



Mysore Chapter

eNewsletter - 86

March 2011

24 Investor Awareness Programs
24 Investor Awareness Programs
24 Career Awareness Programs
24 Career Awareness Programs



For Private Circulation Only

"WORDS WORTH MILLIONS"



"In a free enterprise, the community is not just another stakeholder in business, but is in fact the very purpose of its existence."

Jamsetji Tata

(3 March 1839 - 19 May 1904)

Pioneer in the field of Indian modern industry

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MESSAGE FROM CHAIRPERSON



Dear Members and Students of CS fraternity,

At the outset, congratulations to all the students, who have successfully passed the December 2010 Examinations. Once again, Mysore Chapter has added another feather to its cap with **Ms. Annapurna Srikanth** securing 17th Rank in Executive Program. And for those who have not passed, remember what the Great Confucius once said - "Our greatest glory is not in never failing, but in rising every time we fail." After all, the Success is sweeter if long delayed and gotten through many struggles and defeats. So don't get disheartened and put in your best the next time.

On March 8th, we celebrated the 31st Foundation Day of the Chapter by having a small get together of Members and Students of the Chapter. It was indeed a very memorable program as the senior members who built our Chapter from its very initial stages were with us, and shared their most cherished memories with the Chapter. These were the people who were instrumental in nurturing the Chapter during its infancy and times of difficulties. We even spoke to CS. D B Saxena and CS. Rajagopalan R, Past Presidents of ICSI, who had inaugurated the Chapter 31 years ago on 8th March 1980.

In fact, it made us realize that we take on our shoulders a great responsibility of continuing a legacy - a legacy of professionalism, success and pride that has been created with a lot of time and effort and I'm confident you all are with us in this endeavor.

Thank you,

Yours in CS fraternity,

CS. Srilatha T G

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Career Awareness Programs

The Chapter undertook extensive Career Awareness Programs during the month and covered 24 colleges at different locations around Mysore city. CS. Anshuman AS, Past Chairman of Mysore Chapter, addressed around 2,635 students covering Mysore, Gonikoppal, Kushalnagar, Srirangapatna, Mandya, Priyapatna, Hunsur, Bilikere, Hullahalli, Nanjangud, K R Nagar, Paduvalahippe, Holenarasipura, Saligrama, Konanur, K R Pet, K R Sagara, Pandavapura, T Narasipura and Yelandur. He informed the students about the role and importance of a CS in current scenario. Students were given brochures and explained about course structure, cut off dates, duration of the course and other related information.

Investor Awareness Programs

With an object to create awareness on the investing public about their rights and inform them about the sources of obtaining additional information about investment the chapter conducted 24 Investor Awareness Programs were conducted by Mysore Chapter of ICSI. The investors in various towns in and around Mysore were educated on Topics like how to read a prospectus, how to open a demat account, filling of application forms, guidance about book building process, how to access stock brokers, possible course of action in case of grievances etc. More than 2500 people were benefitted by these programs. CS. Anshuman A S, Past Chairman of the Chapter was the resource person.



National Corporate Law Moot Court

The Chapter joined hands with the JSS Law College which hosted the Surana & Surana National Corporate Law Moot Court Competition held from 11th to 13th February 2011 at JSS Law College, Mysore and rendered its support by arranging the judges for the competitions. Law students participated from 42 colleges all over India, and members of the Mysore Chapter judged the talent of the students in this two day event. A team consisting of Abhilash & Kunal represented the Chapter in the event.

Study Circle Meeting

During the month, seven Student Study Circle Meets were conducted on 6th, 12th, 13th, 16th, 22nd, 24th and 27th on various topics of academic interest. Members of the Chapter were present to guide the students.

2nd Student Induction Programme

The Second SIP for CS Executive program students was held from 14th February, 2011 to 20th February, 2011 in JSS Law College, Mysore. 66 students participated in this 7 Day program which consisted of 19 Technical Sessions. Faculty for the technical sessions were experts in their own fields and comprised of a judicious mix of Academicians, Industry Experts, Soft skills Trainers and professional Consultants. The feedback received from the students in respect of the choice of topics for the technical sessions, faculty, arrangements were extremely encouraging. In the Valedictory session Ms. Sadiya Parween was adjudged as Best Participant (*seen in the photo*) and Mr. Taha Sakeeb was awarded the Best Participation in Group Discussions. CS. C. K. Sabareeshan, Director, Sophos Academy of Management (P) Ltd (*seen in the photo*) and CS. Srilatha T G, Chairperson of Mysore Chapter were present during the occasion.



Professional Development Programme

On 20.02.2011, a program on “How to Incorporate a Company-Practical Approach” was held at the Chapter premises and CS. Sunil Kumar B.G., a PCS and the Secretary of the Chapter spoke on the topic. On 27.02.2011 the program was on “Charges-Practical Approach” and CS. Parvati K.R., Treasurer of the Chapter and also Company Secretary of M/s. Sree LPG Private Limited of Mysore was the speaker.

Participation in Milaap

The students of the chapter participated actively in the Students’ Meet MILAAP conducted by the Bangalore Chapter on 19th and 20th of February and participated in a number of programs like a mock session on Arbitration, Mime show and a presentation on Competition Law. In Mr. Milaap & Miss Milaap contest, Ms. Soundarya, an executive Program, was crowned Ms. Milaap.



Inter College Competitions

As a part of the Annual Students’ Program, Inter College Competitions were conducted by the Chapter on 27th February 2011 on Elocution, Essay Writing and Quiz competitions.

Umang -2011

...the Zeal to Excel



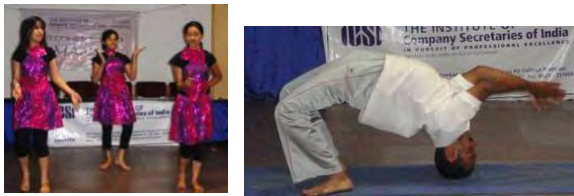
The students of Mysore Chapter celebrated the Annual Talents' Day of the Chapter- UMANG'11 on Sunday, the 6th March, 2011 at Tourism Development Institute Auditorium, KRS Road, Mysore.



The program was inaugurated by The Guest of Honour CS. Gopala Krishna Hegde, Member, Central Council of ICSI, the Chief Guest, Mr. Ashok Rao, President, Automotive Axles Limited, Mysore, CS. Dwarakanath, Secretary, SIRC of ICSI, CS. Baiju Ramachandran, Treasurer, SIRC of ICSI. CS. Nagendra Rao, Member, SIRC of ICSI, Chairperson of Mysore Chapter, CS. Srilatha TG, CS. Sunil Kumar B G, Secretary, Mysore Chapter were present during the occasion.



The new members of the Mysore chapter were welcomed and the students who brought laurels to the chapter by their remarkable representations in Regional and National Level Competitions were honoured. Competitions like Elocution, Business Quiz and Essay writing were organized a part of the program. The event to follow was the *Technical Presentations* by students from Mysore and Bangalore chapters on topics like LLP, Graphology, Tax Havens on Earth, Excess Payment of Remuneration and so on. The post lunch sessions included



Management games and a Mock Session on Arbitration. The Valedictory session was graced by CS. Sabareeshan C K, Past chairman of Mysore chapter and CS. P R Ramanathan, DGM - Finance & CS, MSPL Limited, Hospet. 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. The program was attended by around 150 delegates.

Project Update:

Building Design is completed. Foundation work has already begun. Dignitaries attending Umang visited the work site and appreciated the speed of the work.



Donors so far:

Name of the Donor	City	Rs.
CS. Subramanian R.	Mysore	10,000
CS. Jagannatham P.	Hyderabad	4,567
Rtn. S.N. Parthanath	Mysore	100,000
CS. Datla Hanumantha Raju	Hyderabad	25,000
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CS. Subash V.S.	Coimbatore	5,000
Rtn. K.N. Jagadeesh Kumar	Mysore	100,000
CS. Sabareeshan C.K.	Mysore	25,000
CS. Anshuman & Jayalakshmi A.	Mysore	300,000
CS. Srilatha T.G.	Mysore	40,000
CS. K. Sarina Chouta Harish	Mysore	25,000
CS. K Rajshekar & CS. Aarthi G Krishna	Bangalore	10,000
SIRC of ICSI	Chennai	100,008
CS. Baiju Ramachandran	Thiruvananthapuram	10,000
TOTAL		Rs.759,575

BUDGET 2011: MISSING FOCUS ON FDI IN MULTI BRAND RETAIL

There were many expectations that Foreign Direct Investment (FDI) in Indian Retail would be further relaxed, to some extent if not fully, in the latest Budget. The Finance Minister's Budget speech however, made no mention. The Budget's impact on the economy has not been significantly high in recent years. Some view this as an indicator of the declining role of the Government in the economy, while others feel this is because of the increasing tendency of the Government to take policy decisions outside the Budget. In case of FDI in Indian Retail, probably the latter is true.

Be that as it may, the Finance Minister needs to be complimented for the manner in which he has positioned his view. His logic is clear; there is no point in making premature announcements and thereafter finding explanations on why it has not been done. When there is certainty about the time when the relaxation can be done, then follows the announcement. Wish many others in the Government follow the same policy.

The Finance Minister has said that he favoured opening up the retail sector further to FDI, but hinted that the Government would wait for an opportune moment before taking the plunge. What is that opportune hour for which the Government is waiting?

There could be political considerations before such a major decision can be taken. Or, is it a mere attempt to build in acceptance gradually by emphasizing time and again that Indian Retail cannot redeem itself but for foreign capital? It would be an oversimplification to assume that acceptance can be gained so easily.

Take a recent example of a foreign entity in the Cash and Carry business. 100% FDI is permitted in India in whole sale cash and carry trade and this wholesaler has been in India for quite some time now. A decision by the State Government to issue a particular License to this entity to trade in some agricultural commodities took an ugly turn. While the wholesaler argues that its license is perfectly in

compliance with law, local traders, opposed the entry of foreign multinationals in agri-marketing, feel that the State Government has violated natural justice. We need not decide as to who is right. But what impact followed the government policy? It was reported that about 3500 shops dealing in all the notified agricultural commodities shut down their shops. In response, the said License was cancelled with immediate effect.

There is high resentment against permitted foreign wholesale cash and carry chains that they are selling direct to end consumers in breach of FIPB Rules. There is a demand that rules for such cash and carry trade should be tightened to ensure that these wholesalers do not get into retail from back door. Being so, is it easy to gain acceptance for direct retail by gigantic foreign corporations?

Yes, a mere opposition to FDI in retailing, just for the sake of opposing it, is not something which will be appreciated in a global economic scenario. But unrestricted permission under the garb of the free market theory is not a solution, as it could do more harm than good. There is nothing wrong in having a cautious and calibrated approach. The delay in doing this can be used by indigenous retailers to grow, to learn, unlearn, re-learn - just as the foreign retailers did earlier in their home markets.

If the main reason for justifying FDI in Indian Multi brand Retail is to attract foreign investment in cold storage chains,

transportation and agri-infrastructure, this Budget has focused quite strongly on creating an environment for higher investment in warehousing and allied activities. Infrastructure status has been granted to cold storage chains. Many other incentives are also placed to attract investment - Customs Duty benefits, opening up investments via ECB route, and the like. Improvement in back end infrastructure is the need of the hour.



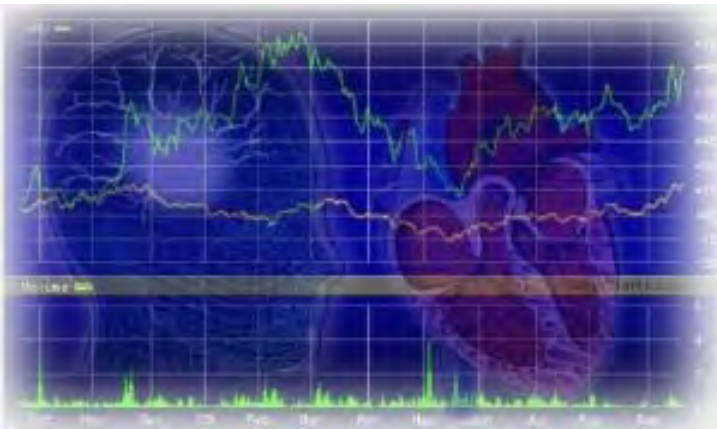
Union Budget is silent on allowing FDI in multi-brand retailing. This could be either for avoiding political controversies or for building a consensus gradually or for announcing this as an executive action at a later date. However, for such policy change, there needs to be a cautious and calibrated approach.



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"The views expressed in this article are personal."

COMPULSIVE TRADING SYNDROME



You are shopping on the busy street of a market place with your wife and children. Suddenly you see two groups of armed rioters smashing window panes, and marching towards each other – you realise it is the beginning of a riot. You are scared but in-charge. The first thing you do is, you ensure that your family is at a safe place. While you are forced to watch the anti-social activities, you refuse to participate – however, tempting it is to save lives of others. Why? Because your family comes first and nothing is more important than your family.

Relative to Equity Market, riots between the bulls and the bears is when you are unable to see a clear Trend. Just around the recession in early 2008, there were signs of difficult behaviour in the Equity Markets. There was a raging war between the bulls and the bears with no clarity on trends. Markets / Stocks would rise and fall at abnormal levels not giving opportunity to either buy or short sell. It may appear tempting to be a participant in the buzz thinking of the short meaty opportunity but as most of you will agree – in such times market always goes against your trade.

In the recent times, since the Diwali of 2010, the markets have been clearly in the phase of a riot. No clear trend and a lot of news, some good, some bad and some ugly. How much to trust this news to base our trading decisions is something perhaps none of us are aware. What we hear is, FIIs are selling, Domestic funds are selling and retail investors are selling, Raja is arrested, Rani is dejected and the markets are all over the place.

Compulsive Trading Syndrome (CTS) is not genetically inherited, but socially inherited under the influence of active dwellers of the financial securities trading community.

The fear or insecurity of being ostracized from the financial community is what results in CTS. Life is precious and each of us treasure it. Having said that, CTS seeps into our unconscious minds and controls us to take steps unknowingly which can lead to trading slavery - One eats, drinks, sleeps to *TRADE*.

No control hence no security! We all need security in our professional and personal commitments. Insecurity leads to the deeper loss... beyond personal and professional repair.

Research has highlighted several compulsive anomalies in human behaviour which is practiced unknowingly such as

compulsive eating, lying, gambling, spending, shopping, exercising etc., all with the desire to be in the race. Loss is inevitable.

Disastrous as it may sound, now that we have identified the genesis of the syndrome it is evident that the treatment mechanism rests with us.

In the recent times, the markets have been clearly in the phase of a riot. No clear trend and a lot of news, some good, some bad and some ugly! One of the most important key to being an intelligent trader is patience. Patience to wait and watch for the riot to end.



Sajjad A Qadir

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Remedy to CTS – ‘Take the chill pill!’ Make it a Sunday, have a lie-in and enjoy your freedom from ‘have to trade’. Pamper yourself as the renowned L’Oreal says – You are worth it!

Being an intelligent trader will make you CTS free. Intelligent trading needs a relaxed and secured mind. One of the most important key to being an intelligent trader is patience. Patience to wait and watch for the riot to end. After all how long will rioters be able to stand on their feet. Believe that they have to crumble.

To summarize; in a dynamic market, follow the trend; and when there’s no trend sit back and relax, your time will come and very shortly! Be intelligently connected to the market and not syndromically....



WHAT LIMITS US?

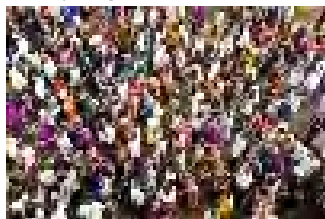


The BUZZARD: If you put a buzzard in a pen that is 6 ft by 8 ft but that is entirely open at the top, The bird, in spite of its ability to fly, Will be an absolute prisoner. The reason is that a buzzard always begins a flight from the ground with a run of 10 to 12 feet. Without space to run, **as is its habit**, it will not even attempt to fly. It will remain a prisoner for life in a small jail with no top.

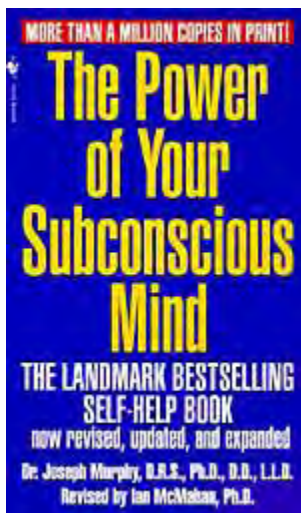
THE BAT: The ordinary bat that flies around at night, a remarkably nimble creature in the air, Cannot take off from a level place. If it is placed on the floor or flat ground, All it can do is shuffle about helplessly and, no doubt, painfully, until it reaches some slight elevation from which it can throw itself into the air. Then, at once, it takes off like a flash.



THE BUMBLEBEE: A bumblebee, if dropped into an open tumbler, will be there until it dies, unless it is taken out. It never sees the means of escape at the top, but persists in trying to find some way out through the sides near the bottom... It will seek a way where none exists, until it completely destroys itself.



The PEOPLE: In many ways, we are like the buzzard, the bat, and the bumblebee. We struggle about with all our problems and frustrations, never realizing that all we have to do is look up! That's the answer, the escape route & the solution to any problem! Just look up!



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BOOK REVIEW

CS. Hari Babu Thota,
 Bangalore



This book is available for download at <http://www.ichoosetoheal.com/>

“The Power of Your Subconscious Mind” by Dr. Joseph Murphy will give you the key to the most awesome power within your reach. This remarkable book will help you to achieve the seemingly impossible just by learning how to bring the incredible force of the subconscious mind under your control. The author presents simple, practical and proven effective exercises that can turn your mind into a powerful tool for improving your everyday life and unlock the secrets of success in whatever endeavor you choose.

Author claims that “The unique feature of this book is its down-to-earth practicality. Here you are presented with simple, usable techniques and formulas, which you can easily apply in your workaday world. I have taught these simple processes to men and women all over the world and recently over a thousand men and women of all religious affiliations attended a special class in Los Angeles where I presented the highlights of what is offered in the pages of this book. The special features of this book will appeal to you because they show you why oftentimes you get the opposite of what you prayed for and reveal to you the reasons why.

You will surely find that he is right in his claims. Enjoy your free copy by downloading the book, today.



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CG & CSR TOWARDS DEPOSITORS

For all listed companies in India it is obligatory to lay down a Code of Conduct / Ethics to be followed by its Board members and senior management personnel as required under clause 49 of the Stock Exchange Listing Agreement which is commonly known as Corporate Governance Clause. It requires the Board of a Company;

1. to lay down the Code of Conduct ;
2. to post the code of conduct on the web-site of the Company;
3. to affirm compliance with the code on an annual basis. The annual report of the Company to contain a declaration to this effect. This is an important declaration forming part of Director's Report which speaks about the manner in which the company carried out its duty and responsibility towards stakeholders, employees, suppliers, lenders, customer, government, society and community.

Such Code of Conduct generally covers following points:

1. Brief Introduction about the code.
2. Addressing the conflict of interest.
3. The honest behavior & ethical conduct.
4. Maintaining the confidentiality.
5. Fair dealing.
6. Protection & proper use of company assets.
7. Legal & regulatory compliance.
8. Equal opportunities.
9. Employees' safety and health.
10. Protection of environment.
11. Political independence.

A company having good corporate governance may take care of following, in relation to its Depositors.

1. Timely payment of interest, and repayment of deposit.
2. Prompt depositors service.
3. Prompt pre-mature payment of deposit in deserving cases.
4. Offering attractive interest on deposit.
5. Offering higher rate of interest to special category of depositors like senior citizens, widows, handicapped, defense personnel, company share holders etc.
6. Regular communication to depositors about quarterly results of the company.
7. Statutory compliance in relation to deposit.
8. Intimation to depositor about maturing deposit.
9. Reminders to depositors about unclaimed deposit.
10. Issue of Discount coupons to depositors.
11. Voluntary credit rating of its Fixed Deposit scheme.

The aim of above measures is to make Fixed Deposit Scheme **depositors' friendly**.

Validity of loan taken from public by a private limited company

An amendment in the definition of private limited company was made by inserting sub-clause (d) in Sec. 3(1)(iii) of Companies Act, 1956, w.e.f. 13-12-2000. It aimed to place restriction on private companies through their Articles of Association on their inviting or accepting deposit from persons other than their members, directors and their relatives.

In fact, section 3(1)(iii)(d) puts a restriction on acceptance of **"Deposit"** and not on **"Loan"**. Therefore, one may contend that company may very well go in for accepting **"loans"**. However, the explanation to Section 58A(11) of the Companies Act provides that **"For the purpose of this section "deposit"**

*means any deposit of money with, and includes any amount borrowed by , a company, but shall not include such categories of amount as may be prescribed in consultation with Reserve Bank of India." **This explanation includes "loans" also in the definition of "deposit"**.*

But, it may be observed that above interpretation provided in explanation to section 58A(11) is for the purpose of **that section only**. Such interpretation can not be extended to other sections of the Act. Therefore, "deposit" under section 3(1)(iii)(d) can not include "Loan" or other form of borrowings.

Thus if a private company accepts "loan", there would not be any contravention of this section and it will not lose its character of a private limited company. Therefore, it may be argued that a private limited company can accept "loan" but not "deposit". For accepting loan (which is a "deposit" with in the meaning of Section 58A and 58AA) the private limited company will have to comply with all the provisions contained in section 58A, 58AA of the Companies Act 1956, and Rules framed there under.

Once the Companies (Acceptance of deposits) Rules 1975 apply to the "Loan" taken by a private company, it will have to comply with this Rule. Such loan amount can not exceed 25% of paid up capital and free reserve of that private company.

There is a distinction between a Deposit and a Loan. Under Sec. 227(1A)(d) of the Companies Act 1956, an auditor of company shall report "whether any loan and advance made by the company have been shown as "Deposit". In case of deposit, it is accepted by the company at the instance of depositor where as in case of a loan it is the borrower who solicits the loan and at his instance loan is given.

Under the Indian Limitation Act, the obligation to repay the loan starts immediately after the loan is incurred, where as deposit falls due for repayment on its maturity date.

In case of deposit the depositor generally is an unknown person to borrower. However, in case of loan, the lender and borrower both usually know each other and after full interaction and negotiations, loan agreement is executed, on the terms and conditions agreed upon between them.

For a transaction to be characterized as "loan", it is essential that there is a request letter from borrower to lender asking for a loan. The loan documentation should be tailor made and should vary from loan to loan. However, at the same time, company shall have to accept all loans through FD Application form. Moreover, loan should not be accepted from several lenders instead loan of big amount may be taken from small number of persons or firms. Indiscrete acceptance of loan from all and sundry will be nothing but deposit.

Though for the sake of discussion it may be said that a private company can borrow by way of loan, in reality the path is not at all smooth. It is like walking on a tight rope. Such loans shall invite questions and clarifications from regulators. Therefore, Private companies are not at all advised to go in for such borrowings.

[\[to be continued...\]](#)



WEB YATRA

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Corporate Sustainability Reporting (CSR) is the buzz word in this new corporate era. More than 1700 corporates from over 60 countries in the world are publishing CSR reports every year. 20 plus corporates of India have published their CSR reports during the calendar year 2010. Now you may ask a question - how to believe these reports? Are there any guidelines for the same? The Global Reporting Initiative (GRI) is a network-based organization that pioneered the world's most widely used sustainability reporting framework. GRI is committed to the framework's continuous improvement and application worldwide. GRI's core goals include the mainstreaming of disclosure on environmental, social and governance performance. www.globalreporting.org is the website which helps us know the disclosure on economic, environmental and social performance, and comparable financial reporting, and is important tool to organizational success.

The process of sustainability reporting helps in understanding the various disclosures relating to material, social environmental, governances and economics issues of the corporate houses and it also articulates their endeavor to align social and environmental initiatives with national and international sustainable development efforts.

GRI will integrate the Global Sustainability Reporting Guidelines. It is a comprehensive framework developed to facilitate transparency and accountability for businesses and other organizations seeking to disclose their environmental and social performance. At the same time, the Global Compact will adopt the GRI Guidelines as the recommended reporting framework. More than 6000 corporate entities have joined hands with world's largest corporate responsibility platform i.e. GRI.

G3 guideline defines the quality, contents and set out the boundary of CSR reports. Search tips provides numerous information and data relating to Sustainability Reporting. Hope www.globalreporting.org helps in enriching your knowledge about the Corporate Sustainability Reporting (CSR).



IT FOR PROFESSIONALS

Amitkumar Hegde, B.Com, MCA,
Bangalore



The other day I was given a bunch of printed A4 sheets with some printed matter for typing them out in MS Word. Problem in hand! What is the solution? Start typing? Delegate it to someone else? Any alternative? None had a Clue.

Actually there is another solution. Using OCR software would solve your problem. But getting full fledged OCR software won't be feasible enough for once-in-a-blue moon kind of job. Here comes an online OCR which will serve the purpose. Here is what I did:



- 1) I did not have a scanner available so had to click all the pages using my digi-cam which took a while to get the right pictures without tripod.
- 2) Loaded up www.onlineocr.net on my favorite browser.
- 3) Uploaded the image of the page and chose "Recognize". It just recognized all the text on the image and provided it in the text box available. I had to repeat the process for all the images and copy paste the text extracted.
- 4) Copied the text to MS word did a round of spell check as there are chances for OCR to miss something. Formatted the text as needed.

Don't you thing that is a life saver..? It was for me as there was no way I was going to type all the 20 odd pages...!



Compilation:
Madhuri Hegde H R,
CS Professional Program, Bangalore

Learners' Corner

GOODS & SERVICE TAX



Abhilash U
CS Professional Programme, Mysore

The goods and services tax (GST) is a comprehensive value-added tax (VAT) on goods and services. France was the first country to introduce this system in 1954. Today, it has spread to over 140 countries. In India, a dual system GST is being proposed wherein a central goods and services tax (CGST) and a state goods and services tax (SGST) will be levied on the taxable value of a transaction.

Many Central and State level direct and indirect taxes, excise duties, service tax and luxury tax will be replaced with GST. Customs duty will be levied out of GST and may be replaced by VAT on imports.

GST is a tax on goods and services, which is leviable at each point of sale or provision of service, in which at the time of sale of goods or providing the services the seller / service provider can claim the input credit of tax which he has paid while purchasing the goods or procuring the service, just like VAT. Only difference is that it taxes both goods and services.

Generally, the manufacturers/ traders/ service providers registered under GST charge GST on the price of goods and services from their customers and claim credits for the GST included in the price of their own purchases of goods and services used by them. While GST is paid at each step in the supply chain of goods and services, the paying dealers do not bear the burden of the tax because GST is an indirect tax and ultimate burden is borne by the ultimate customer.

Types of GST systems:

1. **Invoice System:** In this system whether payment is cleared or not, the GST (Input) can be claimed on the basis of acknowledgment of invoice. The GST (Output) is accounted for when invoice is raised.
2. **Payment System:** In this system the GST (Input) can be claimed at the time of making the payment for purchases and the GST (Output) is accounted for when the payment is cleared.
3. **Hybrid System:** In this system GST (Input) can be claimed at the time of receiving invoice and GST (Output) is accountable on the ground of payment, if allowed by the law.

GST will result reduction in the number of taxes, cut in effective tax rate, removal of cascading effect of taxes, reduction in transaction costs for taxpayers through simplified tax compliance and increased tax collections due to wider tax base and better compliance.

The introduction of the GST is an important tax reform in India. Consensus and coordination amongst states are required for its success lack of which postponed the GST from planned date of April 1 2010. Finance Minister Mr. Pranab Mukherjee in his Budget Speech 2011 has said that the Government proposes to introduce the Constitution Amendment Bill in the current session to pave the way for introduction of the long awaited GST regime.



AMT

Special provisions has been inserted under the new Chapter XII-BA to cover taxation of LLP's. Concept of Alternate Minimum Tax (AMT) introduced on similar lines to MAT.

AMT is applicable at 18.5% on adjusted total income of LLP Adjusted total income = Total income as computed under the normal provisions of the Income Tax Act + Deductions claimed, if any, under Chapter VI-A and Section 10AA

Tax payable = AMT or tax under normal provisions of the Income tax Act, whichever is higher

Credit for tax paid under AMT allowed to be carried forward to be set off against tax payable under normal provisions of the Act upto 10 Assessment Year.

This shall be Effective from 01.04.2011 (AY 2012-13 onwards)



GLIMPSE OF ECONOMIC SURVEY: 2010 -11

- Robust growth in exports: 29.50% in 2010-11 as compared to negative growth of 3.50% in 2009-10
- Per capita net national income (factor cost at current prices): US\$54,527 in 2010-11, which is more than 17% higher than US\$46,492 in the PY
- Net inflows from FIIs marked at US\$22.3 billion during April-September 2010 as compared to US\$15.3 billion in the PY
- GDP growth rate registered at 8.6% during 2010-11 as compared to 8% in 2009-10

LEGAL ROUNDUP

CENVAT & Central Excise Case Laws

There is no requirement to pass any order extending the stay of recovery already ordered and the stay of recovery shall remain valid till the final disposal of the appeal.

Commissioner of C. Ex., Mangalore versus Indian Oil Corporation

Clandestine removal of goods and action taken beyond the period of six months would not set at naught the material evidence and collected during the investigation.

R.A. Shaikh Paper Mills Pvt. Ltd. Versus UOI

"The process of manufacture of essential oil starts with generation of steam by firing the husk in the boiler" hence the boiler was being integrally related to the process in relation to the manufacture of the said product.

Commissioner Of C. Ex., Rohtak Versus Surya Vinayak Industries Pvt. Ltd.

For making a claim for refund of excess duty paid it is applicable where the prices are provisional and the self assessment is made by the assessee.

Maharashtra Cylinders Pvt. Ltd. Versus CESTAT, Mumbai

No appeal can be disposed of unless the application under Section 35F of the Central Excise Act, 1944/under Section 129E of the Customs Act, 1962 is first disposed of.

COMMISSIONER OF C. EX., CHENNAI Versus ANNAPOORNA RE-ROLLING (P) LTD.

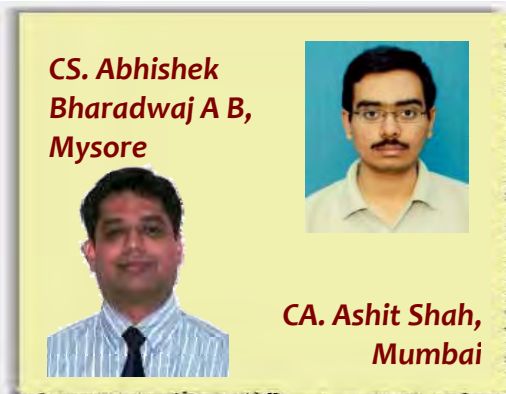
Principal of natural justice upheld and observed that principles of res-judicata do not apply in taxing statutes.

GANESH POLYTEX LTD. Versus UOI

HIGHLIGHTS ON UNION BUDGET 2011

- 1% duty has been imposed on 130 specified items which were earlier exempted, subject to non-availment of CENVAT credit
- Full exemption from duty withdrawn on IT products such as micro processors for computers etc.
- Duty rates on cement changed from specific rate to ad valorem
- Concessional rate of duty on merit goods increased from 4% to 5%. This would impact items such as medical equipment, drugs and food products

- Full exemption granted to equipment (air-conditioning/conveyer belt) for used for cold storage
- Concessional rate of provided for environment friendly and energy saving
- Goods such as hydrogen vehicles and hybrid kits
- Excise duty on packaged software to be levied on media value, where MRP not required to affixed
- Amendments made to carve out special category of cases (where five years limitation period is invoked) to provide 50% of the penalty amount in those



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

**CA. Ashit Shah,
Mumbai**

cases where the assessee has recorded the transaction in its books

- The Third Schedule has been amended to provide packaging, re-packaging of parts of earthmoving equipments as manufacture
- Definition of inputs and input services has been amended to exclude inputs/input services used for construction of building /civil structure, laying of foundation, etc.
- Definition of inputs to include goods cleared for free warranty
- Definition of input services amended to exclude trading activity
- Inputs and inputs services primarily usinputed personal use or consumption of employees excluded - services such as outdoor catering, health insurance, life insurance, etc. has been specifically excluded
- Credit required be reversing when inputs or capital goods have been partially or fully writing off in the books of accounts. Earlier, the provision was applicable only when the inputs were fully written off in books of accounts
- Definition of inputs and input services has been amended to exclude inputs/input services used for construction of building / civil structure, laying of foundation, etc.
- Rule 6 (5) of the Credit rules has been omitted. Now the manufacturer or

service provider is eligible to claim proportionate credit on all services attributable to taxable activity in terms of Rule 6(3A)

- The amount payable on exempted services (when credit on common inputs/input services has been claimed) has been reduced from 6% to 5%
- Service tax paid under reverse charge to qualify as eligible credit under Rule 3 of CENVAT Credit Rules, 2004 from 18.4.2006
- The restriction on credit under Rule 6 is not applicable in case the taxable services are provided without payment of service tax to SEZ unit/zone/developer

Customs Notifications

Notification issued to categorise and include some goods to First Schedule to the Customs Tariff Act, 1975 (51 of 1975)- exempted goods description.

Notn. No. 7 /2011 dt. February 9, 2011

Case Laws

Duty drawback or claim for duty drawback is nothing but a claim for refund of and Settlement Commission had jurisdiction to deal with the question relating to the recovery of drawback erroneously paid by the Revenue.

UNION OF INDIA Versus CUS. & C. EX. SETTLEMENT COMMISSION, MUMBAI

In case of confiscation of goods the penalty of amount will be equal to evaded duty under Section 114A.

UNIVERSAL ABRASIVES & MINERALS (P) LTD. Versus COMMRR. OF CUS., CHENNAI

HIGHLIGHTS ON UNION BUDGET - 11

- Definition of 'Completely Knocked Down' added for concessional customs duty
- CVD on packaged software to be levied on media value, where MRP not required to affixed
- BCD @2.5% levied on import of aircraft by non scheduled operators
- Exemption from BCD, SAD and CVD @5% on specified parts of hybrid vehicles
- All clearances (manufactured or traded) from SEZ to DTA exempt from SAD provided VAT/CST is not exempt
- Exemption from full customs on parts, component and accessories for manufacture of PC connectivity cables/battery chargers/hands free headphones of mobile handsets

- List of specified raw materials for use in electronics/IT industry, eligible for custom duty exemption expanded
- Exemption from SAD to P&P Medicines imported for retail sale
- Requirement of cash security done away under project imports which will be subject to a maximum BG of INR 1 Crores
- Time limit for filing of refund claim/issuance of show cause notice extended from 6 months to 1 year
- Provisions of self assessments and audits introduced

Service Tax

Notifications/ Circulars

Exemption is being provided to service provided by an organizer of business exhibitions in relation to business exhibitions held outside India.

[Notification No. 5/2011 - dated 01-03-2011]

Revision in the rate of tax in respect of travel by air services. These new rates would be effective from 01-04-2011.

[Notn.No. 4/2011 - dated 01-03-2011]

Exemption from whole of service tax is being provided under Works Contract Services when provided for the construction of residential complexes or completion and finishing of new residential complex under Jawaharlal Nehru National Urban Renewal Mission (JNNUR) or Rajiv Awaas Yojana (RAY).

[Notn. No. 6/2011 - dated 01-03-2011]

Exemption from whole of service tax is being provided to insurer carrying on General Insurance business for providing insurance under Rashtriya Swasthya Bima Yojana.

[Notn.No. 7/2011 - dated 01-03-2011]

Exemption has been provided to service provider for execution of works under Works Contract Services when provided wholly within Air port, from whole of service tax with effect from 01-03-2011

[Notn. No. 10/2011 - dated 01-03-2011]

Exemption has been provided to service provider for execution of works under Works Contract Services when provided wholly within port or other port for construction, repair, alteration and renovation of wharves, quays, docks, stages, jetties, piers and railways from whole of service tax with effect from 01-03-2011

[Notn.No. 11/2011 - dated 01-03-2011]

Rate of interest on delayed payment of service tax has been enhanced from 13% p.a. to 18% p.a. with effect from 01-04-2011

[Notn. No. 14/2011 - dated 01-03-2011]

Exemption by way of abatement of 25% from the taxable value being provided in respect of services rendered in relation to "transport of coastal goods", "goods transported through "national waterways" or "inland water ways" with effect from 01-03-2011

[Notn. No. 16/2011 - dated 01-03-2011]

Case Laws

Question arose before Commissioner whether dredging service that is dredging of river whether covered held that is taxable service.

MACKINTOSH BURN LTD. Versus COMMISSIONER OF SERVICE TAX, KOLKATA

Cenvat credit of service tax Consultancy Services are for environmental evaluation work held that they are entitled to cenvat credit of service.

CABOT SANMAR LTD. Versus COMMISSIONER OF CENTRALEXCISE, SALEM

If adjudication order does not disclose any mala fide of Assessee no penalty shall be exigible in view of the provision contained in Section 80 of the Finance Act, 1994.

COMMR. OF CUS. & C. EX., MEERUT-II Versus SANDEEP BOBBINS CO. PVT. LTD.

Highlights from Union Budget - 11

- 2 new services introduced
 - Services by air-conditioned restaurants having license to serve liquor
 - Short-term accommodation in hotels/inns/clubs/guest houses etc.
- Expansion in scope of existing services, including:
 - Health Services
 - Legal Services
 - Life Insurance Services
 - Business Support Services
- Point of Taxation Rules, 2011 effective from 1.4.2011 and corresponding alignment in Service Tax Rules
- Penalty provisions redefined
- Port, Airport and railways related exemptions provided
- Provisions relating to Prosecution reintroduced
- Export & Import of Services Rules amended
- Modified scheme introduced to refund service tax to SEZ units and Developers

FEMA & SEBI

Uniform Capital norms for all NBFCs:

- As per existing provisions, every deposit taking NBFC shall maintain a minimum capital ratio consisting of Tier I and Tier II capital, which shall

not be less than 12% of its aggregate risk weighted assets on balance sheet and of risk adjusted value of off-balance sheet items.

- Accordingly, all NBFCs (both deposit taking and non-deposit taking) shall maintain a minimum capital ratio consisting of Tier I and Tier II capital, which shall not be less than 15% of its aggregate risk weighted assets on balance sheet and risk adjusted value of off-balance sheet items w.e.f. March 31, 2012.

Capital subsidy for additional investment by MSME units situated at North Eastern Region:

Both the Central and state governments are offering various incentives such as capital subsidy, tax concession, single window clearance, etc.

Notification date 2nd January 2011

Penalty for delay in Demat of shares:

SEBI imposed a monetary penalty for the delay in the dematerialization of shares.

Sharp Industries Ltd order No.197/2010 dated 4th February 2011

Others

General Highlights: Budget - 2011

- Significant progression towards introduction of GST
- No change in peak/standard rate of Customs Duty, Excise Duty and service tax
- Term 'Input', 'Input Services', 'Exempted Goods' and 'Exempted Services' re-defined
- Standard of Weights and Measure Act, 1976 replaced by Legal Metrology Act, 2009
- Tariff to be amended to include latest changes in the HSN effective 1.1.2012
- Point of taxation rules made effective from 1.4.2011
- Amendment made in line with National Litigation Policy
- Interest rate on delayed payment increased from 13% to 18%
- DTC to be effective from April 1, 2012
- Companies Bill and GST constitutional amendments to be introduced in Budget session
- Indian Stamp Act to be reviewed
- Foreign investment liberalisation talks on
 - FDI in mutual funds on the cards
 - FII investment limits in infrastructure corporate debt enhanced
- Facilitating infrastructure financing (Notified infrastructure debt funds, taxfree bonds, etc)
- Self-declaration for customs purposes
- Anti-tax evasion measures proposed



Cabinet clears Banking Regulation (Amendment) Bill

The Cabinet today gave its nod to the Banking Regulation (Amendment) Bill, which proposes to increase the voting rights of foreign investors in private sector banks among other proposals. The Bill – which seeks to align the voting rights of foreign shareholders in banks in proportion to their equity holding – will make it easier for banks to raise capital. At present, there is a 10 per cent cap on voting rights of foreign entities in private banks, regardless of their shareholding. The Bill seeks to liberalize norms for raising capital through preference shares, according to government officials.

Onion, Cement Price Hike under CCI Scanner

The Chairman of CCI told that, Commission has received complaints about the sudden rise in the prices of cement and Onion during the last few weeks. 'However, the Chairman added that, CCI cannot control the prices or inflation and it is not even its duty but it can check that there is healthy competition in the market to safeguard the interests of consumers

Separate IPO Norms for Life Insurance Companies Soon: IRDA

Insurance Regulatory and Development Authority (IRDA) has announced that the guidelines for initial public offers (IPOs) by life insurance companies would be released soon and Non-life insurers might have to wait for a few more months. In October, the Securities and Exchange Board of India (SEBI) had allowed life insurance

London Partners with Indian Banks for Rural Development

Focus on enterprise development activities and to make the rural masses self -sustainable, the Commonwealth Secretariat, London, has partnered with public sector banks Corporation Bank and Central Bank of India to provide credit to young people, women living in rural areas of India.

Micro, small and medium enterprise (MSME) development is the most important sector for the developing countries which provides employment and is also very important for inclusive socio-economic growth.

Religious Trusts Team up to Oppose DTC

The Direct Tax Code has brought together religious trusts across the spectrum. A host of Jain, Parsee, Muslim, Hindu, and Christian trusts have come together under a federation in a fight for survival against a proposal to remove religious trusts from all exemptions under income and wealth tax could force thousands of these bodies to wind up operations.

Sectors seek exemption from CCI Provisions for M&A Norms: MCA

Sectors seeking exemption from merger and acquisition scrutiny provisions under the Competition Act can approach the Corporate Affairs Ministry directly, a senior government official said. Some sectors, like banking and shipping, had been lobbying for long for exempt from the freshly notified provisions of the Competition Act 2002 that mandate companies beyond a certain threshold limit to take the Competition Commission's approval before initiating a merger.

SMEs can collaborate with U.S. Counterparts

The government said that Indian small and medium enterprises (SME) can collaborate with their US counterparts in the field of agriculture, IT and healthcare to help each other in production and marketing of their products.

Corporate Funding To Political Parties

Accounting regulator ICAI suggested that corporate funding to political parties should be treated as expenditure in order to increase transparency in financial statements and curb black money flow.

India ASEAN Relations

The Prime Minister of India, Dr Manmohan Singh, and the Secretary-General of ASEAN, said they were pleased with the establishment of the ASEAN-India Eminent Persons Group, which has been tasked to take stock of the dialogue cooperation so far and suggest concrete recommendations as ASEAN & India are gearing up to the 20th anniversary of their dialogue partnership. (www.aseansec.org)