



Newsletter - 66

July 2009

Mysore Chapter



Enactment to Law - Need, Viability and Implementation

Direct Taxes - A Ready Reckoner

Getting Ready for IFRS - 3

Real Estate Investment Trusts in India

Non-compliance: one more advantage of outsourcing?

IT For Professionals

WinMend

Reasons' Value

Established Property Rights

Pending Patent: Provisional & Non Provisional Patent Application

Inside...

Chairman's Desk



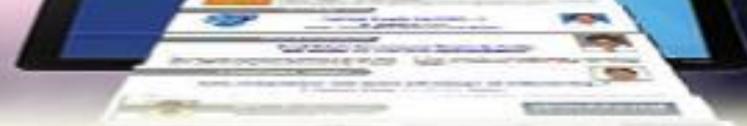
Newsletter - 66

July 2009



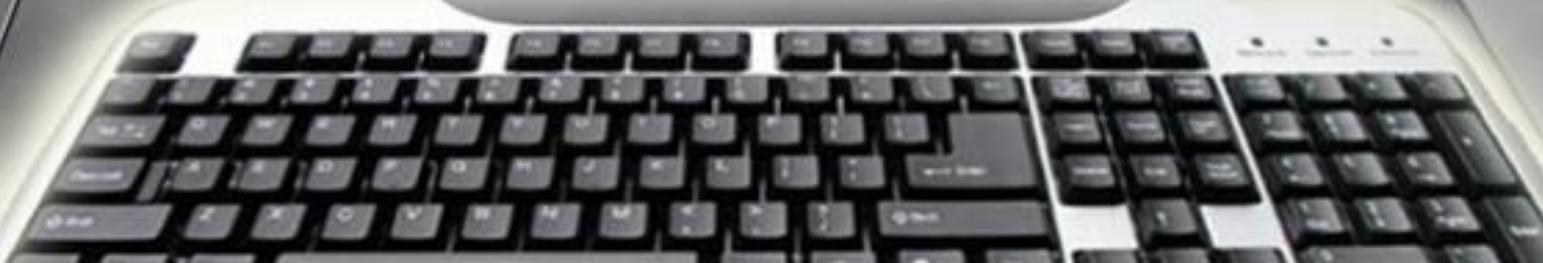
Newsletter - 66

July 2009



For Private Circulation Only

For Private Circulation Only





Chapter Activities ...3

Readers' Voice...4

Articles

Non Compliance – One more advantage of outsourcing? ...6

Real Estate Trusts in India ...8

Getting ready for IFRS...10

Tax Saving Instruments...11

Enactment to Law – Need, Viability & Implementation...12

Columns:

Living Room: The Corn Story ...3

Book Review: Direct Taxes...7

Investor Secretary...7

Web Yaatra: SME Tool Kit...8

Observer: Have Machines degenerated our abilities?...9

IT for Corp Professionals: Winmend...11

IPR : Pending Patents...4

IPR News...4

Legal Roundup...13

Spectrum Space: Reverse Mortgage ...15

Did You Know?...15

Pick of the month...15

Editors:

CS. Dattatri H M, CS. Sarina C H, CS. Omkar N G,
CS. Rashmi M R, & 'Spectrum' Team

You may find all past editions of this eNewsletter at <http://www.icsi.edu/mysore> and also at <http://www.esnips.com/web/icsimysore>

Mysore Chapter has its eParivaar "CSMysore". This is dedicated to the overall growth of the professionalism through sharing of knowledge. Its home page is <http://www.groups.google.com/group/csmysore>

You are welcome to join the eParivaar.

Disclaimer: Views and other contents expressed or provided by the contributors are their own and the Chapter does not accept any responsibility. The chapter is not in any way responsible for the result of any action taken on the basis of the contents published in this newsletter. All rights reserved.

CS. Anshuman A.S.

Chairman, ICSI Mysore Chapter

Dear Readers,

The month of June brought with it the competition fever! The chapter has become agog with students vying for the opportunity to represent Mysore Chapter. This year the chapter has started its competitive drive with an encouraging note by topping the Southern Regional Round of the National Elocution Competitions. It is a matter of pride for us that our young friends of foundation course, Ms. Madhuri Hegde and Mr. Harshavardhan IVRN have been selected by SIRC to represent South India in the National Level Elocution competition to be held at New Delhi on 29th July 2009. Our students believe that the World is not a parking space, it is a racing track. They must keep on moving, no matter when & where they start and reach their goals along the way to make new records.

I was privileged to be a part of an eminent panel who shared their insights on the Budget 2009 at a program jointly sponsored by the Mysore Chapter of ICSI, CII and SDM Institute of Management Development, Mysore. Besides myself, the panel comprised of Dr. R. Narayanaswamy from IIM, Bangalore, CS. C.K. Sabareeshan from Automotive Axles, Mysore and Dr. C.S. Thammaiah from JSS Centre for Management Studies, Mysore.

More than 50 useful books have been recently added to the chapter library recently making it the most updated library in its class in Mysore. The students and members of the chapter will be immensely benefitted by this addition.

Providing quality oral coaching to supplement the efforts of the students of the postal stream has always been a priority for the chapter. For the first time, oral coaching batches have been simultaneously started for foundation and both groups of executive program by the chapter.

* * *

Words worth Millions

"The reason a dog has so many friends is that he wags his tail instead of his tongue."

- Anonymous

Mysore Students to represent SIRC in the National Level Elocution



In the regional level elocution competition held in Chennai on 04th July 2009, the student from Mysore Chapter Ms. Madhuri and Mr. Harshavardhan were declared winner and runner up respectively to represent SIRC in the national level elocution competition to be held on 29th July 2009 in Delhi.

Before this on 14th June 2009 chapter conducted preliminary round for selection of its representatives to SIRC at the chapter premises. The event was judged by Prof. R. Chandra Prakash, Dept. of Commerce, University of Mysore and Prof. Nirmala C. Prakash, Dept. of English, Karnataka State Open University. There was enthusiastic participation by many students. The judges short listed the following students: Ms. Madhuri Hegde, Mr. Harshavardhan IVNR, Mr. Sanketh S. Kamath and Ms. Kavitha Rao D.B. Again on 28th June 2009 final round was held wherein Ms. Madhuri and Mr. Harshavardhan were selected by judges CS. Rashmi M.R, runner up of National Level Competition held in 2007 and CS. Parusuraman N.R., Faculty, SDM-IMD, Mysore.

Broadcast on All India Radio – Madikeri: CS. Dattatri H.M., ex-Secretary of the Chapter, provided information to listeners of All India Radio, Madikeri on FM Channel. The one hour program was organized by All India Radio to provide career guidance to the cross section of society. It is heartening to note that the chapter has received a good number of enquiries as a result of this program.

Company Law Quiz: The chapter conducted a company law quiz on 28th June 2009, Sunday @ 5.00 PM. The quiz was conducted by Ms. Reshma Anwar, CS Final Student and winner of the national level Company law quiz held in 2008. The program was well attended by students.



Managing Committee Meeting: The managing committee of the chapter met twice on 28th June and 30th June 2009

The Corn Story

There was a farmer who grew superior quality and award-winning CORN. Each year he entered his CORN in the state fair where it won honour and prizes.

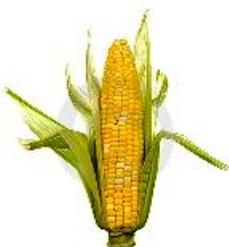
Once a newspaper reporter interviewed him and learnt something interesting about how he grew it. The reporter discovered that the farmer shared his seed corn with his neighbours'.

"How can you afford to share your best seed corn with your neighbours when they are entering corn in competition with yours each year?" the reporter asked.

"Why sir, "said the farmer, "didn't you know? The wind picks up pollen from the ripening corn and swirls it from field to field. If my neighbours grow inferior, sub-standard and poor quality corn, cross-pollination will steadily degrade the quality of my corn. If I am to grow good corn, I must help my neighbours grow good corn."

The farmer gave a superb insight into the connectedness of life. His corn cannot improve unless his neighbour's corn also improves. So it is in the other dimensions! Those who choose to be at harmony must help their neighbours and colleagues to be at peace. Those who choose to live well must help others to live well.

Success does not happen in isolation. It is very often a participative and collective process.



Living Room



Readers' Voice

It is a pleasure to receive this communiqué from you. It is a good piece of work. Keep it up. Shall look forward to such communications and much more in future too.

CS Mamta Binani,
Vice Chairperson, EIRC of ICSI

I have been observing that coverage of topics in the News Letter has substantially increased, thereby adding value. It is heartening to note that the News Letter has contributors with expertise in different fields and are from different regions of the country. The News Letter, which started as a one page communication among Mysore Chapter members, has traveled a long way and it now qualifies to be called a "Journal".

D D Bhat, Mysore,
Past Chairman, Mysore Chapter

Let me place on record my compliments to all of you and Mysore Chapter for your coming out with the excellent Newsletter. It is rich with the contents and so much succinctly presented that one really enjoys reading it. Your efforts are, indeed, an inspiration to the Regional Councils and other Chapters of the Institute. I wish the Chapter a big success in all its endeavors and am sure that Mysore Chapter will achieve many more milestones in times to come.

Satwinder Singh
Past Chairman, NIRC of ICSI (2007)

Thanks for June Newsletter. It contains interesting topics. All topics are written in a lucid style. The presentation is excellent.

NL Bhatia & Associates PCS
Past Chairman WIRC

Wonderful effort and no words are sufficient to describe my feelings to congratulate Mysore Chapter. What President, CEO and others have said about the chapter are true and none is flattered by them. The articles and round up are well written / covered.

K. S. Ravichandran
Coimbatore

It is informative and attractive in all respects. We will also cherish the pleasant memories of our visit to Mysore.

CS Sudhir Babu
Central Council Member

Many many thanks for your message forwarding the e-newsletter of Mysore Chapter. My hearty congratulations to you and the entire editorial team for bringing out an ideal "Professional Newsletter" feeding the the members and



students what they ought to know about the professional subjects rather than "beating one's own trumpets" to use it as a tool for election campaign. Please Keep up this good work. Results will follow.

R. Narayanan
Past Central Council Member

Excellent update including article on life cycle by Shri CS Dattatri. From the journal you can visit links mentioned. Excellent pdf attachment.

Ramachandran M
Bangalore 9845726805

The newsletter had some really good articles specially on the Ayurvedic Principles and on Copyright. Article on NED by Ms. Padma was a good attempt too. However, i shall be obliged if you could throw some more light on IPR Related topics.

Pooja Vanjani

In the 63rd edition, your article "Life cycle" was really a good topic. Especially, the way you had stated about the cost cutting methods adopted by companies are quite interesting.

Gowri Shankar,
Gowrishankar & Associates, Bangalore

Thank you very much for having published my article in your e-newsletter for May-2009. On seeing the contents of newsletter, I came to the conclusion that it very very useful not only to the students who are pursuing CS course but to all the professionals like CAs/CWAs/CS. Your sustained team work for adding glory of our CS profession is commendable..

PR. Raamaanathan

Congrats and best wishes to every one associated with in bringing out the newsletter which is unique by itself in content and coverage. I welcome the new member in the editorial team and wish her all the best and also would like to congratulate Mr Vijay for his efforts in bringing out a booklet for the exclusive benefit of CS students.

I wish you all the best and maintain the temp as it is now and at every opportunity improve the same and stand as a role model newsletter.

CS. B Ravi, Chennai
(letters to be contd in the next edition.)



Pending Patent: Provisional & Non Provisional Patent Application

V. Lokesh,

Intellectual Property Management IP Management, Strategic Planning & Initiatives,
Larsen & Toubro Limited, Mysore

There are two types of patent applications that can be filed with the patent office. Non-provisional application is the application which contains every aspect of patent applications i.e. Title of the Invention, Abstract, Background of the invention, Summary, Description of the invention, Claims and drawings. It is a techno-legal document and is generally drafted by the patent attorney / agent, who have a strong technical and legal background.

The priority of the patent goes to the applicant, who files first. So in certain cases, the applicant would prefer to file a provisional specification with available information, with no claims. However, the language of the application must be clear and unambiguous. It must be read as a whole indicating the subject-matter to which the invention relates. This enables the applicant to have 12 months of time to file the Non-Provisional Application, which is also called as a complete specification. If the Non-Provisional Application is filed within 12 months period, the claims of the invention are given the 'priority date of filing' of the Provisional Application. If not, the Provisional Application filed shall be deemed to be abandoned by the patent office.

This Provisional Application will enable the inventor to safeguard his invention in the starting point. This route can

CS Madhwesh Acharya

Company Secretary, Kurlon Ltd, Bangalore

Cartoonists want benefits of copyright

24/06/2009 www.bangkokpost.com

Thai cartoonists urged the government to standardise their career development by allowing them a part of copyright ownership of the characters they produce as a way to upgrade the local animation industry to the international level.

YouTube Sued for \$13.9 Million for Copyright Infringement

www.zeropa.com

There was an interesting development from the hugely popular video sharing site. A report from [Billboard](http://www.billboard.com) says that SPPF has sued YouTube saying that over 100 music videos from their catalogue appeared on the site. All this after a

be suggested if there is a business opportunity or to initiate talks with venture capitalists in the early stage of the invention or if an applicant sensitizes that potential competitor could file for similar claims. This also brings in the status of 'Patent Pending' to the applicant. But there are several debates going on about the negative aspect of Provisional Application filings. The Non-Provisional Application must be within the scope of provisional Application filed and additionally claims must be drafted. If it has insufficient, defective or improperly filed Provisional Application, the patent may be invalid. Hence, it is advisable that the applicant give sufficient input to the patent attorney to draft an almost-ready-to-eat Provisional Application. This ensures that there is no scope left for any bottlenecks during the proceedings of examination of the patent application.

Validity of Post Dating of Patent Application:

As per the provisions contained in sections 9 & 17 of Patent Act, post dating of the patent application can be done only to the date of the complete specification. Non Provisional Application can be filed at any time after 12 months, but within 15 months from the date aforesaid, if a request to that effect is made to the Controller at the patent office, with a prescribed fee on or before the date on, which the complete specification is filed.

IPR News



previous episode where SPPF demanded the content be taken down (which, consequently, were taken down) only to have the video's be re-uploaded by their users.

Pfizer charges Sun with another patent violation

22 Jun 2009 <http://economictimes.indiatimes.com>

MUMBAI: A legal battle in the US District Court for the District of Delaware between US pharma giant Pfizer and Indian company Sun Pharmaceutical has escalated, with the world's largest maker of medicines alleging in court filings that in addition to the original patent that it claims Sun violated, it infringed another patent when it sought approval for its generic version of Lyrica, a blockbuster drug used to treat seizures.



Non-compliance: one more advantage of outsourcing..?

K Vijayshyam Acharya, B Com, LLB, ACS, CA, Bangalore

'Outsourcing' is not only an excellent business operation strategy; it has also become a very broad ideology which can encompass various contours. The reference here is not to IT enabled services or offshore outsourcing, but to its local version, within India. While as a jargon 'Outsourcing' might not have been in usage few decades ago, the concept was very much prevalent, with different degrees of ownership and control over the outsourced activity or the persons actually performing it. From engaging contract labour to carry out peripheral activities, security, canteen, loading and unloading jobs or other intermittent operations in a factory, we have graduated to choc-a-bloc outsourcing of identified business processes - payroll processing, accounting, logistics, production, labour management, sales, distribution - everything except strategy, control and top management.

Outsourcing has many advantages - cost optimization, process stabilization, quality control etc. However, there is a benefit not much spoken about; Non-compliance.

Of course, law does not intend to ignore or excuse any default or violation just because a corporate entity has chosen to outsource. Many statutes define 'Employer' as the person who has ultimate control over the affairs of the undertaking or entity, and his responsibilities and obligations vis-à-vis the entity are no lesser if certain operations are outsourced. But intended or not, [the entity's message to the public at large, seems to be that all compliances connected with the outsourced process are no longer the entity's obligation.](#) If the activity is outsourced, so are the compliances pertaining to it. Leave aside the classic case of 'Recovery Agents' engaged by Banks, where the Bank likes the recovery of dues, through such Agents from the defaulting borrowers, but not the obligation of having abetted a crime, if any, when such Agent thinks that enforcement of law has been outsourced to him by the State. A few other instances of such peculiarities:

1. Many security guards, after finishing their eight hour duty, continue for the next eight hour shift if a reliever does not arrive. Forget legal provisions, is this not inhuman? Ask the entity's Administration Department

- we do not know, we've outsourced it to a security agency, it's their headache. Of course, if an untoward incident happens due to the guard's sleep, it is everybody's headache.

2. Many vehicles plying employees or students of elite schools drive recklessly at all hours of the day and night, are parked at places causing public inconvenience and, in stray incidents, have been used for nefarious activities. Again, the transportation agency is responsible; in fact, for public convenience, the vehicles prominently display a board telling that in case of negligent driving a particular number may be contacted. Fine, but will somebody pick up the call?

3. While workers in a factory on the rolls receive bonus pursuant to compulsory provisions under the Payment of Bonus Act, Bonus to contract workers, though similarly placed, is the Contractor's look out.

Larger and more important the activity outsourced, bigger are the

benefits of shifting non-compliance. Ask some high profile brands with lofty vision and mission statements, corporate values, human resource policy etc which have outsourced production on job-work basis. If gross violations of labour rights commonly take place in China or other countries with cheap labour incessantly working for export targets, it is the problem with the country's legal framework. If it is argued that the entity outsourcing the activity is responsible as a Principal for the acts of the job-worker Agent, the solution is simple. Change the Agreement (only on paper, of course) with the job-worker, to show a Buyer-Seller relationship instead of Principal-Agent.

Of course, many a time, the entity which outsourced the activity may not be guilty at all, as it may be genuinely made to believe, after all audits and due diligence it has conducted, that all is hunky-dory. The intention here is not to pick up isolated occurrences and to criticize or blame.

But the question is - who is willing to accept the situation and take the responsibility, without seeking shelter under legal loopholes?

Tragedy is that, if law binds Principal employer, popular solution is to just change the contract to show buyer-seller relationship!

Intention is not to blame. But the question is - who is willing to accept the situation and take the responsibility, without seeking shelter under legal loopholes?



Direct Taxes - A Ready Referencer (FOR CA / CS / CWA Final)



Author: G Shekar **Publisher:** Padukas

Contents: Question & Answers of past 43 Exams, Up to date Legal Decisions, Circulars, Notifications, Alphabetical & Section Wise Index, Summary Referencer (very useful for revision).

The above book caters to students taking up any of the professional exams. The book presents the information in the form of questions & answers which comes very handy in preparation. It provides the most apt formats for presentation of answers and solutions to practical problems in the exams.

This book satisfactorily covers the latest amendments, circulars and notifications issued from time to time. It incorporates several legal decisions which enable clarification of doubts regarding interpretation of provisions. This books analyses & demonstrates the provisions of Direct Taxes in a lucid, reader friendly fashion.

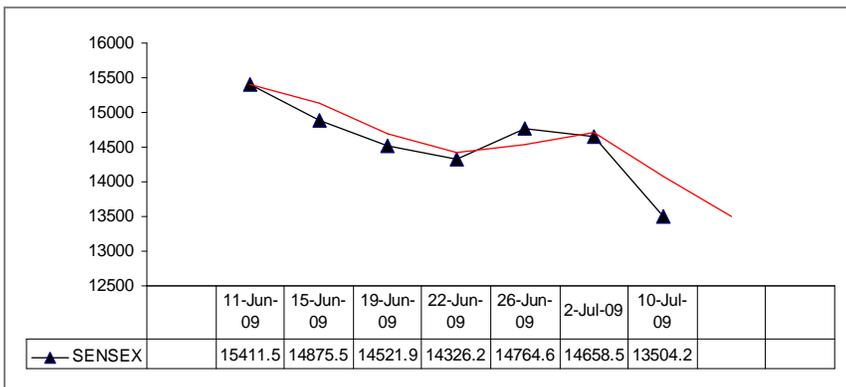


Investor Secretary - 20

CS. Sreeraj M PCS, Bangalore ,
<http://works.bepress.com/sreerajm/>



As expected the union budget decided the course of the markets and it did, it disappointed by moving in the opposite. FIIs turned to be the major sellers in the post budget sessions. Sectors such as cement, passenger cars, two wheelers and durables have recovered sufficiently, to surpass the record levels of output clocked in March last year. Others, such as commercial or utility vehicles, after suffering particularly deep cuts last year, are climbing back from their lows. Power and steel- which have managed on a broad upward trajectory amid all this upheaval.



Sectoral Analysis				
SI	Sectoral Indices - BSE	As on 10.06.09	Now 10.07.09	% Change
1	Auto	4977.10	4567.12	-6.75%
2	Health Care	3704.96	3533	-3.35%
3	Power	3069.45	2603.36	-12.75%
4	Oil & Gas	10539.83	8533.30	-18.81%
5	Consumer Durables	3100.98	2768.80	-7.70%
6	PSU	8610.71	7390	11.42%
7	Metal	11644.89	10117.44	-17.21%
8	Capital Goods	13466.82	11291.12	-13.10%
9	I T	3392.92	3196.09	-1.80%
10	TEC k	2758.32	2486.84	-7.01%
11	FMCG	2271.21	2385.32	6.02%
12	Bankex	8240.65	7319.81	-8.94%
13	Realty	3786.47	2845.66	-22.29%

The Index of Industrial Production (IIP) readings show that industrial activity for first four months of 2009 expanded by 3% compared to the same period in 2008. Cement dispatches have grown by a robust 10.3 per cent over last year in the first four months of 2009. Monthly passenger car sales have expanded by nearly 30 per cent, while two-wheeler sales have risen 46 per cent from their lows last year; both are back on the growth path.

Disclaimer: Trading and investment in stock market is risky and volatile. All the contents (and views) in this article is for informational purposes and is not a recommendation or an offer or solicitation of an offer to any person with respect to the purchase or sale of the stocks discussed in this article. The author may be trading/investing in, or have positions in the securities mentioned. The author is not responsible for profit or loss incurred by anybody. Please do your home work before investing.

Real Estate Investment Trusts in India

Anand Wadadekar, M.Com, M.A (Eco), MBA, DIT, Pune anandwadadekar@gmail.com



In a move that could boost investments in the real estate sector, SEBI has announced a draft proposal for the launch of a scheme by the Real Estate Investment Trust (REIT). This will help meet the capital needs of the real estate sector and also allow investors to participate in the real estate growth opportunity. *These proposed guidelines will come into effect from the date of their publication in the official gazette. When finally approved, it will be known as SEBI (REIT) Regulations, 2008.*

Salient Features:

1. A scheme shall be launched by a trust which will be managed by a real estate investment management company.
2. The Trust and Management company must have a net worth of not less than Rs 5 crore. The REITs should have an adequate infrastructure and good professionals with requisite experience in their respective fields.
3. The Trustees can be a bank, trust company of scheduled bank, public financial institution, insurance company or a body corporate.
4. All the schemes offered by the REITs will be close-ended only which will be compulsorily listed. The Net Asset Value (NAV) of these schemes will be disclosed preferably on a yearly basis which will be based on the valuation report prepared by the principal valuer.

5. Every scheme for which authorisation is requested shall appoint an independent property valuer (the "Principal Valuer")
6. The scheme is prohibited from investing in vacant land or engaging or participating in property development activities.
7. These scheme shall invest only in a viable real estate property. The contract value of real estate must not exceed 20% of the NAV in case of uncompleted units in building or units which are being developed substantially.
8. A Trust under all its schemes shall not have exposure of more than 15% of any single real estate project.
9. Similarly, any Trust, under all its schemes, shall not have exposure to more than 25% of all the real estate projects developed, marketed, owned or financed by a group of Companies.
10. No scheme shall be launched by the real estate investment trust without obtaining rating from a credit rating agency.
11. No scheme shall be open for subscription for more than 90 days.
12. The scheme shall distribute to unit holders as dividends each year an amount not less than 90 % of its annual net income after tax.



My search for a website which can provide comprehensive information about Business Planning, Finance, Accounting, Human Resources, International Business, Legal, Insurance, Taxation etc at <http://india.smetoolkit.org/india/en/>.

The SME Toolkit is a project of the Small and Medium Enterprise (SME) Department of the World Bank Group. This is available in multiple languages through local partners around the world. The SME Department (www.ifc.org/sme) combines the market perspective of the International Finance Corporation with the policy expertise of the World Bank to promote local small business growth in developing nations. *These merged capabilities create a powerful synergy and underscore a strategic commitment to improving lives by creating opportunities in small business.* The mission of IFC is to promote sustainable private sector investment in developing countries as a way

Web Yaatra

Sunil Kumar B G CS Final, Mysore



to reduce poverty and improve people's lives. IFC finances private sector investments in the developing world, mobilizes capital in the international financial markets, and provides technical assistance and advice to governments and businesses.

The website has separate sections for Business Planning, Taxation, International Business, Intellectual Property Rights and Insurance etc. with valuable information. The site also provides tips and tutorials on these subjects. Draft agreements, notifications & clarifications, guidelines for incorporation of companies, draft MOA & AOA, stamp duty applicable to different states of the country, draft forms & applications relating to various Acts & Regulations etc are well organised.

You can also subscribe for a free daily newsletter for updates in all these knowledge areas. For that, click: <http://rru.worldbank.org/external/sme-newsletter>

Have machines degenerated our abilities?

CS. Rashmi M R,

Company Secretary, Vikram Hospital Private Limited, Mysore



The other day, on a visit to my hometown, I was giving a helping hand to my Grandpa in his General stores. A customer walked in with a list of requirements and all the required items were packed. When I had to total up to arrive at the bill amount, I searched for a calculator, not one was around. Though I could do it manually, I was hesitant. I literally felt handicapped without it.

Looking at my helplessness, my grandpa said "Well, we did not have calculators then and I have never used one." He took the list of items and totalled it up manually within a few moments.

I was taken aback. I pondered, "Whether machine / technology serves us or we are at its service / mercy?" The simple task which I could do manually some years back now requires the aid of a calculator!

Well, it is not just calculators; day in and day out we find many such instances, wherein we are excessively dependent on machines / technology. Though we can put in our abilities, whether physical or intellectual, we prefer not to do it. We would rather leave it to the machines.

Just recollect the day when your computer had crashed or was out of order. The entire day would have gone topsy turvy!

Before the mobiles were here, we could easily recollect phone numbers, but today how many phone numbers can we remember instantly? Before personal organizers were here, remembering dates of meetings or birthday's of our beloved ones was not difficult, but today without it we may not even remember our birthday!

We are seldom realizing that our abilities to remember / recollect are all taking a setback!

We prefer vehicles over walk even if it is just the matter of end of the street. Watching Television is no fun if the remote is not working, we don't want to walk a couple of steps to operate it. We are annoyed to note that the escalator is out of order, can't we walk up a floor or two??

And then we wonder, why our forefathers were better than us both physically and intellectually, in spite of having very few or no machines to assist them!!!

If we agree that the Machines/ Technology are making a hostile takeover on our physical and intellectual abilities, it is time to reduce our dependencies on them.

Just like unused equipments rust, unused abilities of man will sooner or later see the end!!! What do u say??

Response to previous article in this column **Like to blame Indian Bureaucracy?**

To Editor,

I have read the eNewsletter and would like to state my disagreement with the views propounded by Mr. H.M. Dattatri on corruption in Indian bureaucracy. He advocates parting with bribes to get things done. Probably he is not aware that corruption is the bane of the Indian life. There is absolutely no need to give bribes to babus to get things done. It is a misconception that we need to part with something in order to get something. It is a myth. I have got many approvals from ROC without parting any single money. We professionals should not encourage bribe giving at all in any form. If corporates put their foot down and refuse to pay any bribes, it will make a major difference to corruption in society. But these kind of remarks, coming from a CS is derogatory.

Ramachandran V

Response from the author of the article:

My experience is similar to yours. To quote one such incident, we made trips to one of the government authority for two continuous years and finally succeeded in getting the work done without bribes. In the said article I have stated that "Now, I should make one thing clear. I hate corruption. However, I am only trying to focus on unseen part of the issue."

Unseen part is that we are supporting corruption in one way or the other by yielding to the pressure from babus/ bosses/entrepreneurs/clients or by seeing an opportunity to make money out of it. Earlier I had written an article with title "Professionals Protecting Corruption" in the August 2008 edition of the eNewsletter. Many of the professional colleagues agreed to this bitter truth "**Yes, it is a bane of the Indian life**".

However, no one could articulate a solution for this.



Getting Ready for IFRS - 3

CS. Rambabu B ACA ACS

Manager - Accounts, Essilor India Private Limited, Bangalore



So far...

More than 100 countries in the world have decided to adopt International Financial Reporting Standards (IFRS) by following dates:

April 1, 2010 to March 31, 2011 Comparative period

April 1, 2011 to March 31, 2012 First IFRS Financial reporting

International Accounting Standards Board (IASB) aims at developing high quality, understandable and enforceable accounting standards in the following procedure:

i. Setting the Agenda, ii. Project Planning, iii. Development and publication of a discussion paper, iv. Development and publication of an exposure draft, v. Development and Publication of IFRS.

Basic Literature of IFRS:

1. International Accounting Standards (IAS) 1-41* - Main Stds (issued till 2001)
2. International Reporting Standards (IFRS) 1 - 8 - Main Stds
3. Standard Interpretation Committee (SIC) - 1-32** - Interpretations (issued till 2002)
4. Intl Financial Reporting Interpretations (IFRIC) 1-14 - Interpretations.

*IAS are replaced by IFRS **SIC Replaced by IFRIC

... let us proceed

Categories of adoption of IFRS in India: -

As per ICAI Guidelines the following are the categories of adoption of IFRS in India.

Category I - No Legal/ Regulatory issues: -

These standards can be adopted immediately or in the near future as these do not have any differences with present Indian Accounting Standards.

Inventories (IAS 2), Statement of Cash Flows (IAS 7), Construction Contracts (IAS 11) Accounting for Government Grants and Disclosure of Government Assistance (IAS 20), Borrowing Costs (IAS 23), Earnings per Share (IAS 33), Impairment of Assets (IAS 36), Intangible Assets (IAS 38).

Category II - Level of Technical Preparedness of the Industry: -

which can be adopted after some time since it requires a level of preparedness by industries and professionals keeping in view of existing economic and other factors.

Revenue (IAS 18) The Effects of Changes in Foreign Exchange Rates (IAS 21), Accounting and Reporting by Retirement Benefit Plans (IAS 26), Investment Property (IAS 40), Share Based Payment (IFRS 2), Non current assets held for sale and discontinued operations (IFRS 5)

Category III- Conceptual Differences to be resolved: -

These can be adopted on removing the conceptual differences either in consultation with IASB or on its own by ICAI.

Income Taxes (IAS 12), Leases (IAS 17), Employee Benefits (IAS 19), Related Party Disclosures (IAS 24), Consolidated and Separate Financial Statements (IAS 27), Investments in Associates (IAS 28), Interests in Joint Ventures (IAS 31), Provisions, Contingent Liabilities and Contingent Assets (IAS 37), Agriculture (IAS 41), Business Combination (IFRS 3), Exploration for and Evaluation of Mineral Resources (IFRS 6), Operating Segments (IFRS 8)

Category IV - Changes in Law/ Regulation: -

Adoption not possible until laws or regulations amended as IFRS adoption requires changes in laws/ regulations in this category of standards.

Presentation of Financial Statements (IAS 1), Accounting Policies, Changes in Accounting Estimates (IAS 8), Events after the Reporting Period (IAS 10), Property, Plant and Equipment (IAS 16), Financial Instruments Presentation (IAS 32), Interim Financial Reporting (IAS 34), Financial Instruments: Recognition and Measurement (IAS 39), First time adoption of IFRS (IFRS 1), Insurance Contracts (IFRS 4), Financial Instrument: Disclosures (IFRS 7)

Category V - No Standard required: - No Indian Standard is required for the time being in India.

Next Month: Important standards explained...



IT For Professionals

Amitkumar Hegde, B.Com, MCA



What does it take to protect your files and folders? The Internet provides both complex methods as well as extremely simple ones to keep prying eyes away from your data. Some of the best solutions on the market lock the desired digital information in a vault, which encrypts the data with standard algorithms or just the simple password-based encryption.

Hidden Folder from WinMend is a free ride to rendering any piece of information you hold on your computer absolutely invisible. It comes packed in a lightweight installer and avoids any complicated menu, keeping everything to the maximum minimum. It is also free of charge, and as soon as you put it to the test it'll prove that it does an awesome job.

WinMend Folder Hidden is a free file/folder hiding tool. While ensuring the absolute system safety, this application can quickly hide files and folders on local partitions and/or on removable devices. The hidden files/folders will be safely hidden whether the drive is accessed in another operating system on the same computer or reinstalled on another computer. You can set a password for this application. Hidden data can be displayed and unhidden only when the user enters the valid password. The data is completely invisible to other programs or on other operating systems. However, please keep in mind that this application is for home use only. It's not recommended for commercial settings where more strict confidentiality is required.

Download this freeware at: <http://www.winmend.net/pad/download/WinMend-Folder-Hidden.exe>

Tax Saving Investments – A discussion Part 2

No Taxing talk!

CS. Priti Astarag Patnaik



So far... Every investment plan is associated with two aspects: Risk and Return. The criterion for each investor is to get the best return at the minimum risk. There are some risks free investment options PF and some Risky category. PPF is tax free and gives 8% interest p.a. annually. Lock in period 15 years. Partial withdrawal is permissible from sixth year onwards.

National Saving Certificate:

The Interest rate on NSC is 8% p.a., compounded half yearly, Subject to a lock in period of 6 years. Interest is paid at the maturity; during the period of first five years the interest calculated (half yearly) is Re-invested in NSC. During the first five years it is advisable to show the interest earned as income in your IT return on accrual basis. At the same time you are eligible to claim deduction for the same amount, as the interest is re-invested in NSC. In the sixth year the interest earned is taxable, as the same is paid to the investor instead of being re-invested.

Taking an imaginary amount of Investment of Rs. 10,000/- the maturity value after six years is Rs 16,100/- (before TDS on Last year interest), the interest earned in the sixth year which is taxable is Rs. 1208.00. Depending on the tax rate applicable to the investor the same will be chargeable to tax. The principal amount returned is not an income hence not chargeable to tax. NSC can be pledged in banks for securing loan

Tax Shield Fixed Deposit with Banks

Usually this is subject to lock in period of 5 years from the date of account opening. Taxability is at par with NSC. The interesting fact about Tax free FDs usually the rate of interest is more than NSC and PPF. The rate of interest on Tax shield FD varies between 8.5% to 11%, compounded at Quarterly rest. Taking the same example of Rs. 10,000/- invested in Tax shield FD @11% p.a. compounded at quarterly rest gives a maturity value (after 5 years) of Rs.17, 204/- (without taking in to account the TDS on the interest earned in 5th year). Loans can not be availed on the security of Tax saving FDs. While analyzing above three Risk free investment options, taking in to account the Lock in Period and the Maturity value, Tax shield FD seems to be more beneficial.

Coming Next: Risky investments..



Enactment to Law – Need, Viability and Implementation

CS. U Padma Shenoy

Company Secretary, Totem Infrastructure Limited, Hyderabad

The other day I received an email forward detailing approximately 1074 Enactments in force in India. It took almost an hour just to read the titles of the Acts and understand the subject to which it relates.

Given the background, it is not surprising if one wakes up a fine morning and finds himself receiving a notice for violation of law, a law that he has never heard of!!! It is highly impossible for human mind to keep a track of all the enactments that apply to him in personal/ professional life.

On a lighter vein, an erstwhile judge, Justice Nani Palkhiwala mentioned that the law is made difficult for the layman to enable the survival of legal professionals! But in fact today, it is impossible even for a legal professional to survive without the threat of non-compliance.

The constitutional ideology of India believes in passing an Enactment for each and every trivial issue, thus increasing Enactments in high numbers. These Enactments when combined with amendments, press notes, circulars, notifications and the specific terminology used in these contexts, make it highly impossible for human minds to comprehend.

The complicated Indian law further complicates the process of legal drafting thus making it impossible for a common man to either understand the law or draft a legal document. The skill of draftsmen lies in making his draft very clear with simple language restricting the use of complicated legal terms. More often than not, a new draft is just a variation of a previously prepared draft with minimal changes in the particulars section.

The Indian Constitution and law were drafted way back when India became independent. Though the constitution was “inspired” by the British law, it was well applicable to the erstwhile independent India. However, the scenario in the country changed over the past 60 years wherein India witnessed a transformation from agriculture based country to an industry based country and now to a technological base for the world.

In this scenario, most of the rules, regulations, laws and Enactments enforced on 26th January 1950 have become obsolete in every sense. There was an Enactment drafted in 1956 with a cross reference to a different Act. However, the Act in question is not available in black and white even with the law houses. In this case, the Enactment could not be put into practical use without actually referring to the Act.

In view of the same, there is an urgent need to make Indian Law more practical and sensible to cope with the current state of affairs. However, the law makers of the country turn a blind eye towards implementing new laws in the place of obsolete ones because it works best to support their political motives. As a result, an “Amendment Act” was passed whenever a law was found unsuitable for a particular situation.

Thousands of Enactments, amendments, press notes, circulars, notifications, clarifications and the specific terminology used in these contexts, make it highly impossible even for a legal professional to survive without the threat of non-compliance.

Adding to the woes, implementing of the Acts passed by the Parliamentarians is an achievement in itself. The members on the Committees formed to draft the Bill are drawn from different classes who, in most cases lack the practical knowledge about the industrial trends and hence, in most cases; such drafts seem to be a write-up rather than a practical law. The drafts are passed by the Parliament and Bills once passed are thrust upon the users who end up cracking their brains to understand the brains behind the law. When such a law comes into force, there is a general unrest in the industry and the lead Associations of the particular industry make a representation to the Law-makers who come up with Amendment, Rules or Clarifications adding up to the bulk of already existing law books in India.

On the other side, when such Act is passed, non-compliant parties pool in their resources to find a loophole in the law and ward off punishment as the law makers have to find how to deal with such a situation. Law Breakers are intelligent than Law Makers – True in every sense.

This is the very reason why most of the MNCs would insist on adopting their law subject to the jurisdiction of a court in their country in case of disputes before inking a deal with Indian companies particularly in the IT and ITES sectors, where India is a stalwart. This is a proof of non-belief that

global majors shared about the Indian legal system when they have complete faith in manpower and the intellectual resources of India.

Instead, it would be more prudent for the law makers to repeal the existing law, and pass a totally new Enactment corresponding to practical requirements to the industry. Before passing a Bill, a draft can be circulated to the persons of high standing in the society like Associations who can foresee the difficulties at the proposal stage itself. The suggestions received from such wider circulation, can be incorporated in the draft and then passed by the Parliament. Such an approach will, to a large extent reduce the requirement of passing the Amendments, or issuing Departmental Clarifications or the like.

Also, it would be prudent to conduct a critical review of the existing laws in India and take steps towards reducing the Acts by repealing the obsolete ones, consolidating the similar ones, draft a single Act in place of numerous Amendments and so on.

A shorter list of Acts applicable to an individual or an entity will be easier to implement and restrict non-compliances and escapades from law. This would pave way for clearing all the pending cases in various Indian courts and a belief in the Indian legal system could be reinforced lest Indian legal system becomes a laughing stock in the days when India is shining in the global market.



Legal Roundup

Kiran T CS Final, Mysore

For detailed update visit: <http://www.esnips.com/web/ficsimysore>

Customs

Notifications/Circulars

Government has notified concessional rates of basic customs duty (BCD) for goods falling under 450 tariff lines - if imported from Paraguay, Uruguay, Argentina and Brazil, under the India - MERCOSUR Preferential Trade Agreement.

Customs Notification Nos. 56/2009 (NT) and 57/2009 dated 30/05/2009

Case Law - Valuation

Declared transaction value of imported goods cannot be rejected - on the basis of a comparison with imports from a different country of origin and where the goods were not of comparable quality.

Samar Polytex Ltd. Vs. CC (2009 (238) ELT 621

The onus to prove the inaccuracy of the declared Transaction Value lies with the customs authorities.

Pushpanjali Silks Pvt. Ltd. Vs. CC (2009 (238) ELT 135)

Case Law - Others

Appellate forum cannot suo moto take a decision based on any ground not taken up by the assessee in the appeal.

Oriental Container Ltd. Vs. CC, (2009 (238) ELT 301)

Delay in submission of a claim for refund of duty cannot be condoned.

Trichy Steel Rolling Mills Ltd. Vs. CC (2009 (238) ELT 686)

Unjust enrichment is ruled out where assessee provides a certificate from a Cost Accountant certifying that the incidence of duty was not passed on to the ultimate consumer - unless evidence to the contrary is made available.

South India Paper Mills Limited Vs. CC (2009 (238) ELT 651)

Amendment to the Bill of Entry filed by an importer cannot be denied solely on the ground that such amendment would result in a re-quantification of duty.

Thiru Aroon Sugars Limited and Shree Ambika Sugars Limited Vs. CC (2009 (165) ECR 204)

Bill of Entry assessed provisionally can be corrected under Section 154 of the Customs Act -

Volvo India Pvt. Ltd. Vs. CC(2009 (92) RLT 396)

Foreign Trade Policy

Notifications/Circulars

Letters of Approval (LOA) issued to the developers of SEZs shall remain valid until they are suspended/revoked, beyond the date prescribed therein for implementation of the project.

(M. C. & I. (D.C.), SEZ Instruction No. 16, dated 11/06/2009)

SEZ developers are eligible to remove used packing materials to the DTA without payment of duty.

(M. C. & I. (D.C.), SEZ Instruction No. 10, dated 25/05/2009)

Detailed procedures have been prescribed for obtaining approvals in respect of procurement of used capital goods by SEZ units.

M. C. & I. (D.C.), SEZ Instruction No. 11, dated 25/05/2009

Ban on import of mobile phones without a valid IMEI number.

DGFT Notification No. 112 (RE-2008)/ 2004-09 dated 16/06/2009

Antidumping Duty

Notifications

Provisional anti-dumping duty has been imposed on front axle beams and steering knuckles exported from China.

Customs Notification No. 65/2009 dated 15/06/2009

Anti-dumping duty has been imposed on the following products:

1. CD-R originating in or exported from Iran, Malaysia, Thailand, South Korea, United Arab Emirates and Vietnam;
2. Potassium carbonate originating in, or exported from China, South Korea, Taiwan and European Union.

Customs Notification Nos. 44/2009 dated 30/04/2009, and 50/2009 dated 15/05/2009

CENVAT

Case Law- Manufacture/Dutiability

Following does not amount to manufacture:

1. Process of dilution of concentrate, not resulting in a new product (*CCE Vs. Karamchand Appliance (2009 (92) RLT 341*)
2. Process of mere cutting and slitting of jumbo rolls into smaller rolls (*CCE Vs. Knowell Converters (2009 (238) ELT 156*)
3. The process of plating of jewellery, not resulting in a new product (*CCE Vs. Midas Techniques Pvt Ltd (2009 (92) RLT 487*)

Valuation

Indivisible/composite works contracts

Manufactured goods cleared from the factory under indivisible/composite works contracts where the price of goods supplied is not separately ascertainable, valuation shall be on the basis of the cost construction method in terms of Rule 8 of the Valuation Rules.

Otis Elevator Co (India) Ltd. Vs. CCE (2009-TIOL-910)

CENVAT/MODVAT

CENVAT credit to the extent of 50% of the excise duty paid on capital goods in the year of receipt is also applicable to education cess paid on such goods.

DCW Ltd Vs. CCE (2009-TIOL-942)

Job worker is not liable to pay duty merely for the reason of late filing of undertakings by the supplier of inputs as required under Notification 214/86-CE dated 25.3.86.

CCE Vs Excel Corrugated Boxes Pvt Ltd (2009 (92) RLT 462)

No interest is payable on account of erroneous availment of credit.

Sweet Industries Vs CCE (2009 (238) ELT 522)

If packaged goods are sold on MRP basis, in the absence of any contrary evidence, it would be deemed that the duty burden has been passed on to the customer.

Shri Baidyanath Ayurved Bhavan Ltd. Vs. CCE (2009 (238) ELT 680)

Service Tax

Case Laws

Service tax for manufacturing activities would apply regardless of whether the products in question were covered within the ambit of the Central Excise Tariff - HC Bottling and packaging activities are integral to manufacturing activity and cannot be viewed in isolation and hence the benefit of exemption from the tax would apply to such activities as well.

Som Distilleries Pvt. Ltd. Vs UOI [2009 (92) RLT 413]

The bar of unjust enrichment would not apply to refund in the case of issuance of credit notes - HC

CST Vs Shiva Analyticals (I) Ltd. [2009 (92) RLT 664]

Rendering of both clearing and forwarding activities is essential to be classified as Clearing and forwarding activities. The Punjab & Haryana High Court has held that for a service to be classified as 'clearing and forwarding agent' services, rendering of both clearing and forwarding activities is essential.

CCE Vs Kulcip Medicines (P) Ltd. [2009 (14) STR 608]

Payment of service tax on imports of services would only arise from 18.04.2006.

Unitech Limited Vs CST [2009-TIOL-293-HCDEL-ST]

"Input service" as per the relevant rules would extend to both direct and indirect service.

CCE Vs J.K.Cement Works [2009 (20) STT 254]

Benefit of refunds / rebates cannot be denied on procedural grounds.

CST, Delhi Vs M/s Convergys India Pvt Ltd. [2009-TIOL-888-CESTAT-DEL]

"Banking and other financial services" cannot be classified under the category of "Business Auxiliary Services" prior to June 2007.

Federal Bank Ltd. Vs CCE [(2009) 20 STT 261]

Transporting employees from various points in the city to the factory and back is not liable to service tax.

Tamil Nadu State Transport Corporation (Kumbakonam) Vs CCE [2009 (92) RLT 434]

IT software is not a 'technical testing and certification service'.

RELQ Software Pvt. Ltd. Vs CST [2009 (92) RLT 535]

Deputation of staff to other group companies for conducting day to day activities would be taxable as "Manpower Recruitment or Supply Services"

Daurala Organics Vs CCE [2009 (14) STR 620]

Subsequent import of goods through courier after purchase is not chargeable to service tax.

Solitz Corporation Vs CST [2009 (14) STR 642]

Sales Tax

Case Law

Movement of goods from one State to another is occasioned as a result of a covenant in the contract of sale can only be treated as an inter- State sale

NCR Corporation India Private Ltd Vs. Deputy Commissioner of Commercial Taxes [(2009) 22 VST 371]

VAT

Case Law

Revised circular issued to nullify the impact of an existing beneficial circular will only have prospective effect and not retrospective effect

R. K. Corporation v/s Govt. of Karnataka [VSTI 2009 B-441]

Karnataka Notifications:

Time periods and procedures have been prescribed for availing exemption from payment of entry tax available on imports of specified goods from outside the State by new industrial units located in specified zones and 100% EOU's.

Notification No. FD 05 CET 2009 03/06/09

Exemption from payment of entry tax on import of specified goods from outside the State by a developer / co-developer of a Special Economic Zone / unit in Special Economic Zone, subject to prescribed conditions, has been granted.

Notification No. FD 67 CSL 2009 dated 26/5/09

Input tax credit of more than Rs 5 lakhs need to upload information related to local purchases and sales on the website before the 20th of each month.

Notification No. KSA CR. 155/2007-08 08/06/09

Learners' Corner

Reverse Mortgage

Vijayalakshmi Karur, B.Com, CS Final



The concept of Reverse Mortgage was proposed by Finance Act, 2007 and the Reverse Mortgage Scheme, 2008 was notified in September 2008 to govern the sanction and disbursement of Reverse Mortgage Loans.

Reverse Mortgage aims at providing financial assistance to senior citizens having own houses in their old age. This facility is so named because the payment stream is reversed. In a conventional mortgage, the borrower has to make repayments at fixed time intervals (monthly/ quarterly towards repayment of principal and interest), whereas in a reverse mortgage, the lender makes periodical disbursements to the borrower.

The capital asset so applied for the reverse mortgage should be owned by the borrower and also free from any encumbrances. It enables the borrower to derive liquid cash flows from illiquid assets (owned houses). The Reverse Mortgage Loan will get settled when the last surviving borrower dies, in the either of the two ways; the legal heirs may repay the outstanding loan and retain the property or the bank may sell the property to realize its dues and the legal heirs will be entitled to the surplus, if any.

Further, any amount received by an individual as a loan either in lump sum or in installment in a transaction of reverse mortgage is exempted under the Income Tax Act, 1961.

Thus, Reverse Mortgage is a complete package for securing sunset years of life!



Did U Know?

Whether insurance claim can be denied by insurance company for violation of law?

No. The National Consumer Commission while deciding the petition filed against the decision of Chennai State Consumer Commission has held that if the terms of the insurance policy were not breached, the insurance company cannot refuse to entertain claims on the pretext of violation of some other laws or conditions.

In the instant case, United India Insurance Company Limited had refused to entertain the claim on the ground that the car, at the time of accident was being plied without 'fitness certificate' as required under the Motor Vehicles Act, 1988.

Pick of the month

Direct to Supreme Court!

We know that Supreme Court is the final authority to put an end to any disputes/legal questions, which could not be resolved at lower levels.

Whether Supreme Court can be approached at the first instance in any case? In other words, apart from Appellate jurisdiction, does it have any Original Jurisdiction?

Yes! Supreme Court has original, appellate and advisory jurisdiction. The matters in which it has original jurisdiction:

- Article 32 of Constitution of India (COI) for enforcement of Fundamental Rights.
- Article 71 of COI for deciding disputes relating to election of President or Vice – President
- Article 131 of COI for resolving disputes between Government of India and one or more states, GOI and one or more states on one side and one or more states on the other, between two or more states
- Article 139A – where the same or substantially the same questions are before two or more courts
- Public Interest Litigations
- Under Arbitration and Conciliation Act, 1996, International Commercial Arbitration can be initiated in the SC