

Dears,

We are delighted to inform you that this month we have added **two new features** to this news letter. First is **“The Book Review”**. In our tough schedules we spend little time to raise our head up and read books, even though we are aware that reading books is an essential part of our growth. To help us Ms. Nimmoo Kinger PCS Mysore has initiated a column on Book review. Which book this month? Please refer page 5 of this newsletter.

Second column is **“Web Yatraa”**. Again, due to the same reasons stated above we are not even browsing the websites to seek new knowledge. Mr. Manjunath Hegde, CS in Bangalore has taken initiative to introduce some useful websites to you. Which is the first website? Rush to page 9!

Please take part in contributing to these columns apart from taking benefits out of these columns.

Other features are continuing as before.

Recently in the Chapter Chairmen Meeting conducted by SIRC the newsletter was very much appreciated senior members present in the meeting. SIRC has expressed its intention to bring out newsletter in coming days on similar lines. Have a look, invest your time in reading this newsletter and please do not forget to e mail your feedback. That will be the real encouragement for our efforts.

Meet you next month...

Dattatri
Sarina and Kasturi
Editorial Committee

From Chairman's desk,.....



Dear Friends, Good wishes to you all!

Toasts to all members! The Chapter created history by organising first ever Half day Program on “Union Budget - Indirect Taxation” **jointly with the Mysore Chapters of ICAI; ICWAI and Taxation Executives Association Mysore (TEAM) on 7th March, 2006!** . The icing on the cake was that Mr. P.M. Saleem, IRS, Commissioner of Central Excise, Mysore graced the program as the Chief Guest. The program was well attended with 64 delegates participating. The faculty Mr. G Shivadass, Advocate. Bangalore held the audience spell bound through out the program. The interactive session with Mr. P.M. Saleem, IRS, Commissioner, Central Excise and Mr. Shivadass on the panel was also highly appreciated by the participants. The credit hours accorded to this program was 4 hours. Those members who could not make it missed a good program. The members can look forward to many more Joint Programs on current topics in the months to come.

The members are aware that the month of March is the month of Foundation Day for Mysore Chapter. **The Foundation Day is being planed on 19th March, 2006 on which day the Chapter will also hold an Investors Education Program recognised by the Ministry of Company Affairs.** I request the members to block the date in their diary. The program Venue would be Hotel Dasprakash (City) Mysore. The members will be hearing more on this from the Chapter shortly.

Members are aware that with effect from 1st March, 2006, the e-filing of forms & returns to Registrar of Companies is notified. The members would definitely appreciate the efforts being made by the Chapter to have a workshop shortly for the benefit of the members on e-filing.

The results for December, 2005 Examination are out and the students of the Chapter have registered 23% result. I request the members to attend Study Circles with the Students on every Sunday after noons and guide the students.

I also request the members to spare time for career counseling programs. It would also be a great help to the Chapter if the members can come forward with suggestions and ideas for making the Chapter more vibrant.

I request all the members to renew their subscription to “Chartered Secretary” and “Company Secretaries Benevolent Fund” if not already done.

With warm Regards,
D D Bhat

Mysore chapter 25... journey so far...



This article has formed part of the souvenir published by Mysore Chapter on the occasion of first ever residential program held from 26th to 28th January 2006, extracted here on the occasion of foundation day of Mysore chapter to be held on 19th March 2006.

Mysore - The City of Palaces

The cultural and educational capital of Karnataka.

It is indeed a beautiful city with all the advantages of modernity. When entire India was under British rule, Mysore came to be known as true democracy and the 'Ramarajya of my dream' by Mahatma Gandhi.

It always stood first when progress in real term was meted to the society. The first radio station in India was established in Mysore, the first power plant of the Country took shape here and so on.

Mysore chapter was founded in 1980 when The Institute of Company Secretaries of India was constituted as a statutory body. Thus Mysore Chapter is celebrating its silver Jubilee year with the Institute. Since then it has traveled a long way. It was a voyage taken up for highlighting the importance of ethics, efficiency and excellence in the corporate world. All these years Mysore Chapter worked like a fruit shadowed by leaves for identifying and bringing up the emerging Company Secretaries leading them to the objectives of the ICSI.

The history of Mysore Chapter has bunches of exciting and memorable events. Of course, the credit should go to the past Office Bearers and the co-members who had dedicated themselves to the chapter activities. Late Mr. K L Ganesh Rau, Mr. G D Ram Rao, Mr. P. Shanbhogue, Mr. M S Ramachandra, Mr. M C Bhansali, Mr. S. Lakshminarasimha, Ms. Nimmo King, Mr. C K Sabareeshan, Mr. A R Vishwanathan, Mr. V S Kumar are among the past office bearers who have extended their valuable service in different roles such as chairman, vice chairman, secretary, treasurer and members of different committees such as Management Committee, Career Counseling Committee, Practicing Company Secretaries Committee etc., Currently, the honours are shared by Mr. D D Bhat, the Chairman, Mr. S. Bhadrinarayan, the Vice Chairman, Mr. H M Dattatri, the Secretary and Ms. Jayalakshmi Ansuman, the Treasurer with the support of all other members of the managing Committee namely

C.K. Sabareeshan, Ms. Sarina Chouta Harish & K. Chandrashekar.

Mysore Chapter has been organizing various seminars and programs directed towards professional development, sometimes on its own and sometimes in association with other professional bodies. In 1996, the Chapter had the privilege of conducting National Convention which was a great and memorable program. In May 1997 it had organized a Program on Legal Implications of Disinvestment & Public Issues in PSUs jointly with Department of Public Enterprises, Government of India.

Whenever subjects of common interest arose, Mysore Chapter has joined hands with other professional bodies.

The Chapter has taken the lead in bringing professionals together to discuss on relevant topics like 'Alternative Dispute Resolution', 'Transfer Pricing', 'Information Technology Act', amendments to Companies Act, Union Budgets year after year.

The office:

We remember those days when chapter was not in a position to afford its own office for various reasons. It was operating from the office of Mr. Ganesh Rau. After unfortunate demise of Mr. Ganesh Rau, it was shifted to the office of Mr. Bhansali in Shivrampet, Mysore. In January 2002, the Chapter Office was shifted to the premises of the prestigious educational institution in Mysore - SBRR Mahajana Educational Institute.

Student Activities:

The Chapter has been awarding the meritorious students every year. Besides, Adarsh Charitable Trust of Mysore instituted "the Padma Chakrawarthy Memorial Award for Excellence in ICSI Examinations".

In 1996, the Chapter was confirmed as an Examination Centre in view of the increased student activities. Since then the chapter has been conducting oral coaching classes to help the students in improving their performance in the ICSI examinations.

In 2004, a Memorandum of Understanding was entered into with the Mahajana Institute with the objective of setting up of Collaborative Oral Coaching Centre for imparting oral coaching classes for the Foundation and Intermediate course.

Effective student involvement during the last 2-3 years has further boosted the Chapter activities. By conducting programmes throughout the year, students of the Chapter are given hands on training in organizing seminars and presentations. Students of Mysore Chapter exhibited their talent by presenting topics of professional interest in Southern India Regional student conference held in Chennai during 2005 and Karnataka Student conference held in Bangalore during 2006.

All these growth among students was made possible through regular study circle meeting conducted by Mysore chapter, apart from oral coaching classes. During the year 2005, out of 52 Sundays of the year, 49 study circle meetings were held, which is a record at national level. In these study circle meeting apart from subjects of Intermediate and final course, current affairs and personality development aspects are being dealt. Apart from regular academic activities, the Chapter has organized pleasure trips for students, which were memorable both to the members and the students.

Newsletter from the chapter

The Chapter started its own e-Newsletter in December 2003, which has since seen its 25th Silver edition in December 2005. The e-newsletter reaches more than 600 professionals across the country and has received lot of appreciation from its readers. This has created a platform for students and members to express themselves, to share their thoughts, experiences and knowledge. The Chapter has to this extent been a trendsetter to other chapters to start innovative ways of spreading knowledge.

Silver Jubilee Year

As mentioned earlier, the Chapter is celebrating the year 2005-2006 as its Silver Jubilee year. The Chapter has organized various programs through out the year to commemorate the event. The fortunate members who got the privilege of being the management committee members during the silver jubilee year were Mr. D D Bhat, Chairman, Mr. Badrinarayan, Vice-Chairman, Mr. H M Dattatri, Secretary and Ms. Jayalakshmi Anshuman, Treasurer supported by Mr. C K Sabareeshan, Ms. Sarina C H and Mr. Chandrashekhar. They were more fortunate since they could get, through out the year, the support of all other members in Mysore who had acknowledged their responsibilities towards the Chapter by acting as members of one or the other committees.

The Silver Jubilee year was kick-started with the Foundation Day and students of the Chapter organized

technical sessions on topics of interest to our profession, including mock Board Meeting and various presentations on Dividend, Patents followed by a cultural programme. Mr. Krishnan Mohan of SDM college of Management took a session on 'Personal excellence', which was a delight for the audience.

On 11th March 2005 the Chapter organized a seminar jointly with Taxation Executives Association, Mysore on 'Union Budget 2005-06'.

On 2nd July 2005 the Chapter conducted a full day seminar on IPR and Alternate Dispute Resolution.

On 10th September 2005 the Chapter organized a Half day seminar on 'Investor Clinic'. On the same day, students of the Chapter organized a program captioned 'TRISHNA' which was full of presentations and cultural hour.

On 29th October 2005 another program was organized on an innovative topic 'Managing Constraints'.

On 03rd January 2006, the Chapter organized a half-day seminar on 'Doing Business in Global Environment' and 'Brand Building', very innovative topics and keeping up with the latest global trends.

To mark grand conclusion to the Silver Jubilee year, Mysore Chapter decided to host for a mega event. A three day residential program was planned. Bangalore chapter extended its whole hearted support for the event. The souvenir you are reading now is to commemorate the event.

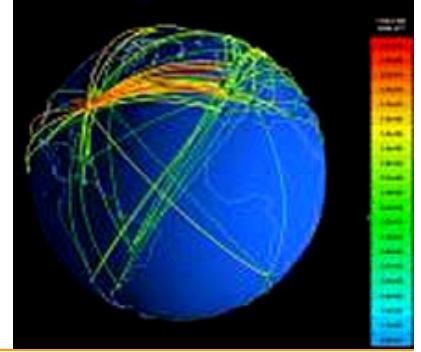
The Chapter has been innovative in making its AGMs a get-together of families of members, which was well received and well appreciated by all the members.

All these activities have made the Mysore Chapter a "must visit place" for the Presidents of ICSI at least once during their tenure. Some of the notable dignitaries who have visited the Mysore Chapter were Mr. D K Prahlada Rao, Mr. Virindra Ganda, Mr. J Sridhar, Mr. Mahesh Ananth Athavle and R Ravi during their respective tenure.

Today, Mysore Chapter has grown to gain recognition as a notable chapter of the Institute of company secretaries of India, engaged in contributing excellent professionals to the corporate world.

The Banyan tree grows from strength to strength by spreading its roots. Over a period of time the roots reach the ground while making its own food, and start supporting the trunk. As the process continues, the tree and the roots from the branches complement each other's existence. We, at the Mysore Chapter, draw inspiration from this natural phenomenon. This bears ample testimony in the way the Mysore chapter has grown phenomenally over the years.

Wish a great future for the institute and the chapter.



No sales tax on telecom: SC

Delhi : On 03.03.06 the Supreme Court ruled that states could not impose sales tax on any facilities offered by telecommunication service providers. A three-judge Bench headed by Justice Ruma Pal stated that a contract between a telecom service provider and a subscriber is merely to receive, transmit and deliver messages of the subscriber through a complex system of fibre optics, satellite and cables. The court clarified that licenses granted under the Indian Telegraph Act clearly manifest that they were for providing telecommunication services and not for supplying any goods or transfer of right to use any goods. The court, however added that states could impose sales tax on handsets, if sold by operators, as mobile phones were considered goods.

Companies Amendment Bill 2006 is staged

1. Amendment to Section 253:

Section 253 of the Companies Act, 1956 shall be amended to include the following proviso.

"Provided that no company shall appoint or re-appoint any individual as director of the company unless he has been allotted a Director Identification Number under section 266B."

2. Insertion of new sections 266A, 266B, 266C, 266D, 266E, 266F and 266G

After section 266 of the principal Act, the new sections 266A, 266B, 266C, 266D, 266E, 266F and 266G shall be inserted which shall deal with the Directors Identification Number. The Director Identification Number means an identification number which the Central Government may allot to any individual, intending to be appointed as director or to any existing directors of a company, for the purpose of his identification as such. The provisions of said sections are summarized below.

- Every Individual, intending to be appointed as director of a company; or a Director appointed before the commencement of the Companies (Amendment) Act, 2006, shall make an application

for allotment of Director Identification number to the Central Government in such form and with such fee, as may be prescribed (Sec 266A)

- Every director appointed before the commencement of the Companies (Amendment) Act, 2006 shall make this application within sixty days of the commencement of the said Act and every applicant for Director Identification Number may be appointed as a director till such time such applicant has been allotted Director Identification Number (Sec 266A)
- The Central Government shall, within one month from the receipt of the application allot a Director Identification Number to an applicant (Sec 266B)
- No individual, who had already been allotted a Director Identification Number obtain or possess another Director Identification Number (Sec 266C)
- Every existing director shall, within one month of the receipt of Director Identification Number from the Central Government, intimate his Director Identification Number to the company or all companies wherein he is a director (Sec 266D)
- Every company shall, within one week of the receipt of intimation furnish the Director Identification Number of all its directors to the Registrar or any other officer or authority as may be specified by the Central Government (Sec 266E)
- Every person or company, while furnishing any return, information or particulars as are required to be furnished under this Act, shall quote the Director Identification Number (Sec 266F)
- The contravention of any of these provisions is punishable with fine which may extend to five thousand rupees and where the contravention is a continuing one, with a further fine which may extend to five hundred rupees for every day after the first during which the contravention continues (Sec 266G)

3. Insertion of new sections 610B, 610C, 610D, and 610E

In the context of the rapid developments witnessed in technology, the Ministry of Company Affairs decided to enable the operations carried out by the Ministry and its

field offices to be performed more efficiently and effectively through the use of contemporary information technology and computers. The Ministry of Company Affairs on the recommendations of Department of Information Technology is implementing an e-Governance initiative through a project named as "MCA-21". This project will provide the public, corporate entities and others an easy and secure online access to the corporate information, including filing of documents and public access to the information required to be in the public

domain under the statute, at any time and from anywhere. Vide the Companies (Amendment) Bill 2006, it is proposed to insert new sections 610B, 610C, 610D and 610E in the Companies Act, 1956 so as to make provision for electronic filing system and for payment of fees through electronic form.

However, upto 30th June of 2006, physical filing of documents will be allowed but in new formats.

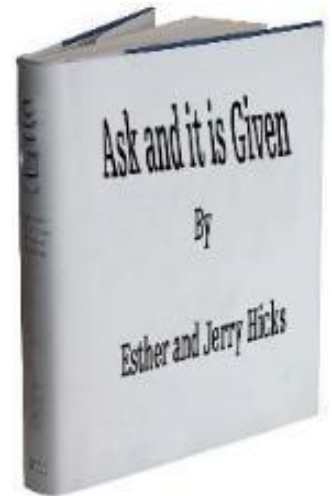
book REVIEW

Nimmoo Kinger, Practicing Company Secretary, Mysore

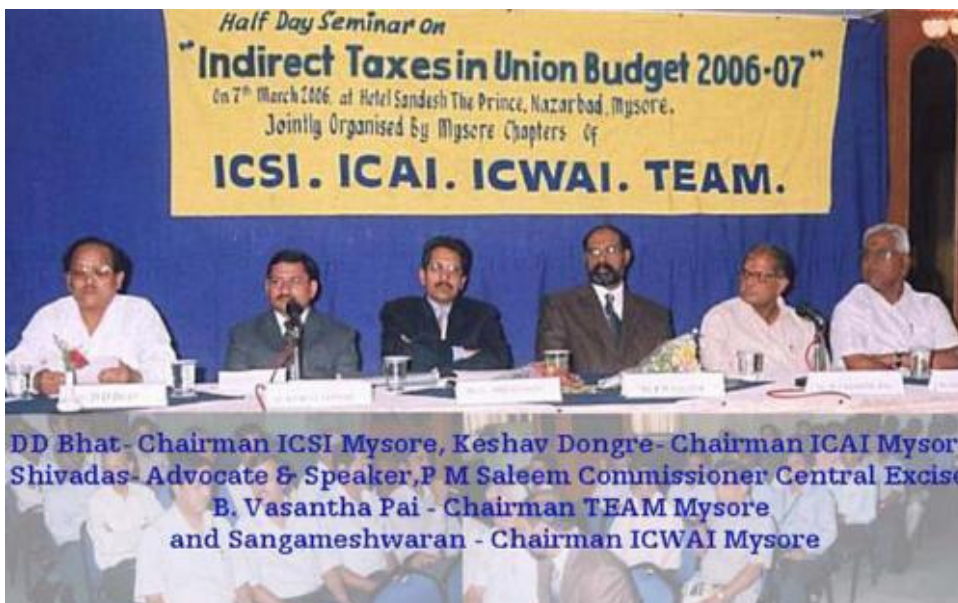
"Ask and it is Given", written by Esther and Jerry Hicks is a life-changing book. I borrowed this book from a friend about a month ago and it has had an immense impact on me; consolidated all that I have read and 'known' about creating my life. I speak of 'creating' in the sense of consciously choosing what I want in life, and manifesting it. I'm deeply influenced by the powerful concepts it has put forth.

Ask and it is Given puts together the natural laws of creation and manifestation in a direct, simple, purely authentic way. It explains how we can attract experiences of prosperity, love, health in our lives by focusing our attention on it. It also states that all that is not working in our lives (poverty, ill health, loneliness, failure...all the negative aspects of life) has been created by us by our focus on it. We have created lack by worrying about the absence of what we desire: for what we focus on, grows. That is the law of Nature. The book brings together all the theories of quantum physics, manifestation, the Law of Attraction in an amazingly direct and loving manner.

Ask and it is Given is about the teachings of Abraham, a group of enlightened Masters, a Collective Consciousness, channeled by Esther Hicks. The second half of the book contains 22 processes by which we can handle various situations of lack and scarcity. It is a practical book, which takes us into spirituality, and faith—to a consciousness of our natural well-being.



Seminar on Indirect Tax provisions in Union Budget 2006-07



On 07 March 2006, ICSI, ICAI, ICWAI and TEAM (Taxation Executives Association of Mysore) joined hands to conduct a seminar on Indirect Tax Provisions in the Union Budget 2006-07.

Delegates who had participated from all these professions and from different companies were enlightened on the subject by Mr. Shivadas advocate from Bangalore and Mr. P M Saleem, Commissioner Central Excise Mysore.

LEGAL ROUNDUP...

Compiled from different sources.



Income Tax

Case Laws:

Allow ability of Bad debts claims

Held by hon'ble court that if there seems no chances for recovery, it is discretion of assessee to write off loan than to take legal action for recovery. Thus claim for bad debts can not be disallowed merely because no legal action was taken to recover the same.

C.I.T. Vs. Sri Ram Gupta 23/05/2005 (2005) 149 Taxman 237 (All.)

Commissioner of Income Tax Vs Shri Bhogawati Sahakari Sakhar Karkahna Ltd. (Bombay High Court)

In this case, the appeal was made by the Commissioner under section 260A of the Income Tax Act, 1961, against the order of the Tribunal where it directed that deduction towards non-refundable deposits are not trading receipts and interest on these deductions is an allowable expenditure.

The question involved in the present case is whether the interest on non-refundable deposits is trading receipt and to be treated as income of the assessee. The High Court held that deduction towards non refundable deposits are not trading receipts and interest on these deposits is to be added to the income of the assessee. The High Court further directed the Tribunal to decide afresh the question of Area Development Fund.

Recovery u/s 226(3)

In Farrukhabad Gramin Bank Vs. A.C.I.T. it was held by Hon'ble court that no action for recovery of any tax due can be taken u/s 226(3) without serving notice on the assessee. Thus action of the Asst. Comm. recovering tax due from assessee's bank account without giving notice was illegal and arbitrary.

Customs

Notifications / Circulars/ Trade Notices

- The Central Government has amended the Customs and Central Excise Duties Drawback Rules such that the drawback rate or amount cannot exceed one third of the market price of the exported goods. (*Notification No. 10/2006 (NT) dt. 15/02/2006*)

- The Central Government has issued detailed guidelines for waiver of interest on warehoused goods, in situations where the underlying duty is either exempt or is not payable for any reason. (*Circular No. 10/2006 dt. 14/02/2006*)

Case laws - Classification

The Tribunal, in CC Vs. XL Telecom Ltd. (2006 (72) RLT 434), has held that parts, components and accessories of CDMA fixed wireless phones are classifiable under customs Tariff Heading 8529.90 as parts of cellular phones.

SRF L d. v. CC - 2006 (193 ELT 186)

For proving the passing of duty burden, the uniformity in price before and after assessment does not lead to inevitable conclusion that duty burden has not been passed on since such uniformity may be due to various reasons on the basis of Supreme Court's decision in the case of Allied Photographics India Ltd 2004 (166 ELT 3).

Valuation

- In Unik Traders Vs. CC (2006 (72) RLT 351), the Tribunal has held that the declared transaction value cannot be rejected on the basis of prices mentioned in trade journals or in a letter issued by the Valuation Directorate or on the basis of contemporaneous imports at higher prices without considering the differences in quantities and whether the exports are from the same country.
- The Tribunal, in CC Vs. BASF Styrenics Pvt. Ltd, (2006 (72) RLT 395) has held that royalty paid to the foreign supplier, which was related to the manufacture of finished goods and not being a condition of sale of the imported goods, is not includible in the transaction value of the goods.
- In Dhirish International Vs. CC (2006 (194) ELT 191), the Tribunal has rejected the enhancement of the declared transaction value in the absence of contemporaneous imports of similar goods at higher prices.
- The Tribunal, in Gira Enterprises Vs. CC (2006 (194) ELT 92) has held that the Advisory Opinion given by the Technical Committee on Customs Valuation has no legal force and is not acceptable in situations where there are contrary decisions rendered by the Courts in India.

Others

In Goa Shipyard Ltd. Vs. CC (2006 (72) RLT 479), the Tribunal has held that refunds arising out of correction of clerical errors under Section 154 of the Customs Act are subject to the provisions of unjust enrichment.

FTP Policy Circular/ Public Notices

Policy Circulars/ Public Notices

- The Directorate General of Foreign Trade (DGFT) has decided to keep optional the system of remitting licence fees through the Electronic Fund Transfer (EFT) mode until 31.03.2006. Further, it has re-introduced the system of filing of ECom applications on the DGFT website in case of manual shipping bills from notified Electronic Data Interchange ports. No manual Duty Entitlement Pass Book (DEPB) applications will be allowed to be filed henceforth. (Policy Circular No. 48 dt. 10/02/2006)
- The DGFT has clarified that a license will be required for the import of re-conditioned computer monitors, in terms of the FTP. (Policy Circular No. 49 dt. 14/02/2006)

Case Law

- In Economic Traders (Guj) Ltd. Vs. UOI (2006 (139) ECR 418), the High Court of Gujarat has held that the role of the customs authorities is limited to the verification of the details given in a DEPB License and they cannot decide whether the goods are eligible for the benefit of the DEPB Scheme itself.
- The Tribunal, in Amitex Silk Mills Pvt. Ltd. Vs. CCE (2006 (194) ELT 344) has held that the value of deemed exports effected by the 100% Export Oriented Unit (EOU) is includible while determining the Free On Board value of exports made by such a unit. Further, the Tribunal has held that once the competent authority i.e. the Development Commissioner, grants permission for clearances from a 100% EOU to the DTA, the excise authorities are precluded from questioning the validity of the said permission.
- In Khabros Steel India Ltd. Vs. CCE (2006 (194) ELT 117), the Tribunal has held that once the letter of permission of a 100% EOU has been cancelled, the capital goods within the unit have to be debonded and customs duty paid on the depreciated value of the goods.

Antidumping Duty

Notifications/Circulars

The Central Government has clarified that where the finally determined anti dumping duty is imposed with retrospective effect, from the date of imposition of the provisional anti-dumping duty, the final duty would be payable even for the period subsequent to the expiry of the provisional duty period and prior to imposition of the final duty. (Circular No. 09/2006 dt. 23/01/ 2006)

FEMA, 1999

Export of Goods and Services - Liberalisation - GR Approval for export

Further liberalization made to exporters to simplify the procedure for export , it has been decided to delegate powers

to AD banks for grant of GR approval in cases where goods are being exported for re-import after repairs / maintenance / testing / calibration, etc. Accordingly, AD banks may, henceforth, consider grant of GR approval, in cases where goods are being exported for repairs, maintenance, calibration, testing e.c. and subsequently re-imported after necessary repairs / maintenance / calibration / testing, etc. subject to the condition that the exporter shall produce relative Bill of Entry within one month of re-import of the exported item from India. It is clarified that in cases where the goods being exported for testing are destroyed during testing, AD banks may obtain a certificate issued by the testing agency that the goods have been destroyed during testing, in lieu of Bill of Entry for import .

A.P.(DIR Series) Circular No. 1 Dated: January 10, 2006

Foreign Investment in Tier I and Tier II instruments issued by banks in India :

With a view to permit banks in India to augment their capital through issue of Perpetual Debt instruments eligible for inclusion as Tier I capital and Debt capital instruments as upper Tier II capital, it has been decided to permit the following category of foreign investors to subscribe to these instruments:

- Foreign Institutional Investors (FIIs) registered with SEBI, and
- Non-Resident Indians (NRIs)

The foreign investments in these instruments will be subject to the following conditions.

- The investment by all FIIs in Perpetual Debt instruments (Tier I) should not exceed an aggregate ceiling of 49 percent of each issue, and investment by individual FII should not exceed the limit of 10 per cent of each issue.
- The investments by all NRIs in Perpetual Debt instruments (Tier I) should not exceed an aggregate ceiling of 24 per cent of each issue and investments by a single NRI should not exceed 5 percent of the issue.
- The investment by FIIs in Debt capital instruments (Tier II) shall be within the limits stipulated by SEBI for FII investment in corporate debt .
- Investment by NRIs in Debt capital instruments (Tier II) shall be in accordance with the extant policy for investment by NRIs in other debt instruments. The issue-wise details of amount raised as Perpetual Debt Instruments qualifying for Tier I capital by the bank from FIIs/NRIs are required to be reported within 30 days of the issue in the annexed proforma to the Chief General Manager, Reserve Bank of India, Foreign Exchange Department , Foreign Investment Division, Central Office, Mumbai 400 001. The details of the secondary market sales / purchases by FIIs and the NRIs in these instruments on the floor of the stock exchange shall be reported by the custodians and designated

banks, respectively to the Reserve Bank of India through the soft copy of the LEC Returns, on a daily basis, as prescribed in Schedule 2 and 3 of the Notification under reference. The banks issuing Perpetual Debt instruments and Debt capital instruments shall also comply with the guidelines notified by the Department of Banking Operations and Development (DBOD), Reserve Bank of India, from time to time.

A.P. (DIR Series) Circular No. 4 Dated: January 5, 2006

Excise/CENVAT

Central Excise (Compounding of Offences) Rules, 2005

The Central Government has notified the Rules for Compounding of Offences viz; Central Excise (Compounding of Offences) Rules, 2005 with effect from 30th December, 2005. The salient features are as follows:

- The compounding amount once paid shall not be refunded except in cases where the court rejects grant of immunity from prosecution.
- Compounding is not a right: Compounding cannot be claimed as a matter of right and so it is at the discretion of the Chief Commissioner.
- Ceiling on compounding: There is a life time ceiling of 1 crore on compounding. If a person has already been allowed compounding in relation to goods valued at more than 1 crore rupees, there is no further compounding for him.
- No compounding for convicts: Those convicted of an offence under the Customs Act or Central Excise Act after 30th December 2005 are not eligible for compounding. If prosecution is already pending in a Court, the immunity given by the Chief Commissioner is subject to acceptance by the Court.
- An immunity granted to a person shall stand withdrawn if such person fails to pay any sum specified in the order of compounding passed by the compounding authority or fails to comply with any other condition subject to which the immunity was granted. 2006 (193 ELT N 14)

Case Laws

CCE vs Beacon Neypic Ltd 2006 (193 ELT 16)

Assessee being related to its subsidiary company, by itself is not sufficient to invoke Central Excise Valuation Rules. The department would have to go further and show that the relationship has introduced an element other than purely commercial consideration in effecting sale by assessee to subsidiary company.

Madras Aluminium Co Ltd vs CCE 2006 (193 ELT 98)

For the purpose of levy of excise duty, the question of 'Marketability' is not to be examined if the test of 'manufacture' is not satisfied.

Gillete India Ltd vs CCE 2006 (193 ELT 331)

Exports are excluded from the application of Standards of Weights and Measures Act, 1976 and rules made thereunder, and there is no requirement to mention MRP. Therefore in case of exports, the valuation has to be done only under Section 4 of Central Excise Act, 1944 and not under Section 4A.

National Peroxide Ltd vs CCE 2006 (193 ELT 582)

It is permissible to offer different discount amounts to same class of buyers depending on commercial consideration as the assessee has right to form different classes of buyers based on business/commercial exigencies.

Company Law

Sachikanta Routray And Others v. Pyari Mohan Routray And Others [2006] 70 CLA 25 (Ori.)

Under section 10F, an appeal to the High Court can lie only against a decision or order of the CLB on any question of law arising out of such order. The High Court cannot directly entertain any prayer for declaring a resolution said to have been adopted in the extraordinary general meeting of the company for removal of a person from the office of director as void.

Vijay Kumar Narang v. Prakash Coach Builders (P.) Ltd. [2006] 70 CLA 100 (CLB)

The condition stipulated in sub-section (2) of section 41 for any other person to become a member that he must give his consent in unequivocal terms by applying in writing for allotment of shares applies to the first allotment made after the formation of the company. This requirement does not apply to the subsequent allotment to persons who are already shareholders. Thus, where the sequence of events clearly indicate that the petitioners gave their consent by applying in writing for allotment of right shares and remitted the required amount, the rejection of the application of the petitioner for right shares by the respondents on account of non-compliance of the requirement of sub-section (2) of section 41 would be misconceived and untenable.

Hotel Queen Road (P.) Ltd. v. Hill Crest Realty Sdn. Bhd And Others [2006] 70 CLA 33 (Del.)

The value or market price of equity shares and preference shares of the same company will be different as a preference shareholder does not have the same rights in the company as an equity shareholder. Since preference shareholder has no voting rights, he cannot give notice to call an extraordinary general meeting. Such notice shall be illegal entitling the plaintiff to grant of ad interim injunction against holding the meeting.

Bhagwan Finance Corporation (P.) Ltd., In Re. [2006] 70 CLA 45 (CLB)

A petition under sub-section (4) of section 111 can be filed by an aggrieved person or the company or any member so long as he establishes that the name of any person is entered or

omitted from the register of members without sufficient cause. Where the impugned transfers are not in due compliance of articles of association of the company, and do not fulfil the mandatory requirements of sub-section (1) of section 108, it is obligatory on the company to rectify the register of members, and delete the names of the transferees

Dr. Ashok Cherian v. ITC Ltd. [2006] 70 CLA 11 (CLB).

In terms of sub-section (2) of section 213 of the Indian Succession Act, 1925, there is no need to obtain a probate of a will made by an Indian Christian who has died after bequeathing all her movable and immovable properties to the petitioner, including shares of a company. The company shall not be justified in asking for a probate of the will for transmitting the shares in the name of the petitioner

Bazley Finvest Ltd., In re. [2006] 70 CLA 119 (Guj.)

An objection to a scheme of amalgamation under section 391 read with section 394 based on the absence of any provision for payment of registration fees, stamp duty in respect of an increase in the authorised capital of the transferee-company, and also of a special resolution for consequent alteration to capital clause of the memorandum and articles of association of the company as required under section 97/94/95/31/16/192 would be untenable. The courts have uniformly taken the decision that no such stamp duty or registration charges are required to be paid on the increase of the authorised share capital of the transferee-company on amalgamation or a merger.

There are many websites which are silently serving the knowledge seekers. Here is an effort to introduce one website a month to our readers which will support their profession. You also can introduce your 'pet' websites in this column.

Web yatra

This month's website: www.lexsite.com

Introduced by:

Manjunatha Hegde, Company Secretary, Ionidea, Bangalore



The complexity of Legal & Taxation structure along with the frequent changes and amendments makes it difficult for one to keep updated with these changes. Lexsite provides comprehensive information on Direct Tax, Indirect Tax, Banking & Forex, Corporate, Intellectual Property and Other Laws. Visitors to LexSite.com can do research through LexSite.com's online libraries, view breaking developments in the law, find lawyers in their region, read complete text of judgments of Supreme Court, High Court and other legal bodies and explore nationwide recruitment opportunities in the legal industry.

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Limited free registration gives you information on various circulars, notifications and judgments. Once registered, regular updates are sent by e-mail, but the detailed access is limited only to the paid subscribers. Annual Subscription costs you Rs. 6000/-.

Considering the comprehensiveness of Lexsite, this would be best suited for professionals whose core area lie in the above laws and who are hard pressed for time, required to keep embraced with the constant changes to these laws.