



Newsletter – 38

January 2007

From Chairman's desk.....



Dear Friends,

Happy Sankranthi to you all!!

Chapter had many reasons to feel satisfied about the year 2006. The results in the exams for June 2006 the year were exemplary, which the Chapter would like to record with all pride.

The Chapter got the first ever Polling booth in its history for the December national & regional council Elections. This also gave an opportunity to many of our Members to get in touch with each other on Election Day. The Election to management committee for next 4 years was also a high light of uniqueness of our chapter, with all the seven candidates being declared elected unopposed/ uncontested.

The Chapter looks forward to have more vibrant year 2007. More & more active participation of members and creating more awareness among the public about the Chapter & the CS course is our Charter for this year.

The Chapter is holding one half day program in first week of March, 2007 on Union Budget, 2007- Indirect Taxes, by one of the leading Advocates from Bangalore. Similarly, Chapter is planning to hold half day program in February, 2007 on Foreign Exchange Management Act. Chapter is striving to arrange good programs with Credit hours eligibility to facilitate our practicing members not to search for programs elsewhere. The students' Program Thrishna-2 though planned could not be held during the year 2006. The revival of Thrishna for the Foundation day of 2007 is one of the immediate tasks the Chapter has on its hand.

The Chapter looks forward to active participation & whole hearted support from all the members. The members views and suggestions will help the Chapter to further improve the Chapter activities. The members are aware that the bundle of energy called Mr. H.M. Dattatri having moved out of Mysore, the stabilization of activities would involve sometime.

I would like to take this opportunity to thank all the members, members of Management committee and the Office bearers for the support and co-operation extended during the year gone by and look forward to receive similar support to the present committee.

D D Bhat

Chairman, Mysore Chapter

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NEWS OF USE



E-payment of service tax

The payment of the service tax electronically has been made mandatory for major assesses. All those assesseees who have paid Rs. 50 lakhs or more during the preceding financial year or in the current financial year should pay service tax electronically.

It has been made mandatory w.e.f 1.10.06

(Circular No. 88/06/2006-ST dt 06-11-06)

Service Tax

The Central Government has clarified that service tax is not leviable on statutory fees collected by sovereign / public authorities for carrying out statutory functions / duties, as these do not constitute provision of taxable services.

(Circular No. 89/7/2006 dt. 18/12/06)

CST News Alert Phase Out

The much awaited phase out of the Central Sales Tax (CST) is all set to begin from April 1, 2007. The Centre and the States have finally reached a broad consensus on this issue. At the meeting of the Empowered Committee of State Finance Ministers with the Union Finance Minister, held on January 3, 2007, the Centre and the States have reached broad agreement on both the phase out of the tax and on the compensation package for the States as a result thereof.

Consequently, the CST rate will be cut by 1% from 4% to 3% from the next financial year beginning 1st April 2007. Further reductions are planned so that CST is fully abolished by April 2010, being the proposed date of introduction of the GST in India.

Compensations proposed-

States will be permitted to tax 44 new services currently outside the service tax regime and a further 33 services currently being taxed by the Centre.

- States will be permitted to levy a VAT on tobacco, which is currently chargeable to Additional Excise Duty.

- Legislative changes will be made to empower the States to levy a VAT on imports into the country.

Post Membership Qualification in Corporate Governance

The registration for Post Membership Qualification course in Corporate Governance has started from 1st January 2007. The members of the Institute who are interested to join this Course will have to submit their application for registration in the prescribed format included in the prospectus.

Members may procure a copy of the Prospectus from the Institute's Headquarters/ Regional/ A1 or A grade Chapters offices against cash payment of Rs.500/- or through post by remitting a demand draft of the same amount in the favour of "The Institute of Company Secretaries of India" payable at New Delhi. The course fee is Rs.12500/-.

Certification of Net worth by PCS

Good News for all Practicing Company Secretaries:

All active members including Representative members of Cash segment, Limited Trading members & Trading and/or Clearing members of the Derivatives segment of the Exchange are informed through a BSE notification that henceforth the Exchange shall accept the Net worth certificate from the members if certified either by a Chartered Accountant or a Practicing Company Secretary duly submitted on their letter head and also containing the membership no, & seal of the Chartered Accountant or a Practicing Company Secretary.

The provision contain in this notice will be applicable with immediate effect for submission of Net worth certificate as on March 31, 2006 and thereafter for submission of net worth certificate as on September 30, and March 31 every year.

BSE Notice No. 20061031-21 October 31,2006

LEGAL ROUNDUP...



CENVAT

The essential character test for classification- When??

The Tribunal has held that for determining the classification, the essential character test can be resorted to only in case the product cannot be classified in terms of the tariff heading or Section/Chapter notes.

Titan Industries Ltd Vs CCE (2006 (204) ELT 435)

Whether deduction is allowed for Cash Discount?

The Larger Bench of the Tribunal has held that cash discount known at the time of clearance of goods and offered to all buyers is an eligible deduction from the value of goods irrespective of whether or not every buyer avails such discount by making prompt payment.

CCE Vs Arvind Mills Ltd (2006 (77) RLT 587)

MRP Based valuation under Section 4A

The Tribunal has held that the MRP based valuation scheme under Section 4A of the Central Excise Act is not applicable to small packs of net weight less than 10 gms which are exempt from printing of MRP, under the Standards of Weights and Measures Act.

Alfa Packaging Vs CCE (2006 (204) ELT 506)

Refund of unutilized credits

The Tribunal has held that the manufacturer is entitled for refund of unutilized credits on inputs used in exported goods even if such goods are exempt from payment of CENVAT.

Jobelle Vs CCE (2006 (203) ELT 627)

Credit on rejected inputs

The Tribunal has held that credit is not deniable on inputs rejected during the course of the manufacturing process.

Monika Electronics Ltd Vs CCE (2006 (204) ELT 468)

Surrender of registration certificate

The Tribunal has held that the manufacturer cannot be prevented from surrendering his registration certificate once he stops production of excisable goods. No objections to such surrender can be raised on the ground that the some dues are pending against the manufacturer.

CCE Vs RGR Pharmaceuticals (2006 (204) ELT 404)

Value Added Tax

Tax from Contractors & Sub-contractors

The Andhra Pradesh High Court has held that collection of tax from both contractor and sub contractor in respect of the same contract, without allowing to the contractor the credit of the tax paid by the subcontractor, is discriminatory and violative of Article 14 of the Constitution of India.

The Court further held that the subcontractor, being only an agent of the contractor, does not have any privity of contract with the contractee.

Consequently, there is only one taxable event in such contracts. The State should, therefore, frame appropriate rules to collect tax either from the subcontractor or from the contractor and not from both.

Larsen & Toubro Ltd. Vs. State of AP [(2006) 148 STC 616]

Customs

Authorities cannot add or read conditions

The Tribunal has held that customs authorities cannot add or read conditions into an exemption notification where no such conditions exist and accordingly CD ROMS capable of user interactivity would be considered 'computer software'.

Contessa Commercial Co. Pvt. Ltd. Vs. CC (2006 (77) RLT 425)

Interpretation of Exemption notifications

The Tribunal has held that Rule 2(a) of the General Rules of Interpretation cannot be applied to allow or disallow the benefit of an exemption notification unless the notification is based on the classification of the item under a particular heading of the Customs Tariff.

L.G. Electronics India Pvt. Ltd. Vs. CC (2006 (77) RLT 678)

Transaction value of imported goods.

The Tribunal has held that the declared transaction value of imported goods cannot be rejected on the basis of a lower value declared by the exporter at the port of export and in the absence of any contemporaneous imports at a lower price.

Contessa Commercial Co. Pvt. Ltd. Vs. CC (2006(77) RLT 425)

Transaction value- When can be rejected?

The Tribunal has held that the declared transaction value cannot be rejected on the basis of prices of contemporaneous exports of goods not identical to the impugned goods. The Tribunal has further held that price quotations or prices declared by the foreign buyer at the port of import cannot form the basis of challenging the declared value of export goods.

CC Vs. Unimac (I) Ltd. & Ors. (2006 (77) RLT 435)

Goods imported from different countries cannot be termed as similar goods.

The Tribunal has held that goods imported from different countries cannot be termed as similar goods under the provisions of the Customs Valuation Rules (CVR). Further, the Tribunal has held that the transaction value of imported goods cannot be rejected in the absence of evidence of any remittance over and above the invoice value.

Milton Plastics Ltd. Vs. CC (2006 (204) ELT 497)

Retail sales price & transaction value of imported goods.

The Tribunal has held that the declared transaction value of imported goods cannot be enhanced on the basis of retail prices in India.

Arihant Electronics Vs. CC (2006 (139) ECR 17)

Valuation of the baggage

The Tribunal has held that the CVR are applicable for valuation of the baggage of a passenger and the best judgment method prescribed under Rule 8 of the CVR may be the most appropriate method for valuation thereof.

Naresh Lokumal Serai Vs. CC (2006 (203) ELT 580)

Countervailing duty would be equal to the basic excise duty and the special excise duty

The Delhi High Court has held that the additional duty of customs (countervailing duty) levied on imported goods would be the equivalent of both the basic excise duty and the special excise duty.

J.K. Synthetics Limited Vs. UOI (2006(204)ELT 369)

Refund & claim of drawback.

The Tribunal has held that the refund on re-exported goods which were not cleared for home consumption cannot be denied merely on the ground that a claim of drawback was not filed.

BASF India Ltd. Vs. CC (2006 (204) ELT 474)

RBI

TDS on interest payable under Senior Citizens Savings Scheme, 2004:

RBI Notifies that Agency banks should not make any deduction of tax at source where depositor is filing Form 15H or Form 15G or a certificate under Section 197(1) of Income Tax Act 1961, as the case may be.

RBI/2006-07/171 (10-Nov-06)

External Commercial Borrowings (ECB):

With a view to liberalising the ECB guidelines, it has been decided that henceforth, corporates can avail ECB of an additional amount of USD 250 million with average maturity of more than 10 years under the approval route, over and above the existing limit of USD 500 million under the automatic route, during a financial year.

A.P. (DIR Series) Circular No.17 (04-Dec-06)

A key ruling on turnkey contracts

Read in page 6



Swamy Vivekananda (January 12, 1863 - July 4, 1902) is considered one of the most famous and influential spiritual leaders of the Hindu religion. He was the chief disciple of Ramakrishna Paramahansa and was the founder of Ramakrishna Math and Ramakrishna Mission. He is considered by many as an icon for his fearless courage, his positive exhortations to the youth, his broad outlook to social problems, and countless lectures and discourses on Vedanta philosophy.

1. **Swami Vivekananda was the first Indian to be invited to accept the chair of Oriental Philosophy at the Harvard University.**
2. **Jamshedji Tata set up the Tata Institute or the Indian Institute of Science on the Swami's advice.**
3. **India celebrates *National Youth Day* on his birthday - January 12**

Vivekananda perhaps, is best remembered as the man who "stole the show" at the 1893 World Parliament of Religions in Chicago, Illinois, where he earned wild applause for beginning his address with the famous words, "Sisters and brothers of America." Vivekananda's arrival in the USA has been identified by many to mark the beginning of western interest in Hinduism not as merely an exotic eastern oddity, but as a vital religious and philosophical tradition that might actually have something important to teach the West. Within a few years of the Parliament, he had started Vedantic centers in New York City, New York and London, lectured at major universities and generally kindled western interest in Hinduism. His success was not without controversy, much of it from Christian missionaries of whom he was fiercely critical, but some from Western academics and Indian journalists, who questioned his bombastic claims to have conquered America with the Vedanta philosophy. After four years of constant touring, lecturing and retreats in the West, he came back to India in the year 1897.

Quotable quotes:

"Each soul is potentially divine. The goal is to manifest this divinity within, by controlling nature, external and internal. Do this either by work, or worship, or psychic control, or philosophy - by one, or more, or all of these - and be free. This is the whole of religion. Doctrines, or dogmas, or rituals, or books, or temples, or forms, are but secondary details."



"The one theme of the Vedanta philosophy is the search after unity. The Hindu mind does not care for the particular; it is always after the general, nay, the universal. "What is it that by knowing which everything else is to be known, that is the one search."

"Look upon every man, woman, and everyone as God. You cannot help anyone, you can only serve: serve the children of the Lord, serve the Lord Himself, if you have the privilege."

"It may be that I shall find it good to get outside of my body -- to cast it off like a disused garment. But I shall not cease to work! I shall inspire men everywhere, until the world shall know that it is one with God."

"Mankind ought to be taught that religions are but the varied expressions of THE RELIGION, which is Oneness, so that each may choose the path that suits him best."

"Even a person who does not believe in god may go to heaven, but a person who does not believe in himself, there is no place for him even in hell." "I believe in god, I believe in men, I even believe in going to hell to save others"

It is the conduct of life that you develop, it is the character that you cultivate and it is the type of person you become. This is the central meaning of successful living. Therefore, you will see this important matter is not so much a question of success in life. (Jivan - Me-Safalta) but rather it is success of life. Such successful life is one that succeeds in producing an ideal individual, a noble man. Your success is not measured in terms of what all you obtained but in term of what you become, how you live and what actions you do. Upon this point reflect well and attain great happiness.

Personal Traits of an Effective Leader



Smitha,
Falcon Tyres Ltd

All of us wear big, invisible signs across our chests, reading:

I want to be **IMPORTANT**
I want to be **ADMIRE**
I want to be **APPRECIATED**



These big, invisible signs which all of us wear cannot be seen by your eyesight, but can be clearly read & understood by your insight. Though it is the earnest desire of all of us to be the one as mentioned above, only a few among us stand out to achieve the same & become leaders. They are the “Effective Leaders”.

There are nearly 6 discernible characteristics of people who are effective leaders. These traits will be of immense help to budding professionals.

Let me now take you all on a journey through the 6 traits of an effective leader.

1. Continuous Learners:

Effective leaders are constantly educated by their experiences. They learn through both their eyes & ears. They are curious & always ask questions. They expand their competence through continuous learning. They develop new skills. The more they get to know, the more they realize that they don't know.

2. Radiators of Positive Energy:

An effective leader makes his presence felt. His attitude is optimistic & positive. He is hopeful, enthusiastic, cheerful & self-believing. This is a positive energy which is embedded in him that changes any weaker/ negative energy fields around him.

3. Service-oriented:

An effective leader is one who takes life as a mission and not just a career. He thinks of others & strives for the growth of others. He is selfless.

4. Belief (Trust) in others:

Effective leaders are those who realize that behaviour & potential are two different things. They don't view negative behaviour seriously. They are aware of weaknesses. They tap the unseen potential of all people around them. They forgive & forget the offences of others. They believe in the unseen potential, thereby creating an atmosphere for growth & opportunity.

5. Life as a Mission:

For effective leaders, life is a mission. They always love to explore the intricacies of life. They engage in conversations with different people & learn from them.

6. Productive:

Effective leaders are hard workers. They easily come out of any intriguing situation. They succeed in their attempts & come up with results, which are unique & creative in their own way. They exercise their mind, rejuvenate it with refreshing thoughts & produce great results.

To end, each one of us can mould ourselves to be an effective leader, provided we have the will.

Let us become one & make our life meaningful as G.B. Shaw quoted:

“I want to be thoroughly used up when I die, for the harder I work, the more I love. Life is no brief candle to me; It is a sort of splendid torch which I have got a hold of for the moment & I want to make it burn as brightly as possible before handing it on to future generations”.

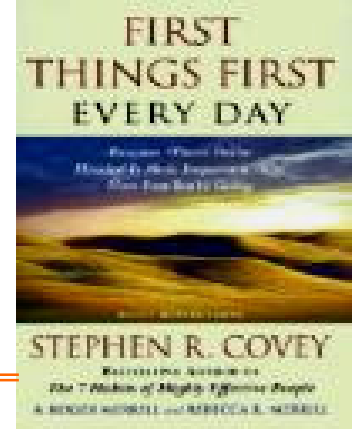
A key ruling on turnkey contracts

More on the Web: www.businessline.in/webextras

On January 4, the Supreme Court delivered a landmark decision on taxation of turnkey contracts in Ishikawajima-Harima Heavy Industries Ltd vs Director of Income Tax, Mumbai (unreported). The Supreme Court held that merely because the contract has been designed as turnkey, it would not mean that the entire contract must be considered as an integrated one for the purpose of taxation as well. The taxable events in execution of a contract may arise at several stages in several years and consequent liability as well may arise at several stages. The contractual obligations are distinct with clear demarcation as supplies and services and as onshore and offshore, with separate consideration for each agreement. As far as the offshore services are concerned, the apex court held that the services have to be rendered and utilised in India to be taxable in India. There must be sufficient territorial nexus with India – a direct live link with the services rendered. A distinction may also be made between rendition of services and utilisation thereof.

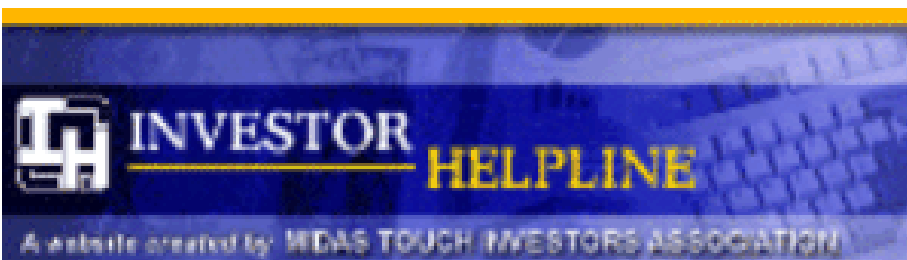
First Things First by Stephen R Covey

Nimmoo Kinger,
PCS, Mysore



Stephen Covey's book, First Things First is a masterpiece on time management. With the ever changing/fast changing technology, the demands on one's most important resources, time, is ever-increasing. It is a daily struggle to balance all areas of our life. First Things First focuses on tracing the history of past failures in time management, links up time management with money management, shows the reader the path to achieving worthwhile goals and live a meaningful life.

Covey has formulated daily tasks into four quadrants, which is a re-definition of the prioritization of tasks: urgent/important/important but not urgent, etc and then goes on to ask the reader : "What is the one activity that you KNOW if you did superbly well and consistently well would have significant positive results in your professional or work life? To carry on your quest for success and achievement, you need to read the book.



Web gatra

Kamal Kumar ACS Final

www.investorhelpline.in

This Investor Helpline portal is developed by Midas Touch Investors Association under a project sponsored by Investor Education and Protection Fund for providing a platform to the Investor for

- Redressal of Investor Grievance.
- The Portal aims at informing and updating investor about his Rights under Acts like Companies Act, SEBI Act etc. Midas Touch Investors Association proposes to keep on adding investor friendly information on the portal from time to time.
- Midas Touch Investors Association would work as an intermediary between the companies/entities/regulators and Investors in capital market.
- Midas Touch Investors Association would act as an advocacy group for suggesting systemic reforms.

Any person who has any grievance relating to investment in corporate sector can seek redressal of his grievance by filling the requisite Grievance Form under the appropriate category in this website.

This website of Securities and Exchange Board of India is comprehensive about the various happenings of the secondary markets. It contains not only the text of all the SEBI rules and regulations but also the circulars and press releases. It caters to the requirements of professionals as well as to the students from the academic point of view.

The site map enables the visitor to search for the required information at the minimum possible time. The legal rulings of the SAT, committee reports and so on make it a complete ready reckoner. It provides flash news regarding the various happenings of the securities market.

In a nutshell, it is a single stop website to answer all your queries right on your desktop.

Indian Depository Receipts

Kamal Kumar ACS Final

What are Depository Receipts?

Marketed internationally to sophisticated investors, these are negotiable certificates that give evidence of ownership of a company's shares. They are a good medium for international investors because they maybe more liquid and more easily traded than the underlying shares.

www.share-dealing-options.co.uk/about/glossary.shtml

Akin to the Global Depository Receipts (GDR) and American Depository Receipt (ADR) there is an Indian instrument called Indian Depository Receipts (IDR).

Companies incorporated outside the country can now raise resources from the Indian capital market by issuing Indian Depository Receipts (IDRs).

It is an instrument in the form of depository receipt created by the domestic depository in India against the underlying equity shares of a foreign company.

Holding of shares

The actual shares underlying the IDRs would be held by an overseas custodian, which will authorise the Indian depository to issue the IDRs.

The overseas custodian is required to be a foreign bank having a place of business in India and needs approval from the finance ministry for acting as a custodian. The Indian depository needs to be registered with SEBI.

Who can issue these IDRs?

Any company

1. whose pre issue capital and free reserves are not less than US\$ 100 million
2. whose average turnover is US\$ 500 million during 3 years preceding the issue
3. whose pre issue debt-equity ratio is not more than 2:1
4. who has been making profits for last 5 years preceding the issue

5. who has been declaring dividend of not less than 10% for the above mentioned period and,
6. who is fulfilling the eligibility criteria laid down by SEBI from time to time

All IDR issuances should have the prior nod of SEBI. The rules on IDRs, prescribed by the Government, do not require listing of the IDRs in a foreign bourse. As per the rules, an issuing company would only require listing of IDRs in recognised stock exchanges in India.

IDR means any instrument in the form of depository receipt created by the domestic depository in India against the underlying equity shares of the issuing company. This has been stipulated in the Companies (Issue of Indian Depository Receipts) Rules, 2004.

The norms, notified by the Department of Company Affairs (DCA), however, make it mandatory for the issuing company to have an established place of business in India.

The rules also stipulate that IDRs should not be redeemed into underlying equity shares before the expiry of the one-year period from the issue date. Further, the IDRs issued by any issuing company in any financial year should not exceed 15 per cent of its paid-up capital and free reserves.

An issuing company looking to get the nod of SEBI should pay a non-refundable fee of \$10,000 along with its application.

On being granted the permission, an applicant would have to pay an issue fee of half a per cent of the issue value subject to minimum of Rs 10 lakh where the issue is up to Rs 100 crore. Further, where the issue value exceeds Rs 100 crore, every additional value of issue would be subject to a fee of 0.25 per cent of the issue value.

The norms also specify the procedure and redemption of IDRs. A resident holder of IDRs may transfer or ask the domestic depository to redeem the IDRs, subject to the provisions of the Foreign Exchange Management Act, 1999 and other laws for the time being in force.

“Ship is always safe at the shore, but that is not what it is built for”

Spectrum this Month...

Hello Friends,

We wish you all a

Happy New Year!!

Exam tension has just chilled down, we hope all of you have done well in the exams. Year 2007 seems to be a year with lot of challenges and opportunities.

Friends, you know, in 2006 Mysore Chapter has conducted study circles on all 52 Sundays of the year. Students have found these study circles highly beneficial.

All the 4 study circles of December 2006 were occupied with lot of discussions on exam related queries.

We will be discussing all four Secretarial Standards in the Study Circle meetings to be held in January 2007.

So thatz all from SPECTRUM.

**“Happy Sankranti
Happy Pongal”**

Spectrum friends

JAGO GRAHAK JAGO

Venkatesh ACS Inter

Hi friends!!

We play different roles in an economic system. One such role is that of a consumer. Previously the market was known to be the sellers' market but today the scenario has completely taken a turn for 'Customer is the King'. But how far are we really aware of the rights and grievance redressal forums? This ignorance will have long lasting impacts on the individual as well as the economy as such. In the forthcoming lines you will be given an idea regarding some of the grievances which can be redressed by the administrative set up under the Consumer Protection Act, 1986.



Due to voltage fluctuations the electronic gadgets were damaged. Is it deficiency in service?? Can compensation be claimed?

The answer is yes. It amounts to deficiency of service. Any loss or injury suffered by a person due to such fluctuations can make a claim for compensation. (NC KSEB Vs Raveendran)

Do you remember the day when an important document though sent through courier did not reach on the specified day. As a result of which you had to go through lot of hardships. Can compensation be claimed?

We all send important documents through courier. There are possibilities that the document send by us may not reach the ultimate receiver, in time. This is a deficiency in service and such person can ask for compensation. (Bharati Knitting Co Vs DHL)

Just think, while you are alighting from the airplane, the ladder is pulled off and you fall down. For the injury suffered by you, you can make a claim on the ground of deficiency in services and it is eligible for compensation.

**“Be aware of your rights as a consumer!!!
And be a consumer in the true sense.”**