

From the Chairman's Desk

Dear Friends,

We are in the last month of the year 2007 with lot of satisfaction and sense of achievement. The Chapter received well deserved recognition at the National and Southern regional Levels in this year.

- Ms. M.R. Rashmi, our student, secured first place in the elocution competition at SIRC level and second place at the national Level.
- Our student team of Ms. M. Pracheta, and Mr. Kamal Kumar stood first to SIRC in the Company Law quiz contest and secured second place at the national level.
- Our student Team of Ms. M. Pracheta & Mr. S. Rakesh was adjudged National Champions in Moot Court Competition.
- The Chapter had academic performance also to its credit during the year with the passing percentage being 87% for June 2007 examinations.
- The number of Career counselling Programs during the year till end of November stood at 79 sessions, most of which were held in Semi-urban and Rural areas.
- The student Registration exceeded the targets manifold with a record number of 135 students for Foundation Course. The Chapter conducted an Orientation Program for the foundation students which was well attended and well received.
- All Sundays witnessed a Study Circle Meeting till date barring a lone exception.
- The Chapter had another feather in its cap with 82% members of the Chapter registering for the Company Secretaries Benevolent Fund!!

The Mysore Chapter, thus, made the waves at the national level during the year. The Team of enthusiastic members and senior students, I am sure, would continue with same vigour and all others would join them in the coming months. The dedication of the students for the Chapter activities has only confirmed my confidence that these future members the Chapter would carry the flag higher and higher!

Dear members, the month of December is the autumn month where the nature has designed the old leaves to be shed for a tree to grow further with new leaves, flowers and fruits! The month of December also signifies the ringing out the old and preparing to welcome the new!!

I have held the office of Chairman of the Chapter for three consecutive years. I had a very fruitful and satisfactory term. Time is ripe for the Chapter to usher in new person at the helm of affairs with new ideas and new strategies for the growth of the Chapter. I am grateful for the unstinted support and co-operation I received during my tenure as the Chapter Chairman from the members, students, SIRC and the head Quarters.

Wishing you all a happy New Year 2008!!

CS. D D Bhat



**President Visits
Mysore Chapter**
(See next page for details)



Message from the President – ICSI

(Excerpts from Press Release)

“ICSI has taken various initiatives including extensive customer orientation, student friendliness, professional development programmes, brand building, extensive research projects, re-organisation and infrastructure development, study of future role of CS and globalisation of profession”

For “Members, who are the lifeline of the Institute, my first priority will be to expand the opportunities available to them into banking, insurance, capital markets, corporate governance, labour laws, competition and consumer protection laws, National Company Law Tribunal, VAT and cooperative sectors.

We will strengthen our training template to further sharpen the soft skills of our students. This will make them more sophisticated and effective in their work performance”

E-Learning would be imparted to the students of the CS Foundation Program. In the second phase, the training would be imparted to the students of Executive and Professional Programs.

Company secretaries can act as insolvency practitioners and appear before the Tribunal or Appellate Tribunal on behalf of their client. We are strengthening the necessary skills of Company Secretaries who can act as specialist Insolvency Practitioner.

The Institute along with the Institutes in Bangladesh, Kenya and Pakistan took the lead to constitute International Federation of Company Secretaries with its Secretariat at the ICSI, New Delhi. The move will help Company Secretaries professions in different countries to come under an umbrella to build the global brand “Company Secretary”. ICSI is also in the process of developing country - specific knowledge - and skill-base among our members to enable them to go global.

Investor education is a critical activity in a developing country like India to ensure better Corporate Governance and continued interest of retail investors in corporate world.

(Excerpts from Press Release)

Inside...

Chapter News...3

Spectrum Space...3

Column on IPR

> Inside a Patent ... 4

> IPR News - Worldwide...4

Legal Roundup...5

Book Review: Living without Goal...5

Investor Secretary...5

IT for Corp Professionals

> Google Desktop...6

> **Web Yaatra:** Vakil No.1...6

Article: Indian Banking and Basel Norms...7

Living Room...8

News of Use...9

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and

‘Spectrum’ Team





Spectrum Space

Hello Friends...!!!!

We wish our newsletter a Happy 4th Anniversary!

We take this opportunity to place on record our sincere gratitude and thanks to our colleagues, members and friends whose vision, dedication and untiring zeal enabled this newsletter to reach a new height in these few years. And with the help of this, our Mysore chapter achieved commendable heights and eminent position among the community of ICSI chapters. We thank them all for their distinguished contributions and wish to assure you of our concerted efforts to bring more glory to our profession and the institute.

Friends, we are glad to share the news of our President's visit to Mysore this month. We are very excited to receive the first lady president of ICSI. We look forward to a memorable time with her.

We Wish one and all a happy Christmas and a very happy and prosperous New Year. Friends, we hope you would be excited to share your thoughts with us as much as we are excited about sharing our experiences and thoughts with you. Let us grow together!

Till we meet you again, enjoy a great Christmas and New year, not to forget your exams. So Long!

- Spectrum friends

Chapter News

CAREER GUIDANCE SESSIONS

The chapter 78th career guidance session in the 37th institutions was held on 6th November 2007 at Marimallappa Evening College for the benefit of the I year and II Year PUC students. The session was attended by about 100 students of the college. The sessions were handled by CS. Anshuman A.S. and Mr. Kiran T. The session was followed by one-to-one interaction with the students.

On 27th November 2007, a career guidance session was held for M.Com students of the Prestigious Mahajana P.G. Centre at Mysore. CS. Anshuman A.S. handled the session which was the 79th career guidance session in 38th Institution.

STUDY CIRCLE MEETINGS

The chapter continues to hold study circle meetings every Sunday for the benefit of students. The following study circle meetings were held during the month:

- 04.11.2007 Clarifications on Intermediate I Group Subjects
- 04.11.2007 Discussions on Intermediate II Group Subjects
- 11.11.2007 Direct Tax Laws
- 11.11.2007 Company Law
- 18.11.2007 MRTTP Act
- 25.11.2007 Customs & Excise Valuation

PHONE-IN PROGRAM ON AIR

A phone-in program on CS course was organized on 13th November 2007 at 8.00 PM by the Chapter at FM 100.60 of All India Radio. The program generated tremendous response from the audience and was well received. The panel consisting of CS. Dattatri H.M. and CS. Anshuman A.S. answered numerous questions posed by the listeners over phone about the CS Course, job prospects, study modules etc. Contact numbers were provided to the listeners for further clarifications. Regular enquiries are being received in these numbers from the general public.

PRESIDENT OF ICSI VISITS MYSORE CHAPTER

Ms. Preeti Malhotra, President ICSI will be visiting Mysore Chapter of ICSI for two days on 15th and 16th December 2007. The Presidential visit starts with a meeting with Mysore Zone of CII at Hotel Sandesh De' Prince on 15th December 2007. President will speak on "Effect of New Companies Bill on Management of unlisted". Mr. Davey, ROC -Karnataka will speak on E-Governance.

On 16th December 2007, President will address the seminar being organised by ICSI-Mysore Chapter on "Emerging Trends" in CS Profession. CS students at Mysore chapter have organized for presentations on Role of CS in globalised scenario, Alternate Dispute Resolution and Intellectual Property Rights. On the same day a Radio interview is being organized at All India Radio - Mysore.



Intellectual Property Rights

Inside a Patent – 2

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

IP Management, Strategic Planning and Initiatives L&T Ltd, Mysore Campus

"The patent system added the fuel of interest to the fire of genius." -Abraham Lincoln

IPR News Worldwide

(Compiled by Madhwesh, Mysore)

Trade Commission Favors Nokia Over Qualcomm In Patent Case: In the seemingly never-ending patent battles swirling around Qualcomm's massive patent portfolio, the company lost a skirmish to Nokia (NYSE: NOK) this week after a U.S. International Trade Commission judge ruled that Nokia had not violated three of Qualcomm's wireless mobile patents. - US

Sharp Sues Samsung Over LCD Patents on 12th December 07, accusing of infringing on three Sharp patents related to liquid crystal displays used in high definition TVs. - South Korea

No patents on seeds and animals demanded: Fifty non-governmental organisations from around the world, including Swissaid, the Berne Declaration and Bio Suisse, have asked for restrictions on patenting life forms. - Swiss.

Trademark Property Going Green: Trademark Property Co., along with Ware Architecture, is pursuing LEED core and shell certification for some of their existing projects and all of their future developments. - US

Creativity must for claiming copyright: SC:
"Although for establishing a copyright, the creativity standard applies, it is not that something must be novel or non-obvious, but some amount of creativity in the work to claim a copyright is required. It does require minimal degree of creativity," a bench comprising Justices BN Agarwal and PP Naolekar has held.- **India.**

Let's go on with our walk through on Patent from previous issue. The good thing about filing is that grant of Patent gives the right to an inventor / assignees to make, use, sell or manufacture patented product within the territory of the grant. However, a Patentee very specifically and technically can exclude all others in the territory covered by the Patent from: Manufacturing, Using, Selling, Offering for sale and importing the patented invention from any other country. However, this does not give the Patentee a right to use the invention, if for instance such use would be illegal. In India, the term of a Patent is **Twenty** years from the date of filing the Application for grant of Patent. During this period, the Patentee is entitled to use patented product for commercial gain. On the expiry of the Patent term, it turns out to be public domain information.

World Wide Patent: In the current state of International patent system, it is not possible to get a Worldwide Patent. However, the Patent Cooperation Treaty (PCT) is an International agreement for filing patent applications having effect in many countries around the world. Although the PCT system does not provide for the grant of an "International Patent", the system simplifies the process of filing patent applications, the expenses associated with applying for patent protection in foreign countries, and allows the inventor more time to assess the commercial viability of his/her invention. Under the PCT, an inventor can file a single international patent application in one language with one patent office in order to simultaneously seek protection for an invention in the PCT member countries.

The appropriate time of filing an application for grant of Patent is important and plays a crucial role in grant of patent.

Generally, when you conceive a novel idea, you are advised to conduct a prior art search in the available patent databases until you satisfy yourself on the novelty, non-obviousness and inventive step in the invention. Any information available in public domain with respect to a particular technology can form prior art. Prior art can be researched through various available free patent databases i.e., Google Patent Search (it provides only US granted patent information and also provides free PDF download) or United States Patent and Trademark Office website (www.uspto.gov) for granted & published applications or European Patent Office website (www.ep.espacenet.com) can provide data relating to patent applications already filed and also inputs regarding published material available in the public domain. To obtain a comprehensive prior art research report, the paid patent databases like 'Delphion®' could also help you to obtain patent information of several countries.

The application for the grant of patent must be filed before the Patent Office (for south India – Chennai Patent Office). If the project and work on the particular invention is completed, it is desirable to file a *complete or non-provisional specification* and if the work on the invention is in process filing a *provisional specification* is advisable, thus getting advantageous "priority date" (who files first wins) it also establishes the 12 months grace period to file the *complete or non-provisional specification*. Filing an application for patent in foreign countries, after establishing a "priority date" in home country, allows you to disclose the invention to third parties. It also provides a period of *twelve months* from the filing date wherein to decide whether to seek Patent protection in other countries. Therefore a quicker filing is considered the more likely way to secure a strong Patent. It's important to note that the representation of Patent pending (On filing) or Patent Number (On grant) - In the product catalog and on the product label cautions the public and reserves your rights to exercise when violated.

Legal Round-up

Income tax

➤ Cases at a glance

Supreme Court

- Interest earned by banks on dated Government securities not liable to interest-tax : CIT v. Corporation Bank
- Commissioner not entitled to revise order of AO taking one of two views about "profits" prevalent at that time: CIT v. Max India Ltd.

High courts

- Allowance u/s 36(1)(viii) to be computed before making any deduction under Chapter VI-A as well as any deduction u/s 36 : CIT v. Rajasthan Financial Corporation [FB] (Raj)
- Change in WDV consequent to appellate orders for preceding years : Assessee entitled to rectification in subsequent years : Smt. R. Lakshmi v. Deputy CIT (Ker)
- Book profit : Unabsorbed depreciation and loss of earlier years to be adjusted against profits of intervening years : CIT v. Kongarar Spinners Ltd. (Mad)
- Computation of deduction u/s 80-I : Deduction u/s 32AB has to be made first : CIT v. Kothari Products Ltd. (All) p. 223
- Exemption u/s 54F on sale proceeds invested for extension of house cannot be denied by order u/s 143(1)(a) : CIT v. Smt. A. E. Sarojini (Mad)

Book Review

LIVING WITHOUT GOAL

By James Ogilvy

Review by CS. Nimmoo Kinger PCS Mysore

Living without a Goal by James Ogilvy is based on the thesis that our goal-oriented paradigm for life no longer meets our requirements in the present modern world. However, Ogilvy does not advocate a total goalless rule for living. We do need goals, but not the overriding, great "Goal of Life" that has been the paradigm in the past. He believes that our reasons for doing or being something have more to do with the integrity of our whole life than on goals that lie outside the activity itself. Such a "goalless" approach to life better fits our postmodern world than the goal-directed approach which has served us until now.

According to Ogilvy, goals can actually hinder our development. When we focus on a goal, we are presuming that we can accurately judge our best interests in the future based on the limited knowledge and understanding we have in the present. This leaves us little room to evolve laterally or to take advantage of opportunities that are outside the range of our goal-directed vision. The fixed nature of goals also forces us to make our future skills and insights conform to an understanding of life that may no longer be valid or effective. This has a narrowing effect on our thinking and our options.

Finally, goals can also function almost like a drug, an escape from an uncomfortable or painful situation. By focusing on a future goal, we can justify tolerating a present situation that we do not like. This allows us to justify inaction and indecision. Ogilvy's solution to the limitations and paradox posed by long-term goals is to live artfully, evolving without the big goals. "*Living without a Goal*" challenges one of the major premises of our industrial culture, that we can predict and control our future by defining a long-term goal and working toward it. Ogilvy makes his point eloquently and provides a rich exploration of the philosophy of the postmodern world. The book stimulates the reader to reflect on many of the basic assumptions on which we build our lives.

Investor Secretary

Sreeraj M, CS Final, Mysore

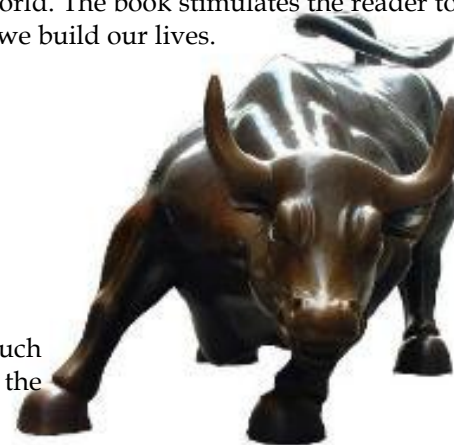
Dear All,

It was yet another month at the market without much of a noise. The SENSEX closed at 19363.10 and the NIFTY at 5762.7 as on November 30th 2007.

Future outlook: The near term outlook for the SENSEX remains positive and there is every possibility that the index could kiss 20000 levels again and NIFTY to the 6300 levels. I expect the index to collate between 7500 and 20200 levels this month. If at all SENSEX breaks out positively, it can breach 20500 levels.

The December Phenomenon: The ball is in the Court of FII's to decide index levels this month. The world is looking out for taking a holiday and we can expect a tremble this month even though the markets never gimmicked in December excepting 2000 and 2001.

The fed in news: December 11th seems to be a crucial as the fed is coming out with hot cakes. If there is any negative news, we can expect a bit of profit taking this month.



- Transfer of shares held in Indian company by non-resident to non-resident company : Capital gains accruing taxable in India : Trinita Corporation, In re (AAR)

Appellate Tribunal

- Construction of building for commercial purpose delayed because of litigation : Assessee entitled to exemption for period while building was being constructed : Federal Bank Ltd. v. Joint CWT (Cochin)

Customs

- Circular

The Central Government has issued a detailed circular providing instructions for the implementation of the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007, notified earlier this year. These Rules prohibit the import or export of goods which do not comply with the IPR regime that is currently in place in India.

M.F. (DR) Circular No. 41/2007-Cus dt 29/10/07

Valuation

- Term contemporaneous

The Tribunal has held that imports of comparable goods effected beyond a period of three months antecedent to the importation of the imported goods will not be contemporaneous in terms of the Customs Valuation Rules, 1988 (CVR) and hence cannot be the basis for determination of transaction value.

R.L. Fine Chem Vs. CC (2007) (217) ELT 92

News Year (2008): This is the year to watch out for global ones. US will go through elections and we can expect a slowdown in the US economy, thereby impacting the global economy.

Some local news

- Dr.Reddy's has been replaced by DLF in the nifty.
- Panasonic AVC & Essar Steel will be de listed from BSE from 14th December and trading in these stocks will be stopped from December 7th.

Mr. Tan is on a holiday & will catch-up next month. Till then...

Happy New Year & Happy investing.



IT For Corporate Professionals

T G Srinidhi B.E., Bangalore

Google Desktop is a desktop search application that makes searching your computer as easy as searching the web with Google. Using Google Desktop, you can perform full text search over your email, files, music, photos, chats, Gmail, web pages that you've viewed, and more.

Once you install, it will index emails, files and web history etc in your computer. This index is then used as the repository against which your search text is looked up. This index will be kept updated automatically. As the application creates cached copies or snapshots of your files and stores these copies on your computer's hard drive, you can also use Google Desktop to find items you accidentally deleted.

Apart from search, this application also offers Google Gadgets, which are interactive mini-applications that can be placed anywhere on your desktop to show you new email, weather, photos and personalized news. Other gadgets include the clock, calendar, scratch pad, to-do list and many more. These gadgets can also be placed together on what is known as the desktop sidebar (Note: You need to be connected to the Internet for using some of these gadgets).

Google Desktop is a freeware and requires Windows Vista/XP/2000 SP3+. You can download this application from <http://desktop.google.com>



- Amitkumar Hegde B Com, MCA(Final)

www.vakilno1.com is one of the best websites available on Law today. This website provides a plethora of information on Law and related aspects. You can find different sections for Laws, Policies, Judgments, International Laws, and Legal Forms etc.

The website lists almost all Indian Acts such as Income Tax Act and Indian Penal Code. All these Laws and Acts are neatly categorized into different groups. You can get all Legal Forms relating to Income Tax, Company Law, and Service Tax etc. in PDF or MS Excel format. It also provides a collection of readymade Agreements, Power of Attorney etc. You can also get some basic tutorials on Forming a Company, Partnership and the alike. Most importantly the site lists all important Companies Act - Judgments.

You can also get Calendar of different courts such as Supreme Court of India. What is more...? You can also post questions which will be answered by professionals. All in all this is a 'must visit' website for all the Company Secretaries out there....

- **Lowest price of contemporaneous import shall be considered**

The Tribunal has held that where there are several instances of contemporaneous imports of comparable goods, the lowest of the prices at which such imports took place can alone be taken in order to determine the transaction value of the imported goods.

Thameema Trading Corporation Vs. CC (TIOL 1671-CESTAT-MAD)

- **No denial of exemption notification**

The Tribunal has held that the benefit of an exemption notification cannot be denied on account of a delay in the fulfillment of procedural conditions. It has further held that where the competent authority has certified that the imported goods meet the eligibility criteria under the exemption notification, the customs authorities cannot challenge the certification

Siddhartha Deb, Associate General Manager Vs. CC (2007 (148) ECR 355)

- **Right to relinquish the title**

The Tribunal has held that the owner of warehoused goods has the right to relinquish the title to such goods at any time before an order for clearance of goods for home consumption is issued.

CC Vs. i2 Technologies Software Pvt. Ltd. (2007 (217) ELT 176) and M/s Cipla Vs. CC (2007 TIOL 1717 - CESTAT-MUM),

FTP

- **Notification**

(Cont..)

Article

Indian Banking System & Basel Norms



Anand Wadadekar, M.A (Eco), PGD Finance & Banking, GCIPR

Amidst globalisation Banking System in India has attained vital importance. Day by day there has been increasing banking complexities in banking transactions, capital requirements, liquidity, credit and risks associated with them.

The World Trade Organisation (WTO), of which India is a member nation, requires the countries like India to get their banking systems *at par* with the global standards in terms of financial health, safety and transparency, by implementing the Basel II Norms by 2009.

BASEL COMMITTEE:

The Basel Committee on Banking Supervision provides a forum for regular cooperation on banking supervisory matters. Its objective is to enhance understanding of key supervisory issues and improve the quality of banking supervision worldwide. It seeks to do so by exchanging information on national supervisory issues, approaches and techniques, with a view to promoting common understanding. The Committee's Secretariat is located at the Bank for International Settlements (BIS) in Basel, Switzerland.

NEED FOR SUCH NORMS:

The first accord by the name 'Basel Accord I' was established in 1988 and was implemented by 1992. It was the very first attempt to introduce the concept of minimum standards of capital adequacy. Then the second accord by the name 'Basel Accord II' was established in 1999 with a final directive in 2003 for implementation by 2006 as Basel II Norms. Unfortunately, India could not fully implement this but, is now gearing up under the guidance from the Reserve Bank of India to implement it from 1 April, 2009.

Basel II Norms have been introduced to overcome the drawbacks of Basel I Accord.

For Indian Banks, it's the need of the hour to buckle-up and practice banking business at par with global standards and make the banking system in India more reliable, transparent and safe. These Norms are necessary since India is and will witness increased capital flows from foreign countries and there is increasing cross-border economic & financial transactions.

FEATURES OF BASEL II NORMS:

Basel II Norms are considered as the reformed & refined form of Basel I Accord. The Basel II Norms primarily stress on 3 factors, viz. Capital Adequacy, Supervisory Review & Market discipline. The Basel Committee calls these factors as the 'Three Pillars' to manage risks.

Pillar I: Capital Adequacy Requirements:

Under the Basel II Norms, banks should maintain a minimum capital adequacy requirement of 8% of risk assets. For India, the Reserve Bank of India has mandated maintaining of 9% minimum capital adequacy requirement. This requirement is popularly called as 'Capital Adequacy Ratio (CAR)' or 'Capital to Risk Weighted Assets Ratio (CRAR)'.

The Central Government has issued a notification prescribing the procedures to be followed for conversion of a unit operating in the Domestic Tariff Area (DTA) into a unit approved to operate under the EOU/STP/EHTP/BTP Scheme.

Notification No. 74 (RE-2007)/2004-09, dt. 24/10/2007

➤ Benefit of Credit under DEPB

The Tribunal has held that the benefit of credit under the Duty Entitlement Passbook (DEPB) Scheme cannot be denied to an exporter on the ground that the classification of the product under the DEPB Schedule and under the Schedule to the Customs Tariff are different.

Amiya Commerce & Construction Co.Pvt. Ltd. Vs. CC (2007 (148) ECR 158)

Antidumping Duty

➤ Levy of Duty

The Tribunal has held that where there are no domestic sales in the exporting country, nor any comparable representative price when exported from that country to an appropriate country, the cost of production of the article in the country of origin along with reasonable addition for administrative, selling and general costs and profits would be considered as the normal value in relation to that article. Further, the Tribunal has held that while investigations into the cost of production will be producer specific the normal value so determined will be exporting country specific.

H&R Johnson (India) Limited Vs. Ministry of Finance/Designated Authority (2007 (83) RLT 91)

➤ Sunset review -

Pillar II: Supervisory Review:

Banks majorly encounter with 3 Risks, viz. Credit, Operational & Market Risks. Basel II Norms under this Pillar, wants to ensure not only that banks have adequate capital to support all the risks, but also to encourage them to develop and use better risk management techniques in monitoring and managing their risks. The process has four key principles:

- Banks should have a process for assessing their overall capital adequacy in relation to their risk profile and a strategy for monitoring their capital levels.
- Supervisors should review and evaluate bank's internal capital adequacy assessment and strategies, as well as their ability to monitor and ensure their compliance with regulatory capital ratios.
- Supervisors should expect banks to operate above the minimum regulatory capital ratios and should have the ability to require banks to hold capital in excess of the minimum.
- Supervisors should seek to intervene at an early stage to prevent capital from falling below minimum level and should require rapid remedial action if capital is not mentioned or restored.

Pillar III: Market Discipline:

Market discipline imposes banks to conduct their banking business in a safe, sound and effective manner. Mandatory disclosure requirements on capital, risk exposure (semi-annually or more frequently, if appropriate) are required to be made so that market participants can assess a bank's capital adequacy. Qualitative disclosures such as risk management objectives and policies, definitions etc. may be also published.

CONCLUSION:

Basel II Norms

- Offers a variety of options in addition to the standard approach to measuring risk.
- Paves the way for financial institutions to proactively control risk in their own interest and keep capital requirement low.

But..

- Requires strategizing risk management for the entire enterprise, building huge data warehouses, crunching numbers and performing complex calculations.
- Poses great challenges of compliance for banks and financial institutions.

Increasingly, banks and securities firms world over are getting their act together.



“One of the great illusions of life is that we always believe there is more time tomorrow than there is today and postpone many works for tomorrow”

“I asked God to give me everything so that I can enjoy life. He smiled and replied “I have given you life to enjoy everything”

Mandatory

The High Court has held that a sunset review in accordance with Rule 23(1) of the Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, prior to the expiry of the notification imposing the anti-dumping duty, is not an option but a mandatory obligation imposed upon the designated authority under Section 9A (5) of the CA.

Indian Metal & Ferro Alloys Ltd. Vs. Designated Authority (2007-TIOL-682-HC-DEL-AD)

Excise

➤ Circular

The facility of self-sealing extended to all categories of manufacturer-exporters.

Circular No.860/18/2007-CX dt 22-11-2007

Company cases

Cases at a glance

Supreme Court

In an offence by company, it is obligatory for complainant to make requisite allegations to attract provisions constituting vicarious liability.

Maksud Saiyed v. State of Gujarat

High Courts

➤ Petitioning group participating in board meeting, disputing only rate of interest to be charged and not grant of loan to sister concerns, amounts to tacit consent.

Caparo India Ltd. (U. K) v. Caparo Maruti Ltd. (Delhi)

News of use

➤ Information on bank account details exempted under RTI Act

Noting that agreements entered into by banking enterprises with its customers were matters of "commercial confidence", the Central Information Commission (CIC) has ruled out disclosure of information pertaining to bank account details under the Right to Information Act. "Bank is a commercial entity and the agreement that it has arrived at with other parties are a matter of commercial confidence. The bank holds such information concerning private persons in a relationship of trust. "A one-time settlement that has been arrived at by the bank in respect of a non-performing account being a matter of commercial confidence, the bank is under no obligation to disclose such information unless it is satisfied that larger public interest warrants the disclosure of such information", the CIC said in its order

The Financial Express dated November 16, 2007

➤ State of India's foreign debt

According to the latest available information, India's total external debt amounted to US \$165.4 billion as at end of June 2007. The per capita burden of total foreign debt worked out to US\$139.6 (Rs. 6,086.5) at end-March 2007.

Press Information Bureau dated November 20, 2007

➤ Strict vigilance on non-compliance of Companies Act

The provisions of the Companies Act, 1956 regulate a large number of corporate processes. The statutory obligations of a company include filing of annual returns and various other event based filings. The interests of investors are primarily associated with the listed public companies where the compliance rate, including in filing of annual returns and balance-sheets, etc. is found to be considerably higher than 50 per cent. Prosecutions are filed against the non-compliant companies, when detected on the basis of inspections/investigations etc., in the courts of competent jurisdiction.

Press Information Bureau dated November 20, 2007

➤ Foreign investors eye Indian market : SEBI

A large number of foreign investors want to register in India to participate in the booming stock market, the head of the Securities and Exchange Board of India, told a business conference here. Last month, the Securities and Exchange Board of India (SEBI) had tightened investment rules for unregistered foreigners. It had then said it would encourage foreign funds to invest transparently by registering with Indian authorities.

The Financial Express dated November 21, 2007

➤ Carriers Act, 1865 replaced by Carriage by Road Act, 2007

The Carriage by Road Act, 2007 has been notified to replace the Carriers Act, 1865. The Act has 22 Sections covering various aspects such as mandatory registration of common carriers, liability aspects of common carrier, requirement of goods forwarding notes and goods receipts, scope for an agreement between the consignor and the common carrier for transportation of the consignment at a higher risk rate in return for higher liability, empowering common carrier to dispose of the consignment to recover its dues in the event of failure of the consignee to take the delivery of the consignment, requirement of insurance for transportation of hazardous/dangerous goods, force majeure provision to exonerate common carrier from his liabilities under certain circumstances, penalty for violating the provisions of the Act etc.

PIB Dated 05.12.2007

- Appeal from order of CLB, only on question of law.

Caparo India Ltd. (U. K) v.
Caparo Maruti Ltd. (Delhi)

- Where ingredients of offence punishable u/s 108-I of 1956 Act not made out in complaint, magistrate taking cognizance is an abuse of process of court.

P. M. Padmanabhan v. K. P.
Sethumadhavan (Ker)

- Where failure by bank to maintain express condition imposed by RBI, cancellation of license proper

Vinayak Local Area Bank Ltd. v.
RBI (Delhi)

CLB Orders

Petition u/s 397/398 not maintainable for single act of non-sending of notice of board meeting.

Subash Hastimal Lodha v.
Manikchand Promoters and
Developers P. Ltd

DRT Order

Where bank enlarging time to pay amount and failure by borrower to pay even within that time, an application for enlargement of time would suffice and not an application for condonation of delay.

P. Vijayakumari v. Indian Bank

Borrowers neither availing remedy u/s 17 of 2002 Act nor paying court fee but seeking direction against bank, not maintainable.

Morion Chemicals Ltd. v. UCO
Bank Ltd

[Contd., in adjacent
Column...](#)

Legal Round up ..Contd..

SEBI

➤ SEBI (MUTUAL FUNDS) (2nd AMENDMENT) REGULATIONS, 2007

SEBI (Mutual Funds) (Second Amendment) Regulations 2007 on “Reduction in expenses charged by Index Fund Scheme” and “Short selling and Securities lending and borrowing” is issued on October 31, 2007. Enabling provisions have been made for a mutual fund to engage in short selling of securities as well as lending and borrowing of securities. However, these amendments shall take effect on a later date to be notified by SEBI, which will be after the new framework for short selling of securities and securities lending and borrowing is put into place.

Notification No. 11/LC/GN/2007/4646

➤ DIP Guidelines Rating Requirements for Corporate Bonds amended

In order to facilitate development of a vibrant primary market for corporate bonds in India, Securities and Exchange Board of India (SEBI) has amended the provisions pertaining to issuances of Corporate Bonds under the SEBI (Disclosure and Investor Protection) (DIP) Guidelines, 2000 vide circular dated December 03, 2007. The highlights of the amendments are for public/ rights issues of debt instruments, issuers will now need to obtain rating from only one credit rating agency instead of from two as required at present. This is with a view to reduce the cost of issuances. In order to facilitate issuance of below investment grade bonds to suit the risk/ return appetite of investors, the stipulation that debt instruments issued through public/ rights issues shall be of at least investment grade has been removed. Further, in order to afford issuers with desired flexibility in structuring of debt instruments, it has been decided that structural restrictions such as those on maturity, put/call option, on conversion, etc currently in place have been done away with.

Press Release No. PR No.312/2007 Dated 03.12.2007

RBI

➤ Government Securities Act, 2006 comes into force

The Government of India has notified December 1, 2007 as the appointed date on which the Government Securities Act, 2006 will come into force. Government Securities Regulations, 2007 will also come into effect from the same date. The Act applies to Government securities created and issued, whether before or after the commencement of the Act, by the Central or a State Government. Accordingly, the Public Debt Act, 1944 will cease to apply to the Government securities. The Indian Securities Act, 1920 has been repealed. The new Act and Regulations would facilitate widening and deepening of the Government securities market and its more effective regulation by the Reserve Bank.

Press Release No. 2007-2008/744 Dated 01.12.2007

Info from IRDA

The Insurance Regulatory and Development Authority (IRDA) said on 13th December 2007, Thursday, ten new players have applied for licenses to enter into this fast growing sector.

“Five players have applied for licenses and the rest for non-life insurance business,” IRDA member C R Muralidharan said at an insurance conference in Mumbai.