

Newsletter - 51

April 2008
For Private Circulation Only

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CONVERSION OF PARTNERSHIP INTO COMPANY

S.Vivekananda B.A.L., LL.B., ACS

Part 1

(Procedural intricacies of conversion of Partnership firms into companies are always creating confusions to many of us. Mr. Vivekananda is has tried to explain this in simple terms in this series of articles. This is the first part.)

There would be 2 options available to a partnership firm for continuing the business in the form of a company:

- a) To dissolve the Partnership firm and incorporate a new Company under the Companies Act, 1956; or
- b) Incorporate a Company which can legally take over the business of the Partnership firm and continue the business of the firm under Part IX of the Companies Act, 1956 (popularly known as Part IX conversion). However, it is to be noted that in the case of Part IX Conversion, there are many benefits which both the Company and firm stand to enjoy.

In the case of a Partnership firm, which intends to convert the firm into a company, the minimum number of partners must be seven and in case there are less than seven partners, the number of partners must be increased to seven, if the conversion is intended to take place under Part IX of the Companies Act, 1956.

Part IX, basically provides for incorporation of a Company and further recognizes such a Company to be continuation of the business of the firm and that the Partnership firm shall cease its operations subsequent to the said company coming into existence. Further all the property, movable and immovable of the firm shall pass to and vest in the said Company. (Section 575)

(to be continued)



THE BRILLIANT FISHERMAN

(Source: 40 Sparks of Wisdom)

As King Parveez and Queen Shireen were sitting in their palace one day, a fisherman who was selling fresh fish was brought in front of them. King Parveez decided to buy a fish and gave the fisherman 4000 dirham for it. The fisherman was overjoyed. He thanked King Parveez and left. Queen Shireen turned to her husband in anger and scolded him for paying so much for a fish. King Parveez let her have her say but said that the fish was purchased and that there was nothing that could be done about it.

However, the Queen was adamant and insisted that the fisherman be brought back. "We will ask the fisherman about the gender of the fish," she said. "If he answers that it is female, we will say that we wanted a male fish and if his response is that it is male, we will say that we wanted a female fish! Either way, we will be able to return the fish and have our money back." So the poor fisherman was called back and was asked the question.

Fortunately, he was clever enough not to be caught out. He replied, "The fish is neither male or female. It is neutral." King Parveez was so impressed by the ingenuity of the man that he ordered a further 4000 dirham to be paid to him. The fisherman thanked the King again but as he was about to leave with the heavy bag of money, one of the coins fell onto the floor. The fisherman immediately bent down to look for the coin. Queen Shireen was already upset that the fisherman had been given 8000 dirham.

"Look how miserly this man is!" the Queen exclaimed. "One coin has fallen out of his bag full of money and he searches for it instead of leaving it for some other poor servant to find." The man heard this remark and said, "O Queen, it is not out of miserliness that I search for the coin but rather because it had the picture of generous King Parveez on it. I would not tolerate anyone to cause dishonour to the King by treading on the coin."

The King was so happy with the response that he immediately called for another 4000 dirham to be given to the fisherman. When Queen Shireen saw all this, she thought it was better to hold her tongue and let the man go with the 12000 dirham before the King decided to increase the amount again. (Lessons from Life)

Speech is an Art. If one knows what, when and how to talk then such a person will be successful in life. The Holy Prophet(S) has said, "The beauty of man is in the clarity of his tongue". (Kanzul-'Ummaal). Imam Ali bin Abi Talib(A) has said, "Your tongue is the translator of your intellect". (Bihar al-Anwaar)

YOU CAN WIN THE KINGDOM. IF YOU USE THE WISDOM..

Words worth millions...

"The price one pays for pursuing any profession or calling is an intimate knowledge of its ugly side"

- James Baldwin

"The cost of living is going up and the chance of living is going down"

- Flip Wilson

Chapter News

1. SEMINAR ON BUDGET - INDIRECT TAXES

A seminar on Union Budget 2008-09 was organized by the chapter jointly with Mysore Branch of ICAI, Taxation Executives Association of Mysore and Institute of Business Laws at Rotary Centre, JLB Road Mysore on Monday, 3rd March 2008. Eminent Speaker, Mr. G. Shivadass who is a practicing advocate in Bangalore talked about the changes proposed in the Indirect Tax Laws. The meeting was well attended by members and students.

2. TALK ON CHANGES IN CORPORATE LAWS IN POST REFORMS ERA

Ms. Pracheta M. delivered a talk on changes in corporate laws in Post reforms era to the students of JSS I Grade College, Ooty Road, Mysore on 4th March 2008 at 2.30 PM.

3. CAREER GUIDANCE SESSIONS

Conducted by CS. Anshuman A.S., Secretary of the Chapter and Ms. Pracheta M

JSS I Grade College, Ooty Road, Mysore on 4th March 2008 at 3.30 PM. The session was attended by about 100 students.

KGV Iyer Memorial Conference Hall, ICAI Bhavan, Bogadi, Mysore to a team of 50 students studying in Final B.Com. at Teresian College, Mysore on 12th March 2008 at 11 AM.

Govt. I Grade College, Srirangapattana, Mandya District on 17th March 2008. CS. Anshuman A.S. talked about the opportunities for commerce graduates.

4. INVESTOR AWARENESS PROGRAM AT HUNSUR

The chapter organized an Investor Awareness Program at Hunsur on 26th March 2008 at 7.30 PM in association with Rotary Hunsur.

Past Chairman, CS. Sabareeshan C.K., Executive Director (Finance) and Secretary, Automotive Axles Ltd handled the technical session. Mr. Abbas S. Vagh, Past Chairman CII, Mysore Zone and Charter President of the Club, CA. Ebby Eapen, Past Chairman of Mysore Branch of ICAI were among the dignitaries.

The meeting was well attended by Rotarians, General Public, housewives and others. The technical session was followed by an interactive session.

5. OUTREACH CAMP ORGANIZED AT PADUVALHIPPE

The chapter organized an outreach camp at Paduvalhippe in Hassan District to facilitate students of the town to register themselves for the CS Course. 8 students of HD Deve Gowda I Grade Government College registered themselves for the Foundation Program.

Mr. Ramesh P.I., Chapter Incharge was deputed to conduct the camp. He was joined by our existing students from Holenarasipura in Hassan District.

6. Ms. M.R. Rashmi, our student was adjudged one of the best participant at the recent SMTP held at Bangalore. She was also part of the team which won the best presentation award at the SMTP.



7. FEEDBACK ON ICSI QUESTION PAPERS :

Ms. Rashmi M.R., Ms. Pracheta M. and members critically evaluated the standard of Institute's question papers and the consolidated feedback was sent to Sr. Director (Exams) by the chapter.

8. STUDY CIRCLE MEETINGS

Study circle meetings are continued to be organized by the chapter every Sunday at 4 PM

02.03.2008	Institution Of Directors Capital Budgeting	Pracheta M.
09.03.2008	Constitution Of India	Pracheta M.
16.03.2008	General Discussion	CS/CA Raghuvveera
23.03.2008	Examination Preparation	Omkar N.G.
30.03.2008	Labour Laws	Harish B.N.

9. The following three announcements regarding the chapter were made during the month :

08.03.2008	Announcement regarding winner of Essay Contest held by the Chapter
13.03.2008	Announcement regarding winners of Elocution Competition held by the Chapter with Photo
30.03.2008	Last Date regarding Foundation Program

News Update

New Foreign Trade Policy 2008-09.

The Commerce Minister has announced the New Exim policy 2008-09 on 11th April 2008. For details please visit <http://ieport.com> or <http://dgftcom.nic.in>

RBI relaxes norms on investment by Mutual Funds overseas

Asset management companies will now be allowed to invest \$7 billion abroad, with the Reserve Bank of India relaxing norms relating to overseas investment by mutual funds.

The regulator also feels that the move will enable MFs to have greater opportunities for investment overseas. The existing facility allowing a limited number of qualified Indian Mutual Funds to invest cumulatively up to \$1 billion in overseas Exchange Traded Funds shall remain unchanged, RBI said.

The *Economic Time*, 4.4.08

Refund of ST

Notification No. 17/2008-ST dt April 1, 2008, extends refund of service tax paid by exporters on three more taxable services in addition to existing 13 taxable services, which are not in the nature of "input services" but could be related to exports. The services are:

- a. Custom House Agent service
 - b. Banking and other financial services in relation to collection of export bills and export letters of credit,
 - c. Commission agent service under business auxiliary service provided by a commission agent, located outside India.
- PIB, dated April 1, 2008

Observer

CS. Dattatri H M,

The Big One-Stop-Shop Professional firms..!!



Last week I was reading news on internet. Lawyers' Club had published interesting news that reads:

"FoxMandal Little has become the first major Indian law house to set up a practice in the UK and in the process created quite a splash in the local legal community. The firm intends to service the growing market among overseas corporations and investors for Indian lawyers. At a time when a host of British and overseas law firms are setting up offices in India, FoxMandal Little has reversed the move and hopes to access overseas clients directly with this move...."

Congratulations to Foxmandal Little for this achievement and Wish them all Success!

Very few professional firms are big in the country, which can think of crossings the Seas. Apart from big four foreign CA firms, I do not have information of any other completely Indian professional firm that is really BIG enough to cope up with national and international level assignments. Particularly Company Secretaries are very far from creating big firms. Why is it so?

Today world is being ruled by big national and multinational firms/organisations. Lots of mergers and acquisitions are happening at a break neck speed across the globe – be it among companies or professional firms. It seems that we are now convinced with the theory "Grow bigger and bigger if you want to survive."

The Government of India seems to be firm on opening up the professional fields to international legal firms very soon. This being the situation don't you think, there is a necessity that we Company Secretaries, Chartered Accountants, Cost Accountants, Lawyers, HR Professionals shall join hands together in creating big firms of professionals which can provide one stop solution for all kinds of corporate needs?

If you just ponder over what we can achieve by creating BIG professional firm, following points may strike your mind:

1. Each of the expert in the firm can provide special attention to one particular professional area. This can improve the response time and quality of service to the clients.
2. Several corporate requirements require expertise in more than one area. For example, certain employee related matter require both HR and legal experts. Certain financial compliance related matters requires expertise from Company Secretaries and Chartered Accountants and so on. Knowledge pooling is easier for a firm having multiple inhouse experts.
3. Normally in single or 2-3 experts' run firms, balancing client requirement in times when personal life requires critical attention, turns very tough. Such situations may end up in losing customers. This problem can be easily solved when we have multiple expert hands to take up the load.
4. Spending on professional development is less burdensome for bigger firms.

Contd...

Foreign trade policy Highlights

- DEPB scheme extended till may 2009
- Income tax benefit to 100% EOUs under section 10-b of it act being extended for one year beyond 31st march 2009
- New export promotion council for telecom sector
- Relief to sector affected by rupee appreciation - interest subvention extended by one year - reduced average export obligation under EPCG
- IT hardware sector to be treated as special focus initiative
- Enhanced duty credit of 2.5% for export of specified high value-added manufactured products
- EPCG scheme - customs duty reduced from 5 to 3%
- Average export obligation for premier trading houses to be calculated based on last 5 years average
- Several measures to reduce transaction costs - EPCG scheme to be EDI enabled
- Procedural simplifications announced - EOUs
- Allowed to pay excise duty on monthly basis

Sales Tax update

In transit sales

The Karnataka High Court has held that appropriation of goods by the first buyer in favour of a third party, before the commencement of movement of goods from one State to another for the purpose of subsequent sale by such buyer to the third party, cannot constitute in-transit sales under CST Act. Such sales are taxable under Section 3 (a) of the CST Act in the appropriate State where the first buyer is registered or where the subsequent sale is effected.

State of Karnataka Vs. A & G Projects and Technologies Ltd.
[(2008) 13 VST 177]

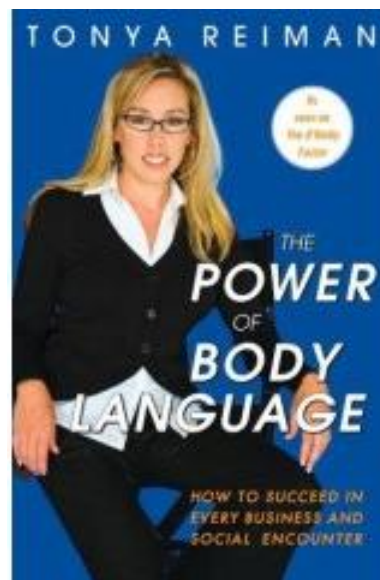
Observer Contd...

5. Office maintenance - staff training - handling attrition becomes easier. Even the firm can appoint an exclusive person for personnel requirement.
6. Marketing and business development requires special skills. This being an inevitable part of growth, firm can have a dedicated person for managing this aspect.
7. In case of getting into big expansions, funding through own funds or loan funds or raising capital (by forming a company) will be easier.
8. Bigger firms are heard by Government for legal reforms.
9. International establishments - tie ups - sharing of best practices etc can be handled with ease, which will result in further growth.

..so on and so forth.

Then why we are not forming BIG firms? Friends, can we ponder over reasons and solutions in realising the dream of BIG professional firms?

We await for your comments.



Book Review by

CS Nimmoo Kinger PCS, Mysore

Tonya Reiman's **The Power of Body Language**

How to Succeed In Every Business and Social Encounter

Several books have been written on body language and it is a science and an art, which seems to have no end. One needs to develop the skill of reading body

language and it does help one to succeed as a leader if one can accurately read body language

Research has found that as much as 93 percent of interpersonal communication is nonverbal, and these nonverbal signals are the most honest and reliable sources of communication. However, many people have conditioned themselves not to listen and, as a result, they unintentionally send the wrong signals and end up turning people off or pushing them away.

The Power of Body Language explains the miracles of the brain's natural communication system, providing principles and techniques for consciously reading nonverbal signals so as to know what others really think. It also illuminates how to control one's own nonverbal signals and communicate only the messages one wants to send.





Intellectual Property Rights

Copy It Right!

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

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

A copyright is a form of intellectual property, which protects literary and artistic works such as:

- i. Any writing like user manual, service manual, product catalogs etc.,
- ii. Music and works of fine arts and
- iii. Technology based works such as computer programmes and electronic databases (Un-published work)

Copyright is an inherent right, which arises whenever a literary, dramatic, musical or artistic work is expressed in a tangible form. The ownership of a Copyright should be indicated by the legend © followed by date of creation of the work and the name of the owner. A Copyright protects only expression of thoughts and not ideas. An example to illustrate this would be Shakespeare's novel. "Romeo and Juliet" is considered as a creative expression of an idea. Still other writers build new stories based on the same idea of Shakespeare. It is important to secure ownership of copyright in any work to prevent anyone else from copying it. Naturally, it is always the author who is the first owner. However, if a person creates such copyright during the course of his employment duties, then the first owner is the Employer. The owner of a Copyright in a protected work may use the work as he wishes and may prevent others from using it without his authorization. The right granted to an owner of a Copyright is an exclusive right:

- To Use the work
- To Authorize others to use the work

Term of Protection lasts for Sixty years in India. In the case of original literary, dramatic, musical and artistic works, the Sixty -year term from the year following the death of the author. In the case of cinematograph films, sound recordings, photographs, posthumous publications, anonymous and pseudonymous publications, works of government and works of international organizations, the Sixty -year term is counted from the date of publication. The requirement for copyright is that the author must have invested sufficient skill and labour on the work created. The work created by the author should be original. There is no requirement that the literary and artistic work created by the author should be good or have artistic merits.

Contd... From adjacent column

A trademark in Korea is valid for 50 years after the death of a work's creator. GLI Consulting said that after SOGEX signed a contract last year with Art Deco 7321, a Korean stationery and publishing company, giving the Korean company exclusive rights to use De Saint-Exupery's illustrations, it asked bookstores and publishers to stop distributing materials using those items. The publishers described GLI's move as a scheme for a foreign company to collect royalties. Originally published in 1943, "The Little Prince" has been published by some 600 Korean publishers in different translations, with more than 90 versions in circulation now.

IPR News

(Compiled by CS. Madhwesh, Mysore)

Krazzy 4: Rakesh Roshan strikes Rs 2-cr deal

The music of Krazzy 4 was released in February across satellite channels and in the audio CD format. Ram Sampath, the music director of the Sony Ericsson's 'Thump' ad, had gone to high court on April 04th 2008 against the Roshans saying that the songs are a direct lift from his ad. Court passed an order stating the tune was similar and ordered Mr Roshan not to release the two songs.

The verdict would have dealt a body blow to Mr Roshan as the two songs in question are "item numbers" featuring Hrithik and Shah Rukh Khan. Seeing no other way out, Mr Roshan decided to give in to Mr Sampath's claim of Rs 2 crore and buy out the music rights to release the songs as well as allow the sale of audio CDs and DVDs in the market.

Rights Dispute Sends 'Little Prince' Into Exile

A dispute over trademark rights has taken the global bestseller "The Little Prince" off bookstore shelves in Korea.

GLI Consulting is a Korean agent for SOGEX, the family foundation of the books' author, the late Antoine de Saint-Exupery. See adjacent column



Legal Round-up

INCOME TAX

Cases at a glance:

- Borrowings on capital assets not put to use in concerned financial year : Interest paid allowable deduction u/s 36(1)(iii) :

Joint CIT v. United Phosphorous Ltd. p. 9 and Asst. CIT v. Arvind Polycot Ltd. p. 12

- Commitment charges paid by assessee in the nature of interest : Allowable as business expenditure :

Deputy CIT v. Gujarat Alkalies and Chemicals Ltd. p. 85

- Financing charges paid by assessee allowable as interest on borrowed capital and also as business expenditure :

Deputy CIT v. Gujarat Alkalies and Chemicals Ltd. p. 85

- Genuineness and creditworthiness of creditor established : Amount representing credit not includible in total income of assessee :

CIT v. Glacom Impex P. Ltd. (Delhi) p. 39

- Borrowings utilised to make interest-free advance : Tribunal finding transaction genuine and for business purposes : Interest deductible

: CIT v. Gom Industries Ltd. (MP) p. 42

- No fresh settlement application in respect of same matter :

Haji N. Abdulla v. ITSC (Bom) p. 119

CENVAT

Revised format of ER -1 & 3.

The Government has revised the format of the periodic returns ER-1 and ER-3 w.e.f 1st April 2008.

Notification No. 15/2008 dated 1/3/2008


IT For Corporate Professionals

- Amitkumar Hegde B Com, MCA(Final)

Whenever you download some files from internet use a download manager. Download managers add few extra features to your download experience which are worth mentioning.

First of all, you can resume a broken download. For example a 50Mb file is half downloaded but you have to shutdown your computer and go out for a meeting. You can easily resume your previous download and continue from that point. This obviously saves the bandwidth used. Download managers also increase the download speed as the file being downloaded will be split into different parts and downloaded simultaneously.

As the name suggests, Free Download Manager is a freeware utility available at <http://www.freedownloadmanager.org/>. Once you install FDM, it automatically integrates with your browser (Internet Explorer or Firefox). Henceforth whenever you click on the download link, a window pops up asking you to provide the download location, download priority etc. You can also schedule your downloads with the scheduler. That means you can specify the date and time at which a particular download should start. You can also right click the download link in the browser and click on "Download with FDM" if the downloads don't start with FDM.

Using FDM you can download whole websites for offline viewing. For example you want to download all the pages related to Income-Tax Act from vakilno1.com then open the HTML spider tab and select "Download web-site" in the "HTML Spider" menu or simply click the  button. "Download Website" dialog box pops up. Enter the web address and the "Depth" for downloading. Depth refers to how many pages to be downloaded in hierarchy from the current address provided.

And you can always refer the help for step by step guidance...! Go ahead download this 2MB software and enrich your download experience.

www.epfindia.com

Web Yatra

Omkar N. G. B.Com, LLB, ACS, PGDHRM.

Do you have any query/doubt on Provident Fund matters? Don't worry, logon to www.epfindia.com. This site is well structured; index is displayed at left side of the home page which helps us to get the required info faster. Days have gone where we were required to visit the PF office to know the status of our claims. Now, sitting in front of a system, we can view claim status by clicking "Know Your Claim Status" option.

FAQ's are available to clear majority of the doubts. This site provides EPF Act, Rules, Schemes, Forms, Newsletters etc., Still queries are not clear, we can call/write to concerned PF office. Full address, contact number and mail Id's of PF offices all over India are provided under the head "Contact Us". So..., logon to this site and get much more info's on PF.

Dutiability

Goods destroyed during quality control process - No excise duty

The Tribunal has held that goods destroyed during the process of quality control testing are not liable to excise duty.

CCE Vs. Exide Industries Ltd (2008 (223) ELT 311)

Process of unpacking, folding, labeling etc.,- not manufacture

The Tribunal has held that the processes of unpacking, folding, labeling, bundling and stacking of fabrics do not amount to manufacture under excise law. The Tribunal has further held that refund of excise duty paid on such goods cannot be denied, if such goods are exported.

Bala Handlooms Export Co. Ltd Vs. CCE (2008 (223) ELT 100)

Valuation

Payment of Duty under MRP scheme

The Tribunal has held that the manufacturer is not disentitled from payment of duty under the MRP Scheme merely for the reason that retail sale price was printed on the product instead of on the outer package.

Pond's Exports Ltd. Vs. CCE(2008 (223) ELT 193)

Excess insurance charges over actual premium- Not includable for value of goods

The Tribunal has held that insurance charges collected in excess of the actual premium paid to the insurance company are not includable in the value of goods

TCP Limited Vs CCE (2008 (84) RLT 692)

CENVAT Credit

Credit on capital goods not put to use

The Tribunal has held that CENVAT credit is eligible on capital goods received in the factory even if such capital goods have not been put to use by the manufacturer.

CCE Vs. Varsa Plastic Industries (P) Ltd

Article

Real Estate Investment Trusts Mutual Funds in India

By: Anand Wadadekar M.A Economics, MBA, DIT, Pune

In a move that could boost investments in the real estate sector, SEBI has announced a draft proposal for the launch of a scheme by the Real Estate Investment Trust (REIT). This will help meet the capital needs of the real estate sector and also allow investors to participate in the real estate growth opportunity.

These proposed guidelines will come into effect from the date of their publication in the official gazette. When finally approved, it will be known as SEBI (REIT) Regulations, 2008.

Salient Features of the REITs Regulations are as follows:

1. A scheme shall be launched by a trust which will be managed by a real estate investment management company.
2. The Trust and Management company must have a net worth of not less than Rs 5 crore. The REITs should have an adequate infrastructure and good professionals with requisite experience in their respective fields.
3. The Trustees can be a bank, trust company of scheduled bank, public financial institution, insurance company or a body corporate.
4. All the schemes offered by the REITs will be close-ended only which will be compulsorily listed. The Net Asset Value (NAV) of these schemes will be disclosed preferably on an yearly basis which will be based on the valuation report prepared by the principal valuer.
5. Every scheme for which authorisation is requested shall appoint an independent property valuer (the "Principal Valuer")
6. The scheme is prohibited from investing in vacant land or engaging or participating in property development activities.
7. These scheme shall invest only in a viable real estate property. The contract value of real estate must not exceed 20% of the NAV in case of uncompleted units in building or units which are being developed substantially.
8. A Trust under all its schemes shall not have exposure of more than 15% of any single real estate project.
9. Similarly, any Trust, under all its schemes, shall not have exposure to more than 25% of all the real estate projects developed, marketed, owned or financed by a group of Companies.
10. No scheme shall be launched by the real estate investment trust without obtaining rating from a credit rating agency.
11. No scheme shall be open for subscription for more than 90 days.
12. The scheme shall distribute to unit holders as dividends each year an amount not less than 90 % of its annual net income after tax.

...oO0

(2008 (223) ELT 313)

➤ Method of accounting

The Tribunal has held that the manufacturer cannot be compelled to follow a particular method of accounting for CENVAT credit where he has the option of either maintaining separate accounts for inputs used in both dutiable and exempted final products or to pay 8%/10% of the value of the exempted product.

CCE Vs. M/s Taher Ali Industries & Projects Pvt. Ltd. (2008 TIOL 404)

➤ Credit on shifting of Unit

The Tribunal has held that in case of, shifting of a factory from one site to another, the entire CENVAT credit balance, on the books, including the credit pertaining to goods already used, is transferable to the new unit.

Sunpack Vs CCE (2008 (84) RLT 740)

Others

➤ Unjust enrichment

The Gujarat High Court has held that the principle of unjust enrichment is not applicable if the assessee proves that the duty incidence was not passed on, through CA certificates and/ or financial statements.

CCE Vs. Manisha Pharmoplast Pvt. Ltd. (2008 (222) ELT 511)

➤ Interest on irregular availment of CENVAT Credit

The Tribunal has held that in case of irregular availment of CENVAT credit, the interest is payable only from the date of utilization of such credit for payment of duty.

Noorani Tex Prints Ltd. Vs CCE (2008 (84) RLT 684) & Dr. Reddy's Laboratories Ltd. Vs. CCE (2008 (TIOL 403)

➤ Remission of duty

The Tribunal has held that remission of duty is not admissible in case of goods lost due to robbery in the factory.

Rahul Springs Pvt. Ltd. Vs CCE (2008 (85) RLT 136)

Service Tax

➤ State Government not liable for ST

I am very much grateful to voice my views through this ever persevering platform. Yes...the group, which is always my continuous inspiration. Now, see yes in everything with Vj. (thisisvj@gmail.com)

Secretarial Practice to Winning Study?

Yes, its = Hard Work + Smart Work.

Hard Work = Studying again + again + again...

Smart Work = Extracting the Essence of the Subject

IF

Always, yes, its not how much you study matters, but how many times you study really matters. See, for instance, take Sections S-205,205A,205C,206,206A & 207 of the Companies Act, 1956 pertaining to Dividend. You may spend some time (an hour) to read all the sections once and see, normally you will read it again after some time, which may take you 50minutes. So, you will come to a decision to study all the topics just once, so that atleast you could cover the syllabus and then while sitting in the exam hall, you will feel your brain is empty.

THEN

So, here is the formula for a Winning Study. Take the Bare Act or Study Material or your Reference Book for the topic "Dividend". Keep Readin...take a Pad and start writin...you may hardly end up spending an hour 15minutes for this topic for the very first time but once you finish reading, you may complete revising the same topic again & again in descending order. So see, your times of study gets increased. Now try taking your pen in the Exam Hall, though at the beginning you feel what to write, once you start writing, you will Keep Writin...

LET'S

Yes, now presuming you have studied Dividend once, presenting here, the Notes for Revision. See, how many times can you read it?

1. Dividend = Return on Investment (RoI) in Capital;
2. Pay First Preference (shares), Then Equity;
3. Payment is an Ordinary Business(OB) requiring Ordinary Resolution(OR);
4. "Declared Dividend is a Debt";
5. Dividends only to names in "Register of Members" or order/banker;
6. Payment in cash/cheque/warrant;
7. S-80A contravention (Irredeemable Preference Shares) --> No Dividend on Equity (NOT preference) shares forever;
8. S-206A: If valid Instrument of Transfer is lodged during Book Closure, Dividend/Rights/Bonus should be kept in abeyance & transferred to transferee on lifting;

"Read 'd' as days, 'ShHol' as Shareholders & 'BoD'-Board of Directors."

FINAL DIVIDEND

- Recommended by Board (BoD)
- <= BoD's recommendation (if, Tab A) may be **Declared** by Shareholders

INTERIM DIVIDEND

- Recommended by Board (BoD)
- **Declared** by BoD

The Tribunal has held that the State Government is not liable to pay service tax on the sovereign activity under the State Electricity Act.

Electrical Inspectorate, Govt of Karnataka Vs C.S.T [2008(9) STR 494]

➤ **Input Tax credit - construction of residential colony**

The Tribunal has held that services of repair & maintenance and civil construction used in the residential colony of employees of a factory situated in a remote area are eligible input services for availing CENVAT Credit.

Manikgarh Cement Vs CCE& Customs[2008 (9) STR 554]

➤ **No ST on hire purchase finance**

The Tribunal has held that hire purchase finance is different from hire purchase since in the financing arrangement, the ownership in the goods remains with the hirer and not with the organization which finances the purchase. Consequently, no service tax is chargeable on this activity.

Kusalava Finance Limited Vs CCE&ST [2008-TIOL-397]

➤ **Credit on mobile**

The Tribunal, has held that mobile phones and landline phones installed at the director's residence for business purposes are input services and are eligible for CENVAT Credit.

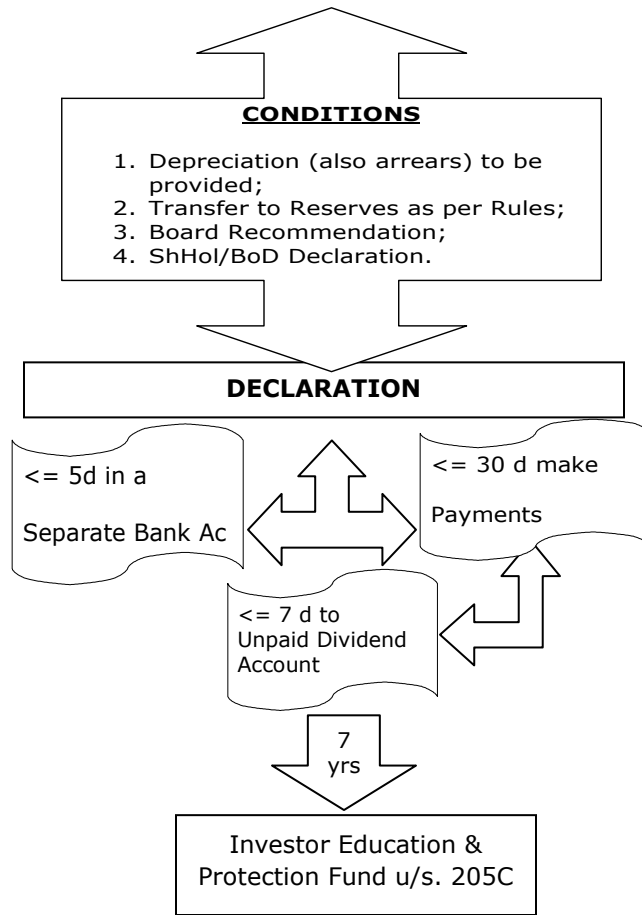
Keltech Energies Ltd Vs CCE[2008-TIOL-419]

Sales Tax

In transit sales

The Karnataka High Court has held that appropriation of goods by the first buyer in favour of a third party, before the commencement of movement of goods from one State to another for the purpose of subsequent sale by such buyer to the third party, cannot constitute in-transit sales .

State of Karnataka Vs. A & G Projects and Technologies Ltd. [(2008) 13 VST 177]



Keep Communicatin....Vj

In Lighter Vein... (Hindi...)



Banta: Jab main paida hua tha to militarywalon ne 21 topein chalayeen thi.
 Santa: Kamaal hai ! Sab ka nishana chook gaya ?

Santa: Ghar ka saara keemti samaan chhupa ke rakh do, mere dost aa rahe hain.
 Jeeto: Kyon! Aapke dost chura lengey?
 Santa: Nahin, pehchan lengey!!

Customs

➤ **Classification**

The Supreme Court has held that the Harmonised System of Nomenclature is not determinative of whether the product is manufactured and/or is taxable.

CC Vs. Phil Corporation Limited (2008 (223) ELT 9)

Valuation

➤ **Royalty & technical know how fees to collaborator**

The Supreme Court has held that royalty and technical know-how fees paid to a foreign collaborator, not related to the imported goods and not a condition of sale of the imported goods, are not to be included in the transaction value (TV).

CC Vs. Ferodo India Private Limited (2008 (85) RLT 59) & WEP Peripherals Ltd. Vs. CC (2008 (85) RLT 67)

➤ **Addition of freight to TV**

The Tribunal has held that where the value of the imported goods is inclusive of freight, no further additions on account of freight can be made to the TV for the purpose of valuation of the goods.

Shine Petroleum Pvt. Ltd. & Elf Gas India Ltd. Vs. CC (2008 (151) ECR 257)