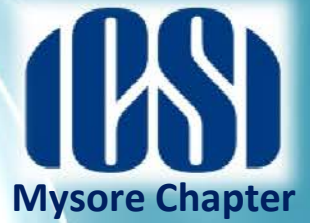


eMagazine

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From the Chairman's Desk



CS. S Badrinarayanan

Chairman,
Mysore Chapter

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CS Madhur N Agrawal

Greetings from the Mysore Chapter of ICSI !!

With the results being announced for the CS examinations, many students have crossed one level higher in their professional pursuit. My hearty congratulations to the students who have succeeded in the recently announced CS exam results. For those, who are yet to make it, I would like to recall the words of the legendary Winston Churchill "Failure is not fatal: it is the courage to continue that counts." So, my best wishes for you to come out with positive results in the successive attempt of the examination.

During the month of February 2015, the Chapter has conducted career awareness programs in the colleges at Mysore and has reached out to more than two hundred students to make them aware of our Institute & Profession. Chapter conducted a session on Goods & Service Tax jointly with CII and a felicitation program was organised to motivate the Foundation passed students. Students at Mysore Chapter have started their preparation for the Annual event of the Chapter Umang 2015, which is scheduled on 4th April, 2015. I request all the members and students to take part actively in the event offer their required support. Hope to see you all in the event in good numbers.

Thanking you,
Chairman
Mysore Chapter of ICSI

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<http://www.groups.google.com/group/csmysore>

Felicitation of Foundation Passed Students

In order to motivate the students, a felicitation program was arranged by Mysore Chapter on 04.02.2015, in chapter premises for the students passed in December 2014 Foundation Examination. Senior Member of Mysore Chapter CS Ramarao G D was the Chief Guest for the program. Mysore Chapter Chairman CS Badrinarayanan S, welcomed the students, parents & members. CS Rama Rao G D shared his experience with the students and explained the developments in CS Profession from initial stage to present stage. He also mentioned the increasing responsibilities of CS in day-to-day corporate activities.

In her thanking address, CS Pracheta M, Secretary, Mysore Chapter of ICSI, congratulated the Foundation Passed students and explained the need for continuous effort to clear the CS course. In the session Foundation students with parents, Oral Coaching students & Members of Mysore Chapter were participated.



Session on Goods & Service Tax

Mysore Chapter of ICSI in association with CII, Mysore organized a session on Goods & Service Tax in Mysore Chapter Premises on 09.02.2015. The session mainly focused on the features, implementation and impact of the proposed GST system. The welcome address was delivered by Mr S Badrinarayanan, Chairman, Mysore Chapter of ICSI. Mr S Ramkumar, Convenor, Finance Panel, CII Mysore & CFO & CS, Automotive Axles briefly spoke about the changes which GST regime will bring in and how it will be affecting various stakeholders. Mr. R C Jagadesh, Chairman, CII Mysore & Director, Klueber Lubrication (I) Pvt Ltd stressed how the country is still in the woods from the economy front and elaborated upon the critical role to be played by the budget in reducing the risk factors. He also remarked positively about India currently being one of the favoured destinations for investment which would ultimately add on to our economic growth. He appreciated the effort made by CII Mysore & ICSI Chapter, Mysore for organizing a training program on GST which would benefit the stakeholders at large and industry people in particular.



Study Circle Meeting

A Study Circle Meeting was arranged in Mysore Chapter on 15.02.2015. A large number of students were participated in the meeting. CS Ajay Madaiah B B clarified the doubts raised by the students in general topics of Company Law.



Career Awareness Programs

Vidya Vikas Degree College: On 19.02.2015 Mysore Chapter of ICSI organised a Career Counseling Program at Vidya Vikas Degree College, Bannur Road, Mysore. More than 100 students from Commerce & Management stream attended the program. CS Manjunath S, MC Member, conducted the session and explained the course offered by the Institute and the eligibility for the course, examination, requirements of training etc.



Government First Grade College, T Narsipura: A Career Awareness Programme was arranged for the Government First Grade College, T Narsipura students in Mysore Chapter premises on 27.02.2015. Around 90 students from Commerce & Management stream attended the programme. CS Manjunath S, Member of the Mysore Chapter Management Committee conducted the session and explained the course offered by ICSI and the eligibility for the course, examination, requirements of training etc.

A peep into

The balance sheet approach of accounting for deferred taxes



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INTRODUCTION:

Compliance with IFRS (International Financial Reporting Standards) has become now almost certain, though on selective criteria for Indian corporate in the form converged Indian Accounting Standards as mentioned by the Finance Minister while presenting the Budget 2014. It has become imperative for Corporate Managers connected with the Finance & Accounting functions, to gear up to assimilating knowledge of Indian Accounting Standards (AS). We, Company Secretaries, are signatories to the Financial Statements, and hence it adds value to possess at least basic knowledge of accounting for taxes.

The Object of accounting for Deferred Taxes under Profit & Loss Account approach enshrined in Accounting Standard-22 (AS-22) is to compute the deferred tax Charge or Credit based on a relationship between the Pre-tax Accounting Profit and Taxable Profit in order to comply with the accrual concept. Apparently a simple matching concept, it extends its sway over the entire gamut of financial reporting. Indian AS12 deals with this Issue with a significant shift in perceiving Deferred Tax impact, in that, AS12 is based on Balance Sheet Approach (also called Asset- Liability approach) as against Income Statement approach of AS-22.

A DIFFERENT VIEW: It is a well-known fact that liability to pay Income Tax arises only when there is a taxable income. Whether or not a company has accounting income is irrelevant and income under Income- Tax law alone is the criterion. Though Income taxes are not levied on individual items of revenue and expense, but on the net effect of these two, there can be, at best, timing differences related to these items in their treatment in Accounts and Income Tax law. Reporting a company's income tax expense at the amount paid or currently payable should provide more useful information in predicting a company's future cash outflows on account of tax payments. Recognizing a Deferred Tax Asset (DTA) or a Deferred Tax Liability (DTL), entails a forecast of future profits. To incorporate such forecasts into accounting measures should prima -facie seem inconsistent with the principles of accounting, yet prudence compels it. There is no present obligation for the potential or future tax consequences of past transactions because there is no contract like in case with employee benefits and no legal liability to pay taxes until an actual tax return is prepared.

However, to calculate deferred taxes under the Balance Sheet approach, the first thing to be done is to determine an entity's Temporary differences. Temporary differences are the differences between the carrying amount of an



Asset or Liability in the Balance Sheet and its Tax Base (i.e., the amount attributed to the same asset or liability for tax purposes). In contrast, to calculate deferred taxes under the Income Statement approach, we should have determined an entity's Timing differences. Timing differences arise when revenue and expense items are recognised in the calculation of accounting profit/ loss before or after they are included in the calculation of Taxable profit / loss. Simply stated, focus of deferred tax calculation under the Balance Sheet approach is on items appearing on the Balance Sheet, while for the Income Statement approach it is on items that appear on the Profit and Loss Account.

In order to comply with Balance Sheet approach, it is necessary to understand certain terms used in this context in a simple language.

- 1) Temporary difference: It is a difference which arises between Income-tax base and Financial Accounting base of an Asset or a Liability that will result in Taxable or Tax-deductible amounts in future periods. (Under Deferral method or P&L Account approach, they were differences arising between accounting income and taxable Income for a period that originate in one period and are capable of reversal in one or more subsequent periods). Temporary differences are further bifurcated into Tax-deductible difference and Taxable difference leading to Deferred Tax Assets and Deferred Tax Liabilities, respectively. While all Timing Differences are Temporary differences, all temporary differences are not timing differences. The amount of timing differences cannot be greater than the amount of temporary differences. This is because not all asset and liability items in the balance sheet necessarily have an effect that passes through the Profit and Loss Account impacting the deferred taxes. For example, a temporary difference, but not a timing difference, can arise when an asset is revalued upwards (with the increment in value recognised in Balance Sheet and not in the Profit and Loss Account), but there is no equivalent adjustment made for tax purposes.
- 2) Taxable temporary differences: These are the differences that will result in taxable amounts in determining taxable profit/(loss) of future periods when the carrying value of assets or liabilities are recovered or settled.
- 3) Tax deductible temporary differences: These are the differences that will result in amounts which are deductible in determining taxable profit/(loss) of future when the carrying value of assets or liabilities are recovered or settled.
- 4) Permanent differences: These are the differences which originate in one period and do not reverse subsequently. These are ignored while calculating Deferred Tax Assets or Liabilities.
- 5) Book Base of an asset or Liability means the carrying value of those Assets or Liabilities in the Balance Sheet.
- 6) Tax Base of an asset is the amount that will be deductible for tax purposes against any economic benefit (say Income) that flows to an entity when it recovers the carrying amount of that asset.
- 7) Tax Base of a liability is its carrying amount less any amount that will be deductible for tax purposes in respect of that liability in future periods. In case of revenue received in advance, the tax base of that liability is its carrying amount less the amount of revenue that will not be taxable in future periods.

To be continued...



Exchange Traded Fund:

History, evolution benefits and operational process

Part 3

{In the previous editions we introduced ETF, discussed its advantages over Mutual Funds, introduced index tracking and index funds}

Comparison of ETFs with other mutual funds:

In essence, ETFs trade like stocks and therefore offer a degree of flexibility unavailable with traditional mutual funds. Specifically, investors can trade ETFs throughout the trading day as in stocks. In comparison, in a traditional mutual fund, investors can purchase units only at the fund's NAV, which is published at the end of each trading day. In fact, investors cannot purchase ETFs at the closing NAV. This difference gives rise to an important advantage of ETFs over traditional funds: ETFs are immediately tradable and consequently, the risk of price differential between the time of investment and time of trade is substantially less in the case of ETFs. ETFs are cheaper than traditional mutual funds and index funds in terms of fees. However, while investing in an ETF, an investor pays a commission to the broker. The tracking error of ETFs is generally lower than traditional index funds due to the "in-kind" creation / redemption facility and the low expense ratio. This "in-kind" creation / redemption facility ensures that long-term investors do not suffer at the cost of short-term investor activity.

ETFs can be bought / sold through trading terminals anywhere across the country. Table No. 1 presents a comparative view ETFs vis-à-vis other funds.

ETFs Vs. Open Ended Funds Vs. Close Ended Funds

Parameter	Open Ended Fund	Closed Ended Fund	Exchange Traded Fund
Fund Size	Flexible	Fixed	Flexible
NAV	Daily	Daily	Real Time
Liquidity Provider	Fund itself	Stock Market	Stock Market / Fund itself
Sale Price	At NAV plus load, if any	Significant Premium / Discount to NAV	Very close to actual NAV of Scheme
Availability	Fund itself	Through Exchange where listed	Through Exchange where listed / Fund itself.
Portfolio Disclosure	Monthly	Monthly	Daily/Real-time
Uses	Equitising cash	-	Equitising Cash, Hedging, Arbitrage
Intra-Day Trading	Not possible	Expensive	Possible at low cost

To be continued...





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Labour legislation activism in India! – An update

A. Increase of Minimum Wage VDA Points:

- Government of Karnataka through Directorate of Economics and Statistics published the New Annual Average Consumer Price Index Numbers (CPI)
- This is for the all the Industrial Workers for 2014
- The rise in CPI numbers when compared to last year 2013 is 425. We will wait the new Minimum Wage notification to be released for 2015-16 in March/April 2015.

B. Declaration of Rate of Interest by EPFO for 2014-15:

Notice by Regional PF Commissioner declaring rate of interest to all the members of the PF Scheme will be at 8.75% for the year 2014-15.

C. PF for International Worker- India effected Social Security Agreement with Norway from Jan-2015:

- At present India had signed SSA agreement with 18 countries but only in 13 countries SSA is in force.
- Some of the Benefits of SSA for International Workers-
 - a) Exemptions from PF contributions with some conditions
 - b) Early withdrawal of PF contributions on completion of assignment
 - c) Eligible to receive their PF withdrawals/Pension benefits in the accounts of their own countries

D. Unified Wage code for Organized & Unorganized Sector:

- The central Govt is planning to introduce a Unified Wage Code applicable to all States in India which will replace all Central Laws relating to wage, bonus, etc.
- Proposed Code will help to lay down a “**Statutory National Floor Level Minimum Wage**” will be binding on all States to fix Minimum Wages specified for diff. employments.
- This will help to set basic provisions to regulate laws relating to wage & bonus.

E. Schemes to cover workers from unorganized sector

- Government of India has come up with the scheme of “Swavalamban” (Self Dependency) scheme to cover workers from unorganized sector under pension scheme regulated by Pension Fund Regulatory Development Authority (PFRDA) – Equal contribution by Central Government & double contribution by central government in case of workers from SC & ST Community.
- Government of Karnataka has designed a scheme to cover the employees of private commercial vehicles particularly drivers under “Karnataka State Private Commercial Vehicle Drivers” Accident Compensation Scheme.

The above said schemes are available only to those workers who are basically from Un-organized Sector & not available to those workers who have already been employed through contractors covered under ESI Act, 1948.

A famous writer was in his study room. He picked up his pen and started writing:

- Last year, I had a surgery and my gall bladder was removed. I had to stay stuck to the bed due to this surgery for a long time.
- The same year I reached the age of 60 years and had to give up my favorite job. I had spent 30 years of my life in this publishing company.
- The same year I experienced the sorrow of the death of my father.
- And in the same year my son failed in his medical exam because he had a car accident. He had to stay in bed at hospital with the cast on for several days. The destruction of car was another loss.

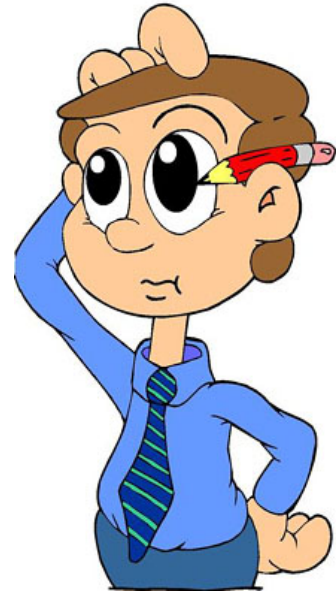
At the end he wrote: Alas! It was such bad year!!

When the writer's wife entered the room, she found he husband looking sad lost in his thoughts. From behind his back she read what was written on the paper. She left the room silently and came back with another paper and placed it on side of her husband's writing.

When the writer saw this paper, he found this written on it:

- Last year I finally got rid of my gall bladder due to which I had spent years in pain.
- I turned 60 with sound health and got retired from my job. Now I can utilize my time to write something better with more focus and peace.
- The same year my father, at the age of 95, without depending on anyone or without any critical condition met his Creator.
- The same year, God blessed my son with a new life. My car was destroyed but my son stayed alive without getting any disability.

At the end she wrote: This year was an immense blessing of God and it passed well!!



Words Worth Millions

“Nobody ever wrote down a plan to be broke, fat, lazy, or stupid. Those things are what happen when you don’t have a plan.”

– Larry Winget

“The only way to do great work is to love what you do. If you haven’t found it yet, keep looking. Don’t settle.”

– Steve Jobs

“I am thankful for all of those who said NO to me. It’s because of them I’m doing it myself.”

– Albert Einstein

“It is not the strongest of the species that survive, nor the most intelligent, but the one most responsive to change.”

- Charles Darwin



‘Fair dealing’ of copyrighted works

Dear Readers,

In this month’s update, let us dwell into the aspect of ‘fair dealing’ of copyrighted works.

Simply stated, a copyright is a statutory protection granted to an author who has created a work, or to an owner thereof, to protect unauthorized copying of the work, so that the efforts and resources of the author / owner in creating / acquiring the work are not misappropriated by others. There is no right to copy such work! The general principle therefore, is that any usage or exploitation of a copyrighted work by a third party should necessarily have the prior permission, authorization or license by the author/owner of such work, but for which, such usage or exploitation shall constitute infringement.

As an exception to this general rule, copyright laws provide for fair dealing. Fair dealing is a legal doctrine which allows limited use of copyrighted work without the permission of the owner. Why such exception?

Protection and enforcement of IPR should be conducive to social and economic welfare. There may be genuine situations where copyrighted works should be permitted to be used, without restriction, or fear of infringement, for promoting public interest. This is a universally recognized and accepted principle, though the number, scope and extent of such exceptions to copyright vary from country to country. Generally, to qualify as fair dealing, such usage of copyrighted work should be restricted to special cases without unreasonably prejudicing the legitimate interests of the owner of the copyright.

What constitutes ‘fair’? This depends entirely on the facts and circumstances of a given case. Many a time, it is difficult to distinguish between fair dealing and infringement; the dividing line is thin. Whether a usage is fair dealing or not depends on the nature of the work used, purpose of such usage, the amount of the work used and the effect of such use on the original work. In several countries, there are no pre-fixed parameters to determine fair dealing. Courts tend to apply common sense to the situation on hand. In most cases, usage of copyrighted work may constitute fair dealing where the larger public interest involved in such usage does not cause significant economic impact on the owner of such copyright. If the intention is to compete and derive profit, then such usage is not fair dealing.

In India, certain acts (not relating to a computer program) would not constitute infringement and be treated as fair dealing, depending on the purpose. For example –

- a) Usage of a work, by a student, or a scholar, merely for private purposes without commercial exploitation, in connection with research;
- b) Usage or reference to a work for critic review;
- c) Usage or reference for news reporting, news broadcast, judicial proceedings or reporting of judicial proceedings;
- d) Reproduction or publication exclusively for use of members of the Legislature;
- e) Reading or recitation of a reasonable extract in public, provided it is not commercial exploitation to the prejudice of the owner of the copyright;
- f) Minor reproduction in a published collection intended for educational institutions;
- g) Reproduction or usage with the intention of benefiting disabled persons.



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When you buy something, like a new car or a refrigerator, an instruction or owner's manual comes with it. Do you read it? If not, how would you know for sure what you bought will work the way it was intended? Same way, it would be equally important to know the constitution of other countries before we deal with that country. Once we know the constitution, we can utilize the extreme seeds and liberty of that country.

The word constitute is a verb which gives meaning as “give legal or constitutional form to” or “an institution establish by law.” Dear friends, this time I am introducing a called <https://www.constituteproject.org/> which offers access to the world's constitutions that anybody can systematically study and compare. This site contains 300 countries' constitutions and its recent amendments. This is going to help one who heads abroad for a particular business or is seeking a job.

<https://www.constituteproject.org/> is broadly contains the following:

Amendment, Culture and Identity, Elections, Executive, Federalism, International Law, Judiciary, Legislature, Principles and Symbols etc., Regulation and Oversight, Rights and Duties

Dear Professional Friends, it is time to excel at international business and build a good community. This site is very helpful to know the culture and identities of different countries. Go and get to know more..

e-Tools for the Professionals

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OneNote: An Android application for mobiles:

One Note, an Android application which acts like digital notebook for our notes/ to do list or anything we want to memorise or remember. OneNote application syncs throughout the device by which we can easily access and share with others/ other devices. It lets you create simple or complex notes from scratch, organize them into searchable, browsable notebooks, and sync them among a variety of platforms, including Windows PCs, Macs, i-Pads and i-Phones, Windows phones and the web.

Features:

- ✓ Can Create, modify and update notes and checklists;
- ✓ Formatting of the notes/ to do list;
- ✓ Can sync with almost all platforms including Macs, i-Pads and i-Phones;
- ✓ Can use tags to our notes; and
- ✓ Can import files from power point documents and PDFs;

Specification:

1. Price- Free
2. Required Android- 2.3 and more

Download OneNote app here: <https://play.google.com/store/apps/details?id=com.microsoft.office.onenote&hl=en>

News Room

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Flash News

- National carrier Air India and state-run telecom company MTNL which have joined the list of Sick Central Public Sector Enterprises(CPSEs), including 3 units of Hindusthan Machine Tools, will be shut soon.
- SEBI to launch campaigns for awareness on risky investments
- Monetary policy: RBI asks government for more information to figure out 'Potential Growth Rate'
- Coal Scam case: Manmohan Singh, KM Birla, PC Parakh among those summoned as accused special court in a coal scam case pertaining to allocation of Talabira-II coal block in odisha in 2005 and asked to appear before it on April 8.
- Ethisphere Institute, a global leader in defining and advancing the standards righteous business practices, has named WIPRO, TATA Steel, TATA Power in world's most ethical companies list.
- Bullish about growth potential in India, a top US Lawmaker has said bilateral trade between the two countries could jump from current \$100 billion to \$500 billion if the Central Govt continues with reform initiatives.
- EU ready to discuss outstanding trade issues with India, including tariffs on automobiles, in order to kick-start the stalled negotiation on a free trade agreement.
- NSE to directly link trades to investors' PAN to curb self-trading , fake deals
- Money laundering: Over 480 banks under RBI lens
- Government proposes an omnibus law to regulate the environment

SEBI eases account opening norms for individual investors

To make it easier for new individual investors, market regulator announced 'Saraal' or simplified account opening form for such persons and ease the process for submitting the address proof documents. The move comes in the backdrop of the government and the regulator making efforts to attract new retail investors to the market especially for the disinvestment share sales through Offer for Sale and other routes.

BCCI wins appeal: CCI's abuse of position verdict set aside:

CAT has set aside a CCI order against cricket governing body BCCI for alleged abuse of dominance, saying the regulator relied on "legally unsustainable" information downloaded from internet for nailing the Board.

India appeals WTO ruling on ban of US poultry

India appealed against a World Trade Organization ruling that held as "inconsistent" India's ban on the import of poultry products from the US citing an outbreak of avian influenza. India West reports that Commerce and Industry Minister Nirmala Sitharaman informed the Lok Sabha in a

written reply that the government had moved the WTO appellate body against the ruling.

Indian Firm Vows to continue their Battle against Apple's iPhone Trademark

The 'iVoice' is of the opinion that 'Apple's original opposition to 'iFon' trademark caused insurmountable challenges and irrevocable losses in ramping during 2008/2009 and also that as of February 2015, we've challenged all of Apple's registered/pending 'iPhone' trademarks before IPAB and TMR in India. The firm has filed one more rectification/cancellation petition against Apple's registered Trademark number 1634050 'iPhone with Apple Logo' to cement and consolidate our IPR battle and with this Apple's attempt for potential proprietary claim for 'iPhone' in India is challenged.

SEBI cautions investors against Sai Prasad Group Schemes

Having slapped orders against entities from Sai Prasad group for running illicit money-pooling schemes, market regulator has cautioned the public against any collective investment schemes run by them.





National Payments Corporation of India (NPCI)

Reserve Bank of India, after setting up of the Board for Payment and Settlement Systems in 2005, released a vision document incorporating a proposal to set up an umbrella institution for all the Retail Payment Systems in the country. The core objective was to consolidate and integrate the multiple systems with varying service levels into nation-wide uniform and standard business process for all retail payment systems. The other objective was to facilitate an affordable payment mechanism to benefit the common man across the country and help financial inclusion.

NPCI was incorporated in December 2008 and the Certificate of Commencement of Business was issued in April 2009. It has been incorporated as a Section 25 company under Companies Act and is aimed to operate for the benefit of all the member banks and their customers. The authorized capital has been pegged at Rs 300 crore and paid up capital is Rs 100 crore so that the company can create infrastructure of large dimension and operate on high volume resulting payment services at fraction of the present cost structure.

Appropriate existing two-factor authentication method would be used for all the channels. The limit as prescribed by the bank for these channels would apply while transferring money using either of these channels. While initiating an IMPS transaction using either ATM or Internet channel, mobile banking registration for a remitting customer is not mandatory.

NPCI would function as a hub in all electronic retail payment systems which is ever growing in terms of varieties of products, delivery channels, number of service providers and diverse Technology solutions. NPCI is now certified for three standards – PCI-DSS (sensitive data security in payment systems), ISO27001 (information security) and ISO 22301 (business continuity) apart from ISO 9001 (Quality Management).

Did You Know?

IMPS - Immediate Payment Service

It is an interbank electronic instant mobile money transfer service through mobile phones in India which is maintained by NPCI. Currently majority of interbank mobile fund transfer transactions are channelised through NEFT mechanism. Under NEFT, the transactions are processed and settled in batches, hence are not real time. Also, the transactions can be done only during the working hours of the RTGS system. IMPS offers an instant, 24X7, interbank electronic fund transfer service through mobile phones. IMPS facilitate customers to use mobile instruments as a channel for accessing their bank accounts and put high interbank fund transfers in a secured manner with immediate confirmation features.

Will a virtual presence mean 'Carrying on Business' for jurisdiction in intellectual property rights cases?

Yes, A Division Bench of the Delhi High Court in the case of *World Wrestling Entertainment, Inc. v. M/s Reshma Collection & Ors.* in an appeal order, held that the company carried on business' in Delhi merely due to sales effected through the Appellant's website accessed / accessible in Delhi, thus conferring jurisdiction on the Delhi High Court to try a suit for trademark and copyright infringement. Therefore, plaintiff's having virtual but not physical presence may now institute a suit for copyright or trademark infringement. The Delhi High Court observed that the availability of goods through a website at a particular place is virtually the same thing as a seller having a physical shop in the same place.

Pick of the month

Regulatory Updates

FEMA Updates
Team Genicon,
Chennai



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Service Tax Updates
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CUSTOMS & FTP Notifications/Circulars/News

The Central Government has exempted import of 'Urea' falling under Custom Tariff Heading ('CTH') 3102 10 00 under the Urea Off-take Agreement, between the Government of India and Oman India Fertilizer Company S.A.O.C., from full basic custom duty and countervailing duty under section 3(1) of the CTA, as it is in excess of the amount calculated on the declared value of Urea as agreed under the said agreement.

No. 4/2015-Customs dated 16 February, 2015

The Central Government has levied anti-dumping duty on imports of Sodium Nitrate, falling under chapter 28 or 31, originating in or exported from the European Union, the People's Republic of China, Ukraine and Korea RP for a period of five years from 19 March, 2014. -

No. 03/2015 dated 10 February, 2015

The Central Government has levied anti-dumping duty on imports of Graphite Electrodes of all diameters, falling under the CTH 8545, originating in or exported from the People's Republic of China for a period of five years from 13 February, 2015.

No. 04/2015 dated 13 February, 2015

The Central Government has extended the levy of anti-dumping duty on imports of Acetone, falling under CTH 2914 11 10 of CTA, originating in or exported from Korea RP, for a period of five years from 18 February, 2015. *No. 05/2015 dt 18 February, 2015*

Case Law

Madras Tribunal held that software for printer is rightly classifiable under CTH 8524 and not under CTH 8471 60 as printer, since in terms of erstwhile note 6 to chapter 85 of Customs Tariff Act, 1975 (CTA) software and hardware are separately classifiable. - *EPSON India v CC (2015-TIOL-210-CESTAT-MAD)*

Mumbai Tribunal held that charges paid for the right to reproduce variants of imported goods in the country of importation were specifically excluded under customs valuation rules for determining the value for the imported goods. Therefore, royalty paid by the appellants for reproduction of variants the imported clumps in India could not be added to the value of the imported clumps.

KF Bioplants Pvt Ltd v CC (2015-TIOL-248-CESTAT-MUM)

Madras Tribunal held that import value as declared by the importer could not be rejected when contemporaneous import at a higher value from same country of export was not available.

Topsia Estates Pvt Ltd v CC (2015-TIOL-351-CESTAT-MAD)

Mumbai Tribunal held that extension of stay could be granted by Tribunal beyond the period of 365 days and till the disposal of appeal when delay was not on account of any commission or omission on the part of the appellant.

Arkema Catalyst India Pvt Ltd and Others v CC (2015-TIOL-212-CESTAT-MUM)

Mumbai Tribunal held that the refund of excess duty paid by mistake was admissible without challenging the assessment of bill of entry.

Cipla Ltd v CC (2015-TIOL-201-CESTAT-MUM)

Mumbai Tribunal held that refund of Special Additional Duty (SAD) could not be denied on non-mention on sales invoices that credit of SAD was not available since this was only a procedural lapse.

Samsung India Electronics v CC (2015-TIOL-230-CESTAT-MUM)

Delhi Tribunal held that the confiscation of mobile parts imported in fully assembled condition was not justifiable even if at the time of import, importer declared the goods under semi-knocked down condition, in a case where the SEZ unit was undertaking activities such as testing and adjusting the parameters of phone, because there could not be an intention to evade payment of duty by mis-declaration of description by SEZ unit. -

Morgan Techtronics Ltd v CC (2015 (316) ELT 276)

Mumbai Tribunal held that the conversion of free shipping bill to reward scheme shipping bill could be allowed in case the containers were stuffed in the presence of Customs officers and some goods had been examined by the Customs officials at the time of export.

Asha Industries v CC (2015-TIOL-321-CESTAT-MUM)

Mumbai Tribunal held that Customs House Agent could be penalised for collusion in import of illegal goods under Customs House Agents Licencing Regulations and not under the provisions of the Customs Act.

CC v Skyline Air Logistic Ltd (2015-TIOL-340-CESTAT-MUM)

Delhi Tribunal held that the benefit of exemption on input required for manufacture of handicrafts to be exported was allowed when such requirement was approved by Export Promotion Council of handicraft, and in such a situation Customs had no jurisdiction to allege that importer was not eligible to avail such exemption. *CC v Art Asia Sankalp Intl (2015 ELT 283)*

Ministry of Corporate Affairs Notifications/Circulars/News

It has been clarified that loans and/or advances made by the companies to their employees, other than the managing or whole time directors (which is governed by section 185) are not

governed by the requirements of section 186 of the Companies Act, 2013. This clarification will, however, be applicable if such loans/advances to employees are in accordance with the conditions of service applicable to employees and are also in accordance with the remuneration policy, in cases where such policy is required to be formulated.

General Circular No, 04/2015 dated 10th March 2015

Forms MGT-3, MGT-15 and DPT-3 are available for filing w.e.f. 11th March 2015.

In Sec 2, clause (85), in sub-clause (i), for the word "or" occurring at the end, the word "and" has been substituted. In view of the above it now stands clarified that, a company will be considered as a small company only if both the conditions specified at (i) and (ii) are met. For eg., a company with paid up share capital of Rs. 25 lakhs and turnover of Rs. 20 crore, is not a small company in terms of section 2(85) as only one criteria with regard to capital is met. Similarly, if the paid up capital of the company is Rs. 60 lakhs and its turnover is Rs.1 crore, it would not be a small company. - *Removal of difficulties Order dt 13.02. 2015*

CENVAT

Case Law

Mumbai Tribunal held that the process of cutting and slitting of paper roll into foolscap sheets did not amount to manufacture since there was no change in the identity of the paper.

CCE v Navneet Publications (I) Ltd (2015-TIOL-284-CESTAT-MUM)

Mumbai Tribunal held that the process of cutting PVC sleeves into horizontal pieces and subjecting them to heat treatment to form sealing sleeve for the purpose of shrink wrap amounts to manufacture, as a new commodity with different name, character and use emerged. - *Amrut Bhagini Mandal (Trading Unit) v CCE (2015-TIOL-356-CESTAT-MUM)*

Mumbai Tribunal held that waste and scrap of HDPE bags used in packing had not arisen during the manufacturing process and hence central excise duty was not payable on such waste and scrap. - *CCE v Ambuja Cement Ltd (2015 (316) ELT 272)*

Delhi Tribunal held that cost of inspection was includible in assessable value when goods could not be sold without such inspection. - *CCE v Surya Alloys Industries (2015 (316) ELT 104)*

Mumbai Tribunal held that transportation charges of inputs up to the job-worker's premises was includible in the assessable value of goods manufactured by job worker.

- *Soma Papers & Industries Ltd v CCE (2015-TIOL-254-CESTAT-MUM)*

Andhra Pradesh High Court held that CENVAT credit availed on inputs was not required to be reversed when the final product was exempted at a later date.

CCE v Suvera Processed Foods Pvt Ltd (2015 (315) ELT 517)

Delhi Tribunal held that credit was not admissible on inputs to the extent it was used in generation of electricity and sold to third parties. - *Hindustan Zinc Ltd v CCE (2015-CESTAT-DEL)*

Bombay High Court held that rebate claim could not be rejected for non-submission of original and duplicate copies of ARE-1 when the proof of export was available in other documents like shipping bill. - *Zandu Chemicals Ltd v Uol (2015 (315) ELT 520)*

Delhi Tribunal held that CENVAT credit could not be denied on the ground of non-payment of duty by the input supplier inasmuch as the buyer of inputs could not be expected to know

as to whether the supplier had actually discharged the duty burden.

Ultratech Cement Ltd v CCE (2015-TIOL-325-CESTAT-DEL)

Delhi Tribunal held that CENVAT credit was admissible on invoice showing the old name of company.

Ama India Enterprises P Ltd v CCE (2015 (316) ELT 268)

Delhi Tribunal held that since RSP was not required to be declared on export of cement to Nepal, the manufacturer was eligible for benefit under Sr. No. 1C of Notification No. 4/2006-CE dated 1 March, 2006 as applicable in case of goods cleared in other than packaged form.

Prism Cement Ltd v CCE (2015-TIOL-241-CESTAT-DEL)

Delhi Tribunal held that the bar of unjust enrichment could not be applied when the goods were cleared under provisional assessment, and credit notes were issued to buyers who adjusted the amount against outstanding payments.

CCE v Indian Explosives Ltd (2015 (315) ELT 606)

Ahmedabad Tribunal held that interest under section 11BB was payable from the expiry of three months from the date of refund application, and not from the date of order of Tribunal.

Tata Chemicals Ltd v CCE (2015-TIOL-240-CESTAT-AHM)

VAT, Sales Tax and Entry Tax

Case Law

Karnataka High Court allowed input tax credit on work stations. The court observed that work stations or a cubicle used to sit and operate a computer were an accessory of computer, computer peripherals, which in common parlance not understood as 'furniture' for convenience or decoration.

- *State of Karnataka v Infosys Technologies Ltd (2015-TIOL-385-HC-KAR-VAT)*

The Uttar Pradesh High Court held that excavator in a wider sense could be said to be a 'machinery' but when a specific entry was there i.e. 'motor vehicles of all kinds' an excavator merited classification as 'motor vehicle' and not as 'machinery'. The issue before the Court was classification of hydraulic excavator as 'machinery' or 'motor vehicles' for levy of entry tax in Uttar Pradesh under Entry of Goods into Local Areas Act, 2007 (the Act).

- *Anand Tyres v State of UP (2015-TIOL-413-HC-VAT)*

Service Tax

Case Laws

The Supreme Court of India held that irrespective of the commercial element of the Indian Premier League (IPL) matches, sponsorship money paid to BCCI in relation to the IPL had to be classified as 'sponsorship of a sports event', which had been excluded from the scope of 'Sponsorship services'. Hence, the payment was not liable to service tax.

CST v Citibank NA (2015-TIOL-09-SC-ST)

The Delhi Tribunal held that since the mandatory training imparted to candidates intending to become insurance agents had been prescribed by the Insurance Regulatory and Development Authority (IRDA) as per the powers assigned to it by the Insurance Act, 1938, the same was held to be 'recognised by law'. Accordingly, the activity of imparting such trainings by the training institute could not be held liable to service tax under 'commercial training and coaching services'.

NIS Sparta Ltd v CST (2015-TIOL-209-CESTAT-DEL)



Mumbai Tribunal held that services of obtaining sales order in India for the overseas manufacturers, where the manufacturer directly executed the sale transaction with the customers in India, were 'business auxiliary services' (BAS). Though the services were provided in India, they were used by the foreign entity for its business outside India, and hence qualified as export of services.

ATE Enterprises Pvt Ltd v CST (2015-TIOL-252-CESTAT-MUM)

The Delhi Tribunal held that the construction of flats/buildings for Delhi Development Authority or BSNL or Municipal Corporation of Delhi would qualify as 'commercial or industrial construction service' (CICS). Even the construction of hospital building for a charitable organisation was held liable to tax under CICS. - *Ahluwalia Contracts (India) Ltd v CST (2015-TIOL-270-CESTAT-DEL)*

Mumbai Tribunal held that the principal of unjust enrichment does not arise in the case of export of services. Accordingly, the refund claim was allowed.

Kirloskar Ebara Pumps Ltd v CCE (2015-TIOL-328-CESTAT-MUM)

The Mumbai Tribunal held that where the sole selling agent was selling branded products manufactured by the brand owner under the invoice of brand owner itself, even if a minimum guarantee profit per month was provided by the selling agent to the brand owner, it could not be held that the selling agent had received "intellectual property services" by using the brand name. Especially, where the goods were owned and manufactured by the brand owner.

CCE v Yashwantrao Mohite Krishna SSK Ltd (2015-TIOL-336-CESTAT-MUM)

Budget Analysis 2015

Promoting and incentivizing 'Make in India'

- Income tax on royalties and fee for technical services received by non-residents restored to 10 from 25%
- Phased reduction of corporate tax rate from 30 to 25% over next four years
- Reduction in basic customs duty rate on specific items of inputs to address inverted duty structure concerns and to reduce manufacturing costs
- Reiteration of government's resolve of rolling out GST from 1 April 2016 and reiteration of presenting the Land Acquisition Ordinance to current session of Parliament to enact it
- Threshold for weighted deduction from corporate tax for wages of new workmen reduced from 100 to 50; benefit extended to even non corporate taxpayers
- Extension in excise duty exemption and concessions for manufacture of cleaner technology vehicles (i.e. hybrid and electrically operated vehicles)
- Special additional duty exemption on import of raw materials for use in manufacture of specific goods (ITA bound goods, LED lights, pacemakers)

Ensuring the much-needed ease of doing business in India

- Principle of composite cap (FDI + FPI) introduced to simplify calculation of foreign investment limit in sectors where FDI cap apply (e.g retail, banking, brownfield pharma, etc.)

- Powers to make or amend rules relating to foreign investments and outbound investments to vest with government, being a policy matter; this simplification to ensure a faster policymaking process; requires a legislative amendment in Foreign Exchange

Management Act (FEMA)

- Setting up business in India to be made easy by prescribing simple compliance with a pre-existing regulatory mechanism instead of prior multiple approvals permissions; expert committee to be set up to examine and make recommendations in this regard

- Comprehensive Bankruptcy Code of global standards to be brought in year 2015-16

- Implementation of General Anti Avoidance Rule (GAAR) deferred by two years; GAAR provisions to be applicable from FY 2017-18 onwards

- Threshold for specified domestic transactions (domestic transfer pricing provisions) raised from Indian Rupees (INR) 5 crore to INR 20 crore.

- Advance ruling option for customs, excise and service tax extended to resident firms (including partnership firms, sole proprietorship and one-person companies)

Measures to curb black money

- A separate Bill for a comprehensive new law to be introduced for black money parked outside India; stringent measures proposed to be introduced for non-disclosure of overseas income and assets including rigorous imprisonments and steep penalties

- Benami Transactions (Prohibition) Bill for curbing domestic black money on the anvil

- Confiscation of overseas assets held by Indian residents in violation of FEMA regulations or equivalent Indian assets held by the resident; FEMA/Prevention of Money Laundering Act to be amended to this effect

Indirect transfer rules clarified

- The interest or share in an Indian company to be deemed to derive value substantially from India, if the fair market value of Indian assets (without reduction of liabilities) exceeds 10 crore INR and represents at least 50% of the value of all assets owned by transferor entity

- A transaction to not be taxed if the transferor (along with associate enterprises) neither holds right of control or management nor holds voting power or share capital or interest exceeding 5%

- Indirect transfer on account of group reorganisation exempted subject to meeting specified conditions

- The Indian entity in the chain obligated to furnish information relating to transaction; failure to report may attract a penalty up to 2% of transaction value

- Central Board of Direct Taxes to clarify the dividends declared by foreign company from Indian source income to not be subject to indirect transfer rules

Special benefits to financial investors and financial services sector

- Foreign investments in alternate investment funds (AIFs) to be permitted; entail issue of an enabling policy framework
- In case of eligible offshore funds, fund management activity carried out through independent fund managers in India to not constitute a taxable presence in India albeit subject to conditions
- Rationalisation of tax regime of real estate investment trust (REIT) and infrastructure investment trust (InvIT)
- Concessional rate of 5% withholding tax on interest payable to FII and QFIs on their investment in government securities and rupee denominated bonds to be available upto 30 June, 2015
- Benefit of reduced tax rate of 5% on rupee denominated bonds issued to QIP extended upto 30 June 2017
- Capital gain income of FII (other than short-term capital gain not subject to securities transaction tax) to be excluded from levy of minimum alternate tax (MAT)
- In case of merger of similar scheme of mutual funds, no capital gains arise in the hands of the unit holder
- Non-Banking Finance Companies with a minimum asset size of 500 crore INR to be empowered to enforce its security interest in non-performing assets; SARFAESI Act, 2002 to be amended to this effect
- Forwards Markets Commission to be merged with the capital markets regulator (Securities Exchange Board of India) to strengthen regulation of commodity forward markets and reduce speculation
- Any interest payable by an Indian branch of a foreign bank to its head office to be income deemed to accrue or arise in India, also subject to withholding tax

Some Direct Tax Rationalisation measures

- The Wealth Tax Act, 1957 be abolished and compensated by an increased levy of surcharge on taxpayers earning higher income; effective increase in tax rate for the affluent (including corporate) in FY 15-16 on account of this additional 2% surcharge
- Rationalised the criteria for tax residency of companies to include the concept of place of effective management

- To avoid ambiguity, any person responsible for paying any sum, whether chargeable to tax or not, to a non-resident to be required to furnish the information of such sum in prescribed forms

Rationalisation of provisions relating to Income Tax Settlement Commission

Some important indirect tax proposals

- Service tax rate effectively increased from 12.36 to 14%; enabling provision introduced to empower imposition of additional Swachh Bharat Cess at the rate of 2%
- Rationalisation of general rate of excise duty from 12.36 to 12.5%
- Rate of clean energy cess increased from 100 INR per tonne to 200 INR per tonne on specific products
- Increase in additional duty of excise on manufactured HSD and motor spirits (petrol) from 2 INR per litre to 6 INR per litre; however, no change in effective excise duty rate
- Service tax net widened by including new services and withdrawal of some exemptions. An indicative list includes the following:
 - Entry to entertainment events and amusement facility
 - Job-work activity for manufacture of alcohol for human consumption
 - Transportation service of food stuff by rail, vessels, road limited to foodgrains including rice and pulses, flour milk and salt
 - Services provided by a mutual fund agent and distributor to an MF/AMC
 - Service tax exemption extended to the following:
 - Ambulance services provided to patients
 - Life insurance service provided by way of Varishtha Pension Bima Yojna
 - Services by a common effluent treatment plant operator for treatment of effluent
 - Services of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables

EU's move to lift ban on Indian mango imports may offer little relief

Mango exporters fear a significant decline in shipments even as the European Union has lifted the ban on Indian mangoes. They feel the king of fruits may not be able to withstand the condition of being treated with hot water of an hour. Government agencies like agricultural and processed Foods Exports Development agency said they initiated scientific trials of mango treatment to assess this claim.

The EU reversed two year ban it had imposed on the import of Indian mangoes, citing evidence of fruit flies, after its team visited facilities in the country and the authorities promised that mangoes meant for exports will be treated with hot water so as to rid them of the same.

Omnibus law to regulate the environment

The government is proposing an omnibus law to regulate the environment — incorporating all the Acts that govern environment protection, water and air — that it hopes to have ready for introduction during the current session of Parliament. The proposed law will not address wildlife protection, forests and forest conservation — the government will instead amend the existing laws to bring them up to date. Laws related to the environment, air and water were legislated over 12 years and the attempt is to amalgamate them into a single legislation, as recommended by the Subramanian Committee. The ministry is seeking legal advice to consider the feasibility of a single law to regulate the environment.