

**Edition 107**  
**December 2012**



**Mysore Chapter**

# **eMagazine**



**Hone your  
'Team Player Skills'**

**Sustainability &  
Integrated Reporting**

# Message from Chairman



*Dear Readers,*

*I am happy to meet you all through this news letter, which has become the main communication forum for the Chapter with Students & professional colleagues.*

*Many interesting developments are taking place in Mysore Chapter, one among them is the 'Study Circle Meet'. We are proud to say that on all Sundays Study Circle Meeting was conducted and students were actively participating in the Meet. In fact, the number of students participating in the Meet is increasing every week, which is a very positive development for the Chapter.*

*The examinations to be conducted by the Institute is commencing from 26th December 2012. For the students taking up the exams in this session, I wish all success.*

*Year 2012 is coming to an end and the New Year 2013 is fast approaching. The year 2012 was a mixed with both positive & negative factors. Experts predict stabilization of world economy in the coming years. This will help Indian economy to pick up at a faster pace.*

*The world is going to celebrate Christmas in this month with all fervor. On this occasion, I wish all the students & Professional Colleagues a very Happy Christmas and a very Happy & Prosperous New Year 2013.*

*Yours in CS fraternity,  
CS. S Badrinarayanan*

## Inside

### Articles:

**Hone your 'Team Player Skills'...4**  
**Sustainability & Integrated Reporting...5**

### Columns:

**Activity Report ...3**  
**Living Room: Improving Self Confidence ...7**  
**Words worth Millions...7**  
**Spectrum Space...8**  
**Legal Roundup ... 9**  
**News Room...12**



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

### **-: Editorial Team :-**

CS. Dattatri H M  
CS. Sarina C H  
CS. Omkar N G  
CS. Rashmi M R  
CS. Abhishek Bharadwaj A B

### **Support Team:**

CS. Ravishankar Kandhi  
CS. Ajay Madaiah

**Join  
2450+ members' strong**

**"CSMysore" eParivaar**



<http://www.groups.google.com/group/csmysore>

### **Disclaimer**

Views and other contents expressed or provided by the contributors are their own and the Chapter does not accept any responsibility. The Chapter is not in any way responsible for the result of any action taken on the basis of the contents published in this newsletter.  
All rights are reserved.



### STUDENT STUDY CIRCLE MEETINGS

1. Student Study Circle Meetings on 4<sup>th</sup> November 2012

The students discussed regarding Patents & Copy Rights etc and the Treasurer of the Mysore Chapter CS. Kiran T was present to guide the students.

2. The Chapter organized Student Study Circle Meetings on 18<sup>th</sup> November 2012.

The Students of the Chapter discussed various topics of academic interest in these study circles and the members and senior students of the Chapter were present to guide the students.



3. The Chapter organized Student Study Circle Meetings on 25<sup>th</sup> November 2012.

The Students of the Chapter discussed regarding Cost accounting, Mr. Manjunath had explained the concepts and clarified the doubts of the students.

SIRC of ICSI is organising

## Southern India Regional Conference of Students

**Theme: EMERGING CS WITH INTEGRITY AND ETHICS**

**PDP: 8 Hours Fees: Rs. 1000**

**Day & Date: Saturday, 5<sup>th</sup> January 2013 Time: 9.00 a.m to 6.00 p.m**

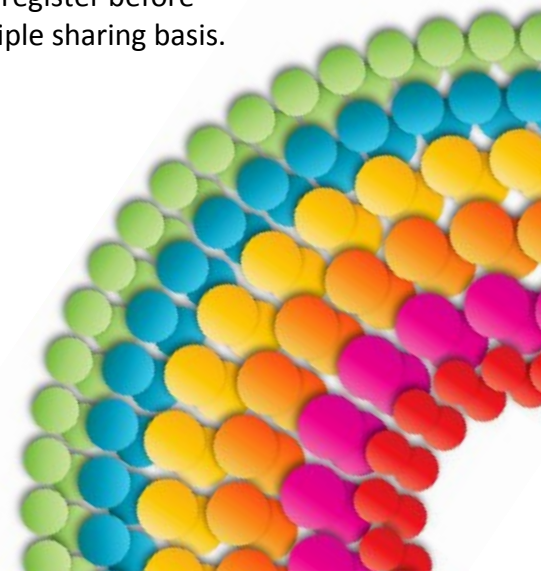
**Venue: Hotel Ambassador Pallava, Egmore, Chennai - 600 008.**

Accommodation: Students opting for the residential accommodation should register before 03<sup>rd</sup> January 2013. Necessary accommodation will be provided on double/ triple sharing basis. Accommodation will be arranged on first come first served basis.

Apart from special sessions on interesting topics like Takeovers, ePiracy, eGovernance etc, students can also make presentations, participate in Debates and show talents in the cultural evening.

Please confirm your participation on or before 02.01.2013 to [siro@icsi.edu](mailto:siro@icsi.edu)

To see the brochure, visit [www.icsi.edu/bangalore](http://www.icsi.edu/bangalore)



# Hone your 'Team Player Skills'



**Sumeet Lal**

Managing Director & Founder, AIIM EduSys Pvt. Ltd.  
Mumbai  
[sumeet.lal@aiim.in](mailto:sumeet.lal@aiim.in)

Where one can achieve little, **T**ogether **E**veryone **A**chieve **M**ore i.e. **TEAM** work.

Making a team - work is not easy. It demands various qualities in its leader. Here is a flash on such qualities.

***It is often said that team work helps divide the task, but multiplies success manifold!***

In the competitive corporate world of today, you will find numerous occasions where one is expected to work as a member of a team. This could be for a special project, a group task or just the regular requirement of your work. While it is possible that you may be good at working efficiently as an individual, it helps substantially if you understand the many intricacies that come into force when working in a team. Practicing and displaying the following habits and attributes will always keep you better-equipped for working as an effective member of a team. You will be able to 'shine-out' amongst all the team members and get your share of true appreciation!

## **1) Listen attentively**

Attentive listening comes across as a very obvious requirement, but surprisingly just few people actually practice this. Good listeners are essential for teams to function effectively and deliver the right results. Teams need members who can absorb, understand and consider ideas and points of view from other members. Team members are also expected to receive information without reacting defensively or offensively. Most important, for effective communication and problem solving, team members need the discipline to listen first and speak thereafter so that the result is a meaningful and productive dialogue.

## **2) Communicate constructively**

Teams need members who speak up and express their thoughts and ideas concisely, clearly and with respect for others in the team. That is what is required to make your communication constructive. Such a team member does not

shy away from making a point but makes it in the best possible way — in a positive, productive and respectful manner.

## **3) Demonstrate reliability**

Each member of a team generally has a task to perform. Your co-members will count on a reliable team member who gets work done and displays the required effort to meet commitments. One who follows up on getting assignments completed. Consistency is critical – be the one who will deliver good performance all the time, not just some of the time. Therefore always demonstrate reliability.

## **4) Function as an active participant**

Good team players are active participants. They come prepared for team meetings and listen and speak up in discussions. They're fully engaged in the work of the team and do not sit passively on the sidelines. Team members who function as active participants take the initiative to help make things happen, and they volunteer for assignments. Their whole approach is a 'can do' one: "What contribution can I make to help the team get ahead?"

## **5) Share openly and willingly**

Good team players share. They're willing to share information, knowledge and experience. They take the initiative to keep other team members informed. Much of the communication within teams takes place informally. Beyond discussion at organized meetings, team members need to feel comfortable talking with one another and passing along important news and information day-to-day. Good team players are active in this informal sharing. They keep other team members in the loop with information and expertise that helps get the job done and prevents negative surprises. .



*Continued in page...6*

# Sustainability & Integrated Reporting



**CS. Amar Kakaria** ACS, ACA, ACWA

Director, Fusion Advisors Pvt Ltd, Mumbai  
amar@fusionadvisors.in

**A sustainability report is an organizational report that gives information about economic, environmental, social and governance performance. It is also popularly known as Non finance Report. Here is a flash on such reporting.**

Nowadays the focus on reporting formats in the corporate world has started shifting from Financial Reporting to Non-Financial Reporting (NFR). Sustainability Reporting and Integrated Reporting are synonymously used with Non-Financial Reporting.

NFR represents corporate views about what Corporate Social Responsibility (CSR) is, its importance, and modus operandi as to how it can be shared with different stakeholders. Financial information is largely retrospective and based on the company's past performance, while non-financial reports can provide indications about the future potential of the company to its investors and other stakeholders. In other words, non-financial information, such as quality of risk management, social / environmental performance, etc can help the stakeholders to have much better understanding of company's overall performance, business strategy and growth perspective.

In general, reports titled "CSR Reports" and "Sustainability Reports" are common type of non-financial reports that exist. On the contrary, "Environmental Reports" are focused primarily on health, safety and environment which tend to give a partial representation of the company's CSR operations. They attempt to focus on the environmental impact of their business operations.

According to estimates of some analysts, there are more than 1900 institutions worldwide producing NFR. In most parts of the world, NFR remains a voluntary practice. At the inter-governmental level, non-financial reporting guidelines issued by the Global Reporting Initiative have been referred in the

Plan of Implementation agreed on by UN member states at the World Summit on Sustainable Development.

Major organizations that provide guidance on sustainability reporting include:

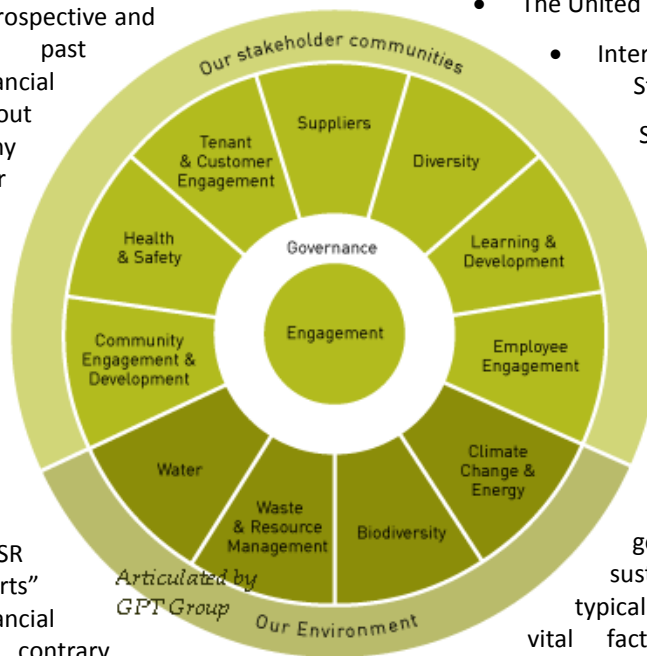
- The Global Reporting Initiative
- Organization for Economic Cooperation and Development
- The United Nations Global Compact
- International Organization for Standardization

Sustainability reports are released by thousands of companies across all sectors that publish reports by adopting some part or all of the Global Reporting Initiatives – Sustainability Reporting Framework and Guidelines.

A sustainability report refers to an organizational report that talks about the performance of four key areas namely economic, environmental, social and governance. The capacity to endure or sustainability of an organization is typically based on the performance of these vital factors. When a company offers

sustainability response to stakeholders, it capitalizes on the stakeholders' value, anticipates their action, upkeeps the value chain and identifies operational inefficiencies.

Integrated Reporting (IR) is not the same thing as sustainability. However, a good quality integrated report would bring together all the information that is core to corporate strategy including sustainability issues. The conjunction of strategy, financials and sustainability is what the long term investor is likely to be looking for while making investments.



IR brings together material information about an organization's strategy, governance, performance and prospects in a way that reflects the commercial, social and environmental context within which it operates. It provides clear and crisp image of how an organization demonstrates stewardship and how it creates and sustains value. In a nutshell, IR allows report users to join the dots in the way that best works for them in the context of return requirements, risk appetite and constraints. IR may also deliver other benefits, such as greater market efficiency, flexibility, etc.

CorporateRegister.com, a premier database, has tracked growth in the number of companies that produce non-financial reports since 1992. The number of non-financial reports produced globally has increased from less than 50 in 1992 to 1906 in 2005 which means the number of non-financial reports published has grown in size by almost 39% p.a. over 13 years. Growth has been strongest in the United Kingdom, the United States and Japan. There has also been some initiation of reporting in emerging and developing countries, most notably in South Africa and Brazil. In 2005, more than 52 percent of the Fortune 250 had adopted NFR practices.

The Government of India released the Corporate Social Responsibility Voluntary Guidelines in 2009 for business. The

Ministry of Corporate Affairs, Government of India has formally released the the National Voluntary Guidelines on Social Environment and Economic Responsibilities of Business 2011. These guidelines are based on emphasizing ethics, transparency and Accountability. RBI has highlighted banks about their role in Corporate Social Responsibility, Sustainable Development and Non-Financial Reporting in its circular dated December 20, 2007.

Sustainability reporting and performance are becoming increasingly important. The greatest bottleneck in the implementation of Sustainability Reporting practices is the reluctance to accept change. A corporate professional interacts with clients and business leaders in the course of discharging his professional duties. This enables him to promote, diffuse or normalize sustainability accounting and reporting into business operations. Corporate professionals become the prime motivators of the desired change who advocate the need to have socially viable business practices taking care of public interest areas. A philosopher has rightly said:

"Always be free in telling how you feel and what you expect because the opportunity may be lost in a blink of an eye, however, regrets can remain forever..."

## Hone your 'Team Player skills' (continued from page 4)

### 6) Cooperate and offer to help

Cooperation is working with others and acting together to accomplish a job. Effective team players work this way by second nature. Good team players, despite differences they may have with other team members concerning style and perspective, figure out ways to work together to solve problems and get work done. They respond to requests for assistance and take the initiative to offer help.

### 7) Exhibit flexibility

Teams often deal with changing conditions — and often create changes themselves. Good team players adapt to ever-changing situations. They don't complain or get stressed out because something new is being tried or some new direction is being set. A flexible team member can consider different points of view and compromise when needed. He or she doesn't hold rigidly to a point of view and argue it to a point of pain, especially when the team needs to move forward to make a decision or get something important done. Strong team players are firm in their thoughts yet open to what others have to offer — flexibility at its best.

### 8) Show commitment to the team

Strong team players care about their work, the team, and the team's work. They want to give their best effort and they would like other team members to do the same. **"Talent wins games, but teamwork and intelligence win championships"** said Michael Jordan, former American basketball player and now a successful businessman.

### 9) Work as a problem-solver

Teams, of course, deal with problems. Sometimes, it appears, that's the whole reason why a team is created — to address problems. Good team players are problem-solvers who are constantly looking for innovative solutions. Team players get problems out in the open for discussion and then collaborate with others to find solutions and form action plans.

### 10) Treat others in a respectful and supportive manner

Team players treat fellow team members with courtesy and consideration - consistently. They show understanding and the appropriate support to other team members to help get the job done. They don't place conditions on when they'll provide assistance, when they'll choose to listen or when they'll share information. Good team players also have a sense of humour and know how to have fun (and all teams can use a bit of both), but they don't have fun at someone else's expense. Quite simply, effective team players deal with other members in a professional manner. It should be added that people who are very effective team players tend to get noticed as able 'man managers'. It is such people who are often chosen for coveted assignments since they have the valuable ability of being able to work well with others. Such persons also tend to rise up the corporate ladder faster than their peers. As Henry Ford had famously quoted **"Coming together is a beginning. Keeping together is progress. Working together is success."**

On a parting note, hone your 'team player skills' and notice the positive difference it makes in how others perceive you!

## IMPROVING SELF CONFIDENCE

Henry Ward Beecher was a young boy in school, he learned a lesson on self confidence which he never forgot.

He was called upon to recite in front of the class. He had hardly begun when the teacher interrupted with an emphatic, "No!" He started over and again the teacher thundered, "No!" Humiliated, Henry sat down.

The next boy rose to recite and had just begun when the teacher shouted, "No!" This student, however, kept on with the recitation until he completed it. As he sat down, the teacher replied, "Very good!"

Henry was irritated. "I recited just as he did," he complained to the teacher.

**But the instructor replied, "It is not enough to know your lesson, you must be sure. When you allowed me to stop you, it meant that you were uncertain. If the world says, 'No!**

The world will say, 'No!' in a thousand ways.

'No! You can't do that.'

'No! You are wrong.'

'No! You are too old.'

'No! You are too young.'

'No! You are too weak.'

'No! It will never work.'

'No! You don't have the education.'

'No! You don't have the background.'

'No! You don't have the money.'

'No! It can't be done.'

And each 'No!' you hear has the potential to erode your confidence bit by bit until you quit all together.

**Though the world says, 'No!' to you today, you should be determined to say, 'Yes!' and prove it! "**

Henry Ward Beecher, a prominent Congregationalist clergyman, social reformer, abolitionist and speaker in the mid to late 19th century. Author: Steve Goodier



**Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has.**

-Margaret Mead

Throughout history, man's greatest achievements have arisen out of one simple philosophy, **Assume Nothing.**

People who have questioned established thinking have made amazing discoveries, not to mention found fundamental truths. By asking questions and challenging assumptions, new opportunities can be uncovered, while risks can be identified and managed.



Compilation:  
CS. Ajaḡ Madaiah, Mysore

## Index of Industrial Production (IIP)

In simplest terms it is an index which details out the growth of various sectors in an economy. It is an abstract number, the magnitude of which represents the status of production in the industrial sector for a given period of time as compared to a reference period of time.

In India, the first official attempt to compute the IIP was made much earlier than even the recommendations on the subject at the international level. The Office of the Economic Advisor, Ministry of Commerce and Industry made the first attempt of compilation and release of IIP with base year 1937, covering 15 important industries, accounting for more than 90% of the total production of the selected industries. The all-India IIP is being released as a monthly series since 1950. With the inception of the Central Statistical Organization in 1951, the responsibility for compilation and publication of IIP was vested with this office, and presently it is released by the Central Statistics Office of the Ministry of Statistics and Programme Implementation.

IIP is compiled by keeping reference to base year 2004 - 05, using data received from 16 source agencies viz. Department of

Industrial Policy & promotion (DIPP); Indian Bureau of Mines; Central Electricity Authority; Joint Plant Committee; Ministry of Petroleum & Natural Gas; Office of Textile Commissioner; Department of Chemicals & Petrochemicals; Directorate of Sugar; Department of Fertilizers; Directorate of Vanaspati, Vegetable Oils & Fats; Tea Board; Office of Jute Commissioner; Office of Coal Controller; Railway Board; Office of Salt Commissioner and Coffee Board.

Reserve Bank of India (RBI) governor Duvvuri Subbarao recently got a new number to factor in before he unveils his review of the monetary policy on 18 December this year. The latest IIP print for October 2012 came in at a healthy 8.2 percent, much higher than most expectations which were in the region of 4.5 percent. Which has surprise most economists and observers.

The IIP figure will come as some relief not just to corporate India, which has been under stress as industrial activity and output have fallen, but doubtless also to RBI which has been fending off constant calls for a rate cut, even as inflation remains sticky and well below the central bank's comfort zone.

### Did you know?

#### CTS-2010 standard

The Old Cheque leafs which we are having now may not work in the New Year. Yes, "CTS-2010 standard" is a set of benchmarks towards achieving standardisation of cheques issued by banks across the country. These include provision of mandatory minimum security features on cheque forms like quality of paper, watermark, bank's logo in invisible ink, void pantograph, etc., and standardisation of field placements on cheques. The benchmark prescriptions known as "CTS-2010 standard" are to be implemented by 31<sup>st</sup> March 2013. Already many of the Banks have started to replace the new cheques in place of old cheques of their customers.

RBI/2012-13/335, DPSS.CO.CHD.No. 955 / 04.07.05 / 2012-13 dated 14<sup>th</sup> December 2012

### Pick of the month

#### Can a company create a charge on the security of its reserve capital?

According to Section 99 of Companies Act, 1956 a limited company may by special resolution, determine that any part of the share capital which has not been already called up shall not be capable of being called up, except in the event and for the purposes of the company being wound up and such reserve capital can be called only in the event of winding up and for such purpose.

Reserve capital cannot be turned uncalled capital without the leave of the court. It is available only for the creditors on the winding up of the company. The company can neither charge reserve capital nor cancel in a reduction of capital.





Compiled by:

**CS. Omkar Nagesh Gayatri**  
Bangalore



**CA. Ashit Shah, Team Genicon, CS. Kasturi S.,**  
**Mumbai Chennai Bangalore**



## Negotiable Instruments

**Even dishonour of cheque due to 'signature mismatch' would be violation of Sec. 138: SC**

The Supreme Court opined that if after issue of the cheque the drawer closes the account it must be presumed that the amount in the account was nil, hence, insufficient to meet the demand of the Cheque. A similar result can be brought about by the drawer changing his specimen signature given to the bank or in the case of a company changing the mandate of those authorized to sign the cheques on its behalf. So long as the change is brought about with a view to prevent the cheque from being honoured, the dishonour would become an offence under Section 138 subject to other conditions prescribed being satisfied. Thus, it held that the dishonour due to signature mismatch would be covered by Sec. 138 of the Negotiable Instrument Act.

*LAXMI DYE CHEM v. STATE OF GUJARAT C.A. Nos. 1870-1909 OF 2012 dated Nov 27, 2012*

## Provident Fund

**Definition of 'Basic wages' for PF contribution**

Last year, the Madras high court and the Madhya Pradesh high court in two separate cases had held that various allowances paid by the employer to its employees under different heads qualified as basic wages under section 2(b) of the PF Act and needed to be included while computing the PF contribution.

Based on these judgments, PF officials carried out audits on India Inc and raised demands to recover the differential PF contributions. Later, pending dismissal of the writ petitions filed by these companies, the audits were held in abeyance.

But now EPFO has issued a Circular which deals with

*E-Magazine from ICSI – Mysore Chapter | Edition – 107; December 2012*

the "splitting up" practice adopted by employers. It states that basic wages will include all allowances which are "ordinarily, necessarily and uniformly" paid to the employees. Thus, various allowances such as conveyance, educational allowance, medical allowance, etc., will have to be taken into consideration while computing the PF contribution: *EPFO Circular dated November 30, 2012*

**Companies may go Scot-free for not depositing PF contribution**

The provident fund (PF) department has voluntarily given up its powers to take action against employers who fail to deposit workers' dues unless it can name workers whose savings were in danger, evoking protest from union leaders and labour experts who said this could protect errant companies who fail to make their PF contributions.

An order issued by former Central PF Commissioner RC Mishra on November 30, his last day in office, said enforcement officers of the department cannot act against companies defaulting on workers' PF dues unless they can identify the workers whose savings were at stake.

*EPFO Commissioner Order dated 30th November 2012*

## INCOME TAX

**Discount to Distributors: TDS u/s 194H**

The discount offered by the assessee to the distributors on payments made by the latter for the SIM cards/recharge coupons which are eventually sold to the subscribers at the listed price is commission and it is subject to TDS under S. 194H

*M/s CELLULAR MOBILE TELECOM SERVICES Versus INCOME TAX OFFICER TDS WARD-I(1), CHENNAI - October 30, 2012*

**Software license fees**

Software will help the assessee in increasing the efficiency

but the same cannot be treated as forming part of profit making apparatus of the assessee company and, therefore, the expenditure on this software cannot be treated as capital expenditure.

*EIMCO ELECON (INDIA) LTD. Versus ADDL COMMISSIONER OF INCOME TAX, ANAND - September 21, 2012*

### **Deduction u/s 22 while computing annual value of Property u/s 24**

In computing the income from house property only deduction as permissible u/s 24 of the Act are to be considered and no deduction is allowable therein for payment of brokerage charges

*M/s GARDEN CITY MULTIPLEX PVT LTD. Versus DEPUTY COMMISSIONER OF INCOME TAX, CIRCLE 11(3), BANGALORE - November 02, 2012*

### **Extension of time limit for filing of ITR-V forms to CPC**

The CBDT has extended the time limit for filing ITR-V forms filed electronically without digital signature for AY 2010-11 (filed during FY 2011-12) and AY 2011-12 (filed on or after 01.04.2012), upto 31.12.2012 or within 120 days from the date of uploading of the return, whichever is later.

*Notn. 01/2012 under CPR scheme, dated 23.11.2012*

### **Rajiv Gandhi Equity Savings Scheme ('RGESS') notified by the Central Government ('CG')**

The Finance Act, 2012 had, for the FY 2012-13, introduced Section 80CCG to accord a deduction in respect of investment made under notified equity saving scheme of 50% of the amount invested or Rs. 25,000 whichever is lower. Some of the salient conditions contained in the RGESS notified by the CG to avail of the deduction are as follows: · The assessee is a resident individual (may be ordinarily resident or not ordinarily resident) and qualifies as a 'new retail investor' as defined in the RGESS; · His / her gross total income does not exceed Rs. 10 lakhs; · He / she has acquired eligible securities as prescribed in the RGESS (such as equity shares listed in BSE-100, CNX-100, equity shares of Maharatna, Navratna or Miniratna companies, units of Exchange Traded Funds (ETFs) or Mutual Fund (MF) schemes with RGESS eligible securities as underlying etc.); · The investment by the investor is locked-in for a period of 3 years from the date of acquisition in accordance with the above scheme.

*Notification No. 51/2012 [F. No. 142/35/2012-TPL]/SO 2777(E), dated 23.11.2012*

### **Revised method for valuing unlisted equity shares**

Rule 11UA of the Income-tax Rules, 1962 provides, inter alia, that for the book value ("BV") method to

determine the fair market value ("FMV") of unlisted equity shares for the purpose of taxability of such shares received for nil consideration / consideration less than FMV. The methodology to compute the BV has been revised to provide for a deduction from the book value of assets and liabilities, tax deducted or collected at source as adjusted for any refund claimed under the Act. The rules have been amended to enable the taxpayer to choose the Discounted Cash Flow method over the extant BV method to value unquoted shares received by a closely-held company for a price less than FMV.

*Notn. 52/2012, F.No.142/19/2012-SO(TPL) dated 29.11.2012*

## **SERVICE TAX**

### **Restoration of service specific accounting code for the purposes of payment of service tax under the Negative List**

The Central Government has restored service specific accounting codes and amended the Service Tax Rules, 1994 with respect to remittance of taxes. Accordingly, a list of 120 categories of services is restored with respective accounting codes. A specific sub-head has been created for payment of penalty. The sub-head 'other receipts' is meant only for interest payable on delayed payment of service tax.

The accounting code under the sub-head "deduct refunds" is not to be used by the taxpayers, as it is meant for use by the field formations while allowing refund of tax. The circular also clarifies that the registrations obtained under the erstwhile provisions continue to be valid. Where registrations have been obtained under the description 'All Taxable Services', the taxpayer should amend the application online in ACES website and opt for relevant description/s. Application ST-1 filed for amendment seeking the description 'all taxable services' is not required to be made and accordingly the necessary instruction has been issued to the departmental authorities.

*Circular 165/16/2012-ST dated 20.11.2012 and Notification No.48/2012-ST dated 30.11.2012*

### **Recipient not expected to know date of payment of Service Tax by service provider**

Held that Appellants are not expected to/required to know the actual date of payments of the service tax by the service provider and they have paid the bill amount (the service charges + the service tax) to the service provider before November, 2006 itself and, therefore, there is nothing irregular in their taking the credit in November, 2006 - Service provider has defaulted/delayed in paying the service tax and the said service provider has not been included as a noticee in the present proceedings - appellant has made out a case for waiver of penalty imposed on them - waiver of penalty and stay of recovery thereof till the disposal of the appeal.

*Federal Mogul Tpr India Ltd. Versus Commr. of Central Excise*

## Fresh application for refund not accepted when earlier refund already rejected

Refund partially rejected on the ground that assessee has not been able to produce any proof of receipt of export proceeds. Held that claim which already stands rejected cannot be allowed to be revived by way of filing of fresh claim.

*M/s. IDS Infotech Ltd. Versus Commissioner of Central Excise, Chandigarh - November 20, 2012*

## Suppression of Facts in ST-3 Return

The appellants are manufacturer and exporter. They have taken the services of GTA and paid commission to overseas service provider. No service tax was paid under reverse charge mechanism and on pointing out the same by the Department, the appellants paid service tax along with interest. Department issued notice claiming penalty u/s78 of the Finance Act 1994 alleging Suppression of Facts in the ST-3 return.

Tribunal rejecting the demand for penalty decided that if appellant have paid the service tax they are entitled to credit of the same and in this view, it can not be said that by suppressing the fact the appellants are going to get extra benefit on account of suppression.

*India trimmings pvt ltd versus commissioner of c. Ex. Coimbatore 2012 (28) s.t.r.401 (tri-chennai)*

## CUSTOMS

### Revised guidelines for AEO

The CBEC has announced revised guidelines for implementation of the Authorised Economic Operator (AEO) programme. The benefits for different categories of operators have been specified in the circular. Authorised couriers and custodians have also been included in its coverage. Further, the CBEC has issued notifications to amend the Custom House Agents Licensing Regulations, 2004 and the Handling of Cargo in Customs Areas Regulations, 2009 for the purpose of AEO.

The concessions to authorized economic operators: (i) waiver of bank guarantee or cash deposit; (ii) approval granted to AEO is extendable for ten years at a time etc.

The Circular can be downloaded from <http://cbec.gov.in/customs/cs-circulars/cscirc12/circ28-2012-cs.htm>

*Circular 28/2012-Cus, & Notification No. 104 & 105/2012-Cus (NT) dated 16.11.2012*

## FOREIGN TRADE POLICY

### Recipient of goods can also claim of refund of Terminal Excise Duty (TED):

The Hand of Procedures (Vol.1) is amended to provide that a recipient of goods (purchaser / receiver of goods) may also claim TED refund on production of a suitable disclaimer from the supplier. Hitherto, only the supplier of the goods was allowed to claim the refund of TED. This is effective from 01.03.2011.

*Public Notice No. 31 (RE 2012)/2009-14 dated the 21.11.2012*

## FEMA:

### Export of Goods and Software - Realization and Repatriation of export proceeds

The RBI, in November 2011, had enhanced the period of realization and repatriation to India of amounts representing the full export value of goods or software exported, from 6 to 12 months from the date of export. This relaxation was available up to 30.09.2012. Keeping in mind the current economic scenario, the RBI has extended this relaxation upto 31.03.2013.

However, the period of realization and repatriation to India of the full export value of goods or software exported by a unit situated in a Special Economic Zone (SEZ) as well as exports made to warehouses established outside India remains unchanged, i.e., no specific time period has been stipulated.

*A.P (Dir Series) Circular No 52 dated 20.11.2012*

### Liaison Office ("LO") / Branch Office ("BO") in India by Foreign Entities - Reporting to Income Tax Authorities

Earlier, LOs / BOs were required to furnish copy of the Annual Activity Certificate ("AAC") to the Director General of Income Tax (DGIT) (International Taxation), Drum Shaped Building, I.P. Estate, New Delhi 110002. The Reserve Bank of India ("RBI") has now mandated that the copies of the AACs submitted to the DGIT (International Taxation) should be accompanied by audited financial statements including receipt and payment account.

Further, at the time of renewal of permission of LOs by Authorized Dealer banks, a copy of each such renewal is required to be endorsed to the office of the DGIT (international Taxation).

It appears that this direction is pursuant to possible requests from the Income-Tax Authorities to enable them to undertake a more comprehensive scrutiny of activities of BOs / LOs.

*A.P (Dir Series) Circular No 55 dated 26.11.2012*



## India says no to inclusion of more items in WTO list by US, EU

India has opposed a move by the US and the European Union to expand the list of electronic items under the World Trade Organization's IT Agreement, which will result in elimination of import duties on mobile handsets, printers, fax machines and consumer electronic goods. The government is of the view that inclusion of more items in the list would have an adverse impact on the "fledgling" domestic industry.

## India may drag US to WTO over increase in visa fee

India proposes to take the US to the WTO disputing 'discrimination' against the Indian software companies which are being asked to pay higher H1B and L1 visa fee for their employees than the American firms for bringing more number of skilled immigrants to their country at lesser costs. "The department of commerce is working to build up a case of WTO violations by US resulting from the implementation of the visa fee hike.

## India to oppose carbon tax at WTO

India is gearing up to strongly oppose any move by developed countries to impose a carbon tax on developing economies in the next World Trade Organisation (WTO) meeting. India is preparing to take on the West on this contentious issue, something that is bound to be raised by the US and EU in the WTO. India argues that, there is no question of lying low and accepting demands by the West to impose a carbon tax and India believes that, it is doing its due diligence on the matter to counter such demands.

## India opposes EU proposal to include animal welfare issues in WTO talks

India has opposed a reported move by the European Union (EU) to include animal welfare issues in the World Trade Organisation (WTO) negotiations. However, animal activists here, who have welcomed the EU decision, said they would soon petition the commerce ministry asking to hear their concerns on traders meeting out cruel treatment to animals. The activists also want India to agree with the EU on the matter.

## US accuses India of WTO rules violation over Nexavar

The US administration has accused India of violating WTO norms by allowing Hyderabad-based Natco Pharma to make generic version of cancer drug Nexavar, according to a media report.

## India wants to stop proposed WTO rules on fisheries subsidies

India and other developing countries will demand the redrafting of the proposed WTO rules on fisheries subsidies. The rules coming up for talks in Geneva this month-end, will jeopardise all development plans for fisheries. The proposed rules seek to stop all forms of government support for development of fisheries, including creating infrastructure facilities etc.

## SEBI sets new rules to prevent flash crashes

Market regulator Securities and Exchange Board of India unveiled a new set of measures, including reducing the trading band for a wide category of stocks and capping single orders at nearly \$2 million, to prevent future flash crashes. The measures come after an erroneous trade order of more than \$125 million from a broker at Emkay Global Financial Services sent shares sharply lower in October.

## RBI rejects FinMin proposal for interest on Cash Reserve Ratio

Reserve Bank of India (RBI) has shot down the proposal of the finance ministry for payment of interest on cash reserve ratio (CRR) being maintained by scheduled commercial banks with the central bank. This is the second time the RBI is rejecting the government proposal on interest payment on CRR. The RBI has argued that the annual transfer of surplus to the government will become negative if the central bank pays interest on CRR.

## SC may favour heavy road tax on diesel cars

The Supreme Court indicated that it may agree to imposition of heavy road tax on diesel cars on yearly basis to check the increasing levels of pollution in Delhi and other metropolitan cities. The apex court has sought the views of the Centre on the issue. At present, car buyers have to pay only one time road tax.