

# Newsletter-33



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*"Let's grow together"*

**Dear Reader,**

Previous month this column started with Mumbai bomb blast issue. Later during the month we got news that finally finally courts have decided the case of decade old bomb blast case. Verdict is said to be delivered 'soon' in September. Entire world wonders how India can tolerate bomb blasts and keep on investigating for decades.... Too tough to defend... too tough to stop writing... While pondering over this nature of the country on the occasion of Independence day, we question ourselves, whether this is the result of the way we adopted in fighting for independence? Off course there will be lot of diversified views.

The entire month was full of activities for Mysore chapter. Special study circle meetings on one side and first ever Moot Court Competition on the other side. Please read reports thereon.

Have a look into the newsletter and please comment. Meet you again next month...

Dattatri, Sarina and Kasturi  
Editorial Committee

For past issues of newsletter visit  
[www.esnips.com/web/ICSIMysore](http://www.esnips.com/web/ICSIMysore)

*From Chairman's desk,.....*

**Dear Friends, Happy Independence day!**



The month of July witnessed a surge in activities of the students of the chapter. All thanks to Mr. H.M. Dattatri's initiatives. The MOOT COURT competitions were held during the month. I had the privilege of being one of the Judges for the final round. The quality of presentations were such that the Judges had a difficult time in selecting the best two teams. The prizes for the final round were sponsored by Mr.G.D. Ramarao, who also spared his valuable time to be present during the final round of the moot court competition. I thank Mr. Ramarao for the kind gesture and hope to receive similar support from all the members to the Chapter activities.

I had mentioned in my last message that Career Counseling is one of the concerns. I had requested the members to spare some time for this purpose and get in touch with the Chapter to offer their time & efforts for this activity I am happy to mention that some of the members have taken initiative for taking up the task and I thank them. The students have prepared themselves for presentations on Career Counseling, which again deserves a special mention. I request all the members extend their helping hands as the future of the Institute is depends on more and more students registering for the course.

During March 06 we had conducted "investor awareness program" which was well received. Funding was from the Ministry of Company Affairs. The Chapter has received request to take up a short 2 hour further program on investor education. The program will be held on 3<sup>rd</sup> September, 2006. I request your active participation.

As conveyed earlier Chapter is exploring the possibilities of joining other professional bodies for conducting lecture programs of common interest. I had an occasion to moot this idea with National Institute of Personnel Management, Mysore Chapter. Response was positive. Incidentally, I wish to inform the members that I have been unanimously elected as Vice- Chairman of NIPM, Mysore Chapter for the years 2006 -2007.

The members who have not yet subscribed to the "Company Secretaries Benevolent Fund" are requested to subscribe.

# Creating Impact - Vital for CS

Report by: Ms. Pavithra, CS Inter

“Communicating is an important quality that every one must possess...The professional’s life without communication skills is a misery... To communicate is not just to talk but also to speak. Speak what you must speak....An angle appeared before a man and asked him to make a wish for two things. He asked for an oldest wine and a wonderful woman in this world. Next movement a bottle of oldest wine and Mother Teresa were before him... so, speak right and only the right...”

Mr. Harish Machaiah Kodendera, a renowned personality coach addressed the students of ICSI Mysore on 23<sup>rd</sup> July 2006. He was ‘speaking’ over the importance of excellence in communication skills.

Mr. Harish Machaiah is a special kind of person that Mr. Simon took more than a minute to spell out all qualifications letters which follows his name, while welcoming him to the session.

Mr. Harish’s words were Inspiring, Mesmerizing, Professional, Alarming, Compact and Terrific. In Toto, he created an **IMPACT** in the minds of listeners. The new avatar of a company secretary is knowledge professional in today’s competitive world. Moreover, a knowledgeable worker will pursue many careers in a single organization.

He narrated the importance of creating impact in his own style as follows:

I- our profession do not confine only to nation but also International. The opportunity knocks your door only when you are well recognized. Never miss it as the opportunity knocks only once.



**M- Money, Management, Maximization, Mantras** flows only when you have created impact.

**P- various Projects** will be in your hand when you are recognized to **Perform** effectively.

**A- you should create impact** as you are **Accountable** and this accountability **Alarms** you not to repeat the mistakes.

**C- creating impact** improves the **Communication** which is the **Crux** of this profession.

**T- creating impact** helps in **Transformation** from an ordinary man to the **Thriving professional**

## Foot steps in creating impact.

**Identifying - Yourself** where you are and where you should go.

**Measuring- What** is been expected of you and where do you stand in meeting such expectations. This you can do by **SWOT analysis**.

**Planning- Both** of your short term and long-term performances and also contingencies. If you fail to plan, you are planning to fail.

**Act- According** to the plan you have prepared.

**Change- Change** holistically and continuously and be in par with the changing circumstances, as change is the only constant. However, control your destiny and reach it.

**Track- Keep** a track of your progress. Continuously monitor, evaluate, and score your activities. If you are falling short, change the parameters and yardsticks.

Lets create an impact.....

## Legal Updates : RBI

**Issue of Encashment Certificate (EC) on security paper:** According to provisions of the ECM Volume I (Exchange Control Manual), Authorised Dealers and their exchange bureaux are required to issue Encashment Certificates (EC) in form ECF in all cases of purchase of foreign exchange from the public if the amount of foreign currency encashed exceeds Rs.15,000/- in value and in other cases, on the letter-head of the authorised dealer/exchange bureaux. Now RBI has dispensed with this requirement of Certificate on security paper. Accordingly, when requested by the customer, Encashment Certificate in form ECF, duly signed by authorised officials, should be issued by Authorised Dealers Category I on their letter-head (with their logo printed on it), irrespective of the amount.

Circular No. A. P. (DIR Series) Circular No. 02 Dated 17.07.2006

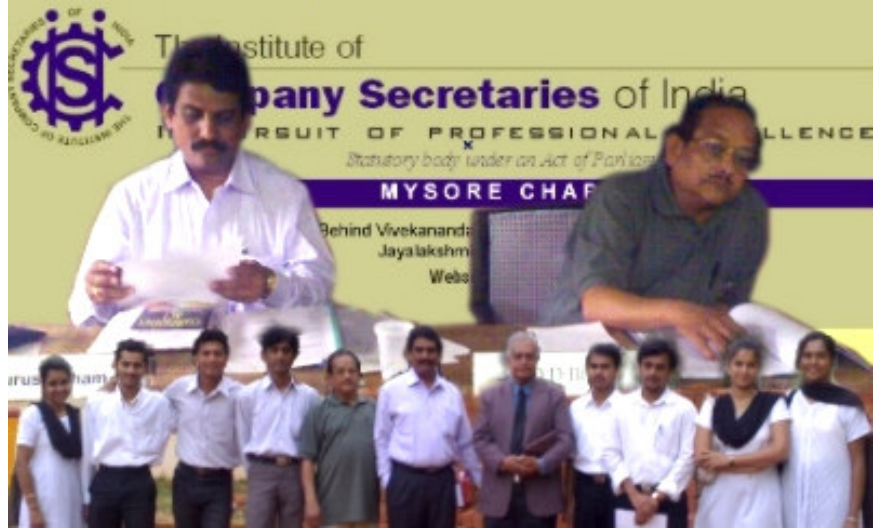
# MOOT COURT COMPETITION

Report by Mr. M D Srinivas, CS Inter

The journey of student oriented programs in ICSI - Mysore Chapter crossed one more milestone when it successfully completed first ever Moot Court competition in July-August 2006. Off course, this is the beginning in building awareness and training the students of Mysore chapter to be the best counsels.

The issue chosen was none other than the case built up for National Level Moot court Competition being conducted by ICSI. Competition was held in two rounds. Preliminary round was held on 23<sup>rd</sup> July 2006, in the chapter premises. Eight teams participated: Veena & Vijayalakshmi, Omkar & Chakri, Pracheta & Raghuvver, Madwesh & Rakesh, Swetha & Kiran, Shrinivas & Naman, Harish & Sreeraj and Pavitra & Rashmi

Final round was held on 6<sup>th</sup> August, 2006. Mr. J Purushotham an eminent and leading advocate in Mysore and Mr. D D Bhat Legal Head for J K Tyres were the



presiding officers. Mr. G D Ramarao senior most FCA and FCS of Mysore and Mr. Harish Machaaih a renowned personality excellence coach of Mysore were the guests of honour of the day. Presence of all these distinguished personalities helped the students in analyzing the performance from all aspects. The guests were delighted by the performance of students and enlightened them on further improvements.

1<sup>st</sup> prize was bagged by Mr. Madwesh & Mr. Rakesh followed by Ms Pracheta & Mr. Raghuvver. Ms Pavitra & Ms. Rashmi and Mr. Omkar & Mr. Chakri. The program concluded with vote of thank by Mr. Shrinivas M. D.

## Ten Commandments of How to Get Along with People!!



By: Ann Landers (Collections of Ms. Lucy Doss - Oscar Murphy Life Strategists P Ltd)

1. Keep skid chains on your tongue; always say less than you think. Cultivate a low, persuasive voice. How you say it counts more than what you say.

2. Make promises sparingly, and keep them faithfully, no matter what it costs.

3. Never let an opportunity pass to say a kind and encouraging word to or about somebody. Praise good work, regardless of who did it. If criticism is needed, criticize helpfully, never spitefully.

4. Be interested in others, their pursuits, their work, their homes and families. Make merry with those who rejoice; with those who weep, mourn. Let everyone you meet, however humble, feel that you regard him as a person of importance.

5. Be cheerful. Don't burden or depress those around you by dwelling on your minor aches and pains and small disappointments. Remember, everyone is carrying some kind of a load.

6. Keep an open mind. Discuss but don't argue. It is a mark of a superior mind to be able to disagree without being disagreeable.

7. Let your virtues, if you have any, speak for themselves. Refuse to talk of another's vices. Discourage gossip. It is a waste of valuable time and can be extremely destructive.

8. Be careful of another's feelings. Wit and humor at the other person's expense are rarely worth it and may hurt when least expected.

9. Pay no attention to ill-natured remarks about you. Remember, the person who carried the message may not be the most accurate reporter in the world. Simply live so that nobody will believe them. Disordered nerves and bad digestion are a common cause of backbiting.

10. Don't be too anxious about the credit due you. Do your best, and be patient. Forget about yourself, and let others "remember." Success is much sweeter that way.



# NEWS OF USE

Compiled from various sources.



## First company incorporated in 1 Hr

(Reported by Financial Express by KG Narendranath on August 02, 2006)

Incorporation of a company in India is now just an hour-long affair. On August 1, the Registrar of Companies (RoC) for the national capital territory let one Pawan Kumar Vijay to incorporate a private limited company within an hour after he applied for the same electronically.

The new company – Corporate Professionals eSolutions Ltd – was incorporated after completing all formalities and in due adherence to statutory needs like submission of the memorandum of association and the articles of association on stamp paper.

“This is a record of sorts. Even in the US, it takes an average of three days to incorporate a private limited company. In the UK, which is known for faster delivery of government services, a company can’t be formed in less than four hours,” said an official from the ministry of company affairs.

## 3 day ICSI national convention

(Reported by PTI July 26, 2006)

The three-day National Convention of the Institute of Company Secretaries of India will be held at Kolkata from September 7, ICSI President H M Choraria said on Wednesday

Choraria said the institute would be launching in September a Post Membership Qualification (PMQ) course in Corporate governance.

To globalise the profession, the institute had approached the Commerce Ministry to exert pressure at the WTO Forum for inclusion of a new Head for Corporate Governance and Company Secretarial Services under the Services Sectoral Classification List of the WTO. The institute had also sought support from parallel institutes in various countries for this initiative, he said.

Considering ICSI’s role in the global company secretaries profession, the institute along with the institutes in Bangladesh, Kenya and Pakistan took the initiative of setting up the International Federation of Company Secretaries (IFCS), to help the professionals in different countries come under an umbrella to build the global brand ‘Company Secretary’, he said.

## CS course takes backseat in ITES, Mgmt rush

(Reported by Times News Network on July 17, 2006)

The ITES sector and the craze for management courses have taken their toll on annual registrations for the company secretary course. ICSI has estimated that the registration of students has fallen by about 15% over the past two years. Consequently, there are over 10,000 company secretary posts now lying vacant.

“There is now an increasing tendency in the student community to join the BPO industry. As a result, we are now seeing a drop in registrations over the past couple of years,” said HM Choraria, president, ICSI. Alarmed by the situation, ICSI is now taking initiatives to re-ignite interests amongst the prospective student community on the profession.

It has drawn up a three-level plan: restructuring the course curriculum to make it more student-friendly, launch an e-learning platform and career awareness drive amongst prospective students. The syllabus is being redrafted across the foundation, intermediate and final level of the course.

“The changes have been made to accommodate the current requirements and to make it more rational. We are also reducing the number of examination papers from 22 to 19,” said Mr Choraria. The ICSI has initiated talks with several companies including Webel to kick-off the e-learning platform by December. The platform will include live interaction with experts and students can also access course materials. “We expect this initiative will increase the number of registrations including amongst the students in semi-urban areas who do not have direct access to ICSI facilities,” he said.

This apart, ICSI will now stress on post-membership qualifications for practising company secretaries. It is soon going to offer a bouquet of part-time courses in areas like corporate governance, labour laws and derivatives.

“These courses will be of three months to one year duration and will aim at skill up-gradation for practising company secretaries,” said Mr Choraria.

## Capital Market Terminologies



Dear friends,

Here is a special information for those highly interested in understanding investment markets and avenues better. You might have faced difficulty many times in understanding market terminologies in its proper stance. Then you might have thought that some one should explain that to you. But the task is not that easy in an ever evolving, highly dynamic investment market. Here is a small effort by a website to make you know one market word a day, that too free of cost. Just enroll yourself and provide your email id. Every day you will receive knowledge about one interesting word. Really an excellent effort. The website is:

[www.investopedia.com](http://www.investopedia.com)

Here are some samples:

### Law of Diminishing Marginal Returns

A law of economics stating that, as the number of new employees increases, the marginal product of an additional employee will at some point be less than the marginal product of the previous employee.

Investopedia Says:

Consider a factory that employs laborers to produce its product. If all other factors of production remain constant, at some point each additional laborer will provide less output than the previous laborer. At this point, each additional employee provides less and less return. If new employees are constantly added, the plant will eventually become so crowded that additional

workers actually decrease the efficiency of the other workers, decreasing the production of the factory.

### Incubated Fund

A fund that is offered privately when it is first created. Investors of this type of fund are usually employees associated with the fund and their family members. Incubation allows fund managers the ability to keep a fund's size small, while testing different investment styles, before the fund is available to the public and subject to restricting rules and regulations.

Investopedia Says:

There are two paths that can be taken by an incubated fund. If the fund is able to achieve excessive returns it is "born" and made available to the public. However if returns are not adequate the funds are liquidated and "buried."

The use of incubated funds has come under criticism as of late. Since incubated funds are not managed under normal conditions the returns that are achievable can be greater than they normally would have been. Subsequently when the fund is advertised to the public the returns that are shown are ones that may not be able to be replicated in the future. To avoid problems investors must be able to identify if a fund was first an incubated fund. However this is easier said than done, as fund managers usually attempt to hide a fund's incubator origins. These types of funds are never officially called "incubated," but are rather called "limited distribution."

Visit the site, enroll and keep updating yourself...

## Legal Updates - Consumer Disputes

**Petitioner fined:** The respondent filed a complaint on the ground that there was deficiency in service provided by the petitioner as his request to shift the mobile connection was not allowed by the petitioner-company. The petitioner also filed fake affidavit stating that the connection was shifted as per the request. The National Commission held that for filing false and incorrect affidavit before the Consumer Forum, appropriate action was required to be taken against the petitioner. For false affidavits or misleading statements in a pending proceedings deponents are required to be dealt appropriately by imposing punitive damages so that in future they or others may not indulge in such practice. Further held that as serious negligence and deficiency in service was evident punitive damages was required to be enhanced so that in future neither the officers of the petitioner nor officers of other such big companies indulge in such practices. The petitioner was directed to pay Rs. 1,50,000 as punitive damages.

Reliance India Mobile Ltd. Vs. Hari Chand Gupta

## ICSI and its Prerogatives...

Compiled by Mr. Dattatri H M

AT&S India Pvt Ltd, Nanjangud, Karnataka

News:

### Four ICSI members resign over loss of right

Miffed over the dilution of their exclusive right to pre-certify various documents under MCA 21, four of the 12 elected members of the governing council at ICSI (Mahesh Anant Athavale, SD Israni, Bipin S Acharya, Nesar Ahmad) have resigned from the body.

In February this year, the government had issued a notification widening the ambit of those allowed to pre-certify company documents under MCA 21 to include chartered accountants and cost and works accountants. In the process, company secretaries lost their exclusive right over company law certification.

News:

### New Concurrent Audit:

NSDL had recently introduced a "NEW CONCURRENT AUDIT" for all its DP's on a quaterly basis w.e.f Aug 01,2006, CDSL has also done the same, together with increasing the frequency of its internal Audit from bi-annually to each quarter. Company Secretaries have lost the exclusivity of these Audits and it has to be shared with Chartered Accountants. (ET dtd 27/07/2006)

**Dear friends,** do you remember? In the April 2006 edition of our newsletter we had raised this issue (Page 2). Lot of discussions went on. We highlighted that it is not the first blow, but we had series earlier and our council could not do much to regain our prerogatives.

Recently Business Line published an article written by Mr. D Murali. (Title: **Guarding the turf from predatory professionals**) He has recorded opinions of few members.

"Company law is the core competency of company secretaries, it should be the exclusive domain of company secretaries to do pre-certification and secretarial audit. We are in the process of pursuing our views with the Ministry. But there is no commitment yet from the Ministry. Perhaps, when the forms are revised our views may be considered," hopes H. M. Choraria, president of the ICSI.

"In a democratic set-up there are ways and means to protest. We have perhaps exhausted all the options of making representations, meeting officials of the MCA and trying to convince them. The only way to wake up the people running the system is protest resignations. We cannot wait indefinitely," proclaims **Athavale**.

"Resignation of the four members of the Central Council of the ICSI is a belated action. It is like bolting the stable after the horse has bolted away. There were ICSI representatives on the Committee when this issue was discussed and decided; and as far as I know no adequate representation was made by the ICSI opposing this move."  
- **N R Moorthy (CS in Pune)**

"The certification under the new e-governance initiative has brought all the three professions together for the first time. Certifying eForms does not call for expertise in company law. Wherever in-depth knowledge on company law is required, company secretaries definitely have an edge and would definitely be consulted. They need not feel apprehensive about this. Professionals should not needlessly insist on reserved domains for practice. I am confident that company secretaries can take on this challenge." **Kannan Srinivasan** - professional with multiple qualifications, working on the implementation of the MCA21 project.

There were lots of debates over e-groups across the country. Here is an effort to bring in few excerpts from the discussions went on in [ourcorpsclub@yahoogroups.com](mailto:ourcorpsclub@yahoogroups.com) & [CharteredSecretaries@yahoogroups.co.in](mailto:CharteredSecretaries@yahoogroups.co.in)

"When will the "INSTITUTE WAKE UP" to protect the interest of its members. Only these words could be said - "YET AGAIN " - **Mohit s Nigam**

I would love to raise a question that What actually we as a Commune of Company Secretaries want for ourselves? Do we want recognition, or a list of audits, Job in Market or non-competition with others? Before that do we are in real, competent enough to give a chase to players like MBA's, Chartered Accountants, Lawyers etc? I believe we have plenty of areas to show our professional skills. We should try to concentrate on what already we have. Instead of sharpening our tools, edging our knowledge as a gift to the industry, we are looking towards

industry/government to provide us platform to stand and run. - **Amit Kumar**

We need to grow stronger and stronger in the areas we are already in. I really feel deeply thankful to few members who are bringing worth to the profession, whenever I hear from few government officers and senior corporate executives that only company secretaries can handle corporate legal matters.

Complete dedication in performing our duty in an at most professional manner will create brand for the profession. That will make us gain new areas. Lion has been seen as king of the forest not because it requested others to see itself so. But because it showed the ability to be called so. - **Dattatri H M**

Don't we have to cry even on dilution of past recognition and continue to be in state of happiness even if profession is diluted further? President of ICSI has already laid the foundation for further dilution in the form of limit being raised to Rs. 10 crore from present limit of Rs. 2 crore. ( Yes, I am talking about the headline 10000 existing vacancies all over country). Whether anyone has been provided the list of 10000 vacancies?

Lion is known as king of the forests because he pounces upon anybody challenging his might. He does not have sacrificing nature. Shall he become pigeon and close our eyes whenever lion pounces on us? Or we shall also fight back. - **Ajay Garg**

Instead of running behind some audits, we should try to develop some new areas, where we can make feel our presence to various sectors i.e. Government /Industry. Some areas can be Indirect taxes, banking law, Forex law, Trade Mark Office, Copyright Office, law firms dealing with corporate Law Matters etc - **Sanjay Nagpal**

I have opinion in contrast to opinion expressed by you because of the following reasons:

Example 1: Area of Corporate Governance explored by ICSI. More than one hundred conferences organised by ICSI, Members trained to take care, knowledge spread, syllabus revised to take care, country made aware of Cadbury Committee in addition of cadbury chocolate. End result - Corporate Governance was initially given to others and CSs were blanked out for the reasons best known to big bosses.

Example 2: Intellectual Property Rights - Again area explored. Number of conferences convened in every corner of the country. Syllabus changed. Special issues of Chartered Secretary dedicated to IPR. End result - Patent Acts don't recognize us. We are ineligible to become patent attorney at country level - forget the foreign. We

are ineligible even to appear in two entry level exams which are so simple that any CS can crack the exam by putting the study of four hours in toto. Reasons again known to big bosses of the profession.

Example 3: ICSI convened Seminar in Singapore two years back. Few days back Singapore Government on the basis of request received from Indian Govt. recognized five types of professionals who do not need any further degree to practice in Singapore. Name of Company Secretary was not there. Beauty Out of five four apex bodies have never convened any program in Singapore.

Present Example: Lately we have started preparing another dish - in the form of Labour Law Compliance Certificate. Big conferences have been convened and are being planned in near future in all corners of India. What do you expect will it come to us or we are giving solid ready cooked food in a platter to other professionals to again score victory over us?

Can't we talk to our big bosses and compel them to introspect? - **Ajay Garg**

We are better equipped than CAs/Lawyers up to study level. However this is not so as far as post qualification opportunities are concerned. That has created better source of revenues for other professionals. You will appreciate that even for company law matters/secretarial matters, a major chunk goes to CAs/lawyers. Reason must be the large no of clients consequent to their diversifications. Whereas, we always concentrated only on secretarial matters.

Regarding labour Compliances, apart from organizing the seminars/ we should interact with the Authorities i.e Labour law ministry and arrange training for CSs in dealing with the labour law matters. Further for demanding any recognition in any areas, first we should get ready sufficient no of members. - **Sanjay Nagpal**

Even after 25 years of history we are still not recognised by our industry just because our area has not been adequately defined and no exclusivity has been secured for us. Why we are not allowed to represent our clients before Income Tax Authorities or Courts as a Company Secretary despite the fact that we have the capability to do every thing on earth. We can make a difference if we walk together. - **Rajender**

Again the same Sick Indian psychology - We first choose council members and then freely feel that now everything is on their shoulders. If everything goes right then they are able leaders and if anything went wrong, we started cursing them. Means we have nothing to do except showing our anger on and cursing the council members.



Come on People!!! Industry recognizes profession of company Secretaries not because of its Council Members but because of knowledge and professional skills and guts of our professional members. I myself, Mr. Dattatri or Mr. Nagpal are not against the giving of new audits to company secretaries but we are in favour of continuous struggle for sharing/expansion of knowledge in every area, doesn't matter whether government gives us new audits, new recognitions or not. I firmly believe that "Opportunities are not given but they are created. Worthy people not wait for right time, they consider every time as a right time"

Audits are important and work as livelihood for fresher and all other company secretaries also, but they are not

the last point to be got stopped. They are the first junction of the journey, but not the last. So Idea should be to concentrate on stepping ahead for the rest of the journey and not to stop and keep worrying about the first station.

Tell us has it not happened - first we ask for audits and then sell them like free, just for the sake of so called bread and butter. If it's just the question of bread and butter, then why CS? There are thousands of other works.  
- Amit Kumar

Friends, let discussions continue, but can we resolve on some action points? If not, entire exercise will turn futile and we can expect more blows in coming days...

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## Legal Updates: Labour Laws

**Industrial Disputes Act:** The respondent, working as casual labourer from 22/05/1984 to 28/02/1985 in the appellant-company, sought reinstatement with back wages, as he was terminated without any notice or payment of wages of one month in lieu of notice. The High Court considering the fact that the respondent-worker has in fact abandoned his service and made no grievance about the alleged termination for a period of about 8-9 years held that he was not entitled for reinstatement. The Court further observed that a daily wager does not hold a post unless he is appointed in terms of the Act and the rules framed thereunder. He does not derive any legal right in relation thereto just because he had been working for more than 240 days. The respondent-worker had not acquired the status of temporary worker as he was only a casual worker and was not appointed against a vacant post so as to claim status of even a temporary employee. So the appellant was not under statutory obligation in this case to issue notice of termination to respondent worker and follow the procedure as laid down under Section 25F of the I.D. Act. The appeal was allowed.

Bharat Sanchar Nigam Ltd. through General Manager Vs. Balasaheb Maruti Poojari and Shri P.S. Narkar, Presiding Officer, First Labour Court

**Workmen's Compensation Act, 1923 :** S.3(1)-Employer's liability for compensation-Death due to heart attack at the work spot-No scope of any stress or strain in his duties-No connection between death of workman and his employment-Not entitled to compensation

Jyothi Ademma Petitioner versus Plant Engineer, Nellore & Anr. Respondents 11-7-2006

## SERVICE TAX

**Money Orders not liable to Service Tax - PIB** dated 04.07.2006

### Revised frequency of Service tax Audit:

- Units making annual payment (cash plus cenvat credit) of more than Rs 50 lakh - To be audited every year.
- Service tax assessee's paying between Rs 25 lakh and Rs 50 lakh - "once in two years."
- For taxpayers paying between Rs 10 lakh and Rs 25 lakh - "once in five years."
- For those paying service tax of less than Rs 10 lakh, about 2 per cent of the total number would be brought under audit every year.

## Customs

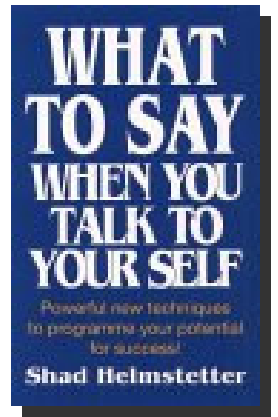
**New Drawback Rates:** Finance Minister has notified new All Industry Rates of Duty Drawback. New rates shall come into force with effect from 15.7.2006. New Drawback Schedule includes 84 new items including cotton bags, leather caps, aluminium artware, suit cases & handbags of plastics, tractor parts, compressors, table tennis tables and various other sports equipment/accessories. The drawback rates have been hiked on most of the products. Notification No.81/2006-Cus (NT) dated 13th July,2006

## VAT update

**Contrary views among depts.:** Two different depts of the Govt cannot adopt policies which are contrary to and inconsistent with each other. If the Govt has promised exemptions/ concessions to the units as per the industrial policy, the sales tax legislation cannot thereafter take away the benefits allowed there under.

The Gauhati High Court, in Shree Sanyeeji Ispat Pvt. Ltd Vs. State of Assam [(2006) 147 STC 146]





## What to say when you talk to yourself

Nimmoo Kinger,  
PCS, Mysore

We normally associate Norman Vincent Peale with positive thinking but there are many other writers who have given us clear guidelines on how to think positively. One such book is **What to say when you talk to yourself** by Shad Helmstetter. It is a small red book which I picked up for a mere Rs 40 from the roadside book vendors. Since then, I have bought more copies and gifted them to friends.

This book doesn't just talk about positive thinking but shows you how to create a positive life. Shad Helmstetter shows us how we talk negatively, and makes us aware of our thought patterns which don't serve us and then goes on to show us how to make positive affirmations and make them come true. In his own words, "the concept of positive thinking remains an exciting and worthwhile way to think better, live better, and feel better about ourselves. On its own, it will work for a time. Coupled with the right words, the special activating, stimulating, directing words of Self Talk, it can work for a life time. Helmstetter goes on to give us examples of the right words which we can use to transform our lives in various situations. There are entire scripts for salesmen, solving problems, for internal motivation, for relaxation, achieving goals, etc.. almost every conceivable situation that can be transformed by positive Self Talk.

A good practical book to have at your bedside.



Manjunatha Hegde Ionidea, Bangalore

Gathering statistics from a variety of sources and presenting them in an easy-to-use and interesting graphical format is the purpose behind NationMaster.com. Designed by a Web publishing company in Australia and launched in May 2003, the site is an excellent ready-reference resource for information seekers bringing together information found in a wide range of documents, including the Central Intelligence Agency World Fact Book and various United Nations reports and surveys.

The large numerical database is used as a basis for interactively generating charts and maps that rank countries in a number of topic areas. Broad subject categories range from Crime, Currency, and Democracy to Religion, Sports, and Transportation. Other features of the site include simple but legible political maps and national flags, as well as a keyword search engine. An online encyclopedia (Wikipedia) gives additional background, definitions, history, and facts. The encyclopedia articles are embedded within regional and country profiles and are not independently searchable from within the NationMaster.com site.

Discussion forums based on geographical or topic interest have also been established. The information found here appears to be current and accurate. Although not completely authoritative, the easy user interface gets researchers quickly to informative data. This well-designed site, whose motto is "Where Stats Come Alive!" deserves a look.

# LEGAL ROUNDUP...

For greater details and more updates visit:  
[www.esnips.com/web/ICSIMysore](http://www.esnips.com/web/ICSIMysore)



## Income Tax Act

### Interest paid by Debtors on late payment shall be included in profit:

The Gujarat High court held that while computing the special deduction under Section 80-I, interest received from trade debtors towards late payment of sale consideration is to be included in the profits of the industrial undertaking.

Nirma Industries Limited vs. Deputy Commissioner of Income-Tax (Gujarat - HC) 283 ITR 402

### Biometrics for PAN

Till date the Income Tax department has issued around 46 million PANs and around 500,000 new PANs are allotted every month. Now the department proposes to use biometric features, such as finger prints, iris or retina images, before allotting PAN so as to prevent allotment of more than one PAN to any one person.

### The Taxation Laws (Amendment) Act, 2006

The Amendment Bill has been passed by both Houses of Parliament and has been enacted on July 14, 2006, after receiving the assent of the President of India, as the Taxation Laws (Amendment) Act, 2006.

## Central Excise

### Assessee can claim Refund of unutilised credits

The Central Government has issued a corrigendum to Notification No. 5/2006 clarifying the position that an assessee can claim the refund of unutilized credits against exports of both goods or taxable services.

M.F.(D.R.) Corrigendum F. No. 268/4/2005- CX.8 dt. 2/6/06

### No denial of CENVAT credit on the ground that capital goods is not put to use

CENVAT credit on capital goods, available at 50% in the second year, cannot be denied merely on the ground that the capital goods had not been put to use as yet.

Ispat Industries Ltd. Vs. CCE (2006 (199) ELT 509)

### Revised frequency of Excise tax Audit:

The Finance Ministry has changed the criterion of selection of central excise assessees for the purpose of audit. It has also revised the threshold norms for frequency of audit of central excise and service tax assessees. (New Delhi, July 10)

### Excise Duty as a criteria

- Units making annual payments (in cash plus cenvat credit) of more than Rs 3 (Hitherto, units paying duty of more than Rs 1 crore a year in cash) - to be audited every year.
- Units making annual payments between Rs 1 crore and Rs 3 crore - "once every two years."
- Units paying between Rs 50 lakh and Rs 1 crore - "once every five years."
- In the case of units paying below Rs 50 lakh, 10 per cent of the units would be audited every year.

### EOUs

About 500 EOUs should be audited mandatorily all over the country. The selection of these units would be made as per the criteria circulated by Director-General (Audit). EOUs manufacturing non-excisable goods (such as primary produce or software) need not be audited mandatorily. Hitherto, all EOUs were required to be audited mandatorily every year.

## Sales Tax

### Stand of sewing machine forms part of sewing machine

In the below mentioned case, in reference to the question whether "stand of sewing machine is a part and parcel of sewing machine so as to tax the stand at the same rate which is applicable to sewing machine", the Madhya Pradesh High Court held in affirmative. This decision may be useful in contending that the computer works station should be treated as part of computer and can be bought against Form C.

Commissioner of Sales Tax, Indore vs. Emar Industries (MP-HC)



## *Spectrum this Month...*

Hello Friends,

July was filled with activities,  
Just like the season of festivities.  
Study circles on all the Sundays,  
To ease out the stress of the weekdays

Sunday one - session on creating impact,  
Educative, humorous and compact  
Witnessed by a big gathering,  
Yes, Spectrum is strengthening.

Sunday in the next week  
All up for an exciting streak  
That was moot court - round the corner  
All counsels busy with their partner

That was the day of first round  
of the competition  
Counsels blew up the grounds  
with the arguments and citation

Then was trip out for **Udaan**  
Meet of students from Nation  
That was in Bangalore  
Spectrum delighted the galore

6<sup>th</sup> August - finals of moot court  
Oh! electrifying than other sport  
No losers - win-win for all  
'Learn-n-experience' was real call

Keep watching next month  
For news on special August 15<sup>th</sup>  
New findings n' reports from the store  
Special sessions, results! n' many more

**Spectrum friends**

**"If we fail to plan, it means that we have planned to fail"**

## **EVA - the modern mantra**

**Pracheta M ACS Final**

Today, shareholders value creation is the modern mantra rather than profit. Hence, most of the companies are now looking for ways and means for increasing the share holders' value. Several parameters have been considered to measure the shareholders value creation such as the earnings capitalization, market capitalization and present value of estimated future cash flows.

Several researches have revealed that it is not the Earnings per share but VALUE per share is more important. To measure this value, 'Economic Value Added' is the important parameter evolved.

### **What is EVA?**

EVA is the residual income after charging the Cost of capital employed by the company. EVA can be represented as follows:

$$EVA = \text{Net operating profit after tax (NOPAT)} - \text{Cost of Capital Employed (COCE)}$$

Where,

NOPAT= Profits after tax and depreciation but before interest

COCE = Weighted Average cost of capital \* Average capital employed

EVA represents the value added to the shareholders by generating operating profits in excess of cost of capital employed in the business. It is now believed that unless and until the operating profit of the company exceeds the total cost of the capital, the company's value shall not increase.

In EVA, the capital charge is the most distinctive and important aspect. Under conventional accounting, most companies appear profitable but many in fact are not. By taking all capital costs into account, including the cost of equity, EVA shows the amount of wealth a business has created or destroyed in each reporting period.

### **EVA will increase when:**

1. Operating profits increase without employing much capital
2. Additional capital is invested in projects that return more than the cost of obtaining new capital
3. Capital is curtailed in activities that do not cover the cost of capital i.e., much of capital is not be utilized in those activities which do not result in covering up the cost of capital

So friends, look more for EVA of your company, when you receive the annual reports.