy of the petition to be submitted to CLB along with other annexures:

*After submission of the Form GNL-1 and the same being approved by RoC, a copy of the payment receipt and the hard copies of the set of documents shall be submitted in physical form and an acknowledgment shall be obtained from RoC which shall be later submitted to CLB as proof of intimation.

- c. File the application with CLB containing material details, such as – status of the company, date of incorporation, registered office address, details of authorised and issued capital, main objects, present business activities of the company, grounds on which application is being made and nature of reliefs sought;

The following documents shall be annexed to the application:

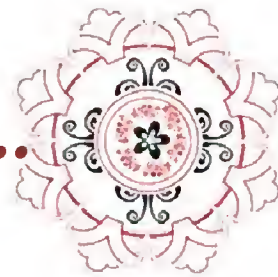
- I. Proof of intimation to concerned ROC;
- II. Certified copy of the Board Resolution(s) passed by company;
- III. Certified copy of latest balance sheet of holding company incorporated outside India, with whom company is aligning its financial year (duly certified by Notary Public of that country);
- IV. Board resolution or consent on the letterhead of the holding company incorporated outside India (permitting its subsidiary to make an application for retaining its financial year) duly notarized and apostilled as per The Hague Apostille Convention;
- V. Memorandum of Appearance (Vakalatnama) appointing the practicing professional;
- VI. Affidavits verifying the petition from all the directors of the company;
- VII. Demand Draft of Rs. 5,000/- in favour of Pay and Accounts Officer, Ministry of Corporate Affairs, payable at (city in which the regional CLB is located);
- VIII. Memorandum and Articles of Association of the petitioner company
- IX. Any other document as may be relevant for the details of the application.

d. On filing the above documents, CLB will fix a hearing date and make the Order.

e. On obtaining the order from CLB, to file the order with ROC.

* The procedure, format and details for making an application to CLB is governed by the Company Law Board Regulations, 1991.

Living Room...



Over Confident...?

I was driving when I saw the flash of a traffic camera. I figured that my picture had been taken for exceeding the limit even though I knew that I was not speeding. Just to be sure, I went around the block and passed the same spot, driving even more slowly, but again the camera flashed.

Now I began to think that this was quite funny, so I drove even slower as I passed the area once more, but the traffic camera again flashed. I tried a fourth and fifth time with the same result...I was now laughing as the camera flashed while I rolled past at a snail's pace.

Two weeks later, I got five damn tickets in the mail for driving without a seat belt!!



Words worth Millions

“Cultivation of mind should be the ultimate aim of human existence.”

“Freedom of mind is the real freedom.”

“Humans are mortal. So are ideas. An idea needs propagation as much as a plant needs watering. Otherwise both will wither and die.”

Dr. B.R. Ambedkar



Right to Legal Aid

Legal Aid implies providing free legal service to the poor and needy who cannot afford the services of a lawyer for the conduct of a case or a legal proceeding in any Court, tribunal or before an authority. When these Aids are provided by lawyers to those who can't afford the services of a lawyer for a case or any legal proceeding in a court or tribunal or any such authority, it is called Legal Aid.

The Legal Services Authority Act, 1987 was enacted to provide free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities and to organise Lok Adalats to secure that the operation of the legal system promotes justice. The Act makes provisions in relation to Lok Adalat. The main object of the Lok Adalat is to provide quick justice at less expense. And also establishes statutory legal services authorities at the National, State and District level.

In **M.H.Hoskot v. State Of Maharashtra**, Justice Krishna Iyer observed that providing free legal aid is the State's duty and not Government's charity.

The Constitution of India gives much emphasis on the Constitutionalism and Rule of Law. In India the rule of law is regarded as a part of the basic structure of the Constitution and also of the natural justice. The preamble of the Constitution secures to its citizen, social, economic and political justice.

Article 39A of the Constitution of India provides that State shall secure that the operation of the legal system promotes justice on a basis of equal opportunity, and shall in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

Articles 14 and 22(1) also makes it obligatory for the State to ensure equality before law and a legal system which promotes justice on a basis of equal opportunity to all.

Right to free legal aid or legal service is an essential fundamental right guaranteed by the Constitution under Art. 21.

In **Hussainara Khatoon (IV) v Home Secretary, State of Bihar** [(1980) 1 SCC 98] where the court was appalled at the plight of thousands of undertrials languishing in the jails in Bihar for years on end without ever being represented by a lawyer. The Apex Court declared that "there can be no doubt that speedy trial, and by speedy trial, we mean reasonably expeditious trial, is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21." The court pointed out that Article 39-A emphasised that free legal service was an inalienable element of 'reasonable, fair and just' procedure and that the right to free legal services was implicit in the guarantee of Art. 21.

Section 304 of Criminal Procedure Code provides that where, in a trial before the Court of Session, the accused is not represented by a pleader and where it appears to Court that the accused has no sufficient means to engage a pleader; the Court shall assign a pleader for his defence at the expense of the State.

Order 33 of the Civil Procedure Code provides in respect of the suit by indigent person. On the application to sue as indigent person is being granted the plaintiff shall not be liable to pay court fee and in case he is not represented by a pleader, the Court may, if the circumstances of the case so requires, assign a pleader to him. This benefit has now been extended to the dependant also.

The Free Legal Services include:

1. Payment of court fee, process fees and all other charges payable or incurred in connection with any legal proceedings;

2. Providing Advocate in legal proceedings;
3. Obtaining and supply of certified copies of orders and other documents in legal proceedings;
4. Preparation of appeal, paper book including printing and translation of documents in legal proceedings.

Eligible persons for getting free legal services include:

- | | |
|---|--|
| 1. Women and children; | 5. Disabled persons; |
| 2. Members of SC/ST; | 6. Persons in custody; |
| 3. Industrial workmen; | 7. Persons whose annual income does not exceed Rs. 1,00,000. |
| 4. Victims of mass disaster; violence, flood, drought, earthquake, industrial disaster; | 8. Victims of Trafficking in Human beings. |

Application made for free legal Aid can be rejected on the following basis:

1. The applicant has enough money and can afford a lawyer,
2. Does not fulfill any of the eligibility criteria, or
3. The case does not deserve legal action.

Conclusion : The major drawback of legal aid movement in India is the lack of legal awareness. People are not aware of rights and protection available under the law. It needs to be realized that the promotion of awareness regarding legal aid is not the exclusive duty of the Legal fraternity. It is equally the concern and responsibility of the society at large. The Authority also fails to provide sincere expertise in the area of Law where legal aid is asked for, it takes its own time to assign a lawyer and there is lack of transparency and accountability attached if they fail to deliver legal services to their assigned clients. It is suggested to the State to take an initiative and connect to best lawyer for pro bono services or make it compulsory for them to take up minimum three to four cases every year. Constitutional commitment for legal aid can only be cherished if society comes forward to care for its vulnerable population.

Crowd Funding ... Contd. from page 5

Risk in Crowd Funding

Crowd is also associated with many risks, The risk of failure is further increased by the fact that the funding is potentially by participants who do not have the skills and experience needed to assess the risk before investing/lending, as compared to the VCF/PE Investors, banks or other financial institutions who provides funds under the traditional business model.

For Example - Bubble and Balm was a fair trade soap company, who were also the first company to raise funding for their start-up through the equity crowd-funding platform Crowd cube, based in the UK, in 2011. It raised £75,000 in return for 15 per cent of the company's equity from 82 investors, who contributed between £10 and £7,500 each. In July 2013 the business closed overnight, leaving no way of contacting the company or a way to recover losses. The investors lost 100% of their investment. There is possibility of genuine websites being used by fraudsters claiming to be promoters of projects or of false websites being established, simply to defraud the investors or to entice individuals to provide credit card details etc. Thus, there is a risk of misuse as well as cyber-security and/or identity theft.

Conclusion: Crowd Funding is therefore is a new concept which requires a lot of study & may call for many amendments in the Companies Act 2013, SEBI Regulations & Foreign Exchange Management Act for issue of shares on private placement basis, issue of shares to non-residents who may become members of a company just by making on line payments, what FEMA regulations are applicable?? If there are more than 200 members in a crowd funding, does the company have to comply with Public Issue guidelines?? Does the company become a public company??? Does crowd funding attract the Information Technology Act?? & DATA Protection rules? How do we make the applicant sign application forms??? What Tax implication would a crowd funding have?? all these and many more are thought provoking it would be interesting to see how the government would handle this concept, while it is in nascent stages even across the globe.



Changes in SVB Procedure

SVB is a branch of the Custom House that specializes in examining the influence of relationship on the invoice value of the imported goods in respect of transactions between related parties. CBEC has brought certain procedural changes in SVB procedure vide Circular No. 4 & 5 /2016 dated 9th Feb 2016. These changes were brought because of delay in finalization of cases pending before SVB. The representation by Trade and Industry was made to the Government regarding the difficulties faced in finalizing the SVB valuation such as:

- Delays in finalization of SVB investigations
- Continued uncertainty due to provisional assessments
- Increase in transaction costs due to Extra Duty Deposit (EDD)
- Burdensome procedure of removal of SVB orders

After considering the above, need was felt to streamline the procedures relating to investigations done by SVBs, which resulted in following changes:

#	How it was (Prior to Feb 9, 2016)?	How it is?
1	EDD @ 1% of declared assessable value is being collected from the importer for a period of 4 months during which time he is required to submit required documents and information to the SVB. In the event of non-submission of documents within aforesaid time limit, the EDD can be increased to 5% till such time the importer complies	No security in the form of Extra Duty Deposit ('EDD') shall be collected from the importers. However, if the importer fails to provide requisite documents / information within 60 days, security deposit (either in cash or bank guarantee) at a rate of 5% of the declared assessable value shall be collected for a period not exceeding three months
2	SVB cell to register the case for provisional assessment and they were empowered to finalize the case by passing the appealable order is issued upon receipt of all the documents from the assessee.	SVB shall not issue an appealable order. Instead, it shall convey its investigative findings by way of an Investigation Report to the referring customs formation for finalizing the provisional assessments to Commissioner. Now the Chief Commissioner or Commissioner shall draw the action plan for completing the pending cases finalization
3	No requirement for filing prior bill of entry in case of royalty & license fee, etc.	In such cases, importers are advised to file a prior bill of entry, preferably 15 days prior to the import
4	SVB cell was responsible to finalize the order within 90 days from the date of submission of the final documents by assessee to SVB cell.	SVBs shall complete the investigations and issue its findings within two months from the date of receipt of information wherever possible to Commissioner office. In cases where investigations are not completed within 2 months, SVB shall seek the approval of appropriate authority for extension of time period
5	If the importer is having continuous imports over a period of time extending beyond 3 years, he has to file replies and documents at least 3 months before the completion of 3 years, so as to take up the renewal of the case. If there is no change in the terms and conditions of the agreement, or pattern of invoicing, the same shall be specifically stated by the importer in the form of an affidavit. On examining these documents, the SVB order issued in the past will be renewed for a further period of 3 years	Renewal process has been eased by bringing in a system of one-time declaration Annexure 1 or 2. Where Annexure 1 is filed with SVB cell the process of renewal is treated as dispensed with. SVB cell to communicate to Commissioner and importer accordingly.



Settlement of Dues of Deceased Employee

In managing HR functions, one of the situations which is not wished but at times by virtue of destiny to be encountered is the demise of an employee. In such circumstance the last thing the Employer will expect is disputes in terms of the settlement of terminal dues due to the deceased employee. It is at this point in time, it becomes more relevant for an HR Professional to know the provisions relating to declaration of nominee by the employee.

There are basically THREE enactments under which significant amount of time due to the deceased employee will get affected, if the nominee details are not captured appropriately which is one of the basic obligations on the part of the employer. They are:

1. Payment of Gratuity Act, 1972 & the Rules
2. Employees Provident Fund & Miscellaneous Provisions Act, 1952 & the Scheme
3. Payment of Wages Act, 1936 & the Rules

Key aspects to note:

1. Provision relating to “Nominee & its Nomination Procedure” under Payment of Gratuity Act, 1972, EPF & MP Act, 1952 & the Payment of Wages Act, 1936 is housed under Section 6, Paragraph 61 of the Scheme & Section 25A respectively.
2. The sum & substance of all the three enactments regarding the term ‘Nominee & its Nomination Procedure’ is that;
 - a. Employers have a responsibility to appraise the employee about the provision of nomination at the time of joining & also ensure such nomination declarations are documented without any exceptions & flaws.
 - b. Employees have an obligation to make the nomination at the time of joining the services.
 - c. Such nomination shall be made in the name of his / her family i.e. spouse.
 - d. If at the time of making nomination, if the employee has not acquired family, then the employee can nominate any other person as his nominee.
 - e. But, once the employee acquires family by way of Marriage, by default, family i.e. spouse will be considered as nominee & the nomination made in favour of the other person stands cancelled.
 - f. Employee after acquiring family or has family at the time of declaration of nomination, he may make nomination against any of his family member i.e. spouse, children or parents or all with indication of percentage of proportion of dues settled to be paid to the nominees.
 - g. In case if any minor is made as nominee, then guardian for such nominee should be indicated by the employee.
 - h. If the nominee predeceases the employee, then fresh nomination shall be made by the employee.
 - i. During employee’s stay with the Company/Establishment as an employee, nomination made, can be changed/modified any number of times but only among the members coming under the definition of the term “Family”.
 - j. In situations where due to unavoidable circumstances if the employee was not able to declare the nominee or made but is no more valid, in such circumstances, if the employer deposits such wages as it was due to such deceased employee with the appropriate statutory authorities under above mentioned enactments, it would suffice to discharge the employer from his liability.
3. Here it may be noted that as per the Supreme Court ruling, the right of the nominee is only to receive the amount i.e. benefit that was due to the deceased employee & not to enjoy. Reason being, such amount received might also be required to be shared among legal heirs.

If the above mentioned aspects are ensured, then, probably, the Company may avoid disputes in terminal settlement, its image being impaired before the deceased employee nominee besides putting such nominee under serious financial hardship.



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e-Tools for the Professionals

Indian Law Book

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Dear Friends, in this globalised world there is a large amount of trade transactions taking place between the Countries. The traditional concept of trade barrier is transformed from one country one market to one world only one market. Every day there are lacs of cross border trade transactions taking place between the Countries. Even India is also no exception for this. There are multiple products and services that get exported from India to abroad. In the same way products and services enter India from abroad. Then what is the size and value of such import and export.....? What are all the products exported from India, at what quantity and at what price.....? At the same time what are the products imported to India at what quantity and at what price....? Are you interested in knowing the details, data, statistics and information about import and export trade of India.....? There is one unique web site which provides such details in numerical data and also in a Chart based presentation.

I am sharing with you about one such unique website, www.zauba.com. This web portal is owned and developed by Zauba Technologies & Data Services Private Limited and this website helps you to find out details of almost all types of imported and exported product in the following manner.

1. Date of Import/Export
2. HS Code
3. Destination or Origin Country
4. Port of Landing/Discharge
5. Unit
6. Quantity
7. Value (in INR)
8. Per Unit Value (In INR)

We can search the product details either using the name of the Product or using HS code of the product.

Another use full option available in this web portal is calculation of custom duties. We need to click the Custom Duty option in navigation menu and we only need to mention Product name/description, it will show the applicable amount of Custom Duty in INR for every Rs. 100/-.

This website provides highly accurate and real time data of international trade and registered businesses. The data helps corporates to gain insight into trades, assess the market size and demand, know key markets for their products and discover new markets & opportunities and explore their business abroad also.



News Room



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NEWS EXPRESS

- ✓ India to appeal against WTO panel ruling in solar case
- ✓ India to file 16 cases on Solar Dispute against US for 'violation' of WTO treaty
- ✓ After rebuffing Masood ban, China backs India against WTO ruling that opposes India's domestic manufacturing under its National Solar Mission.
- ✓ 'Monsanto shouldn't be allowed to exploit farmers': India vows to break up GM-cotton monopoly (www.rt.com)
- ✓ Central Cabinet approves WTO's trade facilitation pact
- ✓ Govt. constitutes a 3 Member Committee for Content Regulation of Govt. Advertising

WTO: India opposes US, EU bid to hold small-group talks

Taking on India and China, developed members including the US, the EU and Japan have demanded that the talks on tariff reduction on industrial goods should take place plurilaterally between a few like-minded countries. India, backed by some other developing countries, however, maintained that negotiations on industrial goods (NAMA) should take place within the multilateral framework based on an earlier discussed text, while China said that even if plurilateral talks happen, the concept of special & differential treatment (S&DT) for developing countries should be maintained. <http://www.thehindubusinessline.com/>

Absurd to imagine India isn't permanent UNSC member

Backing India's bid for a permanent seat in the UN Security Council (UNSC), former French President Nicolas Sarkozy today said it is "absurd" to imagine that the world's largest democracy is yet to become a permanent member of the powerful wing of the world body. Proclaiming himself as a "friend of India", the current Leader of Opposition of France, said there is something "very special" about India and he shares a "deep fascination" for it and said there must be strategic partnership between India and France. <http://economictimes.indiatimes.com>

Panama Effect

The Reserve Bank of India (RBI) has tightened reporting norms for resident Indians in overseas ventures. Indian investors will now have to report any post-investment changes in the company they have put money in. The post-investment changes cover any alteration in status of the Indian investor, change in capital structure of the joint venture or wholly owned subsidiary, creation of a step-down subsidiary, conversion of loan to equity and equity to loan. <http://timesofindia.indiatimes.com/>

No encryption requirements are applicable on OTTs like WhatsApp

Unlike telecom service providers, internet service providers like Vodafone, Airtel etc Apps like WhatsApp, Skype and Viber (which are known as 'Over-The-Top Services' or OTTs) are currently neither regulated by TRAI's encryption requirements, nor are there any other requirements in the name of security which these have to comply with. So the end-to-end encryption services of WhatsApp is backed up by legal system in India.

Amazing facts in legal world

- In Colorado (a Western US State) it is illegal to collect rainwater. Apparently farmers and landowners are being punished for this.
- For many Americans, the ability to call 911 for help in an emergency is one of the main reasons they own a wireless phone.

Business Incubators

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With the initiation of the Start-up India Program, there has been repeated usage of the word 'Business Incubators', who shall approve the idea of the new business to be innovative for availing the benefits of the scheme. So what does this Business Incubator mean and what do they do? An Incubator means an enclosed apparatus in which premature or unusually small babies are placed and which provides a controlled and protective environment for their care (Wikipedia). A Business incubator means an organization designed to accelerate the growth and success of entrepreneurial companies through an array of business support resources and services that could include physical space, capital, coaching, common services, and networking connections.

Business Incubation is a dynamic process of business development. They nurture young firms, helping them to survive in their early stage. Business incubation programs are often sponsored by private companies or municipal entities and public institutions, such as colleges and universities. Their goal is to help create and grow young businesses by providing them with necessary support and financial and technical services. BIs place a major role in the nascent stages of the business between the conceptions of ideas to the growth of Business. They support the growing business in the stages of initiation, piloting and roll out of the business ideas. The list of government approved incubators under Start-up India Schemes can be accessed by this link http://startupindia.gov.in/upload/Startup_India_List_of_Incubators.pdf

Did
You
Know?

Deep web

The deep web, deep net, invisible web, or hidden web is part of the World Wide Web whose contents are not indexed by standard search engines for any reason. The deep web is opposite to the surface web. The deep web includes many very common uses such as web mail, online banking but also paid for services with a paywall such as video on demand, and many more. The dark web is the part of the deep web that requires special software to access, such as encryption software and peer-peer software, rather than just an internet protocol stack and conventional web browser. "Deep web" is distinct from "dark web". The "dark web" is the encrypted network that exists between Tor servers and their clients, whereas the "deep web" is simply the content of databases and other web services that for one reason or another cannot be indexed by conventional search engines.

Representation for abandoned TM Applications

The Trade Mark office, in its public notice date 04th April 2016 mentioned that the office has taken steps to treat the applications as abandoned in which no reply to 'examination report containing office objections to acceptance of the applications for registration' has been received within the period of 30 days as per Trade Marks Act, 1999 and rules made thereunder. Some Complaints there of being received that the applications were abandoned even after the reply or the objections were not received at all, the TM office has provided an opportunity to such applicants for submitting the representation with all details along with sufficient documentary evidences substantiating their cases.

All such representations and replies should be submitted to the office of CGPDTM by email at abhishek.p@nic.in, cc: sdojha.tmr@nic.in before 30th April 2016.

Pick of
the
month

Regulatory Updates

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CUSTOMS & FTP

Notifications/Circulars/News

The Central Government has changed the date of implementation of Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016 from 1 April, 2016 to 16 March, 2016.

No. 39/2016-Customs (N.T.), dated 15 March, 2016

The Central Government has notified Kashipur District U.S. Nagar, in the State of Uttarakhand for the purpose of unloading of imported goods and loading of export goods.

No. 40/2016-Customs (N.T.) dated 16 March, 2016

The Central Government has dispensed with requirement of filing customs baggage declaration form for domestic passengers who board international flights in the domestic leg.

No. 0/2016-Customs, March 2016

The Central Government has clarified that 'Wireless microphone sets/systems consisting of one or more wireless microphones and a wireless receiver' will not be classified under Customs Tariff Heading (CTH) 8525 50 50 of the Customs Tariff Act 1975 (CTA), since this entry has been omitted. This will now be classified under CTH 8518 10 00. *No. 9/2016-Customs, dt 11 March, 2016*

The Central Government has introduced "Integrated Declaration" with effect from 01.04.2016 which contains all the information required for custom clearance involving information required by other participating Government Agencies, under Indian Customs Single Window Project.- *No. 10/2016-Customs, 15.03.2016*

The Central Government has clarified that in case duty with interest is paid within 30 days from the date of receipt of Show Cause Notice, then the proceedings will be deemed to be closed against other persons (co-noticees) from whom no demand of duty is made.- *No. 11/2016-Customs, dated 15 March, 2016*

The Central Government has issued instructions to field formations for verification of certain aspects to prevent use of non-genuine transferable duty credit scrips and Duty Free Import Authorization. - *No. 12/2016-Customs, dated 28 March, 2016*

The Central Government has rectified the Harmonised System (HS) Code at Sl.No. 608 of the Appendix 37D of Hand Book of Procedures Vol. I (2009 -14) as 8708 30 00 against existing HS Code 8708 29 00, for export of "Other -Brakes and Servo Brakes and Part thereof". Further, it has been clarified that for the period prior to 24 February, 2014, the export benefit shall be available for the export of "Other -Brakes and Servo Brakes and Part thereof" irrespective of the HS Code (8708 30 00 or 8708 29 00). *No. 65/(RE-2013)/2009-2014, dated 18 March, 2016*

The Central Government has notified standard input output norms for specified medicine products to be exported under "Chemical and Allied product group". *No. 64/2015-20, 17.03.2016*

The Central Government has empowered the Tobacco Board, Guntur, to issue Generalised System of Preferences (GSP) Certificate for tobacco and tobacco products.

No. 63/2015-20, dated 7 March, 2016

Case Law

Data contained in 'soft form' in CD enabling the user to view and modify using an external software will be classified under CTH 8523 80 20 as 'Information technology software'.

ABG Shipyard Ltd. v CC (Acc& Import) (2016 (332) ELT 849)

The period of limitation for filing a refund claim cannot be made operative through subordinate legislation.

International Refrigeration Corporation v CC (2016 (332) ELT 824)

Exemption of Customs duty on goods imported for repair is not available, in case such goods are not re-exported within the prescribed period.

R.R. Kobler Overseas P Ltd. v CC ICD TKD (2016 (333) ELT 98)

Import of duty-free inputs under transferred Duty Exemption Entitlement Certificate (DEEC) licence could not be denied merely on the basis of allegation that CENVAT credit on inputs was availed by original holder/ manufacturer-exporter, until and unless it was supported by documents.

CC v Diamond Polyprints (2016 (332) ELT 883)

It was held that importers were required to comply with DGFT notification and accordingly obtain necessary import permit/ registration for import of insecticide even when intended for non-insecticidal purpose also.

Shree Pharma v CC (2016-TIOL-531-CESTAT-MAD)

Ministry of Corporate Affairs

Notifications/Circulars/News

In the Companies (Incorporation) Rules, 2014, new form of INC 11 with modified particulars i.e Certificate of Incorporation is introduced by substituting the existing format.- *Companies (Incorporation) Second Amendment Rules, 2016 23rd March 2016*

The Central Registration Centre (herein after referred to CRC) established vide notification number S.O. 218(E) dated 22nd January 2016 shall also exercise functional jurisdiction of processing and disposal of e-forms and all related matters pertaining to registration of companies under section 7, 8 and 366 of the Companies Act, 2013 having territorial jurisdiction all over India. The CRC shall process forms pertaining to registration of companies i.e. e-forms (INC-2, INC-7 and INC-29 along with linked forms INC-22, DIR-12 and URC-1 and any other forms as may be notified by the Central Government) filed along with the prescribed fee as provided in the Companies (Registration of Offices and Fees) Rules, 2014. The jurisdiction, processing and approval of name or names proposed in e-Form number INC-29 hitherto exercised by the respective Registrar of companies having jurisdiction over incorporation of companies under the Companies Act, 2013 and the rules made thereunder shall forthwith be exercised by Registrar, CRC.

F. No. A-42011/03/2016-Ad.II dated 23rd March 2016

In the Companies (Share Capital and Debentures) Rules, 2014, in rule 17, after sub-rule (5), the following proviso shall be inserted, namely:-

"Provided that where all members of a company agree, the offer for buy-back may remain open for a period less than fifteen days." - *Companies (Share Capital and Debentures) Second Amendment Rules, 2016 dated 29th March 2016*

In the Companies (Filing of Documents and Forms in Extensible Business Reporting Language) Rules, 2015, in rule 3, for the proviso, the following proviso shall be substituted, namely:-

"Provided that the companies in banking, insurance, power sector, non-banking financial companies and housing; finance companies need not file financial statements under this rule."

Companies (Filing of Documents and Forms in Extensible Business Reporting Language) Amendment Rules, 2016 dt 4th April 2016

The Ministry has launched V2R2 on 28th March, 2016, downtime was given to Infosys from 25th March, 2016 to 27th March, 2016. Since the launch of the system, a number of stakeholders have faced issues and representations have been received from stakeholders to resolve the issues including, for allowing waiver of additional fee till the new system stabilizes. In view of the above, it has been decided to relax the additional fee payable on e-forms which are due for filing by companies between 25th March 2016 to 30th April, 2016 as one time waiver of additional fee and it is also clarified to stakeholders that if such due e-forms are filed after 10.05.2016, no such relaxation shall be allowed. - *General Circular No. 03 /2016 dated 12th April 2016*

CENVAT

Case Law: Assembly of indigenous components/ parts with imported machinery to make it operational amounts to 'manufacture'. - *Quippo Energy Private Ltd. and Ors v CCE (2016 (331) ELT 617)*

The amount collected from dealers towards diaries and calendars was not includible in the assessable value, since purchase of such material by dealers was optional and only a few dealers were buying them. - *CCE v Diffusion Engineering Ltd. (2016(331)ELT153)*

'Mastering charges' collected from customers for producing specific holograms was includible in the assessable value. *Shriram Holographics v CCE (2016 (331) ELT 612)*

Erection and commissioning of plant was undertaken on request of customers, and charges collected towards the same were not includible in the assessable value.

UltrasealIndia Pvt Ltd v CCE (2016-TIOL-352-CESTAT-MUM)

Input credit was admissible on cement used in the construction of a chimney, which was a part of the pollution control system.

West Coast Paper Mills Pvt. Ltd. v CCE (2016 (332) ELT 847)

Eligibility of credit had to be determined with reference to the dutiability of the final product on the date of receipt of capital goods, and hence, credit would not be admissible if final products were exempt on the date of receipt of such capital goods. - *Andhra Polymers Pvt. Ltd. v CCE (2016 (332) ELT 831)*

Input credit was admissible on goods transferred to a power plant owned by another entity within the factory premises, since such inputs were fully utilized in or in relation to the manufacture of electricity, which in turn was fully used by the appellants.

Steel Authority of India Ltd. v CCE (2016 (332) ELT 825)

Input credit could not be denied on the sole ground that there were no corresponding GRNs and bin cards, since the revenue had not made any enquiries from the sender of the inputs, and there was no conclusive evidence so as to arrive at a finding of non-receipt of the goods.

Veer-O-Metals Pvt. Ltd. v CCE (2016 (331) ELT 475)

Input credit was admissible on goods received prior to obtaining central excise registration.

South Eastern Coalfields Ltd v CCE (2016-TIOL-372-CESTAT-DEL)

The Delhi/ Ahmedabad Tribunal held that interest and penalty was not payable when wrongly taken CENVAT credit was reversed before utilization. - *Grasim Bhiwani Textiles Ltd. v CCE (2016 (332) ELT 865) & Garden Silk Mills Ltd. v CCE (2016 (332) ELT 820)*

That goods supplied by a sub-contractor to the main contractor who was executing a mega project by International Competitive Bidding, were eligible for the benefit of excise duty exemption under Notification No. 6/2002-CE dated 1 March, 2002.

CCE v Kent Introl Pvt. Ltd (2016 (331) ELT 77)

GST (VAT, Sales Tax and Entry Tax)

Case Laws

That a lease transaction occasioning the movement of goods from one state to another was an inter-state sale. It could not be construed to be an intra-state sale merely on the grounds that the goods were located within a particular state at the time of transfer of the right to use the goods. - *Tata Power Delhi Distribution Ltd v Commissioner of Sales Tax, Delhi & Ors [2016-TIOL-559-HC-DEL-VAT]*

Service Tax

Case Laws: A larger Bench of the Tribunal held that CENVAT credit of excise duty paid on telecom towers and prefabricated shelters was not available to both, telecom operators and tower companies. *Tower Vision India v CCE (Adj) (2016-TIOL-539-CESTAT-DEL-LB)*

ST under reverse charge was not payable on the amount of TDS paid by the service recipient on the remittance made for such service, when he bore the TDS over and above the amount of invoice raised by the service provider.

Magarpatta Township Development & Construction Co. Ltd. v CCE (TS-90-CESTAT-2016-MUM)

The Advance Ruling Authority held that various marketing and promotion services, supervision of third party customer care centre services, and payment processing services proposed to be provided by GodaddyIndia to GodaddyUS were naturally bundled in the ordinary course of business, and was a single service, categorised as 'Business Support services' and not as 'Intermediary services'. Since the recipient of services was located outside India, the place of provision of such services would be outside India, and qualify as export of taxable services.

Godaddy India Web Services Pvt. Ltd. (2016-TIOL-08-ARA-ST)

The Ahmedabad Tribunal held that supply of surplus power in DTA by a power sector SEZ did not disentitle such SEZ from claiming full refund of ST paid on various services received by the SEZ. *Adani Power Ltd. Vs CST (TS-72-CESTAT-2016-AHD)*

The Mumbai Tribunal held that the intent of section 66A in taxing the activity rendered by an overseas branch to its headquarters in India was limited to the local commercial or business activities of the head office. Consequently, mere existence as a branch for the overall promotion of the objectives of the primary establishment in India which was essentially an exporter of services, did not render the transfer of financial resources to the branch taxable under section 66A.

Tech Mahindra Ltd. v CCE (2016-TIOL-709-CESTAT-MUM)

The Delhi Tribunal held that extended warranty charges collected by the company were not liable to service tax under 'Business Auxiliary services'.

CC Exand ST v Honda Siel Cars India (2016-TIOL-651-CESTAT-DEL)