



Mysore Chapter

# eNewsletter

88th Edition

May 2011



**Bird's eye view  
on recent reforms  
by MCA**

4



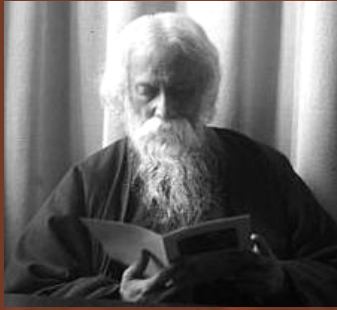
6

**Riding the  
'Complete' Trend**

8

**Investing in FD**

## "WORDS WORTH MILLIONS"



"I slept and dreamt that life was joy. I awoke and saw that life was service. I acted and behold, Service was joy."

**Rabindranath Tagore**

7 May 1861 - 7 August 1941

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## MESSAGE FROM CHAIRPERSON



Dear Members and Students of CS fraternity,

I'm glad to share with you all that the dream project of "ICSI House - Mysore" is coming up in full swing. We are sure that with the wholehearted support from all of you, the building will come up in no time. We sincerely appeal to all our readers to contribute generously to this noble cause.



30<sup>th</sup> June is the last date for completing the SIP for the Students who have registered for Executive Program before 31<sup>st</sup> December 2010. Mysore Chapter is scheduling another SIP for the benefit of these students from 13.06.2011 to 19.06.2011.

The exam season is back, Most of the students are appearing for exams in the month of June. I remember the following verse, which I read in some book long ago -

*"Lost, between sunrise and sunset,  
One golden hour, set with sixty diamond minutes.  
No Reward is offered, for it is gone forever"*

- and the message delivered through this is very appropriate and relevant at this point of time. So, make best use of the time available and prepare well for the exams.

Thank you,

Yours in CS fraternity,

## Inside.....

CS. Srilatha T G

### **Articles:**

Bird's eye view on recent reforms by MCA ...4

Reader's Response...5

Riding the 'Complete' Trend...6

Company Deposit - Part 11: Deciding to invest in FD - I...8

### **Columns:**

**Chapter Activities...3**

**Living Room: Lame Puppy...7**

**Web Yatra: UPSC Portal...10**

**IT for professionals: iPrint...10**

**Spectrum Space...11**

**Legal Roundup ... 12**

**News Room...14**



### Session on Mergers and Acquisitions

On 3<sup>rd</sup> April 2011, a session on Mergers and Acquisitions was organized by the chapter. Mr. Avinash handled the session and explained the students about the law relating to Mergers and acquisitions as well as some practical aspects regarding the same. The students actively participated in the session and many academic queries regarding the Mergers and Acquisitions were answered.

### Study Circle Meeting

During the month, 3 Student Study Circle Meets were conducted on 10th, 17th and 24th. The Students of the Chapter discussed various topics of academic interest in these study circles and the members and senior students of the Chapter were present to guide the students.



### 5th Student Induction Programme

The Fifth Student Induction Programme for Executive programme students of C.S. course was held by the Chapter from 16th April, 2011 to 8th May, 2011. The speciality of this program was that this was the First ever Weekend SIP held with special permission from ICSI which was spread over 3 Saturdays and 4 Sundays. 36 students participated in this 7 Day training program which consisted of 28 Technical Sessions. Faculty for the technical sessions were experts in their own fields and comprised of a judicious mix of Academicians,



Industry Experts, Soft skills Trainers and professional Consultants from Mysore as well as Bangalore. The feedback received from the students in respect of the choice of topics for the technical sessions, faculty, arrangements made at the venue were extremely encouraging. In the Valedictory session on 8th May 2011, Mr. Aditya M was adjudged as Best Participant and Mr. Jagadeesh S G & Ms. Hema B were awarded the Best Participation In Group Discussion. Mrs. A M Bollamma, eminent faculty of Law and CS. Srilatha T G, Chairperson of Mysore Chapter of ICSI were present during the occasion.

### Discussion on Revised SS-2 and SS-5

On 24<sup>th</sup> April 2011, a discussion on Revised Secretarial Standards – SS-2 and SS-5 was held at the Chapter. Mr. Ajay Madaiah, Professional Program Passed Student, convened the discussion. Members of the chapter were present for the discussion and the pros and cons of the amendment was discussed and deliberated in detail.

### Special Lecture on Role of CS

On 29th April 2011, a special Lecture on “Role of Company Secretary” was organized by the Chapter. at Sarada Vilas Law College, Mysore. CS. Parvati K R, Treasurer of the Chapter addressed the students and explained the role of company secretary in present day Corporate Scenario, covering the scope of activities of Company Secretaries in Practice as well as in Employment.



## ICSI GOING GLOBAL

ICSI is expanding its footprint globally, with the demand for such professionals rising in certain parts of the world. “We are in the process of opening offices in CIS countries, Latin America and African regions not only to facilitate company secretaries from India to engage themselves there but also to train professionals in those countries. In CIS countries and even in mainland China, the profession of company secretaries is almost non-existent,” Mr Anil Murarka, ICSI president, told [presspersons](#) in Hyderabad on 19<sup>th</sup> April 2011. He said the Union Government was also supportive of this initiative. “We are currently in discussion with Singapore, Malaysia, Kenya and Australia for signing MoUs for sharing resources, ideas and capabilities in this sector,” he added.



# BIRD'S EYE VIEW

## ON RECENT REFORMS

### BY MCA

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- Practicing professionals shall certify the Form 1A;
- Applied name can be withdrawn by the applicant.

Certified applications shall be approved immediately without back processing by ROC. For non-conformities certifying professional shall be penalized;

#### **DIN in one day**

- File only scanned documents along with verification by the applicant using e-Form online.
- Pay fee online
- Applicant himself can apply online using his DSC, it will be processed in 2 days;
- DIN 1 will be approved immediately if digitally signed by professionals;

#### **PAN Mandatory for all Directors**

Now for availing DIN, having PAN is mandatory. The proposed name should resemble with the records in the income tax authorities. For existing DIN holders who have not registered their PAN at the time of allotment of DIN shall have to register their PAN by filing Form DIN 4 on or before 31<sup>st</sup> May 2011.

#### **No more Challan Payment up to Rs.50,000/-**

MCA payments up to Rs. 50,000/- shall be made only in electronic mode effective 27.03.2011. More than Rs. 50,000/- can be made in electronic mode or by challan mode.

#### **More automation of Incorporation**

Among incorporation documents filed, only form 1 will be processed by RoC. Form 32 and 18 shall be processed by system. Consequently average time taken for incorporation has been reduced to one day.

#### **New format of Schedule VI**

Schedule VI has been amended. It shall be applicable from the financial year commencing from 01.04.2011.

#### **Holding office or place of profit – Sec 314**

- The ceiling limit of Rs. 50,000 has been increased to Rs. 2,50,000/-;
- For listed companies the selection of Director for holding place of profit in the company shall be approved by the Selection committee consisting majority of independent directors as its members and an expert in the respective fields from outside the company.

#### **XBRL reporting is mandatory:**

Filing of financials in eXtensible Business Reporting Language (XBRL) is mandatory from 31<sup>st</sup> March 2011 for all companies listed in India and their subsidiaries, having paid up capital of Rs. 5 Crore and above or a turnover of Rs. 100 crore or above, excluding banking companies, insurance companies, power companies, Non Banking Financial Companies and overseas subsidiaries of these companies.

#### **Employees covered under Section 217(2A)**

Sec. 217(2A) has been amended by substituting the words Rs. 24 lakhs by Rs. 60 lakhs. Now there is no need to include the employees taking less than Rs. 60 lakhs in the Sec. 217 declaration in the Directors Report.

#### **Availability of Company's name simplified**

Following new set of declaration is mandatory to be signed under Companies (Name Availability) Rules, 2011 while applying for granting of name:

- Applicant has used the search facility available;
- proposed name is not resembling the registered trade marks;
- proposed names are not in violation of the provisions of Emblems and names; (Prevention of improper use) Act, 1950;
- proposed name is not offensive to any section of people;
- applicant has gone through the guidelines and the proposed names are in conformity thereof;
- applicant undertakes to be fully responsible to the consequences in case the name is subsequently found to be in contravention of the above;

**Green initiative: e-Notice to shareholders**

- Section 53 of the Companies Act, 1956 provides service of documents under certificate of posting as one of the mode of service;
- Whereas the department of posts has recently discontinued the postal facility under certificate of posting;

- IT Act, 2000 also permits service of documents etc. in electronic mode;
- If the members email id is registered with the Company, the Company can send the copy of notice and other documents by e-mail;
- If the e-mail id is not registered with the company, the company can follow other modes as mentioned in Section 53 of the Companies Act, 1956.

# Readers' Response

**CS. A. R. Vishwanathan,**  
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Kudos to the Chapter and Shri. H. M Dattatri for bringing out an excellent article **"Battle at Kruger"** in the April 2011 edition of the newsletter.

In general we fear to uphold values which form the core of our existence. Values like righteousness, courage, honesty have taken a severe beating like the poor calf in the youtube motion picture. To be blunt, we fear to die for national cause. We want to protect ourselves, our family members and their emotional and financial needs. What we overlook is the fact that our financial needs can be easily fulfilled by some unscrupulous power monger (be it a company or political leader). But it takes sacrifice to build a nation. Our economic policies should be tempered by our concern for environment, equality and a just society. Our rotten policies have resulted in brazen display of opulence by a few and where an average citizen gets a feeling that he is lower than the mighty and he should do any damn thing to earn money and money and further money at any cost. Sooner we can see our country turn into a Libya or Egypt where power will rest in a few. The defense personnel of our nation will be disillusioned as to for what cause they are defending the nation. Our nation will disintegrate and we will lose our identity. This is not a doomsday vision. We should be observant enough to understand where the nation is treading towards.

Are we not leading a national life without any ideals or ideas of dignity? Being a CS I am disillusioned with our existing system of governance when ICSI gets diplomatic in giving out a clear message across that it has not tolerated the murder of an honest Company Secretary in Malabar Cements. Why we are being diplomatic? If we act together, why can't we force the Government/s to think right and book the culprits?

Our silence will let these criminals go scot free on the basis of lack (or rather leak) of evidence.

If we fail to sit in our chair, a street dog will occupy it !!

A nation is built by ideals and virtues which finally crystallizes as culture. We require a revolution in our country, where we have to take care of the poor, downtrodden by strengthening them rather than feeding them. We ought to have a capitalist mind with a socialist approach. We require every family (with decent means of livelihood) to sacrifice one person for the cause of nation. In this context Shri Anna Hazare has formed a formidable public opinion against corruption that made Government buckle and agree for his demands to frame a strong Lok Pal Act in the ensuing session of Parliament.

*Now it is our turn. Being members of a prestigious institution like ICSI we along with other institutions, associations, social activist and honest business houses can take a clear cut stand on the following issues:*

- have one-to-one meeting with the concerned government department heads (whether State / Central) and convey unequivocally that we mean business and will not tolerate corruption;
- associations to shed their lobbying and get-along-with-the-government image and take on a pro-active role of defining transparent policies with a vision intending public good and national interest;
- plan their activities so that last minute patch-ups to fulfill legal obligations will be avoided (this itself provides tremendous scope for corruption);
- force the government to review all existing acts and procedures, to make them transparent and business and society friendly (giving minimum discretion to the bureaucrats); and
- agree to reasonable restrictions on matters of environment and labour policies.



# RIDING THE 'COMPLETE' TREND

People have the tendency to cohere to situations that work in their favor; there is a natural inclination to cling on to what works best for oneself. Employees have certain expectations from their job, when these expectations are met it leads to job satisfaction, thereby creating a strong desire within the employee to continue working in the same organization over a long period of time. Whereas employees who are not satisfied with the working environment they work in, salary that is paid to them, incentives that are extended to them would waste no time and start with looking for new and better jobs in the hopes of finding one that is more appealing to them, one that would result in enhanced job satisfaction. Hence *portraying tendencies to hold onto something viable and letting go of something that may lead to unfavorable circumstances.*

Cognizant businessmen also meticulously stick by these principles whilst undertaking their business operations. A venture that proves to be viable or is at least capable of breaking even is further nurtured and enhanced by its owner. In case of ventures that undergo losses, attempts are made to revive them however if the owners meet with failure they resort to selling the business and minimizing their loss.

Businessmen who run successful businesses and make sufficient profits may put in great efforts so as to maintain the status quo, by doing so they depict the natural tendency of holding onto what's favorable. However in a scenario where a business has reached its maturity stage and has started to decline, businessmen may make a few futile attempts to resurrect it. Despite all the attempts if one continues to face failure the next best option to them would be winding up the business to save themselves from further losses that would ultimately lead to depleting of their capital. *Bringing forth the tendency to favor what works and forgo what doesn't.*

Mindset of each and every individual revolves around these set principles; they are applicable to various aspects

of one's life. Nevertheless *the tables are turned when it comes to investing in capital market.*

Sentiments of naïve investors are governed by herd mentality; their foremost response in a favorable situation is to sell off the scrip in order to book any little profits they make and in unfavorable circumstances they purchase more in order to average at a lower price. This behavior is apparent as investors are driven by temptations to sell their holdings and book their profits prematurely when prices of stock rise.

Likewise when scrips fail to do well people see this as an opportunity, they purchase more quantities of such scrips whose prices have declined as they expect that their prices will shoot up in the near future. This behavior of investors is wayward to the natural inclination of holding onto favorable circumstances and letting go of unfavorable ones. In the above mentioned context *investors often let go of favorable circumstances and hold on to unfavorable ones.*

'Lay-investor' whilst planning their trade, have one and only

strategy in their minds that they religiously adhere to. When the markets perform well and the prices of stocks are on the rise, it generates queer excitement amongst the investors, their response to such a situation is to sell off the stocks that they are holding as they conclude that this upward run has reached its maximum potential and that it is wise to exit from the markets with whatever profits they make. What they fail to realize is that, perhaps the scrip may attain new heights and generate higher profits. This seems as the most sensible option to them, where they detach themselves from favorable conditions.

However when the market's performance is weak, this is considered as an indication to purchase more quantities as they relate this fall to a positive omen. Many investors hold the opinion that if they purchase scrip at low price level they will be in a position to make higher profits when the markets do well. What they do not take into consideration is that market per se is unpredictable, as much as they may

***We tend to portraying tendencies to hold onto something viable and letting go of something that may lead to unfavorable circumstances. Nevertheless the tables are turned when it comes to investing in capital market.***



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rise to higher level they also hold the capacity to fall sharply, in such a scenario investors may be subjected to tremendous losses.

When I look back over the past years, in my experience of imparting knowledge pertaining to equity investments, I came across several students of mine who applied these techniques in their trading activities. Adhering to these methods is contrary to my ideology; in my opinion an *Investor should ride the complete trend* whilst undergoing their investment journey.

I always advice my students to hold on to those scrip

whose trend seem to be moving in their favour till they finally indicate that it's time to let go of it and exit. I recommend very strongly to all my students that one should *always plan a trade and then trade the plan*.

Neither have I believed in the 'once invested and left alone for years' philosophy of investment. I hold the opinion that **INVESTMENTS NEED CONSTANT RE-EVALUATION**.

Adopting these methods in their trading activities has brought about a transformation in their trading techniques and *helped them evolve as Investors*.



## LIVING ROOM



# LAME PUPPY

A farmer had some puppies he needed to sell. He painted sign advertising about it.

A kid approached him. "Mister," he said, "I want to buy one of your puppies."

"Well" said the farmer, "these puppies come from fine parents and cost a good deal of money."

The boy dropped his head for a moment. Then reaching deep into his pocket, he pulled out a handful of change and held it up to the farmer.

"I've got thirty-nine cents. Is that enough to take a look?"

"Sure," said the farmer. And with that he let out a whistle, "Here, Dolly!" he called. Out from the doghouse and down the ramp ran Dolly followed by four little balls of fur. The little boy pressed his face against the chain link fence. His eyes danced with delight.

As the dogs made their way to the fence, the little boy noticed something else stirring inside the doghouse. Slowly another little ball appeared; this One noticeably smaller. Down the ramp it slid. Then in a somewhat awkward manner the little pup began hobbling toward the others, doing its best to catch up....

"I want that one," the little boy said, pointing to the runt. The farmer knelt down at the boy's side and said, "Son, you don't want that puppy. It is lame. He will never be able to run and play with you like these other dogs would."

With that the little boy stepped back from the fence, reached down, and began rolling up one leg of his trousers. In doing so he revealed a steel brace running down both sides of his leg attaching itself to a specially made shoe. Looking back up at the farmer, he said, "You see sir, I don't run too well myself, and he will need someone who understands."

The world is full of people who need someone who understands.

***Can we become that some one, at least for some one?***





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# DECIDING TO INVEST IN FD - II

What an investor shall look in the financials of the Company – In the previous edition we have already discussed regarding (a) Net Worth of a company and Book value per share and (b) certain point in the Balance Sheet. Let us look into other factors in this edition.

**(c) Unrealized Debtor and Piling up inventory:** If with or without increase in sales there is disproportionate increase in debtors it means debtors are not paying promptly and thus there is low realization of profit. If this situation continues the company may face the liquidity problem and may eventually default in repayment of its deposits. Similarly, if Balance Sheet indicates the piling up of finished goods inventory, it means that though the company is producing goods but is not in a position to push it into the market. Thus its resources are blocked in the inventory which is a precursor to an ensuing liquidity problem.

**(d) Equity Capital of Company:** Companies with very low equity and negligible reserve should be avoided. Such companies may not be able to face even any temporary set back in its operation. However, a company with low equity but having high reserve may be selected. Generally these are old companies incorporated some 40-50 years ago with a very small equity (in those times big projects could have been established with small investments) and in due course accumulate good reserve. A classic example of such companies is MRF Ltd. It has a Capital of just Rs. 4.24 Crore but the Reserve stands at mind boggling Rs. 1,361 crore. As a thumb rule, a company having equity capital, rather net owned fund, less than Rs. 50 crore should be avoided.

**(e) Investment held by the Company:** While going through a Balance Sheet, a depositor may find some investment figures appearing there in. He should take it positively. Generally, companies holding investments do not default in deposit repayment. Such companies, in case of any urgent need of fund, liquidate their investments and meet the urgency, provided the investments are not earmarked for any particular purpose or held in terms of any statutory compliance.

**(f) Contingent liabilities of the Company:** It is not uncommon among Corporates to treat their crystallized and actual liability, as contingent liability, on one pretext or the other or on some flimsy grounds. By doing so, they do not provide for liability and show inflated profit. If there is any such liability, depositor should take that into consideration while calculating over all liability of the company and its profit. Thus at times, the so called contingent liability may have to be treated as actual liability while judging the risk profile of a company.

**(g) Sale Turnover:** It is a cardinal principle of investment that one must not deposit in a very small company. Depositor should study the figures of sale turnover of the company for last few years. A rising trend in sales turnover, year after year, is a welcome feature. Moreover, the sale turnover of the company should not be very small. As a thumb rule, a Company having sale turnover of less than Rupees 300 crore should be avoided. However, if the Company is a service provider, a lesser sale turnover may not pose any problem provided the Company is earning good profit consistently.

**(h) Profit before depreciation and Tax:** A depositor is concerned with interest on his deposit and not with dividend that the company may declare and therefore he should concentrate on profit of the company arrived at before providing for depreciation and taxation. As per provisions of Companies Act, interest on loan/deposit may be paid even if the company has not provided for any depreciation on its assets. Therefore, depositors should not be concerned with depreciation. Depositor should look for a company which is earning consistently good profit, preferably with a rising trend. Earning good profit by a company may mean a Return on Investment (ROI) of 15-20% or above. However, in absolute terms, a company showing profit (PBDT/EBDTA) more than rupees 15-20 crore should only be considered.

**(i) Extra ordinary item in the Profit & Loss Account :** Any unusual item in Profit and Loss Account, whether an income or an expense, which is not a regular Profit & Loss Account head should be ignored while considering the financial result of a company. A typical example of such expense head is payments under "Employees Golden Hand Shake Scheme" or "Voluntary Retirement Scheme" (VRS). Here, one time high payment is made to employees who opt to retire before due date, voluntarily. This brings down the profit of the company considerably in that year. Thus, the declared profit of the company should be increased by the amount of VRS payment to assess the real profitability for that year. The burden of VRS payment comes with a relief from payment of salary to these employees in future years. There may be extra-ordinary items on the 'Income' side too. A very common such item is "Profit on sale of company's property" i.e. capital gain. For analysis purpose business profit should alone be considered by the depositors.

**(j) Quarterly and half yearly results:** Deposit in a company is made through FD Application form which contains financial data of company for the latest completed accounting year. For example, if a person is depositing money in a company say, in February 2011, company FD Form shall contain figures as on 31<sup>st</sup> March 2010. However, here depositor is not aware of the working of the Company during the intervening period i.e. from 1-4-2010 to 31-01-2011. Even if the figures appearing in the FD Application form are impressive, working of the Company during the next 10 months may deteriorate significantly. Therefore, it is necessary for a depositor to have **access to quarterly and half yearly results of the company, before taking any investment decision.** As per SEBI Regulations, such results are required to be published by companies in prominent financial dailies on quarterly basis. Alternatively, either depositor may visit company web-site and see there quarterly and half yearly results or web-sites which host such information in respect of almost all listed companies in India.

**(k) Dividend:** A company declaring dividend regularly should only be selected by the depositor. Normally a company which declares dividend does not default in repayment of deposits or payment of interest there on.

**(l) Ratio Analysis:** There are a few ratios which are quite helpful in assessing the financial health of a company for the purpose of placing deposit with them. Some financial ratios



which are quite relevant in ascertaining the liquidity and solvency of a company are discussed here under.

**(i) Current Ratio:** It examines the short term financial liquidity condition of a company. **This is arrived at by dividing company's total Current Assets with its total Current Liabilities.** In the opinion of many financial analysts, a current ratio less than 1 is alarming. If current liabilities are more than current assets, for repaying current liabilities in full, the fixed assets or investments of the company shall have to be disposed off. Another way of looking at it is that the amount availed as current liabilities by the company have been used for acquiring fixed assets / investments or it is reflected in the Balance Sheet in the form of intangible assets / loss.

It is said that a current ratio arrived at as 2 is an ideal and also comfortable. Analysts are of the view that solvency of a company can easily be maintained if its Current Assets are twice the amount of its current liabilities. However, here it may be noted that amount of fixed deposit accepted by a company is disclosed in its Balance Sheet as 'Unsecured Loan' and not as 'Current Liability'. Therefore, the analysis of current ratio may not be much helpful in ascertaining the company's capability to repay its fixed deposits. However, this ratio definitely provide an idea about the liquidity or otherwise of the company.

**(ii) Debt- Equity Ratio :** This is a ratio between total debt and equity of the company. Here, equity means not only the share capital but also includes reserve and surplus. In other words it means the **Net Owned Fund** of the company. The company which has high debt content in relation to its net owned fund is perceived as risky one because such companies may fail to repay their debts, if there is a set back in their working or there is sudden pressure of debt recall by lenders. Moreover, such companies, if unfortunately, go into liquidation the chances of lenders getting back money becomes bleak. As a thumb rule, total debt not more than 2 to 3 times of net owned fund, need not be seen as risky one.

**(iii) Interest Cover Ratio:** This ratio indicates as to how many times '**total interest liability**' of company is covered by the '**profit before interest and depreciation**' of the company. For example, if total interest liability of a company, as per its latest Profit and Loss Account is Rs. 50 crore and the profit before interest and depreciation is Rs. 250 crore, the interest cover ratio shall be  $250/50 = 5$  times. High coverage indicates that company can comfortably service its debts. An interest cover ratio of 2-3 times may be considered as comfortable.

#### **Precaution to be taken by depositors:**

1. The deposits should be spread over a large number of companies engaged in different industries. This way, depositor shall be able to diversify and minimize their risk.

2. Do not invest in excess of Rs. 20,000/-, in one name and in one financial Year. If a depositor wishes to deposit more amount, say Rs. 1 lac in a company, he may make five deposits of Rs. 20,000/- each in the company through his family members or deposit in his different capacities like individual as well as in his HUF capacity. If a depositor deposits Rs. 20,000 in a Company in the month of March and then makes other deposit of same amount in the same company in the month of April, such deposits shall not be clubbed as financial year differs.

If such care is taken, the investor will fall in the category of "Small Depositors" as defined in Section 58 AA of Companies Act 1956, and will be in some what advantageous position. Still better, if Fixed Deposits are not made of an amount exceeding Rs. 10,000. Such deposits are called "Tiny Deposits". These are accorded top most priority in their repayment even by 'Problem Companies'. 'Problem Company' means a Company which is in financial crisis and is not in a position to repay its deposits as and when they mature. Even such companies are supposed to

repay tiny deposits in full on their maturity by suspending payment of other deposits of higher amount. If there is urgency for funds at depositors end e.g. medical treatment of depositor, etc., such deposits may even be repaid prematurely.

However, it has been found that some companies stipulate Rs. 21,000/- as the minimum deposit amount to avoid the application of Section 58AA on their FD Schemes. This is not a welcome feature. It may be perceived as mala- fide intention of the company, from the very beginning. Avoid such company.

3. Always opt for interest payment scheme and not cumulative scheme. The reason is that if a company defaults in repayment of cumulative deposit, it shall also default in payment of cumulative interest payable on maturity. However, if deposit is under the interest payment scheme, the depositors keep on receiving interest till the date of maturity. Thus considerable amount is already received by the depositor by way of interest and principal amount only is at stake.

4. Deposit should be made in the joint names (not exceeding three). However, if joint name is not there, depositor should appoint a nominee to collect the amount of deposit in the unfortunate event of death of depositor.

5. Deposit for a period of one year only. Normally no company goes in problems over night. Thus, if a company is very safe and sound at the time of making deposit, it will not be so sick, within two or three quarters, that it would not be able to repay its deposits.

6. Section 194 A of Income Tax Act 1961 permits a Company to pay or credit interest on Fixed Deposit up to Rs. 5000, in one financial year with out making any TDS. However, if the amount of interest exceeds above amount the depositor, being an individual or HUF, may furnish Form 15G or 15H (for senior citizen) to company, provided depositor's income tax liability for the relevant Assessment Year is likely to be nil.

7. In view of section 206AA, where no PAN is submitted by the deductee, TDS@20% or at the specified rate, which ever is higher is required to be made. Further no TDS certificate will be issued to depositor, in absence of PAN. Besides this, any declaration made in Form No. 15G or 15H, claiming non-deduction of tax on interest, shall not be valid unless it carries the PAN of declarant /depositor. A depositor whose income is fully exempted under section 10 of Income Tax Act, 1961, and who is not required to file his income tax return, is paid interest by company with out making any TDS, in terms of CBDT circular No. 4/2002 dated 16-7-2002.

8. The performance of the company where deposit has been made should be reviewed on maturity. This will help depositor decide whether to renew or reshuffle the deposit.

**Should one go in for Company Fixed Deposit? The candid answer is "Yes".** If any one is investing in Bank Fixed Deposit he may go in for Company Fixed deposit too, and may earn higher interest. While investing, the precautions mentioned in the foregoing paragraphs must be taken.

**Professional help:** Depositor may seek help from professionals like CA, CS, CMA, CFA and MBA to analyze and comprehend the financials of a company. Websites like [www.moneycontrol.com](http://www.moneycontrol.com), [www.rediff.com](http://www.rediff.com), [www.icicidirect.com](http://www.icicidirect.com), [www.marketsidea.com](http://www.marketsidea.com), [www.nseindia.com](http://www.nseindia.com) etc. are having host of information and data about almost all listed companies in India. A tech savvy investor may visit these sites fro corporate knowledge.

**How to get FD Application Form:** Either download FD Application Form from Company's website or request through an e-mail or approach company appointed FD Brokers.

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



Indianisation of the superior civil service exams became one of the major demands of the political movements. But friends, many of the things go unnoticed. [www.upscportal.com](http://www.upscportal.com) is a site which everyday keeps updating about notification and circulars issued by Union Public Service Commission of India.

Options like Current Affairs throws light on economy, international issues, persons in news, sports, awards, etc., which are very useful for all Competitive exam aspirants. Magazines option display the list of books which are useful to crack the nutshell of all competitive exams. Subject option exhibits the list of subjects offered in UPSC.

Daily dose option provides "Word of the day along with its meaning, Article of the day, Current Affairs, Today's history." Site also provides forum, a platform where we can post our queries and get clarified on our dilemma. Experts' option provides contact number of the experts who can guide us the way of approaching these exams. Study materials are also made available to the users, which reduces the time in searching for the same.

Moreover, the site is updated every day with new topics and issues which helps students to enhance knowledge and also keep updating with all news. This site serves not only UPSC aspirants but also all professionals.

Incidentally, this week, the final Results of Civil Service Mains Examination 2010 and UPSC IAS 2010 are announced. You can find complete details of the results in this site. You can even download the merit list in both English and Hindi.

## iPrint:

### Print multiple pages on a single sheet

We take umpteen number of prints a day for proof reading or for a meeting where we do not have access to PC. I have seen people keeping a pile of papers which are printed on one side for rough printing work. Here is an easy way to reduce your printing costs by printing multiple pages on a single sheet. And obviously you will be saving more trees by reducing the number of pages you use.

iPrint is a small free utility which can help u print multiple pages form a document on a single sheet. Just download the 7.2MB software and install. As part of the installation, it will ask you to set the default printer to iPrint, accept it and finish. Now onwards, instead of sending your documents to your default printer, send it to iPrint, which will open your document in another window to arrange the pages. You can selectively delete few pages if it is not needed.



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## IT FOR PROFESSIONALS

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Bangalore





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Bangalore

Learners' Corner

## Doctrine of lis pendens:

The word "lis pendens" is a latin word meaning suit pending. Sec-52 of Transfer of Property Act, 1882 deals with the concept of lis pendens.

The principle underlying in this section is clear. i.e., during the pendency of any suit in Court, wherein right of any immoveable property is directly in question, such property cannot be transferred by any party to the suit so as to affect the rights of other party to the suit under any decree that may be made in such suit. If ultimately the title of the pendent lite transferor is upheld in regard to the transferred property, then the transferee's title will not be affected. On the other hand, if the title of the pendent lite transferor is recognized or accepted only in regard to a part of the transferred property, then the transferee's title will be saved only in regard to the remaining portion of the transferred property to which the transferor is found not entitled will be invalid and the transferee will not get any right, title, interest in that portion. If the property transferred pendent lite is allotted entirely to some other party or parties or if the transferor is held to have no right or title in that property, the transferee will not have any title to the property.

Further, where a co-owner alienates a property or a portion of a property representing to be the absolute owner, equities can no doubt be adjusted while making division during final decree proceedings, so that the bonafide transferee's right, title are saved fully or partially.

The provisions of TP Act does not declare a pendent lite transfer by a party to suit as void or illegal, but only makes the pendent lite purchaser bound by the decision in the pending litigation.

Comment: All these inconveniences, risks, hardships and misery could be avoided and the property litigations could be reduced to a considerable extent, if there is some satisfaction and reliable method by which a prospective purchaser can ascertain whether any suit is pending or whether the property is subject to any decree or attachment before he decides to purchase the property.

### Pick of the Month

Now, rounding off of the Financial Statements can be done as under:-

- i Less than 100 Crores : To the nearest Hundreds, thousands, lakhs or Millions or decimals thereof
- ii 100 Crores or More : To the nearest lakhs, millions or crores, or decimals thereof

The units once used needs to be used uniformly in all Financial Statements. And this provision came into force by through publication in The Gazette of India on 28 Feb 2011



### Did you Know Brand Value of Apple

Monetary premium that results from having customers who are committed to a particular brand and who are willing to pay extra for it; also, the financial value attributed to the brand, apart from other tangible assets. Today, Apple pushed Google out of top place for the title of the "Most Valuable Global Brand" in the Brands Top 100 ranking of the most valuable global brands. How did they get there? By being the 21st century's most distilled brand. The Brand Value of the Apple is said to be \$ 153.1 billion.

# LEGAL ROUNDUP

## CENVAT

### Notifications/Circulars

CENVAT credit availment extended on the basis of a supplementary invoice, a bill or challan issued by a provider of an output service wherein the elements of fraud, suppression etc. are absent. (No. 13/2011-CE (N.T.) dt. 31-03-2011)

### Case Laws

The principal manufacturer could not be held liable to discharge excise on waste and scrap generated and cleared at the job worker's premises: *Fac Engineering Vs. CCE (2011 (184) ECR 27)*

Inner tubes of tyres cleared to automobile manufacturers are 'parts, components and assemblies to automobiles' and MRP based valuation is applicable thereon: *Pelican Rubber Ltd. Vs. CCE (2011 (265) ELT 33)*

Rental charges collected by seller in respect of cylinders for supply of gases cannot form part of the value of gases.

*Inox Air Products Vs. CCE (2011-TIOL-481-CESTAT-MUM)*

Credit is eligible on inputs used in the manufacture of export goods or goods cleared to an EOU: *Aurobindo Pharma Ltd. Vs. CCE (2011 (265) ELT 358)*

CENVAT credit on inputs cannot be denied merely for the reason that such goods were sent directly to the processor instead of first being received at the factory when there is no dispute regarding the subsequent receipt of intermediate product by the manufacturer from the processor. *CCE Vs. Hindustan Motors Ltd. (2011 (266) ELT 202)*

Payment of education cess by utilizing the CENVAT credit of basic excise duty is not permissible.

*CCE Vs. Bharat Box Factory Ltd. (2011 (265) ELT 366)*

The modification of an existing plant & machinery including replacement resulting into enhancement of production capacity by more than 25% would amount to "Substantial Expansion".

*CCE Vs. M/s. Uttaranchal Iron & Ispat Ltd. (2011-TIOL-222)*

Where the refund claim is delayed for one reason or other, the interest on such refund amount is payable on expiry of 3 months of filing of claim under Section 11 BB of CE Act.

*CCE Vs. Reliance Industries Ltd. (2011 (265) ELT 407)*

Certificate obtained under the Exemption Notification in favor of one unit cannot be used for availing the benefit in respect of goods manufactured by another unit of same company.

*Bharat Heavy Electricals Ltd. Vs. CCE (2011 (265) ELT 389)*

## Customs

### Notifications

CG has notified concessional Additional Duty of customs levied in lieu of Excise @ 1% on import of goods falling under Chapter

31 of the First Schedule to Customs Tariff Act, 1975 (CTA), other than those which are clearly not to be used as fertilizers,.

(No. 35/2011 dt. 15/4/2011)

CG has amended Duty Drawback Rules, 1995 to provide that where sales proceeds are not realized by an exporter within the period allowed under FEMA, 1999 but such non-realization is compensated by the ECGC under an insurance cover and the RBI has written off the requirement of realization of the sale proceeds; the amount of duty drawback paid to the exporter or the claimant shall not be recovered. (No. 30/11 dt. 11/4/2011)

CG has exempted specified goods including: floppy disc drive; hard disc drive; CD-ROM drive; Specified ships and boats from payment of Additional Duty of Customs livable @ 4% in lieu of VAT/ CST. (No. 32/11 dt. 24/3/2011)

CG has clarified that the activity of marking/labeling and re-labeling of goods imported into India and covered under The Legal Metrology Act, 2009 can be carried out in the bonded warehouse, subject to fulfillment of conditions. (No. 19/11 dt. 15/4/2011)

CG has issued guidelines for implementation of a Self Assessment system. (No. 17/11 dt. 8/4/2/11)

The Mumbai Commissionerate has simplified the procedure of international transshipment of cargo, arriving from and proceeding to a foreign destination via an airport in India. (Notice No. 41/11 dt. 28/3/11)

### Case Laws

In the absence of documentary evidence conversion of shipping bills from one export promotion scheme to another cannot be allowed in terms of Section 149 of the Customs Act, 1962 (CA).

*Terra Films Pvt. Ltd. Vs CC (2011-TIOL-215)*

A penalty cannot be imposed on the exporter merely on the grounds of declaration of an incorrect address in the shipping bill since it is not material information required for fixation of the drawback rate. *Manoj Mittal Vs. CC (2011 (266) ELT 94)*

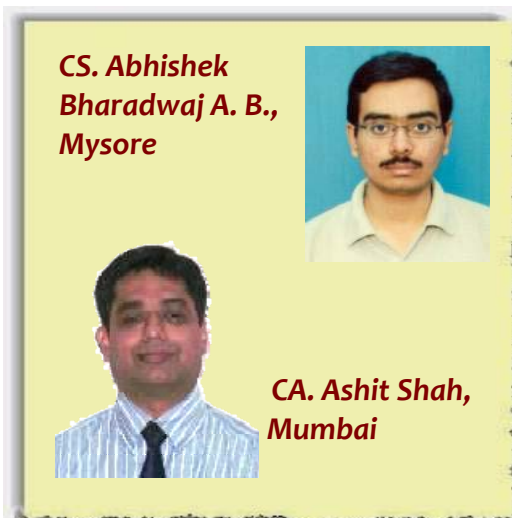
The order passed by the Chief Commissioner under section 61 of the CA in relation to extension of the warehousing period is not an appealable order. *Bizworld Intl Vs. CC (2011 TIOL 500)*

Refund of 4% SAD cannot be denied merely on the grounds that the prescribed declaration was not endorsed on the invoice, as the importer has clearly shown the SAD amount as zero in the invoice. *Ruchi Acroni Industries Ltd. Vs. CC (2011- TIOL- 501)*

## Service Tax

### Notifications/ Circulars

CG has notified five services to be treated as "continuous supply of services" for the purpose of the Point of Taxation Rules, 2011, irrespective of the period for which they are provided or agreed to be provided. (No. 28/11 dt. 01/04/11)



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

**CA. Ashit Shah,  
Mumbai**

The Finance Act, 2011 has been notified to come into effect from May 01, 2011. [\(No. 29/2011 dt. 25/04/2011\)](#)

CG has exempted the following services from the levy of ST with effect from 01.05.11: health services; and short term accommodation services provided by hotels, inns, guest houses, campsites etc. [\(Nos. 30/2011, 31/2011 & 32/2011 dt. 25/04/11\)](#)

The exemption from the levy of service tax includes exemption from the levy of education cess and secondary and higher education cess - CBEC [\(No. 134/3/2011-ST dt. 08/04/2011\)](#)

Amendment in existing 7 services viz. Authorized Service Station, Life Insurance Services, Commercial Training or Coaching, Club or Association Services, Business Support Services, Legal Services and Clinic Establishment Services would be effective from 01-05-2011.

Exemption has been granted to Health Services from levy of service tax from 01-05-2011. Accordingly, services provided by Hospitals and Clinical Establishment would not be liable to pay service tax. [\[N. No. 30/2011 dt. 25-04-2011\]](#)

Exemption has been granted to institutions leading to grant of certificate or diploma or degree or any educational qualification, which is recognized by law. Further, Pre-school coaching and training institutions were also exempted from levy. [\[N. No. 33/2011 - dt. 25-04-2011\]](#)

Representation services provided by Legal Service providers were brought in to the net of service tax and hence exemption of such representation services provided by CA's/CS's and CWA's vide N. No. 25/2006 - dt. 13-07-2006 has been withdrawn. Hence, representation services provided by all CA's/CS's and CWA's would be taxable from 01-05-2011. [\[N. No. 32/2011 - dt. 25-04-2011\]](#)

Assistance provided by a visa facilitator in the form of assistance to individuals directly to obtain visa does not fall under any of the taxable services under section 65(105) of Finance Act, 1994. [\[No. 137/6/2011 - ST dt. 20-04-2011\]](#)

## Case Laws

Services provided in relation to maintenance of software prior to the enactment of the Finance Act, 2007 on 01/06/2007 are not subject to service tax. [Kasturi & Sons Ltd, Chennai Vs. UOI \(2011- TIOL-240-HC\)](#)

Services of maintenance of application software, also known as information technology service, are excisable to service tax only after 16/05/2008. [EBZ Online Vs. CCE \(2011 \(22\) STR 185\)](#)

Service tax paid on catering services for a canteen located within the factory premises is an eligible input service. [Samsung Electronics \(I\) Pvt. Ltd. Vs. CCE \(2011 \(22\) STR 200\)](#)

Housekeeping and garden maintenance services are eligible input services. [L'oreal India Vs. CCE \(2011 \(22\) STR 89\)](#)

No prior permission is required to be obtained from the department for transfer of CENVAT credit to an amalgamated unit formed on account of a merger between two entities. [Kiran Pandy Chems Ltd. Vs CCE \(2011 \(22\) STR 119\)](#)

No service tax liability arises under reverse charge mechanism, on fees paid, for commercial training and coaching services received outside India by an employee and subsequently reimbursed by the employer in India. [CCE Vs. Maersk India Pvt. Ltd. \(2011 \(22\) STR 187\)](#)

e-Newsletter from ICSI – Mysore Chapter. Edition – 88; May 2011

Credit of input ST accrues at the time of availment of the underlying services. Such credit cannot be denied on the ground that no taxable services were being provided by the assessee at that time. [Affinity Express Vs. CCE \(2011\(22\)STR177\)](#)

## Foreign Trade Policy Notifications/ Circulars

The applicability of provisions of Chapter IVA of the FT (D&R) Act, 1992 to export of goods, services and technology covered under the SCOMET list is notified. [\(No. 38/09-14 dt. 31/03/11\)](#)

CG has issued the new simplified, rationalized and easy to fill in form ANF-2E for filing an application to obtain a license to export SCOMET items. [\(No. 42/2009-14 dt. 30/03/2011\)](#)

Import Licensing Note No. 4 on import of vehicles has been amended to allow sale of vehicles imported by foreign diplomats to other persons in the specified manner. [\(No. 39/2009-14 dt. 31/03/2011\)](#)

CG has clarified that bonafide trade samples can be exported duty free as part of export baggage in terms of the FTP. [\(No. 495/2/2011 dt. 05/04/2011\)](#)

## Case Laws

No customs duty can be demanded when goods are destroyed by fire in SEZ because the goods have to held to have been destroyed in deemed foreign territory. [Satguru Polyfab Private Limited Vs CC \(2011-TIOL-387\)](#)

Duty cannot be demanded from the transferee of the DEPB scrips by invoking the extended period as there is no suppression of facts. [Ballarpur Industries Limited Vs CC \(2011- TIOL-412\)](#)

Goods cleared from EOU to DTA has to be classified on the basis of classification in Central Excise Tariff read with HSN. [CC Vs Sesame Foods Pvt. Ltd. \(2011 \(266\) ELT 134\)](#)

## Antidumping Duty Notifications/ Circulars

CG has imposed definitive anti dumping duty on imports of Acetone falling under Tariff Heading 2914.11.00 of the Customs Tariff Act originating in or exported from Thailand or Japan. [\(No. 36/2011 dt. 18/04/2011\)](#)

CG extended the levy of anti dumping duty on specified Silk fabric falling under tariff item 5007 of the Customs Tariff Act originating in or exported from China PR till 05/12/2011. [\(No. 37/2011 dt. 21/04/2011\)](#)

## FEMA

**FDI in LLP:** Highlights of the Cabinet Committee on Economic Affairs Approved Proposal

- LLPs with FDI is allowed, through the Government approval route, in the sectors/activities where 100% FDI is allowed.
- LLPs with FDI not allowed in agricultural/plantation activity, print media or real estate business.
- LLPs with FDI can not make any downstream investments.
- FDI shall be in cash only.
- Foreign Institutional Investors (FIIs) and Foreign Venture Capital Investors (FVCIs) can not invest in LLPs.
- The designated partners will be responsible for compliance and liable for all penalties in case of contraventions.



### India-EFTA trade pact by year end

Commerce Ministry said that India and four-nation European Free Trade Association (EFTA) has agreed to conclude the ongoing free trade pact negotiations by the end of this year. EFTA states include Switzerland, Iceland, Liechtenstein and Norway.

### India contemplates tapping carbon credit from agriculture

India is trying to build a case to include agriculture in an estimated global market of \$200-billion for carbon credit from the Clean Development Mechanism (CDM). Currently, carbon credit is available only for manufacturing and industry. CDM norms were designed by the developed countries keeping their interest in mind and where agriculture did not figure in their total share of economy. But, now India has to put pressure keeping its interest with farmers to benefit commercially from agriculture based CDM.

### India opposes IPR talks outside WTO

Responding to questions on India's position on the proposed Anti-Counterfeiting Trade Agreement (ACTA), a new intellectual property treaty being framed by a group of developed nations, the Commerce and Industry Ministry said a few countries cannot get together and try to change what is and will always be a multilateral regime called the TRIPS agreement. India is opposed to the ACTA being discussed between countries such as the US, Japan, Australia, the EU, Canada and New Zealand on the ground that the stringent intellectual property agreement being drafted would affect supplies from non-member countries too.

### Govt tightens Deemed Export benefit scheme, to save Rs 1800 Cr

After detecting several cases of misuse of incentives, the Commerce Ministry has tightened the norms governing the Deemed Export benefit scheme, a move expected to save about Rs 1,800 crore to the exchequer annually. The Deemed exports refer to those transactions in which goods supplied to the users do not leave the country and payment for such supplies is received either in Indian currency or in foreign exchange. Generally supply of goods to projects financed by multilateral or bilateral agencies qualify for these benefits. However, concerned over the

cases of misuse, especially in the power sector, the Directorate General of Foreign Trade (DGFT) has decided to send recovery notices to those under its scanner, sources said. The Deemed export benefit include rebate on duty chargeable on imports or excisable material used in the manufacture of goods which are supplied to the projects eligible.

### India to supply power to Bangladesh

India said it would start to supply some 250 megawatts of power to neighboring Bangladesh by 2013. The two countries agreed during a visit to India by Bangladeshi Prime Minister Sheikh Hasina in January 2010. The two countries signed a 35-year landmark electricity transmission deal under which India will eventually export up to 500 megawatts of power to Bangladesh.

### EU and Indian FTA and IPR Issues

IPRs in India are governed by respective legislation and at the International level they are governed by TRIPS Agreement and now EU is insisting upon "TRIPS Plus Conditions" that India is not interested in agreeing to. India's stand on highly sensitive IPRs issues has been formulated by the high-powered Trade and Economic Relations Committee (TERC) at its recent meeting Chaired by Prime Minister Manmohan Singh. The Prime Minister firmly directed that the Indian side shall not take on any obligation beyond the Trade Related Intellectual Property Rights (TRIPS) agreement and domestic law."

### India blocks EU proposal on allowing duty-free entry to Pakistan textiles

India blocked a \$900-million European Union proposal at the WTO to give duty-free access to the textile exports from Pakistan. The access is pitched as a relief package for the devastating floods in Pakistan. India told the General Council of the WTO, that the package would affect the exports of competing countries that would have to continue to pay 6%-12% import duties on textiles in the EU. India also argued that the relief did not help flood victims in any way. Bangladesh, Peru and Vietnam supported India at the Council. The 27-member bloc has time till the end of the month to build a consensus or else the proposal will have to be dropped. The proposal has to be endorsed by other members of the WTO as the multilateral trading rules require all countries be treated equally.