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adding Law degree**



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

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**Message from
Chairperson**



**Dear Members and
Students of CS fraternity,**

Another year has started, and I'm happy to be continuing as the Chairperson of Mysore Chapter and am thankful to the Members and the Managing Committee of the Chapter for once again providing me an opportunity to render my services for this esteemed profession.

I'm glad to welcome the new member of the Chapter's Executive Committee CS. Ajay Madaiah B B who took over as treasurer on 26th January 2012. I welcome him on behalf of the Managing Committee and the members of the Chapter and also thank CS Parvati K R, Treasurer of the Chapter for 2011 for all her support last year.

The Institute has announced the new Syllabus and revised examination pattern for Foundation Program. This is indeed a very good initiative to keep in pace with the time and ensuring quality students intake. With the exposure draft of Executive and Professional Program Syllabus released, I'm sure that the Institute is ensuring quality in the new members and no doubt the profession will reach new heights.

The students are all awaiting for the results of December 2011 examinations and I wish them all the very best. Hope you all get through with flying colours.

Yours in CS fraternity,
CS. Srilatha T G

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Activity Report

NATIONAL SEMINAR ON 'THE IMPACT OF ECONOMIC RECESSION ON SMALLSCALE INDUSTRIES':



The Chapter, jointly with Cauvery College, Gonikoppal, had organized UGC Sponsored National Seminar on "The Impact of Recession on small Scale Industries" on 7th January 2012. The Program was inaugurated by Retired director of Mumbai National Test House - Mr. Kolera A Gokula, College Managing Trust President Mr. K A Chinnappa, Principal Mr. Biddappa and CS. Srilatha, Chairperson of Mysore Chapter.

CS. Ahalada Rao, Past Chairman of Hyderabad Chapter and Major General Dr. O P Soni from Uttar Pradesh were the resource Persons for the seminar in addition to the Research Scholars who presented papers during the occasion.

The program was well attended by delegates from different colleges and institutions from Mysore, Coorg, Mangalore, Puttur, Bangalore etc..

REPUBLIC DAY CELEBRATIONS:



The 63rd Republic Day was celebrated by the Chapter at its premises. The program began by hoisting of National Flag by CS. C.K. Sabareeshan, Past Chairman of Mysore Chapter and was followed by singing of national anthem by students and members.

As a green initiative, planting of tree sapling was done at the Chapter premises. The program ended with distribution of sweets to all students and members who were present at the function.



INSTITUTION OF NEW MANAGEMENT COMMITTEE:

The Executive Committee of the Chapter for the year 2012, comprising of the following managing committee members was formally instituted on 26th January 2012:

Chairperson	:	CS. Srilatha T.G.
Vice Chairman	:	CS. Badrinarayan S
Secretary	:	CS. Sunil Kumar B G
Treasurer	:	CS. Ajay Madaiah B B

CS. Sabareeshan C K symbolically handed over the keys and documents to the new member to the Executive committee, CS. Ajay Madaiah B B, and formally welcomed into the Executive Committee.

INTERACTIVE MEETING ON PEER REVIEW:

A members interactive meeting on Peer Review was held on 8th January 2012 at the Chapter.

CS. Ahalada Rao, past chairman of Hyderabad Chapter led the discussion on the concept of Peer review and its implications on the practicing professionals. The practicing company secretaries of Mysore were highly benefited by this interactive session.

PRELIMINARY COMPETITIONS FOR UMANG 2012:

Preliminary round of Annual Inter College competitions were held at the Chapter premises on 26th January 2012. A good number of students from various institutions in and around Mysore participated in Elocution, Business quiz and Essay writing Competitions.

Students who have secured first 3 places in elocution and top 6 teams of Business quiz preliminary round were selected for final round of Competition which is to be held on 12th of February 2012.

STUDY CIRCLE MEETINGS:

The Chapter organized Study Circle Meetings on 8th, 5th, 26th and 29th of January. Various topics relevant to the students were discussed and the members and senior students clarified the doubts raised by the students.

Umang 2012

Zeal to Excel...

The students of Mysore Chapter celebrated the Annual Talents' Day of the Chapter- UMANG'12 on Sunday, the 12th February, 2012 at Tourism Development Institute Auditorium, KRS Road, Mysore.

The program was inaugurated by The Guest of Honour CS. Gopala Krishna Hegde, Member, Central Council of ICSI, the Chief Guest, CS. Marthi S.S., Chairman, SIRC of ICSI, CS. Dwarakanath C., Vice-Chairman, SIRC of ICSI, CS. Nagendra Rao, Treasurer, SIRC of ICSI, Chairperson of Mysore Chapter, CS. Srilatha TG, CS. Sunil Kumar B G, Secretary, Mysore Chapter present during the occasion.

The new members of the Mysore Chapter were welcomed and the students who brought laurels to the Chapter by their remarkable representations in Regional and National Level Competitions were honoured.

Competitions like Elocution, Business Quiz and Essay writing were organized a part of the program. The post lunch sessions included Technical Presentations and Management games.

The Valedictory session was graced by Mrs. Bollamma as chief guest. Winners of the competitions were awarded at the Valedictory session.

In the Cultural Extravaganza which followed, the audiences were thoroughly entertained by the versatile talents of the students.



Coming up event for CS students.....

Karnataka State Level Students Conference @ Bangalore

Milaap

meeting of minds...

18th and 19th February 2012

St. Joseph's Indian Composite PU College Auditorium, # 2, Vittal Mallya Road, Bangalore – 560 001

visit: www.icsi.edu/bangalore for more details...

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PDP Hrs

Surely, the individual members of the ICSI can do better brand building than the Institute itself does. We can only build real brand value for our profession by our performance – which will live for long.

Observer

QUALITY: TALKING VS PRACTICING

Don't know when these people will improve.... This is not what we expect from them.... No care for customers... looks like untrained men, directly from streets..... no value for money... it is over priced... these are fat monopolistic companies which never think of cutting costs..., we are buying oil from them and they are sucking blood from us... unfair margins... killing prices...inefficiency imposed on us.....so on...

While availing services or buying products, may be at hotel or from consultants or from electricians, technicians or at airport or at commodity shops..... We either keep saying or hearing such kind of comments (sometimes even worse) regarding the quality of services being rendered or regarding quality of products being delivered.

Are we equally concerned while we provide services to our clients / customers? Assuming all these comments are made on us, do we react/overreact or introspect?

We pride ourselves as professionals. We expect to be remunerated high. Fair enough. Are we bringing in the much needed feel of 'value for money' in the minds of our client / customer?

What does professionalism mean? Just Charging high? Professionalism should not be seen as just having dress sense, just having good communication, just having presentation skills, just having good contacts or just having in depth knowledge about the subject. It is the bundle of all these.



CS. Dattatri H M B Com, LLB, ACS, PGDIBL
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I heard some one saying that ICSI recommends charging minimum Rs 5000/- per compliance certificate, but who will pay so high? So, many are issuing it for few hundreds. However, I personally know some of the PCSs charging more than Rs. 5000/- and their clients are happy to take further services from them.



What makes this difference? Is it not the value we are adding to our customers? Is it not the importance we are creating for ourselves, by making heads of the organization aware of the value of a compliance audit? This is real brand building.

Just advertising can never build brand, if the performance does not match or meet the expectation created by such advertising. Surely, the individual members of the ICSI can do better brand building than the Institute itself does. We can only build real brand value for our profession by our performance – which will live for long.

Need of the hour is more action for improving quality rather than it remain as mere talks. We need to take part in more training

programs in soft skills than we have ever thought of. More self evaluation is needed than evaluating others.

Comments are free. Any one can pass them. Only a professional can improve upon himself and thereby contribute for better today and tomorrows.

A company secretary is a professional, practicing in the area of legal and regulatory compliances, governance and ethics. How then can a professional demanding secretarial and legal audits stand on his feet if he is not ethical himself...?

**Relevant
&
Prevalent**

WITH CS, ADDING LAW DEGREE...

In India, Company Secretary is 'more legal than finance' profession under administrative control of Ministry of Corporate Affairs. Many members and students of this profession ask, should we add Law Degree with CS qualification?

By the time, CS is completed, it is time to take up a salaried job. Hence, the alternative for pursuing further academics is a part time course. Certainly LL.B. is a degree admired world over, associated with one of the most renowned profession, leadership, society and success. But here is a hitch. All over the world, LL.B. is a full time i.e. regular course. This course governed by Rules of Legal Education, 2008. One can find these rules at <http://www.barcouncilofindia.org/wp-content/uploads/2010/05/BCIRulesPartIV.pdf>

Rule 6 reads, "No student shall be allowed to simultaneously register for a law degree program with any other graduate or postgraduate or certificate course run by the same or any other University or an Institute for academic or professional learning excepting in the integrated degree program of the same institution." Further Rule 12 reads, "No student of any of the degree program shall be allowed to take the end semester test in a subject if the student concerned has not attended minimum of 70% of the classes held in the subject concerned as also the moot court room exercises, tutorials and practical training conducted in the subject taken together."

Many people misguide our students, sometimes even the members that there is no requirement of attendance in law school or there will never be any class in law school. One gentleman had gone to the extent of saying that even if regular classes are there, we can manage attendance. One smarter fellow told me, once we are admitted to write the examination, no one can question that we have not attended any classes.

However, please note:

- Bar council of India regularly derecognise degree courses offered by many universities and law schools at our metros top this list of derecognised schools.

- A CS is a professional practising in area of legal and **regulatory compliances, governance and ethics**. How then can a CS stand on his feet if he is not ethical himself?
- The law school may have no record. However surely you may have falsified your training record or attendance.
- If you have training certificate or form 32 duly filed in your name, you can not plead innocence regarding your law school attendance.
- If your office location and school location is different, you prima-facie put your integrity in question and no ethical company will consider your credentials.



CS. Aishwarya Mohan Gahrana,
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Director, Sun Legal and Management Services
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- If you are not educating yourself under proper guidance of best teachers/coach, you are adding less than a zero to your selling points.

A very reputed Additional District Judge was forced by government to retire in 1980s after someone complained with the proof of his pay slips that he was in job while doing LL.B. in early 1960s. His claim was that the company belonged to a relative and the salary was a mere entry, and there was no actual employment.

It is only a hope that we don't get noticed doing our LLB while employed; that the HR personnel does an oversight of not noticing the academics and employment overlap and at least we learn real law and it is not just a sham.

Well, please don't lose hope and you could still pursue courses like B.L. or B.G.L. of Madurai Kamaraj University, or M.B.L. of National Law School of India University.

-o00



STORY @ HEAVEN

A man and his dog were walking along a road. The man was enjoying the scenery, when it suddenly occurred to him that he was dead. He remembered dying, and that the dog walking beside him had been dead for years. He wondered where the road was leading them.

After a while, they came to a high, white stone wall along one side of the road. It looked like fine marble. At the top of a long hill, it was broken by a tall arch that glowed in the sunlight.

When he was standing before it he saw a magnificent gate in the arch that looked like mother-of-pearl, and the street that led to the gate looked like pure gold. He and the dog walked towards the gate, and as he got closer, he saw a man at a desk to one side. When he was close enough, he called out, "Excuse me, where are we?" .

"This is Heaven, sir," the man answered.

"Wow! Would you happen to have some water?" the man asked.

"Of course, sir. Come right in, and I'll have some ice water brought right up."

The man gestured, and the gate began to open.

"Can my friend," gesturing towards his dog, "come in, too?" the traveler asked.

"I'm sorry, sir, but we don't accept pets."

The man thought a moment and then turned back towards the road and continued the way he had been going with his dog.

After another long walk, and at the top of another long hill, he came to a dirt road leading through a farm gate that looked as if it had never been closed. There was no fence.

WORDS WORTH MILLIONS

"Never play with the feelings of others because you may win the game but the risk is that you will surely lose the person for life time".

- Shakespeare



As he approached the gate, he saw a man inside, leaning against a tree and reading a book.

"Excuse me!" he called to the man. "Do you have any water?"

"Yeah, sure, there's a pump over there, come on in.."

"How about my friend here?" the traveler gestured to the dog.

"There should be a bowl by the pump."

They went through the gate, and sure enough, there was an old-fashioned hand pump with a bowl beside it.

The traveler filled the water bowl and took a long drink himself and then he gave some to the dog.

When they were full, he and the dog walked back towards the man who was standing by the tree.

"What do you call this place?" the traveler asked.

"This is Heaven," he answered.

"Well, that's confusing," the traveler said. "The man down the road said that was Heaven, too."

"Oh, you mean the place with the gold street and pearly gates? Nope. That's hell."

"Doesn't it make you mad for them to use your name like that?"

"No, we're just happy that they screen out the folks who would leave their best friends behind."

-ooO



Shruthi K.
CS Professional Program,
Mysore



Service Tax is the major source of revenue to the Central Government now-a-days which is contributing more than 9% in the FY 2011-12. To know all about Service Tax, log on to www.servicetaxonline.com. Tool which attracts the visitors of this site is it has a demo on how to use the features of the site which makes searching info easier and faster.

This site is a comprehensive encyclopedia for service tax providing the Act, Rules, notifications, circulars, and more importantly case laws. Case laws are segregated into two parts i.e., service wise and issue wise which helps the visitor to reach intended case laws on a issue/service without any search.

Site provides details on: Taxable services in India, Service tax rates, Abatement, Interest rates, Exemptions, Penal provisions, Valuations, Import services and Export services

This site provides the important dates that a service tax payer must know and also important provisions have been listed with precise explanations. One can understand easily the provisions of the act as applicable to SEZ, the Service tax e-payment, e-filing, service tax audit and refund of excess tax paid, procedure for appeal with CESTAT. www.servicetaxonline.com is the destination for all kinds of questions on service tax.

IT FOR CORPORATE PROFESSIONALS



Managing file on Android with File Expert

Amitkumar Hegde,
B.Com, MCA,
Bangalore



Smart phones have become necessary gadgets now a days as you can get many things done through them with Internet connection. We will see how easily we can manage our files on Android with a nice tool called File Expert.

File Expert is an ultimate file manager for managing your files stored on mobile/tablets. It enables you to manage your files on the memory card, WiFi network or cloud storage servers such as Dropbox.

It allows you to perform basic file operations such as copy, paste, move, rename files. You can use File expert to share documents with your laptop over WiFi. This helps a lot when you do not have a data cable along. You can transfer files over bluetooth also. Using Wifi send, you can send files over wifi between two phones with File Exert installed.

You can use it to compress & un-compress files such as zip and and rar which is an added advantage. Also allows you to backup your installed apps. With all these useful features, this application is a must have for your smart phone.

Use this link to download File Expert: <http://goo.gl/RegKS>



Compilation:
CS. Ajaay Madaiah, Mysore

NEFT Vs RTGS

NEFT	RTGS
National Electronic Funds Transfer (NEFT) is a nation-wide payment system facilitating one-to-one funds transfer. Under this Scheme, individuals, firms and corporates can electronically transfer funds from any bank branch to any individual, firm or corporate having an account with any other bank branch in the country participating in the Scheme.	Real Time Gross Settlement (RTGS), involves continuous (real-time) settlement of funds transfers on an order by order basis. 'Gross Settlement' means the settlement of individual funds transfer instructions (on an instruction by instruction basis). Considering that the funds settlement takes place in the books of the RBI, the payments are final and irrevocable.
NEFT is an electronic fund transfer system that operates on a Deferred Net Settlement (DNS) basis which settles transactions in batches. In DNS, the settlement takes place with all transactions received till the particular cut-off time. These transactions are netted (payable and receivables) in NEFT.	RTGS the transactions are settled individually (without netting). RTGS transactions are processed continuously throughout the RTGS business hours. 'Real Time' means the processing of instructions at the time they are received rather than at some later time.
There is no limit – either minimum or maximum – on the amount of funds that could be transferred using NEFT. However, maximum amount per transaction is limited to Rs.50,000/- for cash-based remittances.	The RTGS system is primarily meant for large value transactions. The minimum amount to be remitted through RTGS is Rs.2 lakh. There is no upper ceiling for RTGS transactions.
The beneficiary can expect to get credit for the transactions on the same day or on the next working day depending on the whether it is a weekday or Saturday and time of transactions.	Normally the beneficiary branches are expected to receive the funds in real time as soon as funds are transferred by the remitting bank. The beneficiary bank has to credit the beneficiary's account within two hours of receiving the funds transfer message.

Did you Know?

Verify your Trades

Trade Verification module is a very simple tool to verify trades executed in your account. The data on trades would be available on T+1 day. At any given point in time 10 trading days' data would be available for verification. Data for non-proprietary and non-institutional trades would only be available.

A facility to send SMSs has been added as an additional feature. Investors who are registered on NSE website would receive an SMS on the designated mobile number at the end of each trading day giving a summation of the trading activity. Besides, an email would also be sent on the registered email id providing the trading details. Existing registered investors are required to visit the website to activate the facility. Transactional data will be sent to investors for the client codes listed at the time of registration. Whenever investors open a new trading account, they are required to provide details of new trading account to receive details over SMS / email.

(Source: www.nseindia.com)

Pick of the Month

What powers of the Central government under the Companies Act cannot be delegated?

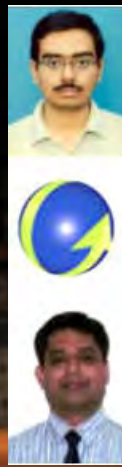
- ⊕ Further issue of capital under Sec 81.
- ⊕ Powers for exemption from termination disproportionately excessive voting rights in existing companies under Sec 89(4)
- ⊕ Exemption from following form and contents of balance sheet and profit and loss account as specified in Sec 211(3)
- ⊕ Power of inspectors to carry investigation into affairs of related companies under Sec 239
- ⊕ Imposition of restriction upon shares and debentures and prohibition of transfer of shares or debentures in certain cases under Sec 250
- ⊕ Increase in number of directors.
- ⊕ Power to amalgamation of companies in national interest.
- ⊕ Powers of government to prevent oppression and mismanagement
- ⊕ Appointment of Official Liquidator
- ⊕ Power to make rules under Sec 642 and alter schedules under Sec 641.



**CS. Abhishek
Bharadwaj A.B.,
Bangalore**

**Team Genicon,
Chennai**

**CA. Ashit Shah,
Mumbai**



10 to Rs 50 per day. The fee for supply of certified copies of order or any other document has been revised from Rs 5 to Rs. 10 per page. [MCA F.No. 10/36/2001-CLB.Dt 19.01.12\]](#)

SEBI, vide its various communications has mandated all stock exchanges that not be more than 20% of the members of the arbitration committee shall be trading members. It has now been decided to do away with the representation of trading members on arbitration committee/panel of all stock exchanges. [CIRC. CIR/MRD/DSA/04/2012. Dt 20.01.2012\]](#)

CUSTOMS

Notifications/ Circulars

The CG issued Customs (Provisional Duty Assessment) Regulations, 2011. These provide that provisional assessment can be made where the importer is unable to make a self assessment of goods and where the proper officer is not able to verify the self assessment due to non availability of any test report, production of any document or information, etc.

[Notification No. 81/2011 dated 25th November 2011](#)

Under the SAFTA the CG has specified goods, will be exempted from payment of basic customs duty when imported from least developed countries that are members of the SAARC. This is subject to fulfillment of specified conditions.

[Notn 99/2011-Cus dt. 9-11-2011](#)

Case Law

The SC held that the transaction value of imported goods could not be rejected on the basis that there are higher priced contemporaneous imports. In cases where the goods for which the value has been disputed are supplied for a lower price under a contract entered into prior to the contemporaneous import date. - [CC Vs. Aggarwal Industries Ltd. \(2011\) 272 ELT 641 \(SC\)](#)

The SC held that import by a partner company of a JV to whom a contract has been awarded, will not be treated as an import by the JV. In this connection, under the terms of the exemption relating to the import of certain goods for the construction of roads, notification must be made by the person to whom a contract has been awarded and not by a partner. The exemption notification needs to be strictly interpreted.

[Gammon India Ltd. Vs. CC \(2011-TIOL-60-SC-CUS\)](#)

Mergers & Acquisitions

Case Law

The assessee acquired an undertaking under a slump sale for a lump sum consideration. The assets acquired included intellectual properties, which is inclusive of technical knowhow, the expenditure relating to the technical know-how and the right to use was held as capital expenditure. The assessee was entitled to claim depreciation under section 32(1)(ii) of the Act.

[Drilbits International Pvt Ltd Vs. DCIT \(ITA No. 1361/PN/2010\)](#)

Regulatory Developments

Notifications/Circulars

The Company Law Board has revised the fees payable in terms of Regulations 29 and 30 of the Company Law Board Regulations, 1991 vide Notn No. GSR 32(E) dated 18th January 2012. The fee for inspection of documents of a case has been revised from Rs

[E-Newsletter from ICSI – Mysore Chapter. Edition – 97; February 2012](#)

The Gol has decided that FDI, up to 100%, under the government approval route, would be permitted in Single-Brand Product Retail Trading, subject to specified Conditions. - [F. No. 5/12/2010-FC-1. Press Note No.1\(2012 Series\). Dated 10.01.2012](#)

Shareholders meeting through video conferencing will not be mandatory after 2011-12 also and it will continue to be optional for listed companies as per [circular no. 72/2011, dated 27.12.2011 issued by MCA](#). In its June, 2011 circular, the MCA had asked listed companies to mandatorily conduct their respective shareholders meeting electronically after 2011-12. This requirement has been found inconsistent with existing and proposed law, hence the relaxation.

Case Law

Alstom Group, as part of its restructuring exercise, proposed to merge Alstom Holdings India Ltd. with another group company Alstom Projects India Ltd. The proposed merger was submitted to CCI for approval. CCI held that proposed combination was not likely to have an adverse effect on competition in India and the approval was granted.- [CCI order dt 19.10.2011 - Alstom Holdings \(India\) Ltd and Alstom Projects India Ltd.](#)

NHK Automotive Components India Pvt. Ltd intended to acquire the BCL Springs division of Bombay Burmah Trading Corporation Limited in a business transfer agreement. CCI held that proposed combination was not likely to have an adverse effect on competition in India and the approval was granted.

[CCI Order dated 04.11.2011 - NHK Automotive BBTCL order](#)

CENVAT

Case Law

The SC reaffirmed that excise duty is payable on the date of clearance of goods even if they were exempted on the date of manufacture. [Uol Vs. HMM Ltd. \(2011\) 272 ELT 338 \(SC\)](#)

The Mumbai Customs, Excise and Service Tax Appellate Tribunal (CESTAT) has held that goods meant for free distribution are assessed under section 4 and not under section 4A (i.e. using on MRP-based valuation) of the Central Excise Act, 1944.

[CC Vs. Chordiya Food Products Ltd \(2011\) 272 ELT 378 \(Mum.\)](#)

The Ahmedabad CESTAT held that where a production part is being transferred to another plant, for the same assessee, and balance production is sold to independent buyers, the stock transferred is to be assessed on the basis of the third party independent price and not in terms of Rule 8 of the Valuation Rules, 1988. - [Daman Ganga Board Mills Private Limited Vs. CCE \(2011-TIOL-1227-CESTAT-AHM\)](#)

Service Tax

Case Law

Appellants are running a Computer Training Centre and paying Service Tax under the category of "Commercial Coaching & Training Services". The issue involved in this case is that the appellants are a franchise of the Aptech Ltd. Out of total receipt of service remuneration, they paid 20% to the Aptech Ltd. and on the balance amount of 80% they are discharging their Service Tax liability. M/s Aptech Ltd. is also paying Service Tax on 20%, which they received from the appellant. The department is of the view that the appellants are liable to pay Service Tax on 100% of the service remuneration received by them, if at all the remuneration is paid to the Aptech Ltd., they could take the input service credit for the services rendered to Aptech Ltd. As the appellants were in bona fide belief that the amount of services rendered by them, which has been shared by M/s Aptech Ltd., they are not liable to pay the Service Tax.

M. Power (Arena Multimedia) - 2012 TIOL 134 - CESTAT- Mumbai

The appellant are engaged in the business of operating airlines and providing the services of "transportation of passengers embarking in India for International journey by air" along with other services. While issuing tickets to the passengers, they were collecting passenger service fees (PSF) on behalf of the International Airport Authority of India (IAAI) and remitting it to IAAI. Similarly, they were also collecting airport taxes. They had not included these amounts collected from the passengers, in the value of their services and paid service tax because it was not part of the value of services rendered by them. Hon'ble Tribunal observed that as per Section 67 of the Finance Act, 1994, the value of any taxable service shall be the gross amount charged by the service provider for such service provided or to be provided.

Turkish Airlines 2012 TIOL 110 CESTAT DEL

Appellant had filed a Writ Petition before the High Court by challenging Constitutional validity of insertion of explanations by Finance Act, 2010 in clause (zzq) and (zzzh) and held builders or developers are providing services to prospective buyers during the construction period. The fact that the activity in question is an activity which is rendered on land does not make the tax a tax on land. The charge is on rendering a taxable service. Accordingly it was held to be constitutionally valid.

Maharashtra Chamber of Housing Industry - 2012 TIOL 178 - HC Mumbai

Appellant is engaged in the business of granting loans and advances to customers. Appellant had paid service tax on the interest collected from customers under the service category of Banking and Financial Services. Subsequently they realised that the interest charged on loans and advances are not liable for payment of service tax. Therefore they preferred a claim Petition under Section 11B read with Section 83 of the Finance Act, 1994. It was held that if the application is not filed within the time stipulated the claim would be time barred. Hon'ble High Court had relied on the decision of Constitution Bench of the Apex Court in the case of Mafatlal Industries Ltd. 2002 - TIOL - 54 - SC - CX.

[MCI Leasing (P) Ltd. - 2012 - TIOL - 54 - HC - KAR]

VAT, Sales Tax and Entry Tax

Case Law

The Karnataka HC, relying on the landmark decision by the SC in BSNL Vs. Union of India (2006) 3 SCC 160, held that artificially created light energy (ACLE), being one form of electromagnetic

waves, cannot be classified as 'goods' for the levy of sales tax under the state value added tax laws. ACLE is used as a carrier to render telecommunication services and is taxable under the Finance Act, 1994. - *Bharti Airtel Ltd Vs. State of Karnataka (2011) 47 NTN 157 (karn)*

The Karnataka HC held that the explanation to the specific rule under the Karnataka VAT laws, which requires a work of contractor to pay VAT on advance amounts, is unconstitutional and invalid. Levy of sales tax even before the property in goods passes to the buyer is contrary to the definition of 'Sale' under the Act itself. - *Nagrjuna Construction Company Ltd Vs. State of Karnataka (2011) 45 VST 390 (Karn)*

The Andhra Pradesh HC upheld the constitutional validity of the Andhra Pradesh Tax on Entry of Motor Vehicles into Local Areas Act, 1996. - *Vijaya Traders Vs. CTO (2011) 45 VST 113 (AP)*

FEMA & RBI

Notifications/Circulars

Now, the Indian Company approach concerned AD for cancellation of LRN and request for changes in end use in respect of ECB availed under automatic route, subject to certain terms and conditions as enumerated in the circular.

A.P. (DIR Series) Circular No.69 dated January 25, 2012.

As a measure of simplification of the existing procedures, it has been decided to delegate powers to the designated AD category-I banks to approve the following proposal from Indian Companies; The reduction in amount of ECB availed under the automatic route subject to fulfillment of certain conditions; For changes/modifications in the drawdown schedule resulting to changes in the original average maturity period availed under both routes subject to fulfillment of certain conditions and For reduction in all-in-cost ceiling in respect of ECBs availed both under the routes subject to fulfillment of certain conditions.

A.P. (DIR Series) Circular No. 75 dated February 07, 2012

The compounding of contraventions under Foreign Exchange Management Act (FEMA), 1999 is a voluntary process by which an applicant can seek compounding of an admitted contravention of any provision of FEMA, 1999 under Section 13(1) of the FEMA, 1999. This Master Circular consolidates the existing instructions on the subject of "Compounding of Contraventions under FEMA, 1999" at one place. This Master Circular is being issued with a sunset clause of one year. This circular will stand withdrawn on July 1, 2012 - *RBI/2011-12/357 Master Circular No.8 /2011-12 (Updated as on January 20, 2012)*

Labour Laws

Case Law

The petition impugns the award of the Industrial Adjudicator on the following reference "Whether dismissal of services of Sh. Munna Lal Shukla by the management is illegal and/or unjustified and if so, to what relief is he entitled and what directions are necessary in this respect?" and holding the petitioner employer to have failed to prove that any inquiry in accordance with law was held prior to the dismissal of the services of the respondent workman and also having failed to prove before the Industrial Adjudicator any grounds for dismissal of respondent workman from service and consequently directing the petitioner employer to reinstate the respondent workman with 40% of back wages immediately as he is a skilled employee. Petition partly allowed. - *M/s. Mahatta & Co. & Anr v. Munna Lal Shukla & anr[del] W.P. (C).8365-66/2006 10/01/2012*



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India seeks reversal of EU airline carbon levy

India has warned the European Union (EU) that the carbon levy it has begun imposing on airlines will hinder future climate-change negotiations and demanded a rollback. Under the Emission Trading Scheme (ETS), airlines using EU airspace will have to pay a fee for carbon emissions that exceed a set limit. They will also need to pay for the part of the journey that's over non-EU airspace. Indian carriers that fly to Europe, including Air India, Jet Airways (India) Ltd and Kingfisher Airlines Ltd, could together pay more than Rs. 300 crore in 2012 alone on account of the levy. The airlines would have to make the payment at the end of the year.

EU insists on government supply contracts

The European Union (EU) has indicated that if India keeps government supply contracts out of the bilateral trade and investment agreement, it could affect flow of business to Indian joint ventures and subsidiaries established in the region. The Indian government makes purchases from other countries but has not made any commitment to continue doing so. The EU, which is negotiating the terms of the agreement with India, is keen on making it binding on India to do so.

Government okay with Chinese solar cells if they meet quality standards

The government says it has no objections to imports of low-priced Chinese solar cells as long as they meet prescribed quality standards. This comes as a setback to domestic manufacturers battling cheaper Chinese imports. The Indian government's stand is in contrast with the US policy, which has taken China to the World Trade Organisation over dumping of solar cells and panels.

Cancellation of licenses: TRAI mulls new guidelines for telcos

Keeping in view of the interests of the subscribers who will be affected in the face of the Supreme Court verdict canceling 122 spectrum licenses allotted in 2008, the Telecom Regulatory Authority of India (TRAI) is mulling issuing guidelines to the telcos whose licenses are set to be cancelled.

According to sources, TRAI is believed to be looking into various aspects of the issues concerning the users such as selling recharge coupons and new connections by these telcos. The regulator is expected to take a decision on these issues soon. It said that these telcos have spent billions of dollars in their operation in the country including infrastructure.

WTO clears Pak specific EU Package

The WTO finally approved a Pakistan-specific European Union package that will allow tariff-free export of 75 Pakistani products to EU markets over the next two years, a measure which had once witnessed opposition from India and followed by Bangladesh. The measure was unanimously approved during a meeting of the WTO's Council for Trade in Goods in Geneva.

India made electronic goods to get preference

The Union Cabinet approved a proposal to give preference to domestically manufactured electronic goods while procuring items which have security implications for the country. It said that the proposal will be carried forward in consistence to the country's commitment to the World Trade Organization (WTO).

US, India win WTO case against China on raw material export

US with several countries, including India, Mexico and Brazil, have won their battle against China at the World Trade Organisation on export of raw material. In a ruling, the WTO Appellate Body found China's export restraints on several industrial raw materials used as key components in the steel, aluminum, and chemicals industries to be inconsistent with China's WTO obligations.

Azerbaijan receives approval for new round of talks on WTO membership

Azerbaijan has received the approval of four states to hold talks in Geneva in February to join the World Trade Organization (WTO). Approval was granted by the US, the European Union, Canada and Ecuador. Norway and Japan may join in.