



Mysore Chapter

# eNewsletter - 75

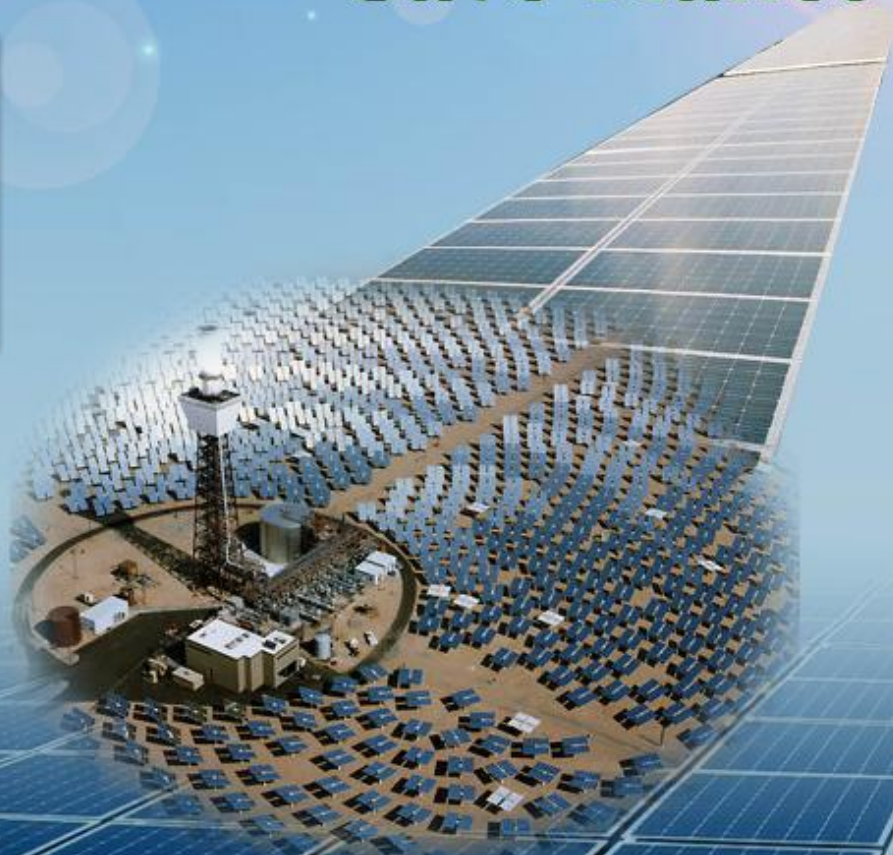
April 2010

**EBITDA Multiple:  
A Smart Valuation Method**

**Go Solar,  
Save Planet**



**When  
Confidentiality  
is in question...**



For Private Circulation Only

## Inside.....

From Chairperson's Desk ...2

Words worth Million...2

Activities at Mysore & Bangalore ...3

### Articles:

EBITDA Multiple: a Smart Valuation Method ...4

Go Solar, Save planet.... 6

Confidentiality of information ...8

### Columns:

**Web Yatra:** Stamps & Registration ...5

**IT for professionals:** Panda Vaccine ...5

**Book Review:** The Creation of Wealth ...5

**Living Room...**7

**Legal Roundup ...** 10

**News Room...**12

### Spectrum Space...9

Did you know?

Pick of the Month

Learners' Corner: Leveraged Buyout

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To join, visit:

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## From Chairperson's Desk



### Dear CS Fraternity,

It is heartening to note that Mysore is the chosen venue for the Students regional conference to be held in August 2010. A Steering Committee would be shortly formed to spearhead the activities. The members and students are welcome to give their suggestions and ideas.

I had the privilege of representing the Mysore Chapter as an invitee at the foundation stone laying of Bank Note Paper Mill at Mysore, by the Honorable Finance Minister, Shri Pranab Mukherjee on the 22<sup>nd</sup> March 2010.

There would be guided study circles at the Chapter over the next couple of months. Thanks to the initiatives of some of our young members for mooted this programme! I invite the students to make the best use of these programmes. The first ever Students' Induction Programme would be held shortly, I urge the students to participate in good numbers. The required level of student participation would encourage the Chapter to hold more such events for the benefit of the local students.

So long, till we meet again!

Yours in CS fraternity,

CS K. Sarina Chouta Harish  
Chairperson

## Words worth Millions



Don't compare your life to others'. You have no idea what their journey is all about.

- Anonymous

## Union Budget – 2010

The Mysore Chapter of ICSI joined hands with the Mysore Branch of ICAI and Institute of Business Laws, Bangalore in conducting a full day seminar on “Union Budget – 2010”. The full day Seminar was held on 1<sup>st</sup> March 2010 at ICAI Bhavan, Bogadi.

Shri.G.Shivadass, Advocate, Partner, Lakshmi Kumaran & Sridharan Associates, Bangalore, was the speaker.

The technical session in the morning hours was on Union Budget 2010 –Indirect Taxes –Customs, Central Excise, Service Tax & GST Update. The speaker waxed eloquent about the impact of the Budget on the industries as a whole. The post lunch session on Direct Taxes dwelt on the tax rates announced in the budget for the salaried class and other persons under the Income Tax Act. The programme was well attended. CS. Sarina C.H. represented the Chapter.

## Cricket Match

On 14<sup>th</sup> March 2010, Mahajana College Grounds was packed to witness a goodwill cricket match. The teams representing the ICSI Mysore captained by Mr. Kiran.T and the ICAI Mysore headed by Mr. Tarun battled it out with the fervor to win the 2020 match. The match was inaugurated by CS. Anshuman, Past Chairman of the Chapter. The CA team won the toss and elected to bat. The team was bundled out for 67 runs. The CS team crossed the target in 13 overs for the loss of 9 wickets. Mr.Lokesh, CS Executive Program Student scored the highest. Mr.Sumit, CA student was the topper.

The winning team was felicitated with the trophy by CS.Sunil Kumar.B.G, Practising Company Secretary in Mysore.

## National Seminar

on “Cosmopolitanism in Contemporary Fiction”



A two-day National Seminar was organized by Mysore University in collaboration with the Mysore Chapter of ICSI at Senate Bhavan in Manasagangotri. The Seminar sponsored by the UGC began on 29<sup>th</sup> March 2010 and concluded on 30<sup>th</sup> March 2010. Shri.A.Madhavan, Former Ambassador to Russia, was the chief guest on the inaugural function. He spoke on how Sri Ramakrishna and Swami Vivekananda expounded the nobility of cosmopolitanism in its broadest sense as did Rabindranath Tagore. The Two-day Seminar was divided into eight sessions. Prof. C. R. Ramachandra of Mysore University, Prof. Susan Daniels from Ooty, Dr. Vijay Seshadri of the University’s Post Graduate Center at Mandya, Kannaka Bhat from Ahmedabad, Dr.Chandramouli from Hyderabad, Dr. Nalini Chander of Marimallappa’s College, Dr.Anil Kumar of PES College, Mandya and Dr. Abhaya from Christ University handled the sessions.

Prof. S. N. Gayathri, Principal, Maharaja College, presided over the inaugural session. CS. Sarina Chouta Harish K took part from ICSI – Mysore Chapter.

## Bannerghatta Study Circle inaugurated



Under the plan for decentralizing the study circles, “**Bannerghatta Study Circle of ICSI –Bangalore Chapter**” was inaugurated by CS S.M. Pramod, Chairman, Bangalore Chapter and CS A.S. Cherukupalli, Chief Operating Officer, Founder’s Business, GMR Group and first study circle meet was held on March 25, 2010 at GMR Group, Bannerghatta Road, Bangalore. Convener for this unit of study circle was CS. C.P. Sounderarajan. CS M.R. Gopinath, PCS dealt with the topic “Companies Bill 2009 and Corporate Governance”, elaborating the Corporate Governance issues vis-à-vis meetings, role of Directors and Key managerial personnel, reorganizations, merger & demergers, audit and Accounts and Management & Administration under Companies Bill 2009. Later the speaker answered the queries of the members present. The program was attended by 51 members. CS Kannan, Secretary, Bangalore Chapter of ICSI proposed vote of thanks. The next study circle was scheduled to be held in the month of May 2010.

# EBITDA Multiple: A Smart Valuation Method



CS. Amar Kakaria ACS, ACA, ACWA  
amar@fusionadvisors.in

EBITDA (Earnings before Interest, Taxes, Depreciation and Amortisation) multiple is often called as **Enterprise Multiple** since it takes into account entire enterprise irrespective of capital structure. It takes into account a company's debt and cash levels in addition to its stock price and relates that value to the firm's cash profitability. It is calculated by using the formula given in the box.

Typically, EBITDA multiple is used while doing valuation of cash-based businesses. Enterprise multiple is capital structure-neutral and hence, can be used for direct cross-companies application. It is often used in parallel with, or as an alternative to, the Price/Earnings (P/E) ratio. The reciprocal multiple i.e. EBITDA / Enterprise Value is used to determine cash return on investment.

Enterprise Value	
Earnings Before Interest, Taxes, Depreciation & Amortisation	
Enterprise Value	EBITDA
Market Capitalisation	Net Profit After Tax
Add: Long Term Loans Taken	Add: Depreciation / Amortisation
Less: Market Value of Non-Operating Asset	Add: Interest
Less: Loans Given to Group Companies	Add: Tax
Less: Financial Investments	Add: Non-operating Expenses
Less: Surplus Properties	Less: Non-operating Income

Higher EBITDA multiple indicates that the company might be overvalued and vice-versa. However, it need to be understood that this multiple can vary depending upon the characteristics of industry and therefore, it is desirable to compare the multiple to other companies in same industry or industry multiple as a whole. Generally, EBITDA multiple is higher for high growth sectors (e.g. real estate) and lower for low growth sectors (e.g. metals). Even within the same sector, high growth companies usually have higher EBITDA multiple over others.

As per a research report (dated 12<sup>th</sup> March 2010) on 'Engineering / Infrastructure Sector' by ENAM Securities, following are expected EBITDA multiples of large engineering companies for FY2010 (Expected):

Company	EV / EBITDA (X)	Expected Growth In EPC Order Flow (FY10E)
Larsen & Toubro	17.3	26%
IVRCL	9.8	4%
Nagarjuna	10.3	-2%
Hindustan Construction Company	10.1	9%

(Source: Report on 'Engineering / Infrastructure Sector' by ENAM Securities)

On analysis of the given table, L&T has the highest EBITDA multiple, however, it is also expected to grow fastest over its competitors despite its leadership position in the industry. Hence, it can still be a good investment opportunity despite higher valuations. On the contrary, IVRCL has lowest EBITDA multiple and hence, there is a possibility that it may outperform the industry.

Enterprise multiple is the most encompassing and generally considered the most useful in analyzing the current valuation of a target company because of variety of reasons:

1. It is purely driven by operations of the Company and do not have any impact of non-business factors of discretionary / non-recurring nature

which are less predictable.

2. Since the comparison is done at operational level, there is no impact of differential tax rates across companies from difference countries which facilitates qualitative comparison.
3. Enterprise value takes into account debt component of target company which the acquirer will be taking over and hence, it is preferred over market capitalisation while doing M&A. As a normal practice, companies with lower enterprise multiple are better takeover targets as compared to their peers.

Enterprise multiple is somewhat difficult to calculate as compared to P/E multiple.

However, its regular usage can certainly help investors to appraise corporate managements more efficiently and make smarter investment decisions for themselves in the days to come.

## Department of Stamps & Registration

Government of Karnataka

About Us

Organisation

Citizen Charter

[www.karigr.org](http://www.karigr.org)

## Web Yatra

Pavan Kumar MS  
CS Final, Mysore



Friends... Do you want to know about value of land, registration, e-stamping and recent amendments in Registration Act? Here is one click solution which will answer all your queries on stamping and registration, i.e., [www.karigr.org](http://www.karigr.org).

This site is developed by Government of Karnataka, where in we will find all acts and rules relating to stamping and registration in Karnataka. Also we can find FAQs on related topics which help a lot. This site also provides Estimated Market Value of land situated in any part of Karnataka. Many useful downloads are available for reference and use. Facing problem in registration/stamping of documents? Register your grievance/give suggestions to appropriate appellate authorities.



## IT for Professionals

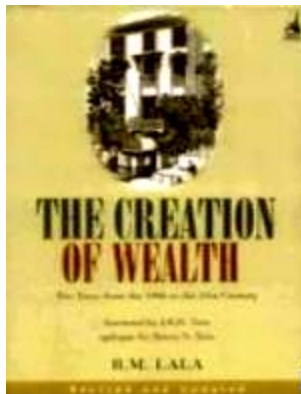
CS. Sunil Kumar B.G. B.B.M., A.C.S.  
Practicing Company Secretary, Mysore

**PANDA**  
SECURITY

Computer Vaccination !

Windows operating system users may be aware that the AutoPlay feature in Windows OS supports the Auto Run function for non-optical removable media. This is to provide malicious programs from taking advantage of the Auto Run vulnerability to spread dangerous worms or viruses. For Windows only, Panda USB Vaccine is a free utility offered by Panda Security Research for users who have security concerns over malware infections due to the Auto run feature in their OS.

Compatible with Windows 2k, Windows XP and Windows Vista, Panda USB Vaccine offers users two different types of vaccinations: Computer Vaccination and USB Drive Vaccination. Vaccine for computers will prevent any Auto Run file from running, regardless of whether the device (memory stick, CD, etc.) is infected or not. Vaccine for USB devices is a 'vaccine' for removable USB devices, preventing the Auto Run file from becoming a source of infection. The tool disables this file so it cannot be read, modified or replaced by malicious code.



## "Creation of Wealth"

by R.M. Lala

## Book Review

CS. Raghuvver.C.S, ACS, ACA  
Man & Hummel Filter Pvt Ltd,  
Bangalore



This book is about one of the most trusted business houses in India and abroad the "TATA". The book forwarded by the legendary J.R.D Tata gives a lucid narration of the growth of the Tata's from 19th century to the 21st century.

It is an account of how the foundation of India's industrialization was laid by Jamsetji and his heirs. The book evokes an era so different from the today's business world. That was a world of adventurous men with undaunted hearts who dared to accomplish things for the sake of the country and not just the bottom line.

The author lucidly explains the philosophy of the group that the means to attain the ends is as important as the end itself. In sticking to this philosophy the group has sacrificed 100 per cent growth as per the observation made by J.R.D Tata and he also remarks "we wouldn't want it any other way". The author also gives two instances to drive home this point.

**The book is a must read for all the professionals working in various positions in companies to draw inspiration that successful business can be in an ethical manner.**



## Go Solar... Save Planet

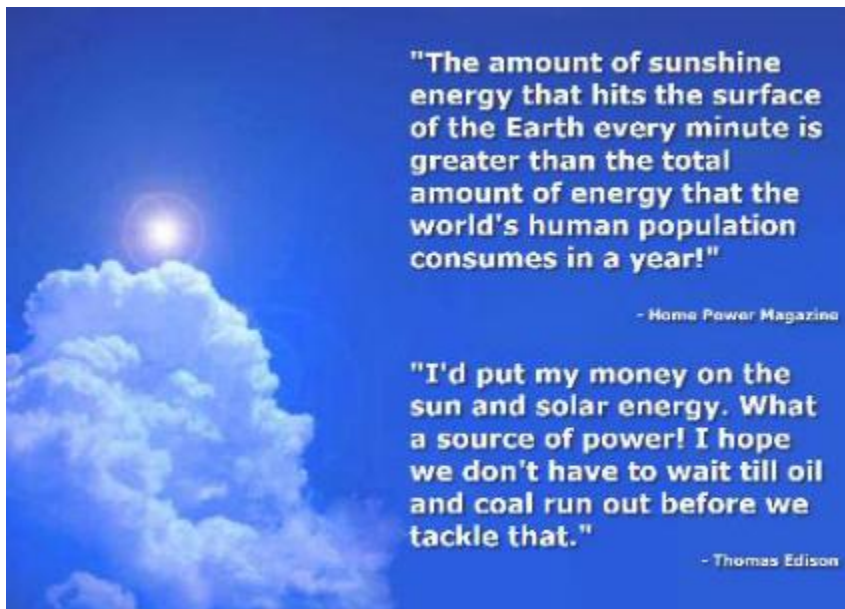
CS. Priti Astarag Patnaik, Secunderabad  
papatnaik@gmail.com

Since the creation of this earth in Big Bang and development of human species after that our planet has changed a lot. But since then up to this time one thing has not changed, the SUN. Our planet is live only because of Sun. The modern human on its search for different sources of energy has been able to explore the energy in Sun - Solar Energy.

### Why to go Solar?

There are several favorable conditions which call for switch over to solar energy:

1. India being tropical country, about 5,000 trillion kWh per year energy is incident over India's land area with most parts receiving 4-7 kWh per sq. m per day.
2. Environmental degradation due to mining of coal is already obstructing thermal power dependency. Same is true for other bio-fuel power generation.
3. A large part of energy is lost during the transmission of grid based power.
4. It's not feasible to provide grid based power to the remote parts of the country.
5. Bio fuel based thermal power causes pollution which needs to be addressed today or tomorrow.
6. Solar is the most secure of all sources, since it is abundantly available.



### Hurdles on the path:

1. High initial cost (around Rs. 1Lac to 2 Lac) though the facility will have a life time over 25 years with small maintenance expenses. The cost is too high ranging up to Rs 90- to Rs. 100 per Watt peak. (Per watt peak means 1 watt output at any point of time). For

- irrigation purpose one might have to spend around Rs. 70,000 for one H.P. capacity water pumping.
2. As in the present technology solar power generation requires lot of place to install the solar modules, collectors and other devices.
3. Effective storage mechanism is required for uniform supply of power in all seasons.

### Present scenario:

Solar energy has two type of use i.e. for generation of heat - solar thermal and generation of electricity - solar photovoltaic. Latter needs solar cells to produce electricity from solar radiation. On the other hand solar thermal application uses solar temperature collectors for collection of solar radiation to produce heat energy which in turn can be used for production of electricity as well for heating and cooling purpose.

There are two types of solar cell currently available in the market i.e. Crystalline silicon solar cells & Thin film solar cells. Former is popular for its efficiency but it is heavier. Latter has not developed to the desired level though it can be mounted on window glasses also. Both have to development a lot yet.

### India's Solar Plan: Jawaharlal Nehru National Solar Mission:

As a part of India's National Action Plan on Climate Change, Ministry of New and Renewable Energy has launched "Solar India" with an objective of sustainable growth - "to grow and let others to live and grow", keeping in mind the financial constraints and affordability challenge in a country where large numbers of people still have no access to basic power and are poor and unable to pay for high cost solutions. The policy aims to bring solar power in parity with Hydro power by year 2022 and with

coal based thermal power by 2030. Mission is funded from budgetary allocation under the MNRE and International Funds under the UNFCCC framework

As a remedy to high initial cost, ministry has declared comprehensive subsidy schemes to all levels of people in the society including individual, communities and entrepreneurs in order to achieve the Solar India Mission goals.

For example for Remote village Electrification gets subsidy up to 90% of the costs of electricity generation systems subject to ceilings: - Rs.18,000 per household for distributed generation systems, and - Rs.11,250 per household for SPV home-lighting systems. Similarly for SPV water pumping systems the subsidy is Rs.30/Wp of SPV array used, subject to a maximum of Rs.50,000 per system. The subsidy scheme provides for different financial assistance for different type of Solar Photovoltaic equipments and systems. For entrepreneurs the assistance amount varies between Rs.1, 25,000/kWp to Rs.2,70,000/kWp for establishing SPV standalone power plant of capacity more than 10 kWp depending on the geographic location. The scheme also provides subsidy for Solar Thermal systems/ devices like Solar Water Heating systems, Solar Air Heating/ Steam Generating Systems, Dish / community type solar cookers, and solar cooker for individual family. In order to easy the procedure at

administrative level the policy aims to provide for single window clearance mechanism for all related permissions.

### R&D Target

The policy recognizes the need for major R&D initiative on improvement of efficiencies in existing materials & devices, reducing costs, establishing new applications by addressing issues related to integration and optimization and on developing cost-effective storage technologies.

### United, We Win!

Policy has suggested for development of Strategic international collaborations and Partnerships through bilateral and multilateral arrangements with international community for carrying out bilateral projects, encouraging research activity and to generate new ideas.

The mission can succeed only if entire nation, you and I participate. India has just started its journey on the way of endless energy. A long way to go keeping in mind the ultimate target of the National Solar mission i.e. clean, affordable and endless power.

*"The woods are lovely, dark and deep... But I have promises to keep... And miles to go before I sleep, And miles to go before I sleep... .." - Robert Frost*



## LIVING ROOM



**"What's the use of a fine house if you haven't got a tolerable planet to put it on?"**

- Henry David Thoreau

**"We won't have a society if we destroy the environment."**

- Margaret Mead

**"Speed is irrelevant if you are going in the wrong direction."**

- Mahatma Gandhi



## Confidentiality of Information

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

Knowledge is power and information is the key to such power; ideas open up gates to money. Hence it becomes essential for corporates to take special care of trade secrets, designs, know-how, confidential information and the like.

However, with technology, it sometimes becomes easier to manipulate sensitive keys such as passwords and gain access to confidential information, making it extremely difficult to track the offender. For instance, it was recently reported that an employee in the 'controllership' division within the finance department of a well known reputed corporate stole a password and transferred funds from his bank account.

In addition to loss of reputation, huge jury verdicts have recently come down against companies found to have violated trade secret rights of others, especially in the USA, where some prosecutors are now looking at criminal prosecutions of trade secret violations under federal law. Companies outside USA found guilty of committing unauthorized exploitation of secretive information in the USA and thereby causing prejudice to US entities are also not spared. Considering litigation costs in the US, many defendants in such cases are opting for out of court settlements.

It is therefore extremely important for corporates to protect their own confidential information and to assure confidentiality of information of others, where confidentiality obligations have been taken up. The usual practice is to enter into Confidentiality and Non-Disclosure Agreements, popularly known as NDAs. Typically, NDAs should state that certain information is being disclosed for a specified purpose, define what information to be construed as confidential, specifically state confidentiality obligations of the party receiving information, provide for exceptions under which information may be disclosed to statutory or other agencies, prevent the receiving party from claiming intellectual property rights (IPR) in such



Technology has made life easier. However, it has also given rise to lot of threats, particularly in terms of data safety, security and protection of confidentiality.

Losing confidential data may mean loss of reputation, business, future prosperity and payment of enormous compensation.

information, prevent commercial exploitation of such information by the receiving party, provide for remedies in the event of breach or threatened breach of confidentiality obligations of the receiving party and provide for return of all such information by the receiving party, immediately after the purpose of disclosure is served. More importantly,

the NDA should also fix liability on the receiving party for all breaches of its employees. Every entity should have properly drafted NDAs with its actual and potential customers, suppliers, consultants, outsourcing partners, investors and the like. However, mere NDAs are not sufficient to protect confidentiality. Binding policies should be formed and circulated amongst all relevant employees, which should include:

1. stressing periodically the need to maintain confidentiality
2. advising that particular information is sensitive
3. making sure that only employees or others with a true 'need to know' have access to confidential or trade secret information
4. keeping hard copy confidential or trade secret information under lock and key
5. password-protecting or otherwise restricting access to electronically stored information
6. restricting copying of sensitive information
7. restricting and monitoring use of portable storage media such as pen drives, external hard drives and the like.

Other steps include periodical rotation of employees, testing of internal controls and installation of early warning mechanisms. Further, employees should be made to sign undertakings regarding sharing of passwords and other sensitive information.





Compilation:  
Ravishankar Kandhi, CS Final, Bangalore

## Learners' Corner

# Leveraged Buyout



Mr. Satish Chandra,  
CS Final, ICWAI

Leveraged buyout (LBO) is one of the takeover methods where in the buyer acquires the target firm with the help of borrowed money/loans. The assets of the target are provided as collateral for the loans taken.

This is also known "**Bootstrap Transaction**".

The concept of leveraged buyout was first used in late 1960s. It was only during the 1980s that LBOs were taken seriously in the industry. Private equity players, with large access to private capital were primarily responsible for the popularizing this method of takeover.

The major players of any leveraged buyout are - The **Acquirer** who can be an investor or group of investors who take-up the majority stake in the target company. The **Target Company** is the company which is to be acquired as a result of the transaction. **Merchant banker** is the firm that advises and arranges the funds required for an LBO.

Any major leverage buyout target will have the following characteristics that make the target attractive (a) Low existing debt loads; (b) Existence of good quality capital assets; and (c) Potential to improve profitability and cash flows;.

The basic rationale behind any leveraged buyout can be broadly categorised under two major heads

1. **Use of debt:** Under Modigliany-Miller model of valuation of firm, return on assets is unaffected by the structure of financing the capital. Hence, use of debt increases the financial return for the private equity investor.
2. **Benefit of Tax-shield:** The more the debt, the more is the interest payout. Interest payout is one of the admissible expenses for the computation of tax. Hence, the effective cost of borrowing of debt is less than the interest rate of debt.

The advantages of LBO are - The sponsorer has to provide only a fraction of capital, as most of the required capital is raised in the form of loans and the internal rate of return (IRR) on the investment exceeds the weighted average interest rate on the acquisition debt, returns to the financial sponsor will be significantly enhanced.

## PICK OF THE MONTH

### CAT to bell over companies over Misleading advertisements

Competition Appellate Tribunal (CAT), the quasi-judicial body empowered to look into unfair trade practices, will spell out the 'dos' and 'don'ts' for electronic and print ads in a first-of-its-kind move in the country.

Companies could soon find it difficult to get away with tall claims about their products or making insinuations against their competitors. A newly-formed apex panel on competition is set to define the limits of acceptable advertising. These guidelines, although not mandatory, will be deterrent to unethical campaigns as they would form the regulatory benchmark on the subject.

"The tribunal is committed to discontinuing the practice of companies making disparaging comments about competitors to hype their own products. You can blow your own trumpet, but cannot denigrate your competitors"

Source: [www.cci.gov.in](http://www.cci.gov.in)

## DID YOU KNOW

### What is the IASC Foundation?

The IASC Foundation is an independent, not-for profit private sector organisation working in the public interest. Its principal objectives are:

- to develop a single set of high quality, understandable, enforceable and globally accepted international financial reporting standards (IFRSs) through its standard-setting body, the IASB;
- to promote the use and rigorous application of those standards;
- to take account of the financial reporting needs of emerging economies and small and medium-sized entities (SMEs); and
- to bring about convergence of national accounting standards and IFRSs to high quality solutions.



## CENVAT Notifications/Circulars

Procedures for e-filing of Central Excise and Service Tax returns and repayments of excise duties and service taxes are notified.

*(CBEC Circular No. 919 / 09 / 2010 - CX dated 23-3-2010)*

## Case Laws - Valuation

Valuation of goods manufactured and used in turnkey projects would be determined under Rule 8 of the Valuation Rules.

*Indian Hume Pipe Co. Ltd. Vs. CCE (2010 (173) ECR 135)*

Assessment of goods shall be made in the form in which they are cleared from the factory, no differential duty is payable on activities carried out subsequent to such clearances.

*Colgate Palmolive (I) Ltd. Vs. CCE (2010 (173) ECR 143)*

Bonus payments received subsequent to clearance of goods, are not includible in the value.

*Vishwakarma Refractories Pvt. Ltd. Vs. CCE (2010-TIOL-287)*

In case individual items packed in composite packs cannot be sold separately, the valuation shall be on the basis of price printed on composite pack.

*CCE Vs. Henkel Spic India Ltd. Vs. CCE (2010 (251) ELT 287)*

Excess freight collected from the buyer is not includible in the value of goods.

*Icomm Tele Ltd. Vs. CCE (2010 (251) ELT 103)*

## Case Laws - CENVAT/MODVAT

Restriction of 180 days for return of goods from job workers is not applicable in relation to moulds sent to the job worker.

*Karamchand Appliances Pvt. Ltd. Vs. CCE (2010 (251) ELT 67)*

CENVAT credit is available on parts used for repair and maintenance of eligible capital goods.

*L.H. Sugar Factories Ltd. Vs. CCE (2010 (251) ELT 135)*

CENVAT credit is not deniable in relation to inputs issued for production but destroyed in a fire thereafter.

*Gitanjali Chemicals Pvt. Ltd. Vs. CCE (2010 (173) ECR 90)*

CENVAT credit is available in respect of inputs used in exported product even if cleared in the DTA.

*CCE Vs. Mahindra & Mahindra Ltd. (2010 (172) ECR 215)*

Absence of physical removal of tools outside the factory, no reversal of CENVAT credit is required.

*DCM Engineering Products Vs. CCE (2010 (251) ELT 91)*

CENVAT credit availed by the recipient of inputs cannot be varied upon retrospective revision of the price.

*Bajaj Auto Ltd. Vs. CCE 2010 (251) ELT 237*

## Case Laws - Others

The Revenue is precluded from challenging the correctness of a departmental circular, even if it is inconsistent with the statutory provisions.

*CCE Vs. Malwa Industries Ltd. (2010 (251) ELT 32)*

Unjust enrichment is not caused if SC Orders for refund and the duty was paid under protest subsequent to the clearance of goods by the assessee.

*CCE Vs. Crane Betel Nut Powder Works (2010 (251) ELT 118)*

## Customs Notifications/Circulars

CG has increased the extent of tariff concession to 75% and 100% on the specified goods imported under SAFTA agreement.

*(Notification No. 36/2010 dated 22/03/2010)*

Nhava Sheva CA has cancelled the factory stuffing permissions issued to "manufacturer exporters" under "free shipping bills".

*(Public Notice no. 27 dated 08/03/2010)*

Nhava Sheva CA has extended the facility of payment of 4% SAD refund to importers bank directly.

*(Public Notice no. 16/2010 dated 16-2-2010)*

## Case Law - Others

Belated filing of reconciliation statement as per Project Import Regulations, 1986 cannot take away the benefit of concession.

*Konaseema Eps Oakwell Power Ltd. Vs CC (2010-TIOL-333)*

Customs refund claims cannot be rejected as long as the CA certifies that

the duty burden has not been passed on to the customer.

*Global Ventures Vs CC (2010-TIOL-360)*

Typographical errors in the Import General Manifest filed by a steamer agent cannot render the goods liable to confiscation.

*Maritime Services Pvt. Ltd. Vs CC (2010-TIOL-373)*

Substantial benefit by way of refund cannot be denied due to technical impediments.

*Narayan Nambiar Meloths Vs. CC (2010 (251) ELT 57)*

## Foreign Trade Policy Notifications/ Circulars

A duty @ 16% ad valorem on supply of electrical energy from SEZ to the non processing areas of DTA.

*(Customs Notification No. 25/2010 dated 27/02/2010)*

Supply of goods from the DTA to the SEZ for its authorised operations is permissible under claim of rebate.

*(Customs Circular No. 06/2010 dated 19/03/2010)*

Duty drawback allowed is recoverable by the customs authorities in the event proceeds are not realized within the allotted time.

*(Customs Circular No. 07/2010 dated 23/03/2010)*

Installation certificate is not required for moveable capital goods if imported by a service provider under the SFIS or EPCG scheme.

*(Policy Circular No. 26/2009-14 dated 17/03/2010)*

Verification mechanisms and guidelines for monitoring of export obligations under the duty exemption /export promotional schemes are notified.

*(Customs Circular No. 5/2010 dated 6/03/2010)*

100% EOU can claim the benefit of Vishesh Krishi Gram Udyog Yojana, Focus Market Scheme (FMS) and FPS.

*(Circular No. 104 dated 02/03/2010 issued by EPC for EOU & SEZ)*

SEZ units can import and export prohibited items on the basis of specific prior approvals from the BOA.

*(SEZ Instructions No. 47 dated 04/03/2010)*

## Case Law (contd...)

Failure to fulfill the export obligations under the EPCG scheme, interest is also to be levied.

*Dhwani Fashions Vs DCC (2010 (251) ELT 173)*

Term 'manufacture' for the purpose of regulating exemptions allowed to EOUs should be construed as defined in the FTP and not as per Section 2(f) of the Central Excise Act.

*Tirumala Impex Vs CC (2010 (251) ELT 240)*

## Antidumping Duty Notifications/ Circulars

Provisional anti dumping duty is imposed on import of Coumarin originating in, or exported from China PR.

*(Customs Notification No. 38/2010 dated 23/03/2010)*

Final anti dumping duty is imposed on import of injection presses, originating in, or exported from China PR.

*(Customs Notification No. 39/2010 dated 23/03/2010)*

## Service Tax Notifications/ Circulars

Electronic filing of returns and epayment of duty is allowed for Central Excise and Service Tax.

*(CBEC Circular No. 919 / 09 / 2010 - CX dated 23-3-2010)*

### Case Laws

Photography services are in the nature of a works contract, service tax would not be levied on the consideration received.

*CCE Vs. Vahoo Colour Lab, [2010 (25) STT 1]*

If tax liability was discharged on the basis of centralized registration, the benefit of Cenvat credit on input services cannot be denied.

*Manipal Advertising Services (P.) Ltd. Vs. CCE, [2010 (25) STT 30]*

Green belt maintenance would not come within the ambit of 'maintenance of immovable property'.

*CCE Vs. ANS Constructions Ltd., [2010(17) S.T.R. 549]*

Customs House Agent's, dry cleaning and telephone services to meet daily business activities are all eligible 'input services'.

*CCE Vs. Fourrts (I) Laboratories Pvt. Ltd., [2010 (96) RLT 555]*

GTA service from the factory gate to the port of shipment is an eligible 'input service'.

*Cauvery Stones Impex Private Ltd. Vs. CCE, [2010 (96) RLT 552]*

Tax liability arises only on the actual amount collected from customers, net of discounts granted to customers.

*CST Vs. Purnima Advertising & Promotions Pvt. Ltd. [2010 (96) RLT 410]*

Transportation services provided to employees from residence to factory and vice versa are eligible input services.

*Tata Auto Comp Systems Ltd. Vs. CCE, [2010 (96) RLT 181]*

Manufacturing and selling of licensed products of foreign company is taxable as Intellectual Property services.

*Switzer Instruments Ltd. Vs. CST, [2010 (96) RLT 99]*

The relevant date for taxability is the date of provision of services.

*CCE Vs. Ashok Singh Academy, [2010 (96) RLT 186]*

Rebate of service tax is available only for benefits of the services accrue outside India.

*KSH International Pvt. Ltd. Vs. CCE, [2010-VIL-05]*

## Sales Tax

### Case Law

Sales tax and entry tax are two distinct forms of taxes and dealer having exemption from sales tax cannot be deemed to have an exemption from entry tax. Penalty for delayed payment of tax cannot be levied if dealer has deposited the due tax along with interest.

*Amba Carbonisation Pvt. Ltd. Vs. State of Bihar [(2010) 27 VST 220]*

Penalty for failure to produce transit documents cannot be levied where the goods are exported from outside India and there is no loss of revenue.

*West Bengal Taxation Tribunal, in Madan Lal Goel Vs. Commercial Tax Officer [(2010) 27 VST 213 (WBTT)]*

## FEMA & SEBI

### Amendment to Listing Agreement:

Clause 24(f) of the listing agreement is amended with respect to Auditors' certificate for various accounting treatment under schemes of arrangement.

Clause 41(I) is amended with respect to Timelines for submission and publication of financial results by listed Companies.

Clause 41(1)(g) provides for Voluntary adoption of International Financial Reporting Standards (IFRS) by listed Companies having subsidiaries.

Clause 41(1)(h) provides for Requirement of a valid peer review certificate for statutory auditors.

Clause 41(IV)(h) provides for Interim disclosure of Balance Sheet items by listed Companies.

Clause 49(II)(D)(12A) provides for Approval of appointment of 'CFO' by the Audit Committee

*Circular No. CIR/CFD/DIL/1/2010 dated April 05, 2010.*

SEBI proposes to reduce the time between public issue closure and listing to 12 days from existing 22 days.

*PR No.88/2010 dated April 06, 2010 issued by SEBI.*

## Others

### Case Law

SEBI has got statutory powers of investigation under section 247 of the Companies Act, 1956 if there are any Alleged Misstatement in Red Herring Prospectus.

*Kimsuk Krishna Sinha v. Securities and Exchange Board of India and Others (Decided)*

## Further updates on Service Tax from Mr. Ashit Shah, Pune:

### E-payment of taxes and filing of half yearly return under Service Tax:

It is mandatory for those assesses who had paid total service tax of Rs. 10 Lacs or more including the amount of Cenvat Credit, in the preceding financial year;

- to make payment of service tax by depositing such taxes electronically through internet banking system, effective from 01-04-2010.
- e-filing of half yearly service tax returns in form ST-3 starting for the period 01-10-2009 to 31-03-2010

through Automation Central Excise and Service Tax software introduced by CBEC.

[Notification No. 01/2010 – ST – Dated 19-02-2010]

**Levy of Service tax on Goods transported by Rail** was introduced in the Finance Bill, 2010 and was effective from 01-04-2010. However, this has been postponed and it has been provided that it would be effective from 01-07-2010.



### **Lammy says moral rights must remain with songwriters**

IP Minister David Lammy told that copyright has become more “democratised” with the advent of technology making the issue of moral rights even more central to debate. He said copyright has two components: to get payment and to protect the moral stake in work. “The moral side of it is just as important in the UK because an artist puts a lot of themselves into their work. When art is sold in a gallery for a six figure sum it is clear the value of that work is because of the huge endeavour. There is a powerful sense that it is still theirs.”

### **French firm files EU antitrust motion against IBM**

French software group TurboHercules asked EU antitrust regulators to look into IBM's business practices, alleging the U.S.-based company was blocking customers from its open-source technology. IBM rejected the accusations, saying it was protecting its intellectual property rights.

### **Greece going to IMF would damage euro-Luxembourg**

If Greece ends up calling on the International Monetary Fund for financial aid it would damage the European single currency, Luxembourg's Foreign Minister Jean Asselborn has said. If Greece implemented the steps prescribed to straighten out its financial problems, it would not need IMF aid, he added.

### **NGOs Launch International Campaign to Stop Man-Made Disaster in Ethiopia**

International NGOs are calling for the halt of the destructive Gibe 3 Dam on Ethiopia's Omo River. The dam threatens the land and livelihoods of 500,000 tribal people in Southern Ethiopia and Northern Kenya. The dam will devastate the unique culture and ecosystems of the Lower Omo Valley and Lake Turkana, both recognized as UNESCO World Heritage Sites.

### **Death of coral reefs could devastate nations**

Coral reefs are dying, says scientists and governments around the world. If global warming continues unchecked, all corals could be extinct within 100 years. Experts say that "A world without coral reefs is unimaginable; reefs are precious sources of food, medicine and livelihoods for hundreds of thousands around the world. They are also

special places of renewal and recreation for thousands more. Their exotic beauty and diverse bounty are global treasures."

### **EU, US aid groups to pledge about \$2.7 bln for Haiti**

More than \$2.7 billion in pledges of aid to help earthquake-wracked Haiti recover and rebuild will be made by the European Union and a coalition of U.S.-based humanitarian groups at a U.N. conference.

### **China overtakes India as diabetes capital**

This is one top spot India won't mind losing out on. China is now the world's new diabetes capital -- a position held by India so far. A population-based national study has found that 92.4 million adults in China are diabetic. In October 2009, China was estimated to have 43.2 million diabetics, compared to 50.8 million in India.

### **Scientists look to tobacco as a possible biofuel**

Researchers say tobacco, an age-old cash crop, could be used to help solve the nation's energy crisis. Tobacco is the latest of possible biofuel sources under study, like switchgrass and algae. Scientists say using tobacco would be beneficial because it's not a major food source like corn or soybeans. There's also no second-hand smoke as tobacco wouldn't be burned to power vehicles but used to extract oils and sugars.

### **Ministry takes action on Microsoft complaint**

Microsoft Gulf said that a criminal complaint which it had filed in Qatar led to an anti-piracy raid at a store in the country. “The raid was conducted by the Ministry of Justice and resulted in the confiscation of fake copies of Microsoft software. A criminal investigation is pending,” an official said. Microsoft Gulf IPR manager Jawad al-Redha said: “Microsoft is working with stakeholders across the Middle East, including governments, industry partners and educational bodies, to build awareness of the value of intellectual property as a driver of economic growth and encourage respect for intellectual property rights,” he added.

### **WTO: China now No.1 for exports**

The Ministry of Commerce says according to the World Trade Organization, China surpassed Germany to become the biggest exporting country in the world in 2009. The WTO says the country's total export volume made up 10 percent of the global total.