

# eMagazine

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**CS. S Badrinarayanan**  
Chairman,  
Mysore Chapter

-: Editorial Team :-

CS Dattatri H M

CS Sarina C H

CS Omkar Gayatri

CS Abhishek Bharadwaj A B

CS Ajay Madaiah

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Greetings from Mysore Chapter of ICSI!!

I am happy to interact with you again through the monthly e-Magazine. New Financial year started with a bang. It is clearly evident that the Nation's economy has stabilized vis-a-vis previous years, which can be seen in the results that are coming out from the corporate. The Government is also confident that in the current financial year the GDP will touch the level of around 8% which is by all means a good sign for the country as well as for the Professionals like us. The Government is also putting all effort to revive the economy by bringing in all necessary legislation to support its effort.

Hope the current financial year will be very positive for our profession due to the initiative taken by the Government and by our Institute.

Our Head Quarters has released the secretarial standards 1 & 2 in respect of Board Meetings & Annual General Meetings, which will be very useful to our Professionals to carry out the Secretarial Audit.

This month, on 5th April 2015, the Annual Students' event "Umang 2015" was conducted in the Mysore Chapter Premises and more than 80 students from Mysore participated. It was inaugurated by Mr. Sudhakar Shetty, President, Development Council of FICCI, Karnataka & CMA T L Sangameswaran, Chairman, Mysore Chapter of Cost & Management Accountant. The guests were impressed by the student activities and the active participation of the students in the events.

Mysore Chapter is organising a two day seminar on 15th and 16th May 2015 on Companies Act 2013 & related topics which will be addressed by the ROC, Karnataka & eminent speakers from Chennai. Members and students are invited to attend the seminar in good numbers.

The CS exams are going to commence from 1st June 2015 and around 300 students are expected to attend the exams from Mysore centre. I convey my best wishes to all the students to come out successful in the exams.

## UMANG 2015 – ANNUAL STUDENTS’ EVENT

The students of the Mysore Chapter of ICSI celebrated the Annual Talents’ Day of the Chapter- UMANG’15 on Sunday, the 05th April, 2015 at Chapter Premises. The program was inaugurated by the Chief Guest Sri. Sudhakar S Shetty, Founder Chairman of Jnanasarovara International Residential School, Mysore, the Guest of Honour CMA T L Sangameswaran, Chairman, The Institute of Cost Accountants of India, Mysore, Chairman of Mysore Chapter of ICSI CS. Badrinarayanan S and Secretary CS. Pracheta M of Mysore Chapter were present during the occasion.



Competitions like Block & Tackle, Management Games and Quiz were organized as a part of the program. Mr. Emmanuel Massey a leading soft skill trainer in Mysore conducted a session to the students during the program. The post lunch sessions included Cultural Extravaganza. The 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.

## Highlights of Companies (Amendment) Bill 2014

1. No minimum capital requirement anymore
2. Approval of shareholders under Section 188 (related party transactions) can be ordinary
3. Transaction between holding and wholly owned subsidiaries whose accounts are consolidated and laid before general meeting are exempt from shareholders’ approval requirement
4. No requirement of common seal.
5. If deposit is accepted in violation of deposit rules or the company fails to repay deposit or interest thereon the company shall, in addition to the payment of the amount of deposit or part thereof and the interest due, be punishable with fine which shall not be less than one crore rupees but which may extend to ten crore rupees; and every officer of the company who is in default shall be punishable with imprisonment which may extend to seven years or with fine which shall not be less than twenty-five lakh rupees but which may extend to two crore rupees, or with both. If it is proved that the officer of the company who is in default, has contravened such provisions knowingly or willfully with the intention to deceive the company or its shareholders or depositors or creditors or tax authorities, he shall be liable for action under section 447.
6. Exemption for loan given to wholly owned subsidiary and security or guarantee provide on behalf of subsidiary is given in Section 185 itself (earlier exemption was through rules, subordinated regulations)
7. Board resolutions under Section 179 which are filed with RoC, will not be public document
8. Previous losses and depreciation will need to be set off out of current year profit before declaring dividend
9. If dividend is claimed and paid, shares in respect thereof should not be transferred to IEPF
10. Fraud exceeding certain percentage needs to be reported to Central Government. Other fraud of lesser amount need to be reported to audit committee/ board and details of frauds which are reported to audit committee/ board also need to be disclosed in directors’ report
11. Audit Committee can give omnibus approval (this will be on the lines of listing agreement; but threshold and other conditions will be prescribed by Rules)



# Auditors Report Order 2015

## Comparison with its CARO 2003

The Ministry of Corporate Affairs released the much awaited revised Companies (Auditor's Report) Order, 2015 (CARO, 2015) in line with the Companies Act, 2013 and to replace the earlier Companies (Auditor's Report) Order, 2003 (CARO, 2003) which shall be applicable for the accounts audit reports to be made by Financial Auditor of the company for the year ended 31<sup>st</sup> March, 2015 onwards.

The ministry has advertently shrunk the reporting clauses from earlier 21 to 12. Clauses such as on maintenance of registers as per sec 301 of earlier Act, holding of assets in the name of company and compliances for Nidhi Companies, Chit fund Companies, etc. has been removed, which clearly gives ministries intend to demarcate the purpose of Annual Return & Secretarial Audit Report which has to be certified by Company Secretaries in Practice and Financial Audit Report by Chartered Accountants in Practice.

Below table compares between the CARO, 2003 and CARO, 2015. The clauses which are amended are in *italics*.

Sr. No.	Reporting Clauses as per Clause 4 of the Companies (Auditor's Report) Order, 2003	Reporting Clauses as per Clause 3 of the Companies (Auditor's Report) Order, 2015
1.	<p>(i) (a) whether the company is maintaining proper records showing full particulars, including quantitative details and situation of fixed assets;</p> <p>(b) whether these fixed assets have been physically verified by the management at reasonable intervals; whether any material discrepancies were noticed on such verification and if so, whether the same have been properly dealt with in the books of account;</p> <p>(c) if a substantial part of fixed assets have been disposed off during the year, whether it has affected the going concern;</p>	<p>(i) (a) whether the company is maintaining proper records showing full particulars, including quantitative details and situation of fixed assets;</p> <p>(b) whether these fixed assets have been physically verified by the management at reasonable intervals; whether any material discrepancies were noticed on such verification and if so, whether the same have been properly dealt with in the books of account;</p> <p><i>Omitted</i></p>
2.	<p>(ii) (a) whether physical verification of inventory has been conducted at reasonable intervals by the management;</p> <p>(b) are the procedures of physical verification of inventory followed by the management reasonable and adequate in relation to the size of the company and the nature of its business. If not,</p>	<p>(ii) (a) whether physical verification of inventory has been conducted at reasonable intervals by the management;</p> <p>(b) are the procedures of physical verification of inventory followed by the management reasonable and adequate in relation to the size of the company and the nature of its business. If not, the inadequacies in such procedures</p>



	<p>the inadequacies in such procedures should be reported;</p> <p>(c) whether the company is maintaining proper records of inventory and whether any material discrepancies were noticed on physical verification and if so, whether the same have been properly dealt with in the books of account;</p>	<p>should be reported;</p> <p>(c) whether the company is maintaining proper records of inventory and whether any material discrepancies were noticed on physical verification and if so, whether the same have been properly dealt with in the books of account;</p>
3.	<p>(iii) (a) has the company either granted or taken any loans, secured or unsecured to/from companies, firms or other parties covered in the register maintained under section 301 of the Act. If so, give the number of parties and amount involved in the transactions.</p> <p>(b) whether the rate of interest and other terms and conditions of loans given or taken by the company, secured or unsecured, are prima facie prejudicial to the interest of the company;</p> <p>(c) whether payment of the principal amount and interest are also regular;</p> <p>(d) if overdue amount is more than one lakh, whether reasonable steps have been taken by the company for recovery/payment of the principal and interest;</p>	<p>(iii) whether the company has granted any loans, secured or unsecured to companies, firms or other parties covered in the register maintained under section 189 of the Companies Act. If so,</p> <p><i>Omitted</i></p> <p>(a) whether receipt of the principal amount and interest are also regular; and</p> <p>(b) if overdue amount is more than rupees one lakh, whether reasonable steps have been taken by the company for recovery of the principal and interest;</p> <p><i>Earlier the auditor has to report both the loan granted and taken to/from related parties. Now only the loans granted by the company to the related parties, has to be reported.</i></p>
4.	<p>(iv) is there an adequate internal control procedure commensurate with the size of the company and the nature of its business, for the purchase of inventory and fixed assets and for the sale of goods. Whether there is a continuing failure to correct major weaknesses in internal control;</p>	<p>(iv) is there an adequate internal control system commensurate with the size of the company and the nature of its business, for the purchase of inventory and fixed assets and for the sale of goods and services. Whether there is a continuing failure to correct major weaknesses in internal control system.</p>
5.	<p>(v) (a) whether transactions that need to be entered into a register in pursuance of section 301 of the Act have been so entered;</p> <p>(b) whether each of these transactions have been made at prices which are reasonable having regard to the prevailing market prices at the relevant time;</p> <p>(This information is required only in case of transactions exceeding the value of five lakh</p>	<p><i>Omitted</i></p>

	rupees in respect of any party and in any one financial year).	
6.	(vi) in case the company has accepted deposits from the public, whether the directives issued by the Reserve Bank of India and the provisions of sections 58A and 58AA of the Act and the rules framed there under, where applicable, have been complied with. If not, the nature of contraventions should be stated; If an order has been passed by Company Law Board whether the same has been complied with or not?	(v) in case the company has accepted deposits, whether the directives issued by the Reserve Bank of India and the provisions of sections 73 to 76 or any other relevant provisions of the Companies Act and the rules framed there under, where applicable, have been complied with? If not, the nature of contraventions should be stated; If an order has been passed by Company Law Board or <i>National Company Law Tribunal</i> or <i>Reserve Bank of India</i> or <i>any court</i> or <i>any other tribunal</i> , whether the same has been complied with or not?
7.	(vii) in the case of listed companies and/or other companies having a paid-up capital and reserves exceeding Rs.50 lakhs as at the commencement of the financial year concerned, or having an average annual turnover exceeding five crore rupees for a period of three consecutive financial years immediately preceding the financial year concerned, whether the company has an internal audit system commensurate with its size and nature of its business;	<i>Omitted; covered under Rule 13 of the Companies (Accounts) Rules, 2014</i>
8.	(viii) where maintenance of cost records has been prescribed by the Central Government under clause (d) of sub-section (1) of section 209 of the Act, whether such accounts and records have been made and maintained;	(vi) where maintenance of cost records has been specified by the Central Government under sub-section (1) of section 148 of the Companies Act, whether such accounts and records have been made and maintained:
9.	(ix) (a) is the company regular in depositing undisputed statutory dues including Provident Fund, Investor Education and Protection Fund, Employees' State Insurance, Income-tax, Sales-tax, Wealth Tax, Custom Duty, Excise Duty, cess and any other statutory dues with the appropriate authorities and if not, the extent of the arrears of outstanding statutory dues as at the last day of the financial year concerned for a period of more than six months from the date they became payable, shall be indicated by the auditor.  (b) in case dues of sales tax/income tax/custom tax/wealth tax/excise duty/cess have not been deposited on account of any dispute, then the amounts involved and the forum where dispute is pending may please be mentioned. (A mere representation to the concerned Department shall not constitute a dispute).	(vii) (a) is the company regular in depositing undisputed statutory dues including provident fund, employees' state insurance, income-tax, sales-tax, wealth tax, service tax, duty of customs, duty of excise, value added tax, cess and any other statutory dues with the appropriate authorities and ii not, the extent of the arrears of outstanding statutory dues as at the last day of the financial year concerned for a period of more than six months from the date they became payable, shall be indicated by the auditor.  (b) in case dues of income tax or sales tax or wealth tax or service tax or duty of customs or duty of excise or <i>value added tax</i> or cess have not been deposited on account of any dispute, then the amounts involved and the forum where dispute is pending shall be mentioned. (A mere representation to the concerned

		<p>Department shall not constitute a dispute).</p> <p><i>(c) whether the amount required to be transferred to investor education and protection fund in accordance with the relevant provisions of the Companies Act, 1956 (1 of 1956) and rules made thereunder has been transferred to such fund within time.</i></p>
10.	(x) whether in case of a company which has been registered for a period not less than five years, its accumulated losses at the end of the financial year are not less than fifty per cent of its net worth and whether it has incurred cash losses in such financial year and in the financial year immediately preceding such financial year <i>also</i> ;	(viii) whether in case of a company which has been registered for a period not less than five years, its accumulated losses at the end of the financial year are not less than fifty per cent of its net worth and whether it has incurred cash losses in such financial year and in the immediately preceding financial year; <i>(a slight grammatical change, removed the word 'also', with no change in reporting under this clause)</i>
11.	(xi) whether the company has defaulted in repayment of dues to a financial institution or bank or debenture holders? If yes, the period and amount of default to be reported;	(ix) whether the company has defaulted in repayment of dues to a financial institution or bank or debenture holders? If yes, the period and amount of default to be reported:
12.	(xii) whether adequate documents and records are maintained in cases where the company has granted loans and advances on the basis of security by way of pledge of shares, debentures and other securities; If not, the deficiencies to be pointed out.	Omitted
13.	(xiii) whether the provisions of any special statute applicable to chit fund have been duly complied with? In respect of nidhi/ mutual benefit fund/societies;	Omitted
	(a) whether the net-owned funds to deposit liability ratio is more than 1:20 as on the date of balance sheet;	
	(b) whether the company has complied with the prudential norms on income recognition and provisioning against sub-standard/default/loss assets;	
	(c) whether the company has adequate procedures for appraisal of credit proposals/requests, assessment of credit needs and repayment capacity of the borrowers;	
	(d) whether the repayment schedule of various	

	loans granted by the nidhi is based on the repayment capacity of the borrower and would be conducive to recovery of the loan amount;	
14.	(xiv) if the company is dealing or trading in shares, securities, debentures and other investments, whether proper records have been maintained of the transactions and contracts and whether timely entries have been made therein; also whether the shares, securities, debentures and other securities have been held by the company, in its own name except to the extent of the exemption, if any, granted under section 49 of the Act;	<i>Omitted</i>
15.	(xv) whether the company has given any guarantee for loans taken by others from bank or financial institutions, the terms and conditions whereof are prejudicial to the interest of the company;	(x) whether the company has given any guarantee for loans taken by others from bank or financial institutions, the terms and conditions whereof are prejudicial to the interest of the company;
16.	(xvi) whether term loans were applied for the purpose for which the loans were obtained;	(xi) whether term loans were applied for the purpose for which the loans were obtained;
17.	(xvii) whether the funds raised on short-term basis have been used for long term investment and vice versa; If yes, the nature and amount is to be indicated;	<i>Omitted</i>
18.	(xviii) whether the company has made any preferential allotment of shares to parties and companies covered in the Register maintained under section 301 of the Act and if so whether the price at which shares have been issued is prejudicial to the interest of the company;	<i>Omitted</i>
19.	(xix) whether securities have been created in respect of debentures issued?	<i>Omitted</i>
20.	(xx) whether the management has disclosed on the end use of money raised by public issues and the same has been verified;	<i>Omitted</i>
21.	(xxi) whether any fraud on or by the company has been noticed or reported during the year; If yes, the nature and the amount involved is to be indicated.	(xii) whether any fraud on or by the company has been noticed or reported during the year; If yes, the nature and the amount involved is to be indicated.

While the scope of financial audit is decreased, the Ministry has given greater powers to PCS by recognizing them to certify Annual Return and Secretarial Audit Report, which inter alia includes larger details to investigate and certify.





**Mr. Sharath Mahendra Kumar**  
B.Com, MBA, LLB, MPhil, PGDMM. (ACS, LLM)  
Bangalore  
sharathm\_kumar@yahoo.com

## ‘May day’ or ‘International Workers Day’

The history of the world holiday on the 1st May - May Day, or International Workers Day, held in commemoration of four anarchists executed for struggling for an 8-hour day.

Originally a pagan holiday, the roots of the modern May Day bank holiday are in the fight for the eight-hour working day in Chicago in 1886, and the subsequent execution of innocent anarchist workers.

In 1887, four Chicago anarchists were executed; a fifth cheated the hangman by killing himself in prison. Three more were to spend 6 years in prison until pardoned by Governor Altgeld who said the trial that convicted them was characterized by "***hysteria, packed juries and a biased judge***". The state had, in the words of the prosecution put "***Anarchy is on trial***" and hoped their deaths would also be the death of the anarchist idea.

The anarchists were trade union organisers and May Day became an international workers day to remember their sacrifice. They were framed on false charges of throwing a bomb at police breaking up a demonstration in Chicago. This was part of a strike demanding an 8 hour day involving 400,000 workers in Chicago that started May 1st 1886 .

It began over a century ago when the American Federation of Labour adopted an historic resolution which asserted that "eight hours shall constitute a legal day's labour from and after May 1st, 1886".

In the months prior to this date workers in their thousands were drawn into the struggle for the shorter day. Skilled and unskilled, black and white, men and women, native and immigrant were all becoming involved.



### More Reading:

International Workers Day: [http://en.wikipedia.org/wiki/International\\_Workers'\\_Day](http://en.wikipedia.org/wiki/International_Workers'_Day)

Eight-hour day: [http://en.wikipedia.org/wiki/Eight-hour\\_day](http://en.wikipedia.org/wiki/Eight-hour_day)

The Origin of the 8 Hour Work Day and Why We Should Rethink It: [http://www.huffingtonpost.com/leonhard-widrich/the-origin-of-the-8-hour-\\_b\\_4524488.html?ir=India&adsSiteOverride=in](http://www.huffingtonpost.com/leonhard-widrich/the-origin-of-the-8-hour-_b_4524488.html?ir=India&adsSiteOverride=in)

Why Do We Work Eight Hours a Day? <http://news.discovery.com/history/history-of-the-8-hour-work-day-120501.htm>

# Pin Drop Silence....

Can you hear a pin drop? Following are some instances when silence could speak louder than voice.

**Take 1:**

Field Marshal Sam Bahadur Maneckshaw once started addressing a public meeting at Ahmedabad in English. The crowd started chanting, "Speak in Gujarati. We will hear you only if you speak in Gujarati."

Field Marshal Sam Bahadur Maneckshaw stopped.

Swept the audience with a hard stare and replied, "Friends, I have fought many a battle in my long career. I have learned Punjabi from men of the Sikh Regiment; Marathi from the Maratha Regiment; Tamil from the men of the Madras Sappers; Bengali from the men of the Bengal Sappers, Hindi from the Bihar Regiment; and even Nepali from the Gurkha Regiment. Unfortunately there was no soldier from Gujarat from whom I could have learned Gujarati."

You could have heard a pin drop....

**Take 2:**

JFK'S Secretary of State, Dean Rusk, was in France in the early 60's when Charles DeGaulle, the French President, decided to pull out of NATO.

DeGaulle said he wanted all US military out of France as soon as possible.

Rusk responded, "Does that include the 180,000 who are buried here?"

DeGaulle could not respond. You could have heard a pin drop....

**Take 3:**

Robert Whiting, an elderly US gentleman of 83, arrived in Paris by plane.

At French Customs, he took a few minutes to locate his passport in his carry on.

"You have been to France before, Monsieur?", the Customs officer asked sarcastically.

Mr. Whiting admitted that he had been to France previously.

"Then you should know enough to have your passport ready."

The American said, "The last time I was here, I didn't have to show it."

"Impossible. Americans always have to show their passports on arrival in France!", the Customs officer sneered.

The American senior gave the Frenchman a long, hard look.

Then he quietly explained "Well, when I came ashore at Omaha Beach, at 4:40am, on D-Day in 1944, to help liberate your country, I couldn't find a single Frenchman to show a passport to.... "

You could have heard a pin drop.....

**Take 4:**

Soon after getting freedom from British rule in 1947, the de-facto prime minister of India, Jawahar Lal Nehru called a meeting of senior Army Officers to select the first General of the Indian army.

Nehru proposed, "I think we should appoint a British officer as a General of The Indian Army, as we don't have enough experience to lead the same."

Having learned under the British, only to serve and rarely to lead, all the civilians and men in uniform present nodded their heads in agreement.

However one senior officer, Nathu Singh Rathore, asked for permission to speak. Nehru was a bit taken aback by the independent streak of the officer, though, he asked him to speak freely.

Rathore said, "You see, sir, we don't have enough experience to lead a nation too, so shouldn't we appoint a British person as the first Prime Minister of India?"

You could hear a pin drop.

After a pregnant pause, Nehru asked Rathore, "Are you ready to be the first General of The Indian Army?"..... Rathore declined the offer saying "Sir, we have a very talented army officer, my senior, Lt. Gen. Cariappa, who is the most deserving among us."

This is how the brilliant Gen. Cariappa became the first General and Rathore the first ever Lt. General of the Indian Army.

**(Many thanks to Lt. Gen Niranjan Malik PVSM (Retd) for this article.)**



# Balance sheet approach of accounting for deferred taxes

Part 1 (Edition - March 2015 <http://bit.ly/edition134>) has introduced the concept of accounting for deferred taxes under IndAS12 which is based on Balance Sheet Approach (also called Asset- Liability approach) as against Income Statement approach of IndAS-22. To calculate deferred taxes under the Balance Sheet approach, the first thing to be done is to determine an entity's Temporary differences. The terms 'Temporary difference', 'Taxable temporary differences', 'Tax deductible temporary differences', 'Permanent differences', 'Book Base of an asset or Liability', 'Tax Base of an asset' and 'Tax Base of a liability' were explained.

Part 2 (Edition - April 2015 <http://bit.ly/edition135>) gave a simple formula to remember the difference between and Tax base and Book Base of an Asset or a Liability resulting in to Tax-deductible or Taxable leads to Deferred Tax Asset or Deferred Tax Liability; factors that result in temporary differences; steps that are required to be followed while implementing the Balance Sheet Approach of accounting for Deferred Tax and a worked example with a 'Schedule of Temporary Differences' and 'Schedule of Deferred Tax Asset/ Liability' for the first year to illustrate the concept based on hypothetical figures.

In this third and last part, you may see the changes in accounting entries in the second year. It is strongly recommended to keep open (Link: <http://bit.ly/edition135>) the entries in the first year detailed in the previous edition to understand the exact difference in the approaches.

## A. SCHEDULE OF TEMPORARY DIFFERENCES AS ON 31-3-2015

Sl No.	Particulars	Tax Base* at the end of the year	Book Base at the end of the year	Temp Difference at the end of the year	Future Taxable/ Future Tax Deductible	Resulting in
1	2	3	4	5 = (3 minus 4)	6	7
1	Plant & Machinery	1900	1400	500	Future Tax Deductible – ( DTA)	Creation of DTA
2	Provision for Gratuity	3000	1000	2000	Future Taxable –(DTL)	Creation of DTL
3	Provision for Excise Duty on FG	4500	1000	3500	Future Taxable ( DTL)	Creation of DTL
4	Provision for Leave Pay	1000	1350	350	Future Tax deductible (DTA)	Creation of DTA
5	Provision for Warranty Expenses	2000	1500	500	Future Taxable ( DTL)	Creation of DTL
6	Provision for Voluntary Retirement Compensation	800	900	100	Future Tax deductible (DTA)	Addition to DTA

**B. SCHEDULE OF DEFERRED TAX ASSETS/DEFERRED TAX LIABILITIES @ AN APPLICABLE TAX RATE OF 40% AS ON 31-3-2015**

Sl No.	Particulars	Future Taxable/Future Tax deductible Temporary Difference at the end of the year		DTA/DTL at the end of the year		Accounting action
1	2	3		4		5
1	Plant & Machinery	500	Future Tax Deductible	200	DTA	Debit DTA and credit P&L Account for 200
2	Provision for Gratuity	2000	Future Taxable	800	DTL	Debit P&L Account And Credit DTL for 800
3	Provision for Excise Duty on FG	3500	Future Taxable	1400	DTL	Debit P&L Account and Credit DTL for 1400
4	Provision for Leave Pay	350	Future Tax Deductible	140	DTA	Debit DTA and Credit P &L Account for 140
5	Provision for Warranty Expenses	500	Future Taxable	200	DTL	Debit P&L Account and Credit DTL for 200
6	Voluntary Retirement Compensation	100	Future Tax Deductible	40	DTA	Debit DTA and Credit P&L Account for 40

**C. Journal Entry on 31-3-2015**

Passing of the individual Journal Entries mentioned in column No. 5 of Schedule (B) “**SCHEDULE OF DEFERRED TAX ASSETS/ DEFERRED TAX LIABILITIES**” above and reversing the entries passed in the previous year to the credit/debit of P&L Account, culminate in a single JE given below.

Particulars	Debit	Credit
Profit & Loss A/c                      Dr	3161	
To Deferred Tax Liability		2330
To Deferred Tax Asset		831
( Being the entry to account for the Deferred Tax Liability and Deferred Tax Asset based on the Temporary Differences as on 31-3-2015 detailed in the Statement enclosed)		

**DISCLOSURE IN THE FINANCIAL STATEMENTS:**

1. Disclose in the Notes on Accounts the amounts shown in “Temporary Difference at the end of the year”, i.e., column No. (5) of Table (A) above. i.e., SCHEDULE OF TEMPORARY DIFFERENCES AS ON 31-3-2015”
2. Disclose “Deferred Tax Liability (**Net**) of Rs. 1499/- on the Liability side of the Balance Sheet as at 31-3-2015 .



# Restraining infringement of IPR

Dear Readers,

In the last update, we looked at grant of interim injunction(s) restraining acts which allegedly infringe patents. This month, let us consider an actual instance seeking such restraint, interim or final, not for a patent, but for other intellectual property, say, a trademark or copyright, or rights in the nature of, associated with, trademarks or copyrights.

Of course, the three factors discussed in the last update - having a prima facie case, possibility of irreparable injury and balance of convenience / public interest are highly relevant here as well.

The said instance reported in the media, sometime in April 2015, is as follows. A Tamil actor announced his new film with a numerical title. As per a famous Bollywood actor, the look and logo of this movie title are very much similar to that of an American television series, for which he had procured the remake rights. The said Bollywood actor was of the view that considering the popularity of the said television remake series, he wanted to protect the same, to the best possible extent. The issue that arises generally in such cases is the subsequent (alleged) imitation of the title of a movie or a television serial, when the original was a huge hit.

In another matter, the Court held that in general, such titles are protected as per fundamental tenets of intellectual property law. The original owner(s) or creator(s) of a title would have put in lot of effort and ingenuity in creating the title, and popularizing a movie or television serial with that title. A subsequent imitation of such title merely to ride on the popularity of the original will be unfair to the original owners/ creators since the subsequent imitation effortlessly gains reputation merely based on the popularity of the former which was built with painstaking effort. In addition, such imitation also causes considerable confusion as to source, affiliation, sponsorship or connection, in the minds of potential consumers.

Hence, it is only fair that title(s) of literary and entertainment creations and works should be afforded intellectual property protection in the same way as, say, trademarks of commercial commodities. However, it may be noted that to be eligible for such protection, the said title in question should be so popular, identifiable or catchy that it has acquired a distinct status, recognition or meaning of its own, beyond the generally understood or common language meaning of the words therein.

Based on the above discussion, it will be interesting to know what will be the fate of the new movie in question.

*Everyone is aware of the huge popularity of the classic Hindi movie 'Sholay'.*

*In a case before the Hon'ble High Court of Delhi, a famous Director was restrained from having his name with 'Sholay' as the title of his new movie, thereby recognizing the intellectual property rights in the title 'Sholay'.*

*Click the link below for details:*

[http://en.wikipedia.org/wiki/Aag\\_\(2007\\_film\)](http://en.wikipedia.org/wiki/Aag_(2007_film))



Law has often to deal with technologies, i.e. with human activities which, employing the attainments of science, bring into existence new media, tools, devices, systems which improve the quality of life of human beings. Law can employ new technologies to pursue goals which were pursued by other technologies in the past, this is the case of the e-document, the e-signature, the payment of obligations through e-money, the conclusion of contracts through Internet, and so on.

Here <http://www.ijlt.in/> is one site that establishes the relation between law and Technologies. The Indian Journal of Law and Technology (IJLT) is a journal by the National Law School of India University, Bangalore. This site broadly contains intellectual property rights, internet governance, information communication technologies, access to medicines, privacy rights, digital freedoms, openness, telecommunications policy, media law and innovation, Journal, academic services, resources etc.

Law and information technologies: IT has made available tools such as e-documents and e-signatures. The law must cope with these technologies to regulate them or to make them legally available.

This <http://www.ijlt.in/> not only provides the above details and also gives articles, notes, and book reviews discussing legal issues on technology law in general, including e-commerce, cybercrime, biotechnology, bioethics, competition law, outsourcing, relevant public policy, intellectual property issues posed by technology, telecommunications, and evidential technology. Hurry up and grab the learnings....

## e-Tools for the Professionals

**Manjunath S. Bhat, M.Com, LLB**  
CS Professional Student, Bangalore  
[msbhat321@gmail.com](mailto:msbhat321@gmail.com)



## MS Outlook: An Android application for mobiles

Microsoft Outlook is Microsoft's official email application that organise our messages according to what is most important also it combines contacts, email and calendar all in one place. It also looks at your messages and determines which are most important, putting other emails into a separate folder to look at later. We can also schedule meetings, set reminders, attach files and more. The new outlook application makes it easier to sort through our e-Mails, Contacts and Calendar and file sharing. The outlook application separates mail into two tabs- Focused and Other. The important e-Mails will be placed in the focused in box. If we move our e-Mails in or out of focused inbox, outlook will start to learn which type of messages is important to us. Swiping left or right lets us take actions like archive, delete, move, flag and mark as read/unread. There is also a "Schedule e-Mail" feature that temporarily removes e-mails from our in box and returns at a time of our choosing.

Specification: 1. Price- Free 2. Required Android- 4.0 and more

Download Microsoft Outlook app here:

<https://play.google.com/store/apps/details?id=com.microsoft.office.outlook&hl=en>

# News Room

**CS Chakri Hegde,**  
Company Secretary,  
Synova Innovative Technologies Pvt Ltd, Bangalore  
[chakrih@synovaindia.com](mailto:chakrih@synovaindia.com)



**CS Vijayalakshmi**  
Company Secretary  
Hoysala Projects Pvt Ltd, Bangalore  
[vijayalakshmi.k@hoysalaprojects.com](mailto:vijayalakshmi.k@hoysalaprojects.com)

## Flash News

- Constitutional validity of NCLT is upheld by Supreme Court
- Companies Amendment Bill 2014 is passed by both Lok Sabha and Rajya Sabha
- India Closer To Biggest Tax Reform in Decades, Lok Sabha Clears GST
- KV Kamath appointed as BRICS Bank Chief
- Finance Ministry to issue roadmap on separation of debt management body from RBI
- Make in India: 46 production licenses issued for defense items
- Ola faces Competition Commission probe on predatory pricing
- No Paper Acknowledgement Needed in E-Filing of Tax Returns
- Government Offers Exemptions to Foreign Investors from MAT
- Competition Commission of India probe against Google in four cases for alleged abuse of dominant position
- SEBI Bars 36 Entities From Capital Markets In Sms Techsoft Case
- SEBI Cracks Down On Rs 420 Crore Tax Fraud, Bars 178 Entities

### United Spirits Refuses to Share Inquiry Report on Vijay Mallya with BSE, NSE

United Spirits Limited (USL) has refused to share with the Bombay Stock Exchange (BSE) and the National Stock Exchange (NSE) its inquiry report on the alleged fund diversion to Vijay Mallya's UB Group on the grounds that public disclosure of the confidential report could hurt its business and potentially prejudice an investigation into the issue by legal authorities.

### Indian environment minister announces voluntary reduction in emission intensity;

India has voluntarily announced efforts to reduce emission intensity by 20-25 % by 2020 from the 2005 level without reckoning the emissions from agriculture sector. India, even though a party to United Nations Framework Convention on Climate Change and its Kyoto Protocol, it did not have legally binding greenhouse gas (GHG) emission reduction commitments.

### Government Doubles Single-Window Clearance Limit For New FDI Proposals

In a bid to fast-track FDI into the country, the government has doubled the threshold of investment that can be cleared by the Foreign Investment

Promotion Board. So far, the FIPB had the power to approve FDI proposals up to Rs 1,200 crore; Now, the FIPB can clear projects worth Rs 3,000 crore, a move that could "expedite the approval process and result in increased foreign investment inflows", the government said

### Real Estate Mess: DDA Violated Fair Trade Norms, Competition Commission Orders Probe

The CCI has ordered an investigation against the Delhi Development Authority (DDA) for allegedly abusing its dominant position and imposing unfair terms on the buyers of its flats. Ordering a detailed probe, the fair trade watchdog said it has found "prima facie" evidence that DDA violated competition norms with respect to its Housing Scheme 2010.

### CCI Rejects Charges Against Flipkart, Other E-Commerce Firms

CCI has rejected allegations of unfair business practices against five online retail majors-Flipkart, Snapdeal, Amazon, Jabong and Myntra-as it did not find any prima facie evidence of violations by indulging in cartelization or by abusing their dominant position.



IMPS - **Immediate Payment Service** is an interbank electronic instant mobile money transfer service through mobile phones and by internet in India managed by National Payments Corporation of India

Currently majority of interbank mobile fund transfer transactions are channelized 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.

In the above context, NPCI has carried out a pilot on mobile payment system initially with member banks **and this service is now available to the Indian public which will work on holidays also.**

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. This facility is provided by NPCI through its existing NFS switch.

Customer can log IMPS complaint with their respective banks or write to NPCI on [imps@npci.org.in](mailto:imps@npci.org.in).

### Did You Know?

#### NEUTRAL TITLE 'Mx.'

'Mx.' is a gender neutral title which can be used by people who don't or may not want to be identified as male or female. In addition to the list of Mr., Ms., Mrs., Dr., etc., Mx. is the gender neutral title which is used in recent years in some institutions of United Kingdom including public agencies, banks, universities and the Royal Mail postal service, have adopted the title.

The title is also under consideration to be included in the upcoming edition of the Oxford English Dictionary. The official Swedish language dictionary has also announced the addition of the gender-neutral pronoun hen; where han is used for he and hon is used for she.

#### Disclosure of Interest by the Director Who Is Not Available For the First Board Meeting of the Financial Year

When a Director is not available for disclosure of his interests on or before the First Board meeting of the financial year under Sections 184, in accordance with the words "Every Director shall at the first meeting of the Board in which he participates as a Director and thereafter at first meeting of the Board in every financial year" of Section 184, such a Director shall irrespective of his participation in the meeting shall disclose his interest in the first board meeting itself.

Pick of the month



# Regulatory Updates

Compiled by:  
**CS Abhishek Bharadwaj A.B.**  
Partner, AAA & Co, Bangalore  
[csabhishekbharadwaj@gmail.com](mailto:csabhishekbharadwaj@gmail.com)



## CUSTOMS & FTP

### Notifications/Circulars/News

The Central Government has issued notification providing exemption from all duties of Customs on goods imported against Service Export from India Scheme duty scrip issued by the Regional Authority on fulfilment of conditions specified in the said notification. - [No. 25/2015-Customs dt 8 April, 2015](#)

The Central Government has issued notification providing exemption from all duties of Customs on goods imported against duty scrip issued by Regional Authority under the Merchandise Exports from India Scheme on fulfilment of conditions specified in the said notification.

[No. 24/2015-Customs dated 8 April, 2015](#)

The Central Government has issued a notification providing exemption from all duties of Customs on goods imported against a valid Duty Free Import Authorisation (DFIA) on fulfilment of conditions specified in the said notification.

[No. 19/2015-Customs dated 1 April, 2015](#)

The Central Government has notified that visiting hours for non-officials/ members of trade for meeting with officials at DGFT Headquarters would be from 3 pm to 5 pm each working day. - [No. 1/2015 dated 20 April, 2015](#)

The Central Government has clarified that going forward importers can file refund claim of 4% SAD at each of the customs stations where imports are made within one Commissionerate. - [No. 12/2015-Customs dated 9 April, 2015](#)

The Central Government has instructed Chief Commissioner of Customs and Excise to set up a Custom Clearance Facilitation Committee at every major Customs seaport and airport with following objectives amongst others, in relation to clearance of imported and export goods:

Ensuring and monitoring expeditious clearance;  
Identifying and resolving bottlenecks in clearance;  
Resolving grievances of members of trade and industry in relation to clearance. - [No. 13/2015-Customs dt 13 April, 2015](#)

### Case Law

Arbitrary loading of 1% of CIF value as loading, unloading and handling charge was unsustainable where the actual charges could be ascertained.

[Wipro Limited v ACC \(2015-TIOL-79-SC-CUS\)](#)

Payment of technical fee for setting up of plant was not includible in the value of plant since it was not related to import of goods, and was a post-importation activity.

[CC v Essar Steel Ltd \(2015-TIOL-79-SC-CUS\)](#)

Exemption/concession of excise duty on fulfilment of condition of non-availment of CENVAT credit on raw material was available on imported goods, since imported goods satisfied this condition. - [SRF Limited v CC \(2015-TIOL-74-SC-CUS\)](#)

Re-export of imported goods was allowed, provided there was no evidence of intention of the importer to import the wrongly supplied goods in case the material sent by foreign supplier was different from the material ordered.

[CC v Met Trade \(India\) Ltd. \(2015 \(318\) ELT 131\)](#)

CESTAT held that multiple refund claims for SAD could not be denied for the reason that the Circular prescribed a single refund in a month and Notification No. 102/2007-Customs provided time limit of one year for filing the refund claim.

[Devki Nandan J Gupta v CC \(Appeals\) \(2015 \(318\) ELT 167\)](#)

CESTAT held that declared transaction value could be rejected only when sufficient and tangible evidence was available on the basis of provisions of the Customs Valuation Rules, 2007. The declared transaction value could not be rejected merely on the basis of variation in value as per Chartered Engineer's report, as variation could be due to other business considerations.

[Marque Enterprises v CC \(2015-TIOL-592-CESTAT-DEL\)](#)

CESTAT held that refund of SAD in terms of Notification No. 102/2007-Customs could not be denied in case of clearance of part of bulk cargo, even if sales invoices were raised prior to out-of-charge order for complete consignment.

[Supreme Petrochem Limited v CC \(2015-TIOL-606-CESTAT-MUM\)](#)

The supplies made under para 6.9 of chapter 6 of the Exim policy had to be included while calculating Net Foreign Exchange. Clearances made in DTA against Advance Authorisations, where payment were not received in foreign currency, were also admissible for the purpose of fulfilment of export obligation. - [Exechon v CC \(2015 \(318\) ELT 336\)](#)

Directorate General of Foreign Trade (DGFT) could not introduce something which was not envisaged in the provisions of FTP, and could not impose any additional restriction.

[GMR Hotels and Resorts Ltd v Union of India \(2015 \(318\) ELT 80\)](#)

## Ministry of Corporate Affairs

### Notifications/Circulars/News

**Form INC-29 Fast Track Company Registration:** To simplify and fast track the procedure for company registration in India, the Ministry of Corporate Affairs (MCA) has introduced Form INC-29 Integrated Incorporation Form. Form INC-29 Company Registration has merged the process of getting Director Identification Number (DIN), Name Approval and Incorporation application into one single process thereby significantly reducing the time taken to start a company in India. In this article, we look at the Form INC-29 and the procedure for fast track company registration in India using Form INC-29.

eForm INC-29 deals with the single application for reservation of name, incorporation of a new company and/or application for allotment of DIN. This eForm is accompanied by supporting documents including details of Directors & subscribers, MoA and AoA etc. Once the eForm is processed and found complete, company would be registered. Also DINs gets issued to the proposed Directors who do not have a valid DIN. Maximum three Directors are allowed for using this integrated form for allotment of DIN while incorporating a company.

The following types of companies can be registered using Form INC-29:

- Private Limited Company
- One Person Company
- Limited Company
- Producer Company

*The Companies (Incorporation) Amendment Rules, 2014 dated 01st May 2015*

## CENVAT

### Case Law

Aluminium castings could not be called as marketable products when marketing of such goods was forbidden under the agreement between the assessee and Ministry of Defence.

*CCE v Sundaram Clayton Ltd (2015 (317) ELT 433)*

Anything which was sold could not be termed as an excisable good unless there was evidence to establish that such goods were known in the market as distinctive products.

*Chemplast Sanmar Ltd v CCE (2015 (317) ELT 495)*

The amount charged from customers as carrying cost of extra raw material inventory was includible in assessable value.

*Dewas Metal Section Ltd v CCE (2015-TIOL-599-CESTAT-DEL)*

In case of stock transfer of goods from factory to depot, and again from depot to another depot, the assessable value would be the price prevailing at second depot from where the goods are finally sold.

*Mahindra & Mahindra Ltd v CCE (2015-TIOL-684-CESTAT-MUM)*

Input credit was admissible on steel and cement used in the manufacture of storage tank in the factory premises.

*Dalmia Cements (Bharat) Ltd v CCE (CESTAT-MAD)*

CENVAT credit on outward transportation up to the port was admissible when the goods were sold on FOB basis.

*Cauvery Stones Impex Pvt Ltd v CCE (CESTAT-MAD)*

Once the appellant's rebate claim was cancelled they were entitled to take re-credit of the amount suo-moto in their CENVAT account.

*Jubilant Engineering Ltd v CCE (2015-TIOL-586-CESTAT-MAD)*

CENVAT credit could be reversed only to the extent of quantity of inputs lost in fire as certified by surveyor, even though the appellant had lodged claim with the Insurance company for loss of higher quantity of inputs.

*Ishu Super Steel Pvt Ltd v CCE (2015-TIOL-557-CESTAT-MUM)*

Delhi Tribunal held that when inputs were removed on payment of duty higher than the credit availed, the question of reversal of credit did not arise even if the process did not amount to manufacture.

*Asian Colour Coated Ispat Ltd v CCE (2015 (317) ELT 538)*

Bangalore Tribunal held that once the recipient had received the goods on payment of duty, the CENVAT credit could not be denied on the ground that the supplier of the inputs was not required to pay excise duty on the goods supplied.

*Neuland Laboratories Ltd v CCE (2015 (317) ELT 705)*

The Central Board of Excise and Customs (CBEC) had no right to issue a circular incorporating directions which were contrary to

the decision of the Tribunal, and it was open to the Revenue to move either the High Court or the Supreme Court to get the correctness of the Tribunal's decision contested or challenged.

*Karamchand Appliances Private Ltd v UOI (2015 (318) ELT 221)*

The lower authority was bound to follow the law declared by Tribunal in similar matter unless the said declaration of law stood set aside by any other higher forum.

*Ruchi Soya Industries Ltd v CCE (2015 (318) ELT 309)*

## VAT, Sales Tax and Entry Tax

### Case Law

An assessee could claim input tax credit based on invoice value even though the goods were subsequently sold to the consumers at a price lower than the invoice price. The HC observed that there was no restriction under the VAT law to sell goods below the invoice value.

*Commercial Tax Officer v Jyoti Electronics (2015-TIOL-1016-HC-RAJ-CT)*

No interest and penalty was payable when additional assessed tax had been paid from the available balance of input tax credit.

*State of Gujarat v Gujarat Ambuja Export Ltd (2015-TIOL-1032-HC-AHM-VAT)*

## Service Tax

### Notifications/Circulars

The Central Government has exempted the taxable services provided or agreed to be provided against 'Merchandise Exports from India Scheme (MEIS) duty credit scrip' and 'Service Exports from India (SEIS) Scheme duty credit scrip' from the whole of the service tax.

*No(s). 10/2015-service tax and 11/2015-service tax, both dated 8 April, 2015*

The CBEC has clarified that the proposed change in service tax rate from 12.36% to 14% would come in effect from the date to be notified post enactment of the Finance Bill 2015 only.

*No. 183/02/2015-service tax dated 10 April, 2015*

In the absence of any legislative intent to confine the meaning of the term "utensil", as referred to in the entry of goods liable to concessional rate of tax, to any particular place, mode or manner of user, hooka must necessarily fall within the meaning of the word "utensil". The HC observed that a utensil is not necessarily confined to articles used in a kitchen, a hotel or a restaurant but is often misunderstood as referring to an item used in a kitchen.

*Shakti Industries v Revisional Authority-Cum-Deputy Excise and Taxation Commissioner (Inspection), Rohtak (2015-TIOL-1018-HC-P&H-CT)*

Payment received by a dealer by way of credit notes from the manufacturer for replacement of defective spare parts of the motor vehicles sold to the customer during the warranty period amounted to sale, and hence was liable to VAT. The HC relied on the landmark decision of the Supreme Court in the case of Mohd Ekram Khan and Sons (2004-136-STC-515-SC).

*Kataria Automobiles Pvt Ltd v State of Gujarat (2015-TIOL-958-HC-AHM-VAT)*

Chemicals used in printing/developing the photograph were not liable to sales tax. The HC observed that it was sale of duly developed photograph to the customers and not of the chemical. The contract had to be seen as one of art and labour, and whatever chemical was used, could not be said to be sale, directly or indirectly, to the customers.

*Commercial Tax Officer v Goyal Colour Lab (2015-TIOL-899-HC-RAJ-CT)*

### Case Laws

The 'relevant date' for calculating time limit for filing refund claim under rule 5 of CENVAT credit rules would be the date of receipt of payment, and not the date on which services were provided.

*CCEST v Hyundai Motor India Engineering (P) Ltd (2015-TIOL-739-HC-AP-ST)*

An amendment, like the original statute, would only be effective prospectively, unless expressly stated in the language that the amendment was clarificatory and should be given retrospective effect. Accordingly, in the absence of an express intent to give retrospective effect, it was held that the exemption granted to cold blood banks by amending mega exemption Notification No. 25/2012-service tax vide Notification No. 4/2014-service tax was available only from the date of amendment.

*Life Cell International (P) Ltd v Union of India and Ors (2015-TIOL-6844-HC-MAD-ST)*

The State Government or a department of the State Government would be liable to pay service tax, unless the services provided by it fell under the 'Negative list of services'.

*Secretary to Government, Government of Kerala and Anr v Union of India and Anr (2015-TIOL-895-HC-KERALA-ST)*

A statute making an amendment to the effect of declaration/valuation of liability, even if it was by way of an amendment to an explanation, could not be retrospective unless specifically expressed by the legislature. Accordingly, it was held that the amendment to explanation (c) of sub-section 4 of section 67 of the Finance Act, 1994 which brought debit or credit of any amount in the books of accounts relating to associated enterprises into the fold of taxation could only be applied prospectively.

*Sify Technologies Ltd v CCEST (2015-TIOL-525-CESTAT-MAD)*

Works contracts which could be appropriately classified under 'commercial or industrial construction', 'construction of complex' or 'erection, commissioning or installation' services, were liable to service tax under the respective service categories even prior to 1 June, 2007, i.e., the date on which the 'works contract services' were first introduced as taxable services.

*Larsen and Toubro Ltd and Ors v CST and Ors (2015-TIOL-527-CESTAT-DEL-LB)*

Where the bank had taken over the borrower's factory to recover its dues, and leased out the factory to a lessee who continued to hire the employees of the factory and paid salary directly to employees, there was no element of provision of manpower supply services by lessee to lessor. Accordingly, it was held that the lessee was not liable to pay service tax on the salary paid to employees under 'manpower supply services'.

*Raje Vijaysingh Dafale SSK Ltd v CCE (2015-TIOL-535-CESTAT-MUM)*

The limitation period specified under section 11B of Central Excise Act, 1944 would not be applicable to claims of refund towards the excess amount paid during adjudication proceedings, arising as result of favourable order by the Commissioner (Appeals).

*Metro Motors v CCE (2015-TIOL-581-CESTAT-AHM)*

## Words Worth Millions

"Maturity is when a person hurts you and you try to understand their situation rather than hurting them back..."

- Unknown

"To handle yourself, use your head; to handle others, use your heart."

- Eleanor Roosevelt

"The greatest leader is not necessarily the one who does the greatest things. He is the one that gets the people to do the greatest things."

- Ronald Reagan

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