



Mysore Chapter

eNewsletter

90th Edition

July 2011

5

**Anti-Corruption
Legislations**

7
Eyes

**“Share”
Commandments**

6

filled with tears...



For Private Circulation Only

"WORDS WORTH MILLIONS"



" Everything can be sacrificed for truth. But Truth can't be sacrificed for anything."

- Swami Vivekananda

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MESSAGE FROM CHAIRPERSON



Dear Members and
Students of CS fraternity,

The Ministry of Corporate Affairs has issued a bunch of new circulars and notifications, setting the professionals stand on their toes. Keeping us updated and being equipped to handle the changes effectively is the need of the hour and I'm sure the fellow professionals are geared up to face the new challenges and shoulder new responsibilities.

Mysore Chapter is all set to celebrate the India Investors Week 2011 from 12th July 2011 to 17th July 2011. Number of programs are scheduled to be held in and around Mysore.

The Students of the Chapter have made us all proud once again and the Chapter congratulates the teams that participated in the Regional Level competitions held in Chennai. On behalf of the Managing Committee and all members and students of the Chapter, I wish Abhilash U and Varun D B all the very best in the upcoming National Level Company Law Quiz where they would be representing SIRC.

Yours in CS fraternity,

CS. Srilatha T G

Inside.....

Articles:

Anti-Corruption Legislations...5
Share Commandments...6
Eyes filled with tears...7

Columns:

Chapter Activities...3
Appeal from Mysore Chapter...4

Living Room: Who is packing your Parachute?...4

WWW Yatra: Law is Greek...8

IT for professionals: Google Chrome...8

Spectrum Space...9

Legal Roundup ... 10

News Room...12





Session on Corporate Restructuring

A session on Corporate Restructuring was conducted on 12th June 2011. CS. Abhishek Bharadwaj addressed the students on various issues pertaining to Corporate restructuring basically covering the syllabus for Professional Course.

Study Circle Meetings

The Chapter organized Study Circle Meetings on 5th and 12th of June. Various topics relevant to the students were discussed and the members and senior students clarified the doubts raised by the students.

Career Guidance Program



The Chapter arranged a number of Career Awareness Programs on 13th, 14th and 15th of June respectively at Mandya, Gundlpet and Mysore respectively. The Program was conducted by CS. Anshuman A S, and while addressing the students, he gave them an insight to the Company Secretaries Course and the Career Prospects for CS. Pamphlets about the Course were distributed to the participants. Around Three Fifty students were benefitted by this program.

Investor Awareness Programs



Three Investor Awareness Programs were held in this month respectively on 13.06.2011 in PES PU College, Mandya, on 14.06.2011 in JSS PU College, Gundlpet and on 16.06.2011 in Manasaravara Pushkarani Vidyashrama at Mysore. CA. Francis P W, a Practicing Chartered Accountant from Mysore & CS. Anshuman A S were the resource persons for the Program. The participants were briefed about various modes of investments, Primary and secondary Market, do's and don'ts for investors, idea about stock market etc...

Moot Court & Company Law Quiz

Orientation for the participants of Moot Court and Company Law Quiz was given on 12th June and the Chapter level preliminary selection round competitions were conducted to select the team that represents the Chapter at Regional Level.

The Chapter level Moot Court competition was conducted on 14th June 2011 and the participants were judged by Mrs. Bollamma A M and Mrs. Shilpa. M N. Rahul R B and Bharath S were selected to represent the Chapter in the regional level Competition. In the regional Level Competition held at SIRC, the Mysore Team secured Second Place.

The Chapter Level Company Law Quiz competition was held at the Chapter on 20th June 2011 and the competition was coordinated by CS. Parvati K R. Abhilash U and Varun DB were selected for the Regional Level competition. The Mysore Team was selected to represent SIRC in the National Level Quiz scheduled to be held in Delhi.

Seminar on Recent Developments in Company Law



The Chapter organized a seminar on 20th June 2011 on 'Recent Developments in Company Law. The Speaker for the Program was CS. Sreedharan, PCS from Chennai. He addressed the members and students on the recent circulars of MCA covering XBRL reporting, Office or Place of Profit, Incorporation and Name Availability, Cost Audit & Cost Records etc., and also gave an insight as to its impact on practicing professionals. Around 30 members and Students of the Chapter were benefitted by this program.

Meeting With ROC

The Chapter was invited for the meeting with the Registrar of companies, Bangalore regarding the Programs to be conducted in Mysore utilizing the IEPF fund of MCA. The Chapter was represented in the meeting by CS. Sreeraj M. Various programs were scheduled to be held in Mysore, Mandya and Chamarajnagar District.

Appeal from Mysore Chapter



We are happy to inform you that making of ICSI Bhavan at Mysore is on schedule and is expected to be completed by November 2011. We request you to kindly go through the project details at the Chapter website www.icsi.edu/mysore. Please provide us your valuable suggestions.

Your contribution for the project will not only augment the resources but will assure us that colleagues from all over the country are with us. Further, we will be very much obliged if you can use your good offices for obtaining donations from Corporates, philanthropists etc.

LIVING ROOM



"WHO'S PACKING YOUR PARACHUTE?"

Charles Plumb was a US Navy jet pilot in Vietnam. After 75 combat missions, his plane was destroyed by a surface-to-air missile. Plumb ejected and parachuted into enemy hands. He was captured and spent 6 years in a communist Vietnamese prison. He survived the ordeal and now lectures on lessons learned from that experience!



One day, when Plumb and his wife were sitting in a restaurant, a man at another table came up and said, ' You're Plumb! You flew jet fighters in Vietnam from the aircraft carrier Kitty Hawk. You were shot down! 'How in the world did you know that?' asked Plumb. 'I packed your parachute,' the man replied. Plumb gasped in surprise and gratitude. The man pumped his hand and said, 'I guess it worked!' Plumb assured him, 'It sure did. If your chute hadn't worked, I wouldn't be here today.'

Plumb couldn't sleep that night, thinking about that man. Plumb says, 'I kept wondering what he had looked like in a Navy uniform: a white hat; a bib in the back; and bell-bottom trousers. I wonder how many times I might have seen him and not even said 'Good morning, how are you?' or anything because, you see, I was a fighter pilot and he was just a sailor.'

Plumb thought of the many hours the sailor had spent at a long wooden table in the bowels of the ship, carefully weaving the shrouds and folding the silks of each chute, holding in his hands each time the fate of someone he didn't know.

Now, Plumb asks his audience, 'Who's packing your parachute?'

Everyone has someone who provides what they need to make it through the day by providing physical parachute, mental parachute, emotional parachute, and spiritual parachute.

Let us thank them. Also let us not forget to pack parachutes for others.



ANTI-CORRUPTION LEGISLATIONS

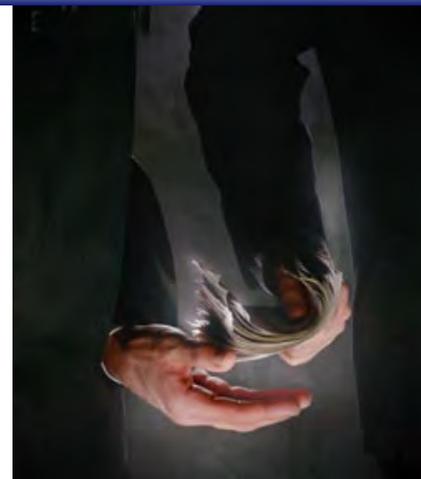
Ever since 2010 became the 'year of scams', anti-corruption measures have suddenly received sharp focus and public attention in India. Let us leave aside the public debate. Do legal measures against corruption impact business in India?

Bribery undermines democracy and rule of law and poses serious threats to sustained and inclusive economic progress. It hampers the proper operation of free markets. Hence, two legislations are discussed herein which intend to respond to the broad range of ways in which bribery can be committed, by providing enhanced sentencing powers for courts, and wide jurisdictional powers. USA has a Foreign Corrupt Practices Act (FCPA) which imposes substantial fines for breach. UK has recently introduced the Bribery Act which is much broader than the FCPA.

Indian companies frequently invest in the US or the UK, or have significant business dealings with US/ UK customers, clients and business associates. This directly subjects such Indian companies to these legislations. While these countries may have other legalities to handle corruption by their citizens, or within their soil, it is important to note that these two legislations focus on preventing corruption across jurisdictions. These legislations could affect companies which have no presence, subsidiary or listing in USA / UK but have any kind or form of business or investment connections with or in these countries. The US nexus that FCPA requires is interpreted widely. Paying a bribe in US dollars is sufficient to establish a US connection. The US has become more serious about accurate books and records and robust internal controls due to passage of the Sarbanes-Oxley Act. The tough UK Act seeks to prosecute companies and individuals who not only offer or receive bribes but also fail to prevent bribery. An Indian acquiring company may inherit the liabilities of the acquired US/ UK company under FCPA or the UK Bribery Act for bribes the target company may have paid. Further, bribing a foreign public official is a serious offence. An offence is committed where a person offers,

promises or gives a financial or other advantage to a foreign public official with the intention of influencing the official in the performance of his or her official functions.

Under FCPA there is no threshold for the dollar amount and even small bribes can result in big penalties.



An Indian acquiring company in US/UK may inherit the liabilities of the acquired US/ UK company under FCPA or the UK Bribery Act for bribes the target company may have paid.



India does have a Prevention of Corruption Act (PCA), which is not rigorously enforced.

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"The views expressed in this article are personal."

India does have a Prevention of Corruption Act (PCA), which is not rigorously enforced. Regardless of whether the accused are liable under PCA in India or not, they may be liable under the FCPA or the UK Bribery Act. Thanks to globalization, corruption has multiple fall-outs.

The risk of falling under these two legislations should not be underestimated. Companies will need to show that they have robust procedures in place to prevent corruption. Lawyers are being consulted by many Indian companies which have some kind of a nexus with the US/ UK, to understand the impact of these two legislations. While bona fide, reasonable and proportional hospitality, promotional or other business expenditure is permitted as per fair customary practices, the intention should not be to influence the official in his or her official role and thereby secure business or a business advantage. Companies prosecuted must show they have adequate procedures in place to stop bribes. Such procedures may include providing anti-bribery training to staff, carrying out risk assessments for the markets being operated in, or carrying out due diligence on the people being dealt with.

There are some places in the world where business cannot be done without engaging in the commonly accepted bribery and corruption practices; India is perceived to be one such highly corruption prone country. Whether this perception is right, and how seriously does India want to change this perception are matters for separate discussion.

It's been over a decade since I have been actively involved in the Equity Markets. In these many years I have seen so much; the bull run, the bear attack, an extremely volatile market and an absolutely flat market.

My experiences and observations have many a times tempted me to start scribbling. One of the titles that spontaneously spells out by itself is "The Phases of Equity Market". However in spite of the phase where the 'big boys' scams were unearthed and the markets fell like there is no tomorrow, I'm reconsidering my option of writing.

Yes to be honest, 'the markets never fail to surprise' and this is what I realised. I believe in it and constantly cascade the same to my friends. We all know the truth of the markets - what the markets may do in the following days/months/years is something no one can ever predict.

The only prediction I can make here is that they will definitely surprise.

During these many years, I met a lot of Gods of market - chartists, analysts (both fundamental and technical), executives with insider news, executives working for mutual fund companies to tell me what the mutual fund houses are going to buy so I could buy before them on their advice. In short so many market Quacks! Let me give some credits to them; sometimes these advices / tips worked. Many a times they did not.

An example will perhaps explain to where I am coming from. There was an instance where I got the best returns ever on one such TIP. I had bought a small cap called Karuturi Global Networks way back in 2004. The stock over the next 4 years until 2008 gained over 40 times. Wow I could not believe this happened and thanked everyone above the seventh heaven...you must be extremely happy with my good deeds to shower 40 times!! An amazing feat. Although this humongous gain did wash-off a lot of loses I had incurred due to losing trades based on bad tips, I was confused. I did not know if I should feel happy for this gain or I should be worried. That's right, worried. Worried, because this was just a fluke, something just happened in a matter of chance. Off the 100 trades I entered, this one did exceptionally well. But what are the chances that I will be able to repeat such a feat. I did not know. (To tell you the inside story of me...it never happened again).



While in my confused state of celebration phase and the constant focus on waiting to get another such opportunity, I had a Eureka moment. Yes it was something which grew from a thought to mind calculations to logic and there it was...an absolute Eureka Moment. Post this, I tested it again at several phases of the Equity Market, waiting once again for the markets to surprise..it just worked perfect. Today I call it as the 'Ten Commandments of Investing in the Equity Markets'.



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Sometimes advices / tips work. Many times they don't. Be careful while repeating success story in the share market. You might have gained out of just a fluke!

Since last four financial years: precisely 2007-08, 08-09, 09-10 & 10-11, I have been following these commandments as commandments.

No compromise whatsoever. The yearly profits were - 90%, 320% 90% & 80% respectively. My capital has grew 27 times in 4 years and more to my amazement

was, i got the highest returns during the herd-spread "death phase" of markets during 2008-09. These results were smaller than I made in Karuturi Global Ltd., but I am happy with these results, very happy actually.

I am happy because I know what I did. I know how I got the returns and I could do it over and over again. I created it and I can re-create - this is a joy that cannot be compared.



I decided to share. Ever since I started teaching equity markets, a lot of my students have made similar profits.

No relying on tips or any sorts, no research reports, no analysis; purely follow the commandments. The satisfaction you get

when you see people prospering and you being the source of it, is truly intoxicating.. it gives me a HIGH!!



Eyes filled with tears...

Cribbing and crying is what we see most of the times when people are not happy about a situation, be it at home or at office or public life. Reasons are plenty - low salary, denial of facilities, unjust behavior of others, corruption in the country, terrorist attacks.... Crib and cry...

Gradually, show complacency with the situation. Blame your fate!

Is there no alternative?

Eyes, when filled with tears can never have good vision.

What can probably change the situation is, when we cast away the tears and rise to Act.

Comparison is what causes the misery, we compare with all that seems better than our situation. We compare ourselves with others whom we regard as superiors- only as far as income/benefits are concerned; we compare our institute with other institutes - only keeping regard to the wealth earning opportunities are concerned; we compare our country with other economically advanced countries - only with respect to facilities are concerned; and then continue to chart out the infirmities in our own lives. Once again, crib... We do all of this in total disregard to the privileges that our situation afford us; we turn a blind eye to the positives of our side. We simply overlook the roadblocks, uphill roads that our envy objects are subjected to.

If at all we want to compare, let us start benchmarking our own achievements- let us begin by conforming to commitments and complying with duties-at the individual level, at the level of institution and at the country's level.

Are we alert enough to overcome our short comings at all these levels?

Let us understand our needs and eligibilities and that our demands are justified. Let us frame action plans for both filling the eligibility gaps and demand - supply gaps. Then, let us really fight at all levels to have the desired situation.

Fight at certain levels requires more resources than one can have. Action plans need to come with means to resources. If Anna Hazare is fighting at national level to change the corrupt situation, let us support and gather support! If defense forces are fighting terrorism, let us support. If some one else is fighting at various other levels to improve the situation in the society, institute, office.... let us support!

If we have to take a roll, let us take it. 'Better tomorrows' never come for free.



Cribbing can never solve the problems. It is only the strategic & consistent fight that solves. Eyes, when filled with tears can never have good vision. 'Better tomorrows' never come for free. Let us act, at least now.



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Who says we can't question laws in this country unless we have power? The power of right knowledge gives us the power to question the government. www.lawisgreek.com is a website of community of people interested in understanding the provisions of various laws and legal system of our country. Site provides information on top Indian Laws like Constitution of India, Corporate Laws, NRI laws, tax laws, Writs etc... Site is tagged and supplies information on Company Law, Consumer protection, Human Rights violations, Legal workshop & Corporal punishment.

Corporate Laws, NRI laws, tax laws, Writs etc... Site is tagged and supplies information on Company Law, Consumer protection, Human Rights violations, Legal workshop & Corporal punishment.

Website also renders services for Students, Lawyers and Layman. Student services helps students in legal research, writing, essays, drafting and moot court preparations. Forum helps us to share information on various legal issues. Students, can discuss about topics in forums, can update with current legal issues and share their views through on the site. Law Is Greek (LIG) endeavors to connect lawyers with laypersons and other law experts. This feature enriches the knowledge of Law and its provisions. Further any one can calculate his tax liability through TAX CALCULATOR. We can share what we want to say and we can try to bring changes in the socio-legal system that exists today in our country by becoming a member of LIG family.



Let us say you work on multiple computers; one at office and one at home. If you were wishing that all your bookmarks, add ons, themes be available in all the places, then you can do exactly that with Google Chrome. If you add a URL to your bookmark collection at office and wanted to check it at home in your leisure time, chrome has an easy way to achieve that. Instead of adding it to a third party bookmark add on or a social bookmarking site which in many cases will be blocked at office, just add it to chrome bookmark and it will be available at home.

Let us see how can we get it working for us: First of all install Google Chrome from <http://www.google.com/chrome> if you do not have it installed already. Click on the settings button located at the right top and choose Options. Choose Personal Stuffs on the left panel. On the right pan locate the Set up Sync and click on the same. Provide your Google account user name and password to login; once you are validated and signed in, you can choose what all data needs to be synced. You can either choose all of them or a couple of them such as your bookmarks.

Once your are done with these simple steps, Google Chrome keeps all your data synced on its server. To sync Google Chrome on another PC, just repeat the above steps and chrome will automatically download all your settings from the server.



Simple enough but quite useful..!



Is this name available?

Ministry of Corporate Affairs (MCA) vide General Circular 45/2011 dated 8th July 2011 issued a new Name availability Guidelines, 2011. This circular is in supersession of all the previous circulars and instructions issued by MCA from time to time regarding name availability, the applicants and Registrar of Companies are advised to adhere to new guidelines while applying or approving a name for a new company.

In new guidelines, there is an option in the e-form 1A for certification by the practicing Chartered Accountants, Company Secretaries and Cost Accountants, who will certify that they have used the search facilities available on the portal of the Ministry of Corporate Affairs (MCA) i.e., [www.mca.gov.in/ MCA21](http://www.mca.gov.in/MCA21) for checking the resemblance of the proposed name(s) with the companies and Limited Liability Partnerships (LLPs) respectively already registered or the names already approved and the search report is attached with the application form. Further the practicing professional will also certify that the proposed name is not an undesirable name under the provisions of section 20 of the Companies Act, 1956 and also is in conformity with Name Availability Guidelines, 2011.

Where e-form 1A has been certified by the professional in the manner stated above, the name will be made available by the system online to the applicant without back-end processing by the Registrar of Companies (ROC). This facility is not available for applications for change of name of existing companies.

The new guidelines provides the basis for considering the identical or similar names which needs to be disregarded and also other things to be considered while certifying availability of a name for the company. Where a name has been made available online on the basis of certification of practicing professional in the manner stated above, if it is found later on that the name ought not to have been allowed under provisions of section 20 of the Companies Act 1956 read with these Guidelines, the professional shall also be liable for penal action under the provisions of the Companies Act, 1956 in addition to the penal action under Regulations of respective professional Institutes.

Pick of the Month

What are Defensive Stocks?

Defensive stocks are those which are usually recession resistant in nature. The stocks of most of the Industries which are into manufacturing and supply to human needs or vices fall into defensive stocks category. This includes sectors like electric and gas utilities, drugs, health care, food and FMCG. Demand for their products remains stable even in uncertain economic times. However, they might not have excellent growth rates.



Did you Know



The number of Section 25 Companies in India

As per the list disclosed in Ministry of Corporate Affairs website (www.mca.gov.in) there are about 2487 Companies Incorporated under section 25 of the Companies Act, 1956 in India.



By:

**Pavan Kumar MS,
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**Team Genicon,
Chennai**

**CA. Ashit Shah,
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Delhi CESTAT has held that goods cleared from export oriented undertaking to a domestic tariff area has to be clarified on the basis of classification contained in the Central Excise Tariff read with harmonized system of nomenclature.

*CC Vs. Sesame Foods Private Limited
[2011]266 ELT 134 (Delhi)*

Service Tax Clarifications/Notifications

Pursuant to Point of Taxation Rules, 2011 service tax liability is to be discharged either on issuance of invoice or completion of service or receipt of consideration, which ever is earlier. However, concession of old system of discharging service tax liability i.e. when payment is received from client or customer is extended to certain category of services. viz. CA, CS, ICWA, Legal Services, Architects, Interior Decorators and Consulting Engineering Services, if such persons carrying on business or profession as individual or proprietorship or partnership concerns This benefit is further extended to Scientific or technical consultancy services w.e.f. 01-07-2011.

Notn. 41/2011 - ST - dated 27-06-2011

The Revenue Bar Association, Madras, filed a Writ Petition in the Madras High Court challenging the validity of levy of service-tax on "legal consultancy services". The Court has passed an order of interim injunction dated 24.06.2011 restraining the Ministry of Finance from compelling the members of the Petitioner from registering themselves with the service tax authorities and collecting service-tax from them until further orders.

Writ Petition was filed before Delhi High Court (CWP No. 4062 of 2011) against the withdrawal of exemption Notn. 32/2011 in regards to services provided by CA/CS/ICWA from representation services before any statutory authority in the course of proceedings initiated under any law for the time being in force. Stay has been granted for not to give effect to Notn. 32/2011 till the next hearing date i.e. 06-09-2011.

Case Law

A tax tribunal has ruled that service tax will apply on the proposed GMR-led joint venture in Special Economic Zone to provide maintenance, repair and overhauling (MRO) facilities to domestic and foreign airlines.

Company Law

Auditors Signature for XBRL reporting

Statutory auditors are required to sign the Balance Sheet and Profit and Loss Account in extensible Business Reporting Language (XBRL) mode filing in MCA 21 portal.

No new DPINs any more

To avoid duplicity, now MCA has mandated that persons desire to member of Limited Liability Partnership has to obtain the DIN under MCA and persons having DPIN can be used as DIN for all the purposes of the Companies Act and vice versa.

Declaration for availability of name

For applying a new name of a Company, applicant is mandatory to give a declaration as complying the Section 20 of the Companies Act, 1956. There is another option to give that declaration by the certified professionals.

Green Initiative

Another step towards green initiative, now all certificates and standard letters will be issued by the Registrar of Companies through electronically by attaching Digital Signatures.

Last opportunity by Ministry

MCA has decided to reopen all the pending filings and to place in a category as "Held in Abeyance."

Defaulting Companies barred from further filing

No request whether oral in writing or through e forms for recording any information or events shall not be accepted by the ROC from the defaulting Companies and their Directors which have not filed their Balance Sheet or Annual returns for the Financial year 2006-07, 2007-08, 2008-09 and 2009-10.

Cenvat

Notifications/ Circulars

CENVAT Credit rules have been amended to extend the CENVAT credit on the basis of supplementary invoice issued by a provider of output service, in absence of any fraud, collusion.etc.

Notn. 13/2011 -CE(NT) dtd 31.03.2011

Case Laws

Cenvat credit on Inputs cannot be denied merely for the reason that such goods were sent directly to the processor instead of first being received at the factory.

CCE Vs. Hindustan Motors Ltd. [2011] 266 ELT 202 (Delhi)

Mumbai CESTAT has held that rental charges collected by seller in respect of cylinders for supply of gases cannot form part of the value of gases

Inox Air Products Vs. CCE [2011-TIOL-481-CESTAT-MUM]

Customs Case Laws

Ahmedabad CESTAT held that no Custom duty can be demanded when goods are destroyed by fire in SEZ.

Satguru Polyfab private limited Vs. CC [2011-TOIL-387-CESTAT-AHM]

Chennai High Court held that services provided in relation to maintenance of software prior to the enactment Finance Act, 2007 are not subject to service tax

*Kasturi and Sons Ltd Vs. UOI [2011-TOIL-240-
HC-MAD]*

Service tax paid on Gardan Maintenance Service is not eligible for Cenvat Credit and covered with in the definition of "Input Service" as provided under Rule 2(I) of CCR, 2004. Maintenance of garden is not necessary for manufacture of excisable goods or clearance thereof. Further, Garden maintenance has no nexus with manufacture and clearance of excisable goods.

*Kirloskar Oil Engine Ltd. - 2011 (22) STR 250
(Tri - Mumbai)*

Different Show Cause Notices were issued on appellant but appellant filed only one appeal against impugned order though the Order contains the reference of three SCN's. It was held that appellant is required to file three separate appeals for three SCN's. Non filing of separate appeals will be considered as procedural lapses.

*Amar Amit Jalna Alloys P. Ltd. - 2011 (22)
STR 240 (Tri - Mumbai)*

Sales Tax Case Law

Kerala High Court held that under a works contract, the effluent treatment process carried out by using chemicals in water at the factory of the customer involves transfer of property in chemical by the contractor to the contractee and shall be liable to sales tax.

*Enviro Chemicals Vs. State of Kerala [2011]
39 VST 434 Kerala*

Supreme Court held that movement of goods from factory to its branch office outside the state pursuant to a sale agreement and monthly forecasts is a case of interstate sale and not a branch transfer

*Hyderabad Engineering Industries Vs. State
of Andhra Pradesh [2011] 39 VST 257(SC)*

RBI & FEMA Master Circulars from RBI:

Many of you may be aware that the Reserve Bank of India (RBI) issues master circular on various subject on 1st day of July every year. It is consolidation of all the prior notifications / circular issued by the RBI from 1st July to 30th June every year.

Accordingly RBI has issued master circulars on various subjects on 1st July 2011.

Circulars connected with FEMA:

1. On External Commercial Borrowings and Trade Credits
2. On Export of Goods and Services
3. On investment outside India
4. Remittance facilities for NRI /POI/FN
5. On miscellaneous remittance from India - facilities for residents.
6. On Investment in India

On current account transaction visit:
http://rbi.org.in/scripts/BS_ViewMasterCirculars.aspx to access full version of above said circulars.

Redemption of Foreign Currency Convertible Bonds (FCCBs)

The RBI has decided to consider applications upto 500 Millions for refinancing of FCCBs by Indian Companies under Automatic route subject to compliance of certain terms and conditions. The change in existing conversion price is not permissible on restructuring of FCCBs. However, it is considered based on merits under approval route.

Circular No.01 Dated July 4, 2011

IPR NEWS UPDATES

Strong IPR regime in FTA with India

The European Union has informed the WTO that it is pressing for inclusion of strong IPR regime in the free trade agreement under negotiations with India.

According to the policy, in the short term the European Commission is interested in covering both investment protection and liberalization of trade in its ongoing FTA negotiations with India.

The Copyright Amendment Bill 2010: on the death of books and the digital environment

The Copyright (Amendment) Bill 2010, approved by the Union Cabinet and introduced in the Rajya Sabha on April 19, 2010, sparked great controversy for a number of reasons. First, the Bill proposes guaranteed royalties for lyricists/composers for the commercial exploitation of their songs. Anticipating that these new rights will force

producers to share 50 per cent of royalties with lyricists and composers, these proposals were simultaneously welcomed by the former and condemned by the film industry. Second, the Bill introduces the parallel importation of books in accordance with Article 6 of the Trade Related Intellectual Property Rights (TRIPS) Agreement – a provision intended to provide readers in developing countries with books at cheaper prices but which, ironically, in India has been heralded by publishers as the death of books or at least the death of Indian publishing.

Indian publishers oppose allowing parallel importation of books on the grounds that foreign publishers will stop licensing cheap Indian editions of their work to Indian publishers leading to rise in book prices in India.

Further, if licensing ends, Indian publishers will have no incentive to invest in the marketing and promotion of books



Compilation by: **CS. Chakri Hegde**,
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India's opposition led to European Union tariff deal rejection

The European Union (EU) hasn't got approval from the World Trade Organization (WTO) member nations, especially India, for a preferential trade package to Pakistan, a media report said on Monday. The EU had announced time-bound duty-free access to Pakistan for 75 items to compensate for losses due to last year's floods and had approached the WTO to seek a waiver for one year on trade preferences to Pakistan on products amounting to nearly 900 million Euros.

Anti-dumping duty on Chinese chemical

India has imposed anti-dumping duty of up to USD 0.556 per kg on imports of Sodium Tripoly Phosphate, a chemical used in industrial cleaning processes and ceramics manufacture to protect domestic players from cheap Chinese shipments for a period of five years.

India probes US cotton subsidies

India has asked the WTO to confirm what the US is doing to reform its cotton subsidies in order to comply with WTO rules. In September 2002, Brazil complained to the WTO regarding US subsidies to its producers, users and exporters of upland cotton. The organisation found that marketing loan assistance, market loss assistance and counter cyclical payments were the source of 'significant price suppression causing serious prejudice to Brazil's interest. In response to India's question, the US affirmed it is working with Brazil on a mutually agreed solution, whilst new legislation is being prepared. At the same WTO Agriculture Committee meeting, the US asked when India would end its export restrictions on cotton. In response, India stated that the measures came under the General Agreement on Tariffs and Trade, and is therefore not handled by the Agriculture Committee.

Agri-products get protection under India-Malaysia FTA

Import of sensitive agri-products like palm oil, coffee, black tea and pepper from Malaysia will remain subject to high duty despite India operationalising free trade agreement (FTA) with the South East nation. The plantation items, mostly grown in South India, have been kept in the 'Special Product' category under which import

e-Newsletter from ICSI – Mysore Chapter. Edition – 90; July 2011

duties have been cut by a small margin and will remain high enough to protect domestic producers.

PAN for jewellery buys

Any person planning to buy jewellery worth Rs 5 lakh and more or paying a life insurance premium of Rs 50,000 or above, has to quote PAN from July 1, 2011. This is another measure to curb black money.

India is Developing Good Competition Policy: WTO Official

India is developing an effective "competition policy" and is also making significant efforts to strengthen its intellectual property rights regime, a top WTO official has said. World Trade Organisation's Director (Intellectual Property Division) Antony Taubman said that India is a good example in terms of balancing sustainable development initiatives with Intellectual Property Rights

SC to look into withdrawal of tax sops to exporters

The Supreme Court has decided to look into an amendment in the Income Tax Act that withdrew various tax incentives granted to exporters. Indian Exporters Grievances Forum had moved various high courts challenging the amendment that provided for deduction of profits, from total income of the assessee, retained for export businesses. While the Centre had amended Section 80HHC by Sections 3 and 4 of the Taxation Laws (Amendment) Act, 2005, the amendment was implemented retrospectively from April 1, 1998. The exporters had challenged this retrospective taking away of the benefit for the entire period.

RBI To Tighten Oversight Norms for Portfolio Management

The multi-crore fraud at the Gurgaon branch of Citibank has prompted the banking regulator to review existing norms for the portfolio management services (PMS) of banks. With the RBI's inspection report on the Citibank fraud ready, banking industry sources said RBI would compile a comprehensive report on the loopholes in PMS guidelines.