

From the Chairman's Desk

Dear Friends,

Greetings to you all!



The heavy rains during the last one month were matched by the rain of activities by the Chapter!

The members might have noticed the hectic activities of the Chapter from various messages during the last few weeks.

I had mentioned in my last communication that the Moot Court Competition was just a snatch away for our Team. The Team acquitted themselves so well that they were miles ahead of the next best! The Team of Ms. M. Prachetha & Mr. S.Rakesh adjudged the National Champions in Moot Court Competition deserve all the appreciation, admiration, applause and acknowledgement!

The students' activities were matched by the upsurge in the activities of the chapter! The spate of career counselling carried out by Mr. Anshuman and his Team of some of the senior members and Students have held me spell bound!

The initiatives of Mr. Anshuman, ably supported members offered an array of activities including Investor Awareness Programs at Hassan and Mysore; Talk on AIR by Mr. Dattatri; Press conference by Mr. Badrinarayan. To cap it all the Independence day celebration by the Chapter, the first of its kind and the students sports meet!

As the Chapter Chairman, what more can one ask!!

The members will read more on all these activities in the activity round up in the News Letter elsewhere. Let us resolve to keep the flag flying high by sharing our time, thoughts, views and action!!

Wishing you all a very Happy Gouri Ganesha festival!!

CS D D Bhat

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Editors:

CS Dattatri H M

CS Sarina C H

Omkar N G

and

'Spectrum' Team



Dear Readers,

It has been our ardent desire to have a column dedicated to Intellectual Property Rights. Many readers have expressed this need earlier.

Being the fast growing knowledge area – rightly called the “future domain for Corporate Professionals”, there may not be a better time to move our focus on the general awareness and intricacies of the subject - The IPR.

We invite you to take part in the initiative and contribute by raising questions and sharing your thoughts, knowledge and experiences.

Editors

Pitching on Intellectual Property – A Key for a Successful Business

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

IP Management, Strategic Planning and Initiatives **Larsen & Toubro Limited, Mysore Campus**

The new economy of think-tank is about “**Excel or Expire**”. Globally the Patent Offices have become busier day by day as the number of patent filings is significantly increasing beyond their capacity. The courts are moving towards the pro-IP, as is legislation. The awards for damages are growing in multifold, which were a rare scene in the business world of earlier days.

In India the IP system is picking up inline with trends of global scenario. IPR issues taking spaces in headlines in news media, earlier situation was the pharmaceutical and Biotechnology industries that were religious about the IP. Now trends are following in other areas significantly, the corporations’ earlier set-in less amount of time to build aspects of Intellectual Property (IP) rights into their New Product Development Process. As long as IP is considered as a parallel activity the growth in this field will be slow-moving i.e. if IP works in isolation it will lead to no results. If we turn pages of past history, we have missed to pioneer and elevate up to the world standard in several new management initiatives and it is because of a very simple reason that the corporate management did not incorporate culture in its procedure and it had devolved in middle of the journey.

The Indian corporations must make an effort to look at this new avenue of “Intangible Asset Mania” which our forerunner missed to identify, by accustoming to free culture and preached that the knowledge is to share. The time has come for Universities and Research labs to generate values about IP and to be self sustained without eyeing for funds from the government. This has given them an opportunity to open up their minds for technology tie-ups and for better relationship between Industry and Academia, by which both can profit in a long run.

A front-end team is the one who usually keeps eye on a competitor’s products. And they are reminiscent to have a good number of their competitor’s features/ USP’s in their subsequent products. This may be fatal and may be a threat to the company in terms of infringement; this may also position our product as a hanger-on. Here the designers must

keep track of their competitor’s patent on a regular basis. There is a high likelihood that designers can provide a valuable input to the marketing team about the latest inclination with relevance to the technology and show them trend charts. The risk of obsolesce in short time is vary slender in this scenario.

Giving value to IP Strategies, policy and measures are necessary for a better performance of IP Management. Corporations catch young knowledge workers by incorporating training about Patenting; Patent research techniques will facilitate the new entrants to be tuned to the value generation movement, since it is not an easy task for an IP Management cell to be proficient in all the technical areas. Incorporating corporate IP strategies, policies in company procedures are necessary. Also guidance should be given to juniors and giving orientation lectures to R&D staffs will help to create and maintain patent consciousness and keep them abreast about changes in patent law and practice.

In mid and late nineties that Indian software industry was branded for “body shopping” and moved step by step as Onsite-Offshore-Projects-Consulting services IP and IP based services are now transforming towards value added services as India is emerging as a hub for ‘New Product Development’. Even a number of the product based companies, are now shaping into a service-based company by banking on their domain knowledge. The ITes industry of India is in the eleventh hour of groundwork for capturing the value added activity market. World over in Outsourcing Industry, it is a known fact that the middle level management is the true hindrance for outsourcing design jobs, but senior level management and CEO’s prefer outsourcing. The reality is that it’s a matter of pride for the company to have its own design and development center. The ITes industry is in slow motion due to razor thin go no-go polices and procedures related to IP. To be ahead in the rat race of present business scenario, the industry has to introduce and maintain the IP system.

The gurus in this field quote that; the blessing and participation of the senior management will be the limelight for the successful implementation of IP.

As they say, “A spark neglected burns the whole house”. Proactiveness is the need of the hour and moving from mission Impossible to Possible; to avoid any forthcoming automated waste.

To stabilize IP Management effectively, corporations must put IP strategy and system into the process progressively from **appreciative model to revenue model**, to edifice the awareness and to inculcate their researchers / staff to position in line with IP culture. To conclude that it is high time for an Indian corporations to start with understanding model to generate IP's in their product

development, prepare, finalize or update, as the case may be, various corporate and departmental policies, procedures, forms and manuals such as Corporate Patent Policy, Trade Secret Policy, Invention Agreement, Operations Manual, Due Diligence Procedure, Enhance security systems, Non-disclosure agreements, Patent Clearance and Publication approval. These may not outlay much to the company but it underlines the qualified way of functioning towards the knowledge economy and welcomes the world of R&D to our arms for a wealthy future by interlinking the IP Management and Knowledge Management models.

3 Questions from Legal Angle

Ulhas S Bhat, CS
Mangalore

Copy Rights

What is protected under Copyrights Law?

- Literary work (novels, essays, poems, instruction kit, and all written works)
- Dramatic & Musical Work
- Artistic Work
- Cinematograph films
- Sound recordings
- Computer software (protected as literary work)

Who are protected?

- Author of the work
- Artist of the Artistic Work
- In case of cinematograph film and sound recordings, the Producer is the First owner
- Person to whom the first owner of the copyright transfers the right by an agreement in writing

What are the remedies?

- Suit for Infringement and Permanent Injunction;
- Damages;
- Accounting for and recovery of undue and illegal profits earned by the pirate;
- Court Order for destruction of infringing material;
- Interim Injunction (one of the most powerful remedies which are frequently used to prevent further damage by the illegal copying).

NUTS AND BOLTS OF TRADEMARK PROTECTION - 1

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Rights are those which effectively protects the entire field of individual interest of personality and individual interest of substance. IPRs are treated as commercially valuable information permitting owner to control market for products and services embodying the information. Virtually any traded product or service carries some form of trademark or trade name.

Object and Scope of Universal IP Laws:

It is fundamentally to protect the Subject matter, to lay the Qualifications for protection, Procedure for claiming, to determine the Substantive criteria, to Set of exclusive rights (rights to exclude other people's uses of the IP), to set limitations or conditions on exclusive rights, to address the Infringement aspects and to provide remedies against any infringement.

IPR subjects and its distinctions:

IP subjects consists of Copyrights used for artistic & literary works, Patents used for technological inventions, Trade secrets for commercially valuable secrets (e.g., source code, Coke formula), Trademarks (e.g., Coca Cola, Coke) to protect consumers against confusion. Design protection for the appearance of the product.

TRADEMARKS:

The origins or basis for trademark and its scope can be found in the concept of product liability, which however has taken much economic significance over a period of time. There has been ever expansion in the scope of the marks, which are registered as Trademarks.

Trademarks have existed for almost as long as the concept of trade itself. Once human economies progressed to the point where a merchant class specialized in making goods for others, the people who made and sold clothing or pottery began to mark their wares with a word or symbol to identify the maker. Such marks often no more than the name of the maker have been discovered on goods from China, India, Persia, Egypt, Rome, Greece and elsewhere, and date back as much as 4000 years¹

The trademark law in India has undergone drastic reform resulting in the repeal of the Trade and Merchandise Act, 1958, by the Trade Marks Act, 1999. This Act of 1999 came into force from September 2003. The new Act of 1999 is at par with international standards and in compliance with TRIPS. The said new Trademark law has also broadened the definition of trademarks to include shape of goods and combination of color and it provides for registration of collective marks owned by associations etc.² upon registration of trademark, the law confers the rights such as the exclusive right to use the trade mark in relation to the goods or services in respect of which the mark is registered and the right to obtain relief in respect of infringement of the trade mark.

Next Month: What is Trade Mark?

¹ Robert P. Merges, Peter S. Merell, Mark A. Lemley, “Intellectual Property in the New Technological Age”, 2003, Aspen Publishers, New York, p.529

² The Trade Marks Act, 1999 is a copy of the UK's Trade Marks Act 1994.



Legal Round-up

Compiled by **Omkar N G,**
AT&S India, Nanjangud

Income Tax

Cases at a glance

High Court Orders

- Expenditure on giving incentives to dock workers deductible : CIT v. South India Corporation (Agencies) Ltd. (Mad)
- Twenty per cent. of value of tools written off deductible : CIT v. South India Corporation (Agencies) Ltd. (Mad)
- Notional interest on advances not includible in total income of assessee where no evidence that loans were from borrowed funds : CIT v. South India Corporation (Agencies) Ltd. (Mad)
- Notice for reassessment : Reasons ought to have been disclosed before rejecting objections : Asian Cerc Information Services (I) P. Ltd. v. ITO (Bom)
- No objection as to jurisdiction before AO : Objection cannot be taken for first time in appellate proceedings : CWT v. Siri Paul Oswal (P & H)
- Assessee sponsoring trophy in which display of sponsor's name and banners with name of assessee : Expenses incurred on trophy entitled to deduction : CIT v. Lake Palace Hotels and Motels P. Ltd. (Raj)
- Imposition of penalty valid where revised return filed after detection of concealment : Deepak Construction Co. v. CIT (Guj)

CENVAT

➤ Waste oil - Not excisable

The Tribunal has held that waste oil emerging from the use of lubricating oil in machinery is not excisable under law.

Spic Pharmaceuticals Division Vs. CCE (2007 (213) ELT 679)

➤ Common inputs for both dutiable and exempted goods

The Tribunal has held that where a manufacturer uses common inputs in both

Chapter News:

Spectacular results in June Exams for Mysore

The chapter has secured 57% results in Foundation, 47% in Intermediate and 86% in final making the overall percentage an impressive 58%.

Mysore Team won National Moot Court Competition 2007



Mooters from Mysore Ms. Pracheta M. and Mr. Rakesh S. won the first place in the ICSI - 5th All India National Moot Court Competition 2007 held at Bangalore on 19th August 2007. Ms. Pracheta M. has been adjudged the Best Speaker at the Finals. The memorials submitted Mr. Harish B.N. and Mr. Abhishek B.A. was adjudged as the third best memorials.

Independence day Celebrations

The Independence Day was celebrated by the Chapter with great enthusiasm. About 50 students and 13 members were present for the function. The National Flag was hoisted by our Senior Member, CS Ramachandra M.S.



Seminar on Personality Development

the Mysore Chapter of ICSI arranged a seminar on personality development by a renowned management faculty in Mysore, Mr. Harish Kodendra Machaiah on 15th August 2007.

1st Annual Sports Day

The First Annual Sports Day was celebrated at the Chapter on 26th August 2007 in which students and members participated with loads of enthusiasm. Students and members played Cricket, Running Race, Shuttle, Kunte Bille and Musicle Chair. Prizes were distributed on the same day.

'Career in CS' Press Meet held

A press meet was organized by the chapter at the Mysore District Journalists Association Building at Mysore on 28th August 2007 at 11 AM. CS. Badrinarayan, Vice Chairman of the Chapter, addressing the press stressed the need for higher awareness amongst the general public about the Company Secretary Course, which is affordable to one and all. CS Anshuman A.S. explained to the scribes about the details of the course. A press release highlighting the achievements of the chapter, details of the Institute etc. was released on the occasion.

The press meet was covered by various dailies like the Indian Express, Deccan Herald, Praja Vani, Kannada Prabha etc.

dutiable and exempted goods and does not maintain separate records, duty is required to be paid on the value of exempt goods at the time of removal of goods from the factory, as per Section 4 of CE Act.

Koya & Company Construction Pvt. Ltd. Vs CCE (2007 (214) ELT 35) & CCE Vs Pudumjee Agro Industries Ltd (2007 (81) RLT 336)

➤ Removal of used capital goods - Duty is to be paid

The Tribunal has held that where used capital goods are removed from the factory, duty is required to be paid on the basis of the transaction value of such goods.

Ampson Engineering Pvt. Ltd. Vs. CCE (2007 (81) RLT 719)

➤ Advertising Expense - Not includable in value of goods

The Tribunal has held that advertisement expenses incurred by dealers on their own account is not includable in the value of excisable goods.

Ford India Pvt. Ltd. Vs. CCE (2007 (146) ECR 0074)

➤ Credit allowed for input used for generation of electricity

The Supreme Court has held that credit cannot be denied on inputs used for generation of electricity used for manufacture of dutiable goods under excise law.

CCE Vs. Solaris Chemtech Limited (2007 (146) ECR 10)

➤ Credit not allowed on finished goods bought back and scrapped

The Tribunal has held that CENVAT credit is not admissible on defective finished goods which are brought back to the factory and converted to scrap and sold to customers, even if such scrap is cleared on payment of duty.

S&H Gears Pvt. Ltd. Vs. CCE (2007 (213) ELT 680)

➤ Utilisation of Input credit of Basic Excise Duty.

The Tribunal has held that the credit of input basic excise duty can be utilised for the payment of education cess on output.

CCE Vs. Godrej Consumer Products Ltd.(2007-TIOL-1174)

➤ Capital goods from one EOU to another

The Tribunal has held that no credit is required to be reversed under the Credit Rules where one EOU supplies used capital goods to another EOU against an exemption certificate.

Manaksia Ltd. Vs. CCE(2007 (81) RLT 620)

➤ Amendment to notification will have prospective effect

The Supreme Court has held that an

Program on AIR Mysore

A Career Guidance Talk was organized by the Mysore Chapter on All India Radio, Mysore on 3rd September, 2007 at 8.00 PM. The program was aired in prime time by AIR in Yuvavani. It was anchored by Mr. Surendranath Satvik who interviewed our past-Secretary, CS. Dattatri H.M. In the half an hour broadcast, CS. Dattatri lucidly explained the role and importance of Company Secretaries, the course curriculum, the employment prospects, the facilities available in Mysore Chapter and other details. The program generated excellent number of enquiries.

Career Guidance Programs

Mysore Chapter conducted over 24 career awareness programs in many colleges and across the city during past one month. Energetic team of students led by CS Anshuman could achieve this big number in a span of a month without affecting any other activities happening in the chapter.

Career Guidance out side Mysore: CS. Dattatri H.M. past-secretary, Mysore Chapter addressed the Rotary Club of Hassan on Role of Company Secretary on 29th July 2007.

Three Investor Awareness Programs

Chapter organised IAPs at **Hassan** on 06th September 2007, at **Mysore** and **Nanjangud** on 08th September 2007. A report of the program has been published in many newspapers including Deccan Herald. Mr. Ananda kumar, Executive Director, Bangalore Stock Exchange addressed the investors in all these programs. In Hassan program was held in association with Rotary-Hassan, at Rotary Swarna Bhavan. In Nanjangud program was held in association with Nanjangud Industrial Association at NIA Community Hall. In Mysore ICSI Mysore conducted the program in Rotary Hall - J L B Road. Over 250 participants gained knowledge out of these programs.

Activities at Mangalore Chapter

Study Circle Meetings

First study circle meeting was inaugurated by Mr. CS Ullas Kumar Melinamogaru, Chairman, Mangalore Chapter, at Chapter Premises on Friday, 17th August, 2007. It was decided in consultation with students and members to hold such meetings for the benefit of Intermediate students on every Saturday at Chapter premises from 5:00 PM to 7:00 PM. The students evinced a keen interest in the study circle meeting and enthusiastically participated in the meeting. There was an introduction of the concept of study circle meeting and a question and answer session.

The 2nd study circle meeting was attended by Mr. Rajesh Pai who was the first rank holder in the Company Secretary Final in June 2006 session who interacted with the students on tips for clearing the exams.

For the 3rd study circle meeting was held on 31/08/2007. Mr. Rajesh Pai gave "Tips for Success in Company Secretary Exams". It received excellent response from the students.

Investor Awareness Programs

Mangalore Chapter organized Investor Awareness Program on 08th September 2007. Mr. Micheal Lobo, Manager HDFC educated the gathering on "Mutual Fund and Wealth Creation". Around 100 participants were benefited out of this program. Program was presided over by Mr. Kumble Narasimhan, President,-KCCI, Mangalore.

amendment to a notification will always have prospective effect unless it is interpreted as being clarificatory, in which event it would have retrospective effect.

Jay Mahakali Rolling Mills Vs Union of India (2007 TIOL 139)

➤ Removal of goods

The Tribunal has held that remission of duty is admissible on goods removed from the factory of manufacture and lost in transit to the port of export. The Tribunal has interpreted the definition of "place of removal" under excise law as to refer to the port of export and not the factory of manufacture. A contrary view has been taken by the Tribunal in Jagjit Textile Dying & Print Vs. CCE (2007 (81) RLT 509).

Kuntal Granites Ltd Vs CCE (2007 (81) RLT 707)

Service Tax

The CBEC has issued two master circulars clarifying various technical and procedural issues relating to taxation of services under the Finance Act, 1994. These circulars would supersede all existing circulars barring TRU letters issued by CBEC to explain the provisions of budgets/Finance Acts. The circulars are effective from August 23, 2007.

Circular No. 96/7/2007- ST and 97/7/2007- ST dated 23-08-2007

➤ Service provider situated outside India.

The Tribunal has held that service tax cannot be recovered from a service provider situated outside India and having no business establishment in India. In such a situation, the service recipient would be liable to service tax only w.e.f 16/08/2002 and not prior to this date. In contrast, the Tribunal, in Calvin Wooding Consulting Ltd. Vs. CCE (2007 (7) STR 411), has held that even prior to 16/08/2002, the foreign service provider situated outside India was liable to pay service tax if the services were provided to a recipient in India. The Tribunal has held that such services would be deemed to be provided in India if the recipient was located in India.

Philcorp Pte. Ltd. Vs. CCE (2007 (7) STR 266)

➤ Credit note in Indian currency - No exemption of tax

The Tribunal has held that receipt of consideration by the way of credit note issued in Indian currency, for services provided by an agent in India to an overseas entity, would not be considered as receipt in India of convertible foreign exchange and hence not eligible for exemption from tax for the relevant period.

ETA Travel Agency (P.) Ltd. Vs. CCE (2007 (7) STR 454)

Observer

If someone divides, why don't we unite?



CS Dattatri H M

Company Secretary - Essilor India, Bangalore

The Final call of the Central Government on the launch of the New Institute for **Corporate Affairs and Corporate Valuers**, with a budget of Rs.211 crores, came about last month. Much of the dust has settled down, but there is a lingering bitterness amongst some professionals

The Professionals' concern is that the Government would allow many such Institutes to mushroom and the scope will but narrow down. Vying for a larger share of the pie, the Institutes may find themselves voiceless against the Government's might.

So, what is the alternative?

"If you like to destroy the darkness, don't shout. Don't cry. Just light a lamp" said Swami Vivekananda.

It would be a dream come true, if all Corporate professionals were to stand united and worked in total harmony, if all of us were to channelise our energies on creative and constructive activities and not fall prey to the 'Divide and Rule' of the Government. If our unity could stave off the Government's whimsicalities of founding many more such institutes, we could prove to the world that we are here to stand and that we have a purpose and direction.

The Dream itself appears far fetched. If uniting the members of one institute is a Herculean task, then how do we go about bringing together the scores of individuals of all the other institutes. Certain thoughts that crossed my mind on developing a Oneness, which I share with you,

→ At local levels while organising profession development programs, chapters of all corporate professions should join hands. We can even request for credit hours for all the programs conducted by any professional institute.

→ Create social networking by conducting cultural programs / trips for all professionals and their family members once in a year

→ Create digital networking of all these professionals using e-groups, e-newsletters and blog spots

Undoubtedly these steps help in long run to unite all professionals and mitigate all misunderstandings among corporate professionals. Could this be a small start to more and more ideas on strengthening our network?

Alternate proposal for incorporation of new institutes:

Few weeks back Mr. CS Sitaram Agarwal senior member of ICSI circulated among professional colleagues, an alternative proposal for the future growth of corporate professional bodies, instead mushrooming of new institutes. One of his suggestions is that an independent body formed by the representatives from Professional Bodies, corporate sector, Apex Academic Body, will accredit the academic institutions imparting professional education. Training the professionals should be taken care by the professional bodies.

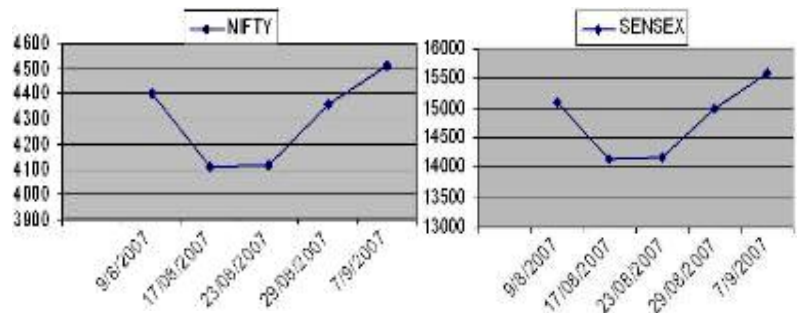
For full text of the article, click: www.esnips.com/web/icsimysore

Investor Secretary

Sreeraj M, CS Final, Mysore

Dear All!

The market is on its song again for the last two or three weeks and even after getting so many reasons to fall our markets were stable when compared to some nasty break ups in the U.S as well as the Asian markets. When the FII's tried their hands to slaughter the markets, the Fund Houses came to the rescue. As on 11th September, NIFTY closed with 4497.05 points and the SENSEX with 15542.77 points. The recent recovery of the Indian Market by about 2000 points was backed by 6 biggies - Reliance Industries, ICICI Bank, L&T, Bharti Airtel, Tata Steel and Reliance Communication.



What's Ahead?

The markets could go much further provided the valuations are right and there is no major global ques to tamper its rhythm. I would prefer for MIDCAP stocks as there was no much news from this side and if at all there is a further Bull run, I expect them to join party.

It is better to exercise caution as the Market is in no man's land equally poised for either turns.

Tan's Portfolio (Status as on 11th September 2007)

Mr. Tan wishes sells the stock of Dynacons Sys at the current market price of Re 0.97.

S.No	Name of the Stock	Purchase Price	Name of the Stock Exchange	Current Market Price (as on 11 th September 2007)	Returns (In %)
1	Accel Frontline	53	NSE	55.55 ↑	4.81 %
2	Alchemist	9.00	BSE	91.65 ↑	1.63%
3	Arvind Mills	50.00	BSE	52.55	5.10%
4	Ashok Leyland	38.00	NSE	37.40 ↓	- 1.58%
5	Sree Ashta Vinayak Cine Vision	294.00	NSE	397.30 ↑	35.14%
6	Atlanta	233.70	NSE	281.60 ↑	20.50 %
7	Dynacons Sys	0.72	BSE	0.97 ↑	34.72 %
8	Essar Oil	52.85	NSE	51.90 ↓	- 1.80%
9	KEI Industries	87.00	NSE	88.70 ↑	1.95 %
10	Kesoram	484.70	NSE	541.20 ↑	11.66%
11	Ramco System	150.00	BSE	164 ↑	9.33%
12	Timex Watches	29.80	BSE	33.10 ↑	11.07 %
13	Welspun India	64.00	NSE	60.80 ↓	- 5.00%
TOTAL RETURNS					132.53 %

Mr. Tan wishes sells the stock of Dynacons Sys at the current market price of Re 0.97.

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

Services provided by one division to another - Not taxable

The Tribunal has held that the activities performed by one division of the company to another are not chargeable to tax.

Indian Oil Corporation Limited Vs. CCE (2007-TIOL-994)

Making & selling of engineering designs - No Service tax but Sales tax.

The Tribunal has held that the activity of making and selling engineering designs is chargeable to sales tax and is not liable to service tax under the category of consulting engineer's services.

Gerb Vibration Control Systems (P) Ltd. Vs. CST (2007 (7) STR 403)

Sales Tax

Transfer of goods to Branch offices

The Supreme Court has held that the head office and the branch office are units of the same legal entity and hence no purchase tax can be levied when the goods purchased by the branch office are transferred to the head office for ultimate exports, since such transfers do not detract from the fact that the purchases by the branch occasioned the export of goods.

State of Haryana Vs. Nipha Exports Pvt. Ltd [(2007) 8 VST 466]

Deduction from Taxable turnover

The Allahabad High Court has held that a credit note issued in relation to variation of sales consideration and unrelated to sales return is an eligible deduction from the taxable turnover and the provisions of law requiring sales returns to be effected within six months from the date of delivery have no application.

Parishudh Machines Pvt. Ltd Vs Commissioner of Trade Tax [(2007) 8 VST 547]

VAT

UP not announced date of implementing VAT

The State of U.P. has not yet announced any date for the implementation of VAT. The State is likely to lose around Rs. 3,000 crore on account of delay in implementation of VAT as the three -year deadline set by the Centre for compensating the loss is due to end this financial year. In view of the above position, the State Government might be forced to impose some new taxes in the State.

The Times of India, August 19, 2007

Karnataka VAT

A dealer is permitted to affix his digital signature, as issued to him under the

Information Technology Act, 2000, on a tax invoice, subject to specified conditions.

A developer of an SEZ or a unit located in any SEZ is eligible for refund of tax paid on purchase of inputs. Alternately, he can set off such tax against his output tax liability, subject to conditions.

Notification No. FD 165 CSL 07 dated July 26, 2007

Customs

➤ Export obligation on SEZ???

The Finance Ministry is advocating the imposition of an export obligation on SEZ units equivalent to a certain percentage of their total production. Further, the proposal is to treat certain purchases made from the Domestic Tariff Area (DTA) as imports for calculating the Net Foreign Exchange earnings of the unit.

The Economic Times, dt 23/07/07

➤ SEZ Tax concession!!!

In a departure from its earlier position, the Government is proposing to allow units in Special Economic Zones to procure second hand machinery from the DTA and still be eligible for tax concessions.

Mint, dt 26/07/2007

➤ New DEPB by November 2007

The Director General of Foreign Trade, Mr. R.S. Gujral, has informed that the new DEPB Scheme is likely to be announced by November 2007.

www.moneycontrol.com dt 04/08/2007

➤ Determination of origin of goods

The Central Government has released the Rules of Determination of Origin of Goods under the Preferential Trading Agreement between India and Chile.

Customs Notification No. 84/2007-Cus. Dt 17/08/07 (NT)

➤ Exemption of additional duty of customs

The Central Government has exempted electronic integrated circuits falling under Customs Tariff Heading 8542 from payment of additional duty of customs in lieu of Sales Tax/VAT.

Customs Notification No. 93/2007-Cus. Dt 08/08/07

➤ HSN-Most suitable for classification

The Tribunal has held that the Explanatory Notes to the internationally recognized and accepted Harmonised System of Nomenclature (HSN) are most suitable for the determination of the customs classification of a product.

Hotel Leela Ventures Ltd. Vs. CC (2007 (145) ECR 222)



Focus...focus...focus

An ambitious and restless shishya (student) was getting impatient with his guru's style of teaching one lesson at a time. He wanted to learn everything quickly and reap the rewards of this learning quickly. He finally expressed his desire to complete his course quickly and move to the next phase of his life.

The guru nodded his head and told him to come to him early next morning. Next morning when the student arrived, he found the guru waiting for him near the chicken coop. He then let the chickens free and asked the student to catch them all in the next one hour.



The student ran about trying to catch one and then the other and finally at the end of his hour got exhausted and sat down dejected as he had not been able to catch any. Then the master told him, now I ask you to catch only the one with the ribbon round its neck. The student got up and despite all the other chickens running around him just went after the ribboned one and caught it with time to spare! The master smiled and said "Focus is not our ability to stay attracted to the 'one' but also the discipline to avoid the distractions of the 'ninety nine'".

But does this story apply to us in the age of multitasking? There are many things that we want to achieve in our life, but the trick is to focus on the single most important goal at that time and work towards achieving it instead of running after many things at the same time and probably getting too exhausted to do justice to each.

Prioritise and Focus on one thing at a time - then there will be time for all the other things as well.... and if you do it right... you may still have time to spare!!!

Web Yatra

WebMD
Better information. Better health.

- Amit Hegde B Com, MCA(Final)

This time we have one of the best websites ever on health. Just logon to www.webmd.com for fresh and detailed information on almost anything related to health. The site has a comprehensive collection of articles on diseases and symptoms, medical tools, various drugs, first aid, different surgical techniques so on and so fourth....

The site has so much of information, despite its well organized structure, some times you feel lost in a vast ocean...If you want to know about any drug that your doctor has prescribed, then just check the A-Z Drugs form

➤ **Export value to other countries -Not to be considered for Valuation**

The Tribunal has held that the export price of goods to countries other than India cannot be used for the purpose of customs valuation in the light of the specific prohibitions under Rule 8 of the CVR.

Sunil Kumar & Bros Vs. CC (2007 (213)ELT 704)

➤ **Technical know-how-Is it not to be included in value**

The Tribunal has held that where technical know-how is not related to the imported goods, the fee paid therefore is not required to be included in the value of goods.

Hyundai Motor (India) Ltd Vs. CC (2007 (214) ELT 436)

FTP

➤ **Bank Certificate Not required**

The Director General of Foreign Trade (DGFT) has deleted the requirement for filing of a bank certificate related to the financial soundness of the exporter filing an application for grant of Registration cum Membership Certificate (RCMC).

DGFT Public Notice No. 25 (RE-2007)/2004- 09, dt 23/07/07

➤ **Procedural change in reimbursement of CST**

The Central Government has made changes in the procedures relating to re-imburement of Central Sales Tax for supplies made to 100% Export Oriented Units and Units in Electronic Hardware Technology Park and Software Technology Park.

Public Notice No. 39 (RE-2007)/2004 -2009,dt. 24/07/2007

➤ **Amendment of FTP**

The High Court of Calcutta has held that the Foreign Trade Policy can only be amended by notifications published in the Official Gazette and not otherwise.

Further, the High Court has held that the Foreign Trade (Development and Regulation) Act, 1992 does not authorize the Central Government to amend the export and import policy with retrospective effect.

Soubhik Exports Ltd. Vs. Union of India (2007 (214) ELT 334)

Antidumping Duty

➤ **Anti-dumping duty has been imposed on the following products:**

- bias tyres, tubes and flaps originating in or exported from the People's Republic of China and Thailand.
- hexamine originating in or exported from Russia and Saudi Arabia.

the Health A-Z section. You are provided with a search bar where you can search for a medicine. I just tried "Paracetamol Oral" was provided with more than 3 pages of information which included its Uses, Side Effects, Precautions, Interactions and Overdose. That is pretty impressive..!

Other sections that provoke our interest include Drugs & Treatment, Women's Health, Men's Health and Children's Health. Each of these sections has several subsections such as Fitness, Diet & weight loss, Parenting etc....

The verdict goes as follows...this is a must visit site for any jargon on health, diseases and medicines. So why wait? This is your chance to build awareness for yourself...!

Book Review

Goal free living

CS Nimmoo Kinger PCS, Mysore

We keep talking of the importance of setting goals and at certain management workshops you are asked to set short term and long term goals, along with life goals. And then I recently read the book **Goal-Free Living** by **Stephen Shapiro**.

The author is not advocating a completely goal free life but he cautions against over-reliance on goal-setting and suggests that it's better to have a compass for life than a planned path. The point he is making is about attachment. When you become attached to fixed goals, you lose the flexibility to adapt to present-moment opportunities, which is a suboptimal approach. You develop a sort of tunnel vision where you're so focused on what you want that you become blind to things that might be even better.

Consequently, becoming too committed to your goals can actually lower your awareness. This is especially true in business. Even the act of setting business or career goals can blind you to creative opportunities that lie outside the scope of your business/career.

Opportunity blindness lowers one's awareness of opportunities and that has to be guarded against. One needs to adapt to new facts and be aware of the possibility of change. Goals should be forward looking

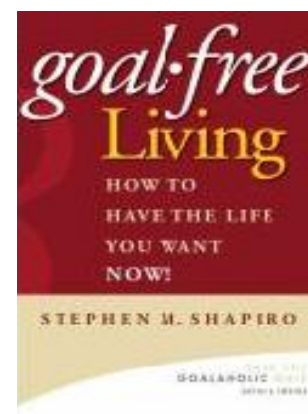
Proper goal-setting is like having a conversation. You need the right balance of talking and listening. If you talk all the time, you derail the conversation. If you listen all the time, you become a passive observer instead of an active participant. When you realize you've been talking too much, it's time to spend more time listening, which is equivalent to goal-free living. But when you've been passive long enough, it's time to take a more active role and start letting the universe know what you want.

Shapiro gives a new perspective to the age old concept of goal setting.

Words worth millions...

"Problems are compulsory, but suffering is optional"

"Starve the problems... Feed the opportunities..."



Spectrum this month . . .

Hello friends,

The Gala of Celebrations continued in Mysore with our team members Ms. Pracheta and Mr. Rakesh winning the National Level Moot Court Competition held in Bangalore. Another spectacular was the record breaking pass percentage of the June-07 exams.

History was made on August 26th, as for the first time Mysore Chapter conducted Sports Day, which was well attended by students and members. "It was unanimously agreed that there shall be Sports Day the very next Sunday of the Exam results and the students shall attend Sports Day irrespective of the exam results".

Keeping in mind the Dec-07 and Jun-08 exams, strategies were made for the benefit of the students and the same were being implemented on all study circle meetings held on Sundays at the Chapter. Moreover career counseling was another area where the SPECTRUM members were involved during the month.

- Spectrum Friends

ICSI going high tech

Students can now pursue the fast-growing secretarial profession even on their mobile phones. The profession's regulator ICSI, will soon introduce virtual classrooms, which could be accessed through internet-enabled phones. "With this facility, one could access the virtual classroom and interact with the faculty from anywhere using a mobile phone and a headset", ICSI president CS Priti Malhotra said. Students can enrol for the program online.

In lighter vein...



Kilu standing on Platform 5 suddenly jumps on railway track. A man says, "Sardarji, you will die...train is arriving".

Kilu replied, "abe, it is you who will die, listes to announcement..."

train is arriving on platform number 5"

Law Professor asks the students, "Which is the most important Law of Finance for starting a new business?"

Student replies, "Father-in-Law"



Disclaimer

The information contained in this newsletter is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate. No one should act on such information without appropriate professional advice.

- partially oriented yarn, originating in or exported from People's Republic of China.
- nonylphenol originating in or exported from Chinese Taipei.

Customs Notification Nos. 88/2007 dt. 24/07/2007, 89/2007 dt. 25/07/2007, 92/2007 dt. 03/08/2007 & 94/2007 dt. 22/08/2007

- The Antidumping Duty levied on partially oriented yarn, originating in or exported from the Republic of Korea and Turkey, has been withdrawn.

Customs Notification 95/2007 dt. 22/08/2007

ESI

- ESI medical services are covered under consumer protection Act

The medical service rendered in an ESI hospital/dispensary to an insured employee fails with in the ambit of section 2(1) (o) of the Consumer Protection Act, and, therefore, the Consumer Protection Act have jurisdiction to adjudicate upon a dispute arising between the insured and the Employees' State Insurance Corporation.

Chairman, Employees' State Insurance Corporation, 2007 LLR 740

News of Use

- Exporters may get service tax exemption on certain services

Exporters who have long waited for service tax exemption may be about to get their due. The Commerce and Finance Ministries have reached an agreement on the list of services for which exemption would be available. The Finance Ministry has to take final decision on the notification.

Economic Times, August 25, 2007

- Income-tax Department seeks exemption of RTI Act

The RTI Act has exempted the Department of Revenue Intelligence, Intelligence Bureau, Central Excise Intelligence Bureau and the Enforcement Directorate, which are in the Schedule-II of the Act. The Central Board of Direct Taxes has written to the Department of Personnel and Training that its investigation wing should also be exempted as its nature of work was similar to these agencies

The Financial Express, August 25, 2007

- SEBI comes out with eligibility criteria for NSDL to act as CRA

SEBI has put several eligibility conditions for NSDL to act as the Central Recordkeeping Agency (CRA) for pension funds, under the new pension scheme for Central and State Government employees.

Business Standard August 24 2007