

Edition 110
March 2013



eMagazine

Umanq 2013
...zeal to excel



**Employees' Welfare
in Professional Bodies**

**IPR and Cyber Law Issues
with Special Reference to IT Industry**

International Forests Day

For Private Circulation Only



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

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Message from Chairman



Dear Readers,

Congratulations to all the students who are successful in completing their respective stages of ICSI examination and my best wishes for their future endeavours. Good luck for the students who could not clear the exams at this attempt. I guess the best is yet to come from them.

*It's my great pleasure in informing you that a student from Mysore Chapter **Ms. Annapurna Srikanth**, has secured all India 3rd rank in her December, 2012 session professional level exam. Congratulations to her! I thank her for bringing a new golden feather to the chapter's cap.*

*In the month of March, on 02nd & 03rd the Chapter had organised a two days seminar with the theme "**Raise for the Race.**" The Chapter always encourages new talents to exhibit their talents on the professional platform and the Chapter kept up its tradition in this seminar by encouraging new speakers to grab the stage. The speakers lived upto the expectation and made the two days seminar a big success. Delegates came from different parts of south India and made the event a platform for professional gathering & enabled exchange of ideas and was indeed a mimic of professional village. I would like to thank each one of them for their encouraging participation.*

The annual event of our Chapter, Umang 2013 is announced. I request the students to take active participation in the event. Hope to see you all at the Umang'13 Event.

*Yours in CS fraternity,
CS. Sunil Kumar B G*

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TWO DAYS SEMINAR: "RAISE FOR THE RACE"

The Chapter had organized two days seminar on "Raise for the Race" at its auditorium, Mysore on 02nd and 03rd March, 2013. The seminar was attended by about 90 delegates from different parts of southern India.

The seminar was inaugurated by Chief Guest, CS. Kedarnath Swayambhu, Company Secretary and past chairman of Bangalore Chapter who emphasized the need for holding more such seminars for creating awareness about the challenges faced by the corporates and opportunities available for company secretaries with the raising developments in the government policies and he lauded the pivotal role of Company Secretaries in New Company Law Bill.



Shri Lokesh V., CEO, Innomantra Consulting, Mysore, CS. Madhwesh K., Bangalore CS. K. Chandra Shekar, Bangalore and CS. Seekar R.V., Chennai, deliberated on various facets of new concepts in Companies Bill, Intellectual Property Management and Trademark & Brand protection, FEMA compounding of offences aspects over the two day period.

Visits to tourist places of Mysore was also organised during these two day seminar. All the participants opined that the event was well organised and appreciated the topics chosen for the seminar.

PARTICIPATION IN MILAAP-2013

The students of the chapter represented and participated in the Students meet "MILAAP-2013" conducted by the Bangalore Chapter of the ICSI on 23rd and 24th of February 2013. Mr. Alwin David (Foundation Program student) & Mr. Pani Datta, (Professional Program student) participated in the Quiz Competition and secured the third place and they were awarded with Memento and Certificates.



QUIZ COMPETITION

The Chapter Conducted Accounting Quiz Competition on 10th February 2013 at 10.30 A.M. at the Chapter premises. 15 students participated in this competition and in that competition Mr. Shashidhar & Ms. Rekha were adjudged as the winners.

GREEN INITIATIVE

As a green initiative, planting of tree sapling was done by students of the chapter Mr. Alwin David & Mr. Manohar at chapter premises on 17th February 2013.



ANNAPURNA SRIKANTH BAGS ALL INDIA THIRD RANK IN CS PROFESSIONAL PROGRAMME

Ms. Annapurna Srikanth has secured the All India 3rd Rank in Professional Program Examination held in the Month of December, 2012. She has obtained 501/800 marks.

Previously she had secured an All India Third Rank in CA finals in May 2008; then ALL India Third repeated for her in DISA - Diploma in Information Systems Audit - A post CA Qualification in June 2010

Umang 2013zeal to excel

'Umang' a reach out program to shape the budding professionals.
'Umang' is a stepping stone that helps the fledglings to spread its wings.
'Umang' is the corner stone in our journey of growth! Are you with us?!

Mysore Chapter of ICSI is now geared up to celebrate its annual celebration and talents day Umang 2013. The event as always is a juncture for exhibiting talents, skill, knowledge and an opportunity to share your thoughts with and meet fellow professionals.

The program will be held on 24th March 2013, at BN Bahadur Institute of Management Science, Hunsur Road, Mysore. The day long event consists of various competitions, presentations, cultural programs, management games and much more!

The generous sponsorship from yourself and your client corporates for the events of the program would be very much obliged and sufficient mileage for the same would be ensured.

We look forward for your benevolent response!!

Congratulations
This is just the beginning...
Infinite horizons now beckon you.

ICSI congratulates all its achievers across all three levels of the CS programme. They are now certainly on the path of establishing themselves as the champions of corporate governance and the leaders of tomorrow.

Programme	Rank 1	Rank 2	Rank 3
Professional Programme	Abdullah Rashid Fakhir	Aditya Vikram Daga	Annapurna Srikanth
Executive Programme	Amit Nolkha	Prerita Bahety	Himani Jain
Foundation Programme	Nisha Garg	Gazal Modi	Kanika Aggarwal
		Garima Oswal	Prachi Mittal

Employees' Welfare in Professional Bodies



CS. Aishwarya Mohan Gahrana,

B.Sc.,LL.B., A.C.S., A.I.I.I.,

Aishwarya M Gahrana & Associates, Company Secretaries, New Delhi

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Employee's welfare is also a matter of corporate social responsibility for all body corporates. During debate on corporate social responsibilities we heard a lot from all quarters.

Principle 3 of National Voluntary Guideline on Social, Environment, & Economic Responsibilities of Business issued by **Ministry of Corporate Affairs** say, "Businesses should promote the well being of all Employees." On page 17 of this guideline, it is mentioned that "...strongly believe that addressing health issues significantly contributes to the sustainability of their business operations and especially the health and welfare of their employees." There is separate guideline issued by Government for Central Public sector Enterprises.

As a stakeholder, we have an interest in measures taken by professional bodies under Ministry of Corporate Affairs. It is noteworthy that these professional bodies are instrumental in

spreading awareness of corporate social responsibilities on behalf of the Government. Hence, I queried the three professional bodies and asked them these questions:

1. Whether Employees of institute are covered under Central Government Health Scheme?
2. If not; whether institute has any facility (ies)/Clinics/Hospitals of its own or otherwise where its employees may avail health services? Please provide list of such facility (ies)/Clinics/Hospitals on All India Basis.
3. What are other facilities like group health insurance / Medical reimbursement available to employees of institute?
4. What are first aid facilities available at the premises of institute for benefit of its employees, members, students and other visitors?

Replies are summarised in this table:

Reply	ICAI	ICSI	ICAI (CMA)
1	CGHS Card with Limited facility is available	No	No
2	Refer to one above.	Have tied up with various hospitals for providing medical facilities on CGHS/Discounted rates.	Have Medical Reimbursement facility.
3	Reimbursement facility available. Medical facilities from Employees Benevolent Fund and others. Annual General Medical Check up Scheme. Medical Treatment Loan. Advances for Medi – claim premium.	Reimbursement of medical expenses within prescribed limit. Reimbursement for medical expenses for specified minor and major disease under hospitalisation through ICSI Employees Medical Hospitalisation Trust.	No Health Insurance. Have Medical Reimbursement facility.
4	A doctor on part time basis to look after health of the employees who visits Institute's Delhi and Noida once a week. First aid kits are being maintained. At times of immediate medical need concerned person is taken to nearby hospital as well.	First aid box at ICSI Lodi Road and Noida offices.	Have First – aid facilities and first aid boxes are made available.

Even though there is scope for improvement, I think our Institutes have some innovative ideas of employee's welfare. I appreciate the following facilities:

1. Employees benevolent fund or hospitalisation trust,
2. Annual check – ups schemes,
3. Advances for health insurances, and
4. Medical treatment loan.

Our readers may please suggest ideas of responsible business practises which can enhance general awareness as well as quality of life.

Select ideas will be published in the future edition of the e-Magazine : Editors

“Well talented human resource can build a powerful country”. Same is true with organisations as well. So every organization shall have highly talented and motivated human wealth to achieve its goals. The People in the organization, apart from being qualified and trained in their respective field, shall be updated with what is happening around the world.

Want to know about people management? Here is the website www.peoplesmatter.in which is one of the best Human Resource Management websites. This site is very helpful to employees as well as employers not only to Human Resource Managers but also to all People Managers! Site spotlights Human Resource, Leadership and Management related articles and issues. This website mainly contains Recent Posts by Industrialists, Current Issues of HR, Featured Articles on management and leadership, Upcoming Events & Training calendar, Training Schedules and Learning Center.

Further, this site shares top news of the week. Largely, this website is very helpful for all to develop good managerial and leadership skills to make one as a perfect Human Resource Leader. Now, its time for all of us to surf this site for more Articles, News Letters, Magazines and many more.



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International Day of Forests

21 March: Forest Day is one of the world's leading global platforms for people with an interest in forests and climate change to share their views and work together to ensure forests are suitably incorporated into any future climate change mitigation and adaption strategies.

Each year more than 13 million hectares (32 million acres) of forests are lost, an area roughly the size of England. As go the forests so goes the plant and animal species they embrace – 80% of all terrestrial biodiversity. Most importantly, forests play a crucial role in climate change including global warming: deforestation causes 12-18 percent of the world's carbon emissions – almost equal to all the CO2 from the global transport sector. Equally crucial, healthy forests are one of the world's primary 'carbon sinks.'

It is not too late to reverse this destructive trend if we act now. Forests still cover more than 30% of all the world's land and contain more than 60,000 tree species, many still undiscovered. The forests support the livelihoods of 1.6 billion of the world's poorest people by providing food, fiber, water and medicines, as well as regulating environments. Those supported include indigenous peoples with unique and precious cultures.

The United Nations General Assembly has proclaimed **21 March** the International Day of Forests. The Day will celebrate and raise awareness of the importance of all types of forests. On each International Day of Forests, countries are encouraged to undertake local, national and international efforts to organize activities involving forests and trees, such as tree planting campaigns.

Visit: <http://www.fao.org/forestry/international-day-of-forests/en/> and http://en.wikipedia.org/wiki/Forest_Day



Living Room

A Problem of Ice, Bears, and Honey Pots

Pacific, Power and Light (PP and L) is the electric utility responsible for providing power to the NorthWest Cascade Mountain area of the United States. This area faces severe weather in spring and autumn each year resulting in heavy ice deposits on power transmission lines. Lines frequently come down under the weight of the ice.

The company's method of removing the iced lines is to send linesmen through the snow and up the icy pylons and to physically shake the ice off the lines. It is a long, arduous, costly and unpleasant way of dealing with the problem.

A brainstorming session is held to look at what can be done. The PP and L group spend a whole morning looking at the problem but get nowhere. Frustrated and running out of ideas, the group decides to take a coffee break.

During coffee, Bill, a linesman, has everyone in fits of laughter.



DON'T BURN YOUR OPPORTUNITIES

**Idea
worth
Millions**

"Last week I was chased by a bear. It even climbed a pylon after me."

As the laughter dies down, someone suggests, "Why don't we get the bears to climb for us?"

"How?"

"We could put honey pots on top of the pylons."

"No, the raccoons would get there first."

"Anyway we'd need helicopters to put the pots in place and they'd frighten the bears," says one of the secretaries. "I remember the vibrations from helicopters in the Vietnam war when I was a nurse."

There is silence as everyone realises they've struck gold.

Today it is standard practice in PP and L to use hovering helicopters to remove ice from frozen cable lines through the force of their swirling rotator blades.

IPR and Cyber Law Issues with Special Reference to IT Industry

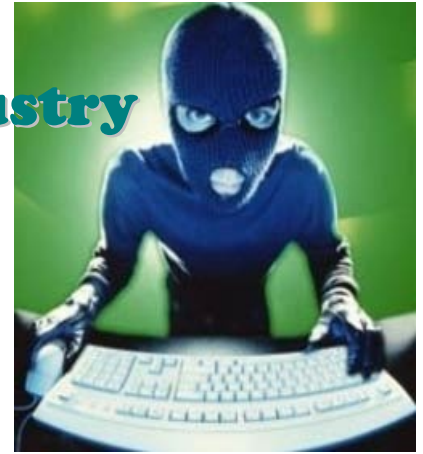


Viral Shrinath Tripathi

ACS, LL.M (IPR), PGDIRPM & B.COM

Company Secretary

Gateway Technolabs Private Limited, Ahmadabad



Incessant, swift changes and volatile augmentation in the pervasive computer technologies demands new focus with prickly legal questions and scrutiny in cyber society especially when information technology (IT) is used in negative way. Each element of the computer is an instance of the class Cyber world. Hence, all facets of the laws of the cyber world are applicable to every element created. It is crucial to realize that, Legal knowledge of Cyber law (CL), and cyber ethics are the rudiments for every stake holder irrespective of their positions and roles in IT industry.

The subsequent evenly imperative legal issue to be considered in software product and technology companies is Intellectual Property Rights (IPR). To accomplish something in the world market companies from India today need brand building skills and protect their IPR. The pinnacle of awareness growth in Indian IT industry in terms of IPR may be good but not in terms of CL. The IT fraternity should take enormous efforts in both terms. The existing legal views of Copyright law and patent law are not completely harmonizing with natural technical views of the software. The IT industry needs to be worked out with law authorities to come out with an agreement on **“The Rules of Fair Following”**. This is the most indispensable prerequisite that need to be periodically done as rules are not clear and keep changing. On the other side of the coin, knowledge of IPR and CL are decisive and imperative issues which have posed hitherto unmatched challenges in all disciplines of engineering including software engineering, Telecommunication engineering, information security engineering, Biotechnology, etc. Today, information technology has cut across all the disciplines and subsists as an integral part.

In present scenario, IT industry needs to be dutiful to CL framework and on numerous grey areas which are commanding challenges related to the implementation, enforcement and jurisdiction of the Act. In the present global circumstances, cyber law enforcement in the every step of software engineering process is a quality control mechanism. The system cannot be stronger than the weakest link in the chain. To ensure quality software, legal issues have to be taken care in early

stages of computing technologies development. At the same time, one has to note that territorially-based law-making and law-enforcing authorities have further increased the time, analysis and cost complexity of the software development. The software development and its services require substantial investments of work, money and time. It is prime duty to legally protect investors in R&D in terms of copyrights and patents. Numerous research works have claimed that both software copyrights and patents have positive effects on the performance of IT firms.

The software and patenting may be conflict-ridden; the software and patent debate is the argument dealing with the extent to which it should be possible to patent software and computer-implemented inventions as a matter of public policy. At this juncture the concern is also to ensure whether the software development itself is legal (uses legal software for development, etc.) and to analyze the outcomes for patenting during the course of software development. In Indian context, the Intellectual property rights pertaining to software are dealt under the provision of Patent Act, 1970 and Indian Copyright Act, 1957. The Act does not have any section dealing with piracy of computer software from the internet. Though the Act, when it comes to software takes care of offline piracy, it fails when it has to deal with online piracy.

The brisk expansion of Internet and Computer technology worldwide has led to the augmentation of new forms of global crime especially on the Internet. These crimes have virtually no boundaries and may affect any country across the globe. Thus, there is a need for awareness and ratification of necessary legislation in all countries for the prevention of cyber crimes.

Even though software IPRs and cyber laws play an important role in software process and crucial for innovative activity for output growth in software firms, it is seemingly an undeniable fact that there have not been sufficient researches on IPR based software engineering process and cyber laws issues in phases of software engineering process and its implications in quality assurance of the software.



Compilation:
CS. Ajaay Madaiah, Mysore

Carbon footprint

A carbon footprint has historically been defined as "the total sets of greenhouse gas (GHG) emissions caused by an organization, event, product or person."

However, calculating the total carbon footprint is impossible due to the large amount of data required and the fact that carbon dioxide can be produced by natural occurrences. It is a measure of the total amount of carbon dioxide (CO₂) and methane (CH₄) emissions of a defined population, system or activity, considering all relevant sources, sinks and storage within the spatial and temporal boundary of the population, system or activity of interest. Calculated as carbon dioxide equivalent (CO₂e) using the relevant 100-year global warming potential (GWP100).

Greenhouse gases can be emitted through transport, land clearance, and the production and consumption of food, fuels, manufactured goods, materials, wood, roads, buildings, and services. http://en.wikipedia.org/wiki/Carbon_footprint - cite_note-3 For simplicity of reporting, it is often expressed in terms of the amount of carbon dioxide, or its equivalent of other GHGs, emitted.

Most of the carbon footprint emissions for the average household in developed countries come from "indirect" sources, i.e. fuel burned to produce goods far away from the final consumer. These are distinguished from emissions which come from burning fuel directly in one's car or stove, commonly referred to as "direct" sources of the consumer's carbon footprint.



The concept name of the carbon footprint originates from ecological footprint, discussion, which was developed by Rees and Wackernagel in the 1990s which estimates the number of "earths" that would theoretically be required if everyone on the planet consumed resources at the same level as the person calculating their ecological footprint. However, carbon footprints are much more specific than ecological footprints since they measure direct emissions of gasses that cause climate change into the atmosphere.



Did you know?

Plastic Currency in India

It has been decided by the government and the RBI (Reserve Bank of India) to introduce one billion pieces of Rs 10 notes in polymer/plastic on a field trial basis. The field trial will be conducted in five cities — Kochi, Mysore, Jaipur, Bhubhaneswar and Shimla with varied geographical locations and climatic conditions. RBI has informed that while the primary objective of introduction of polymer notes is to increase its life, it could also help in combating counterfeiting.



Pick of the month

Can Alteration of AOA mandate infusion of capital?

The alteration in the articles has in consequence increased the liability of a member to contribute to the company. In such a circumstance, will the alteration be binding on a present member?

Ans : According to Sec 31 of Companies Act, 1956 any alteration in the Articles of Association increasing the liability of members to contribute towards capital of the company shall have no effect unless prior written consent of all members is obtained. Failing to do so, the alteration shall not bind the present members.



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CUSTOMS & FTP Notifications/ Circulars

Director General of Foreign Trade amended FTP 2009-2014 and introduced a new para 4A.16A for setting up of Public / Private Bonded Warehouses for Gems & Jewellery Sector. The scheme under para 4A.16A of FTP 2009-2014 provides for setting up Private / Public Bonded Warehouses in SEZ/DTA for import and re-export of cut and Polished diamonds, cut and polished coloured gemstones, uncut & unset precious & semi-precious stones, subject to achievement of minimum Value Addition (VA) of 5%.

Circ. No. 11/2013 Dt. 06.03.2013

Amendment to Notn. No. 146/94-Customs, Dt. 13 July, 1994, so as to exempt "Trophy" when imported into India by the National Sports Federation or any other registered sports body, for being awarded to the winning team in the international tournament to be held in India.

14/2013-Cus,dt. 01.03.2013

The Central Government has exempted Basic Customs Duty and Additional Duties (i.e. CVD and SAD) on goods which are imported into India against a Post Export EPCG duty credit scrip (0% EPCG variant) in cases where duty remission is provided in proportion to export obligation fulfilled. Similar exemption has been granted for those who have opted for the scheme of Post Export EPCG Duty Credit Scrip (3% EPCG variant). Accordingly, Notn.s have been issued under Central Excise to give effect to the Notn.s issued under Customs.

(Notn. No. 05/2013 and Notn. No. 06/2013 Customs both Dt. 18.02.2013)

It has been clarified that deemed export benefit on supply of goods to Mega Power Projects (Notn. No. 49/2012 - Customs and Notn. No. 12/2012), shall be available only to those units which supply goods to Mega Power Projects specified in List 32A of the Notn. (111 projects have been specified therein).

(Policy Circ. No.14 (RE- 2012/2009-14) Dt. 04.02.2013)

Pursuant to decision of the Hon'ble Supreme Court of India in Civil Appeal Nos. 4053-4061 of 2012 in the case of Sunil Kohli and Others Vs. Union of India, the Central Board of Excise & Customs ("the Board") has modified Circ. No. 09/2010 - Cus., Dt. April 08, 2010 and clarified that those who had passed the

examination under Custom House Agents Licensing Regulations, 1984 will not have to additionally qualify in new subjects.

Circ. No. 06/2013-Cus. Dt. February 06, 2013

Case Law

The High Court of Madras held that the Customs Tariff Act, 1975 provide for imposition of provisional anti-dumping duty; for finalization of provisional anti-dumping duty; and for consequent refund, if there is a reduction in the anti-dumping duty. In case of such reduction in anti-dumping duty, refund is to be granted automatically and department cannot insist that applicant should file appeal to the Appellate Authority of approach the appropriate authority for reassessment of the assessment order.

Enterprise International Ltd. Vs. Commissioner of Customs [2013-TIOL-101-HC-MAD-CUS]

Assessee did not claim exemption under Notn. No. 21/2002- Cus., Dt. March 1, 2002 at the time of filing bill of entry although they were entitled for the same. Thereafter, assessee filed refund claim which was rejected on the ground that the assessment was not challenged. The Tribunal held that since the appellant had complied with the conditions of Notn. No. 21/2002- Cus., Dt. March 1, 2002, it is duty of assessing officer to give benefit and since this has not been done, assessee is entitled to claim refund without challenging assessment.

Ruchi Soya Industries Ltd. Vs. Commissioner of Customs [2013-TIOL-249-CESTAT-MUM]

Regulatory Developments Notifications/ Circulars /News

The Indian Renewable Energy Development Agency Limited has been permitted to issue tax-free bonds upto Rs 1,000 crore during the FY 2012-13, subject to conditions. Interest on such bonds would be exempt from income tax under section 10(15) of the Income-tax Act, 1961 (the Act).

(Notn. No. 10/2013 [F.NO.178/6/2013(ITA-I)]/SO 321(E), Dt. 05.02.2013)

The Empowered Committee of State Finance Ministers on GST has decided to prepare model legislation and set up three committees to sort out various issues for smooth roll-out of the GST.

Panel to frame model GST law [ZEE News, February 15, 2013]

CENVAT

Notifications/ Circulars

In exercise of the powers conferred by sub-clause (iii) of clause (c) of section 23A of the Central Excise Act, 1944 (1 of 1944), the Central Government hereby specifies "the resident public limited company" as class of persons for the purposes of the said clause.

No. 4 / 2013-Central Excise (N.T.) New Delhi, 1st March, 13

If the manufacturer of goods or the provider of output service fails to pay the amount payable under sub-rules (5), (5A), and (5B), it shall be recovered, in the manner as provided in rule 14, for recovery of CENVAT credit wrongly taken.

No. 3/2013-Central Excise (N.T.) New Delhi, 1st March, 2013

Case Law

The High Court of Mumbai held that the Board's Circ. No. 967/01/2013 Dt. January 01, 2013 mandating initiation of recovery proceedings thirty days after filing of an appeal, if no stay is granted, cannot be applied to an assessee who has filed an application for stay, which has remained pending for reasons beyond control of assessee. Where however, an application for stay has remained pending for more than a reasonable period, on account of default or improper conduct of an assessee, recovery proceedings can well be initiated.

Larsen & Toubro Ltd. Vs. Uol [2013-TIOL-99-HC-MUM-CX]

The High Court of Andhra Pradesh directed revenue not to initiate any coercive measures for recovery of excise or service tax liability or interest or penalty, as the case may be, as assessed in Order in Original and Order in Appeals pending disposal of stay application or application of waiver of pre-deposit in light of current ineffectual functioning of the Tribunal, Bangalore.

Krishna Saa Fabs Pvt. Ltd. Vs. Uol [2013-TIOL-102-AP-CX]

The question before the Tribunal was whether Cenvat credit of ambulance services is available to assessee. The Tribunal observed that Section 45(4) of the Factories Act, 1948 mandates every factory to maintain first-aid service facility and if strength of employees of factory is more than 500, factory is required to maintain ambulance room of prescribed size containing prescribed equipment. Thus, every factory owner is under legal obligation to ensure basic medical facility to its employees. Therefore, ST paid on ambulance service by assessee has nexus with production of final product. Accordingly Cenvat credit of ambulance service is available to assessee.

Hindustan Zinc Ltd. Vs. CCE [2013-TIOL-287-CESTAT-DEL]

Service Tax

Notifications/ Circulars

The Central Government has notified new format of ST-3 return for the period July 2012 to September 2012 and the due date for filing service tax return which was notified as March 25, 2013 has been extended to April 15, 2013. Form ST-3 is expected to be available on ACES around March 20, 2013.

(Notn. No. 01/2013-ST Dt. 22.02. 2013 and Order No. 1/2013-ST Dt.06.03.2013)

Highlights of Budget 2013 - Specific to Service Tax

- Rate of tax remains un-changed (12.36%)

- Basic Threshold limit exemption remains unchanged (Rs. 10 Lakhs)
- Two services are included in negative list of services viz. Testing services relating to agriculture and agricultural produce and Vocational Course offered institutes
- Following exemptions withdrawn; copy right for exhibiting cinematograph films in televisions, renting of immovable property services provided to education institution, air condition restaurants, transportation of petroleum & petroleum products, postal mails or bags and household effects by rail or vessel, parking facilities, repairs and maintenance of air craft services provided to Government or government authority.
- Rate of abatement reduced for high end construction
- Stringent norms of penalty and prosecution for director, manager, secretary or other officer of company for default in compliance of service tax law.
- Rationalization of penalty not exceeding Rs. 10000 for failure to obtain registration.
- One time scheme called Voluntary Compliance Encouragement Scheme for defaulter in filing of returns and pay tax dues.

Case Law

The High Court of Delhi held that in this case description, value and amount of service tax and cess payable on input-services actually required to be used in providing a taxable service to be exported were not determinable prior to the date of export and could be determined only after export. Therefore, condition No. 3 of Notn. No. 12/2005-ST Dt. April 19, 2005 requiring furnishing of such information prior to export was incapable of compliance. Hence rebate is not to be denied in this case.

Wipro Ltd. Vs. Union of India [2013-TIOL-119-HC-DEL-ST]

The issue before the High Court of Delhi was as to what would be the rate of Service tax where service is provided by Chartered Accountants prior to April 1, 2012 and invoice is also issued prior to April 1, 2012 but payment is received after April 1, 2012. The department relied on two Circ.s issued by the Board viz., Circ. Nos.154 Dt. March 28, 2012 and 158 Dt. May 08, 2012 (collectively "the Circ.s") in terms of which if payment is received or made, as the case maybe, on or after 1st April 2012 in case of 8 specified services including Chartered Accountant service provided by individual or proprietary firms or partnership firms, rate of service tax would be 12%. The High Court of Delhi quashed the Circ.s and held that where services of Chartered Accountants were actually rendered before April 1, 2012 and invoices were also issued before that date, but payment was received after the said date, rate of tax will be 10% and not 12%.

Delhi Chartered Accountants Society Vs. Uol [2013-TIOL-81-DEL-ST]

VAT, Sales Tax and Entry Tax

Case Law

The question before the High Court of Andhra Pradesh was whether provisions relating to clarification and advance rulings contained in Section 67 of the Andhra Pradesh Value Added Tax Act, 2005 ("the AP VAT Act") apply to assessments made under the Central Sales Tax Act, 1956. The High Court held that Section 67 (1) of the AP VAT Act does not empower the said Authority to issue clarifications or rulings in respect of implementation of statutes such as the Central Sales Tax Act.

Prathista Industries Ltd. Vs. CTO [2013-VIL-16-AP]

The High Court of Gujarat held that the department cannot withhold refund payable to assessee arising out of a finalized assessment order which has attained finality under the Gujarat

Value Added Tax Act, 2003 ("the Gujarat VAT Act"), merely on the ground that legal issue is pending before the Supreme Court.

Krishak Bharati Cooperative Ltd Vs.State of Gujarat [2013-VIL-14-GUJ]

FEMA & RBI & SEBI

Notifications/ Circulars

Opening of NRO accounts by Bangladesh Nationality: The RBI has permitted the Bangladesh citizens to open NRO accounts without any approval from RBI subject to fulfillment of certain conditions.

A.P. (DIR Series) Circ. No. 82 February 11, 2013

Relaxation in ECB Policy: As per the existing ECB guidelines Corporates that are under the investigation of Directorate of Enforcement or any other Law enforcing agency are not allowed to access ECB under the Automatic route. And such ECBs were permitted under the Approval Route. Now, even those Corporates who are under the investigations and

pending adjudication/ appeals by the law enforcing agencies, without prejudice to the outcome of such proceedings, are allowed to get ECB under the Automatic Route. Therefore, the AD while approving the proposal shall intimate the concerned agencies by endorsing the copy of the approval letter. The same procedure will be followed by the Reserve Bank of India also while approving such proposals.

RBI/2012-13/429 A.P. (DIR Series) Circ. No. 87 Dt. 5th March 2013

In exercise of the powers vested, the RBI vide its Circ. Dt. February 18, 2013 has revised the guidelines on Fair Practices Code (FPC) for all NBFCs to be adopted by them while doing lending business. This Circ. has made some inclusions such as the requirements of Grievance Redressal Mechanism

RBI/2012-13/416 DNBS.CC.PD.No.320/03.10.01/2012-13 Feb 18, 13

The Board approved the SEBI (Issue and Listing of Non-Convertible Redeemable Preference Shares) Regulations, 2013 thereby providing a comprehensive regulatory framework for issuance and listing of non-convertible redeemable preference shares. *SEBI PR No. 27/2013*

NBFCs to adopt revised Fair Practices Code by March 18, 2013

The RBI vide its circular dated March 26, 2012, revamped the guidelines on Fair Practices Code (FPC) for all NBFCs to be adopted by them while doing lending business. The guidelines were reviewed in view of the creation of a new category of NBFCs viz; NBFC-MFIs and also rapid growth in NBFCs' lending against gold jewellery. These guidelines were issued in supersession of the Circular dated September 28, 2006 and covered general principles on adequate disclosures on the terms and conditions of a loan and also adopting a non-coercive recovery method. It is obligatory on the part NBFCs by virtue of the new Circular to display prominently the information for the purpose of highlighting to the customers, the grievance redressal mechanism followed by the company, together with details of the grievance redressal officer and of the Regional Office of the RBI.

Action against Fraudulent Companies

Mr. Sachin Pilot, Minister of Corporate Affairs, told Rajya Sabha on 05th March 2013 that the following actions have been initiated against Companies floating fraudulent investment deposits mobilizing schemes:

1. MCA has requested State Chief Ministers to issue instructions to State Police Authority for vigorous action under Prize Chits Act. The Minister has also written to the Finance Minister to increase the surveillance by RBI over unauthorized NBFCs.
2. Model rules under the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 have been sent by the Ministry of Finance to State Governments for notification. This will enable initiation of action for ponzi schemes.
3. Stepped up surveillance by SEBI.
4. Campaigns by Ministry of Corporate Affairs, RBI and SEBI through advertisements and Investors Awareness Programmes.
5. Investigation/Inspection in respect of 87 companies against whom complaints in such cases have been received.
6. The Market Research and Analysis Unit is in place in the Serious Fraud Investigation Office of the Ministry of Corporate Affairs for capacity building, coordination with other investigating agencies and for market surveillance.



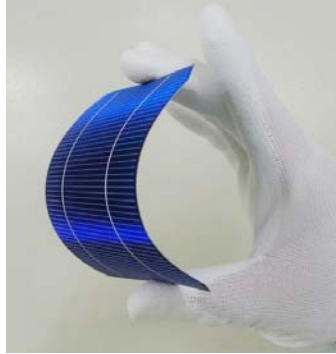
Report card of CCI

Mr. Sachin Pilot, Minister of Corporate Affairs, told Rajya Sabha on 05th March 2013 that during the last three years, the Competition Commission of India (CCI) has passed Cease and Desist Orders in 14 cases; and Cease and Desist Orders along with a penalty of Rs.7,354.11 crore in another 14 cases of anti-competitive agreements.



US takes India to WTO over solar cell imports

United States has filed a complaint with the World Trade Organization (WTO) against India's national solar policy saying it "discriminates" against US products. The US has alleged that India requires solar energy producers to use Indian-manufactured solar cells and modules.



It added that India offered subsidies to developers for using domestic products rather than imported ones. The US alleged that such "forced localization" had restricted India's market to US exports.

IRDA reports over INR 3000 Cr unclaimed

The Insurance Regulatory and Development Authority (IRDA) has informed that the total unclaimed amount for the insurance industry, as reported by the insurers, in Rs. 3096.72 Crore (as on 31.03.2012). Of this Rs. 2476.19 Crore is in Life Industry and Rs. 620.53 Crore in Non-Life industry. IRDA has further informed that it has advised the insurers vide its Circular dated 4th November 2010 that such unclaimed amount will not be appropriated/written back, in any circumstance.

E-Governance for Debts Recovery Tribunals

In order to enhance the efficiency of Debt Recovery Tribunals (DRTs) and Debt Recovery Appellate Tribunals (DRATs) and to provide a platform for seamless operations to Banks, Financial Institutions and general public to expedite recovery of public money, there is a proposal for introduction of e-governance in DRTs. The key objectives envisaged for the e-DRT engagement are to implement information technology to automate the processes/procedures in DRTs/DRATs.

RCF Divestment: Issue oversubscribed

Rashtriya Chemicals & Fertilizers Ltd's (RCF) disinvestment issue has been subscribed over 1.3 times. The Government will receive approximately Rs. 310 Crores from the sale proceeds. The Issue was subscribed by all categories of Investors including retail investors.

The divestment was carried out to make the Company compliant to the mandatory public shareholding requirements under the SCRR regulations.

Earlier, the Government had approved divestment of 12.5% of paid-up equity of RCF out of the Government of India's shareholding of 92.5 per cent vide OFS route through Stock Exchange Mechanism.

New Safety Measures for Credit and Debit Card Transactions

Reserve Bank of India (RBI) vide Circular dated 28.02.2013 on "Security and Risk Mitigation Measures for Electronic Payment Transactions" has directed banks to put in place various safety measures for Credit and Debit Card Transactions.

From June 2013 onwards, all new debit and credit cards to be issued only for domestic usage unless international use is specifically sought by the customer. Such cards enabling international usage will have to be essentially EMV Chip and Pin enabled.

Air Asia's joint venture with Tata Group airline gets FIPB's green signal

The Foreign Investment Promotion Board (FIPB) cleared Malaysian low-cost carrier (LCC) AirAsia's proposal to form a budget airline in a JV with the Tata's and Telstra Tradeplace at an initial investment of Rs 80 crore. However, getting the aviation ministry's nod could prove to be a time-consuming process.

ICAI Releases Guidance Note on Accounting for Oil and Gas Producing Activities

Internationally, developments have taken place in prescribing guidance for accounting of extractive activities.

Presently, in India this Guidance Note is an important pronouncement for prescribing sound accounting principles for accounting of upstream activities, thus revision of this literature was undertaken to take into account the latest developments.