



Mysore Chapter

eNewsletter

Edition - 92

September 2011



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Multi-Brand Retail:
Now Nearer

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to the President - ICSI



"WORDS WORTH MILLIONS"



Only the man of serene mind can realise the spiritual meaning of life. Honesty with oneself is the condition of spiritual integrity.

- Dr. Sarvepalli Radhakrishnan

His birthday September 5th is celebrated as Teachers Day

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MESSAGE FROM CHAIRPERSON



Dear Members and
Students of CS fraternity,

The results of June 2011 exams are out. I congratulate all the students who have passed. My sincere appeal to all the students who have not been successful is - please don't get disheartened by the failure and always remember, with each exam, you climb a step up in the ladder of your Goal of becoming a Corporate Professional and whether you pass or fail, you don't move downwards. With September 26th being the last date for Filing applications for December 2011 Examinations, the Exam season is back again and I hope all of you are back to books now.

We are glad to share with you all that the super structure of our chapter's new Building is almost complete and we are hoping to complete the Building by end November.



We are happy to announce that our Chapter's student Mr. Nikhil Harry D'souza has been selected to represent SIRC in 10th All India Elocution Competition to be held in Bangalore on 18th September. I wish him all the best on behalf of all the Members and Students of the Chapter.

Yours in CS fraternity,

CS. Srilatha T G

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Sessions @ Mysore University

During the Refresher Course conducted by Mysore University, the Chapter provided support by conducting sessions. On 4th August, a session on New Companies Bill was held and on 8th August, a session on IFRS was held. CS. Anshuman A S was the resource person for these programs.

Corporate Governance Week

Mysore chapter conducted the following programs on account of the first Corporate Governance Week celebrated by ICSI from 8th August 2011 to 12th August 2011.

Planting of Tree Saplings:

On 09.08.2011, The Members of Mysore chapter planted tree saplings in the site where the chapter's new Building is coming up.



Sessions and Programs:

On 10th August 2011, a session on "Recent Developments on Corporate Governance and Non Financial Reporting" was conducted at SDM Institute for Management Development, Mysore.



CS. R Sridharan, Member, Central Council of ICSI, while addressing the gathering, touched about the meaning of Corporate Governance in its

true sense, the voluntary Guidelines on Corporate Governance, issues regarding whistle blower Policy and its implementation, nuances of non-financial reporting etc.. The program was attended by the students of SDM-IMD as well as ICSI Mysore chapter who participated actively in the interactive session.

On 10th August 2011, a program on "Corporate Governance and Corporate Social Responsibility" was held in Sagas Auto Tec Private Limited, a renowned Auto Ancillary industry of Mysore. CS. Parvati K R, Treasurer of Mysore Chapter of ICSI, while addressing the employees of the company,

explained the

meaning of corporate governance and the responsibility of citizens and companies towards corporate governance. During the Occasion a new Waste Management System was introduced for joining hands with "Nirmala Mysore" campaign by Ms. Bhagya MG.



On 11th August 2011, a session on 'Corporate governance' was conducted in Marimallappa Science &



Management College, Mysore. CS. R Sridharan, Central Council Member, addressed the students on various aspects of Corporate Governance and how Governance has to be during at the studentship.

Celebration Of Independence Day

The Chapter celebrated Independence Day by hoisting the Flag at the Chapter Premises. The members and Students were present during the occasion and shared their views about the present and future of the nation. Ms. Archana, an Executive Program Student recited patriotic songs during the occasion.

10th All India Elocution Competition

Chapter level Elocution Competition was conducted on 15th August 2011 and Mr. Nikhil D'souza were selected to represent the Chapter at the Regional Level Competition. Mr. Nikhil D'souza was selected to represent the SIRC in the National Level to be held in Bangalore on 18th September 2011.

13 Career Guidance Programs



The Chapter had arranged 13 Career Awareness Programs on 11th, 17th, 19th, 24th, 25th, 28th and 30th of August at 13 different colleges in H D

Kote, Hommaragalli, Mysore, Madikeri, Virajpet, Hassan, K R Nagar, Periyapatna, Mandya, Malavalli and Holenarasipura. During these programs, the students were addressed by CS. Anshuman A S and CS. Srilatha T G and they were given an insight to the Company Secretaries Course and the Career Prospects for CS. Around 1,358 students were benefitted by these programs.

Study Circle Meetings

The Chapter organized Study Circle Meetings on 20th, 21st and 28th of August. Various topics relevant to the students were discussed and the members and senior students clarified the doubts raised by the students.

ANNOUNCEMENTS:

Annual Sports day is scheduled to be held on 18th September 2011. Many indoor and outdoor games are being organised for students and members.

Annual education trip is scheduled to be held on 02nd October 2011. Students and members of the chapter are touring many places in and around Kodagu.

If you like to participate in these programs, write to mysore@icsi.edu.

Appeal from Mysore Chapter

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



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

LIVING ROOM



"GROWTH AND ECONOMICS"

The Master sat in rapt attention as the renowned economist explained his blueprint for development.

"Should growth be the only consideration in an economic theory?" Master asked the economist.

"Yes. All growth is good in itself." Economist replied.

"Isn't that the thinking of the cancer cell?" said the Master.



- Anthony de Mello, SJ

Last Drop:

All change is not growth, as all movement is not forward.

- Ellen Glasgow

Extracts from the Open Letter to the President - ICSI

CS. A R Vishwanathan
PCS, Coimbatore Email: csarvnathan@gmail.com
"The views expressed in this article are personal."



Dear Sir,

SUB: FIGHT AGAINST CORRUPTION AND THE STAND OF ICSI

Greetings to you!

"Hold your head high till you die" would be the message of Sardar Bhagat Singh to Indians if he were present today.

In my opinion, in the history of our Institute, no President of ICSI had ever had a golden opportunity like the one available to you today. Our nation is witnessing the beginning of a massive revolution against corruption and for general reforms initiated by Shri. Anna Hazare, which is not going to subside and which will be sustained over a long period of time till the objective is achieved. Our Institute will be losing the greatest opportunity, if it chooses to shut its eyes and sit on the wrong side. **ICSI by now should be seeing the writing on the wall.** In this context, I would like to mention that the thousands of military personnel and administrators who aided the British during their rule over India would never have felt the peace and enlightenment which their brethren experienced in their sacrifices for the nation as freedom fighters.

When it comes to the issue of fighting corruption, it is high time that ICSI should come out openly with a stand which is clear enough for the governments, industry and the general public to understand. Anybody including a Secretary worth his or her salt, detests the heinous practice of corruption. **To say that "corruption cannot be rooted out in our lifetime" is a statement of an escapist and stands for rank cowardice.**

ICSI is a creation of Parliament, an independent body of professionals with respected model of professional

conduct, not subsidiary to the will of any Government Official.

We are fed up of being called as professionals who can only serve the rich corporate, attend seminars, eat sophisticated food at meetings, travel on air at the cost of the clients, bow without spine before the bureaucrats who treat the government departments as their personal fiefdom, handle dirty money as brokers to 'get the things done', consider government offices as personal offices, wax eloquent about their professional competence and knowledge and remain oblivious of the core issues affecting the society and nation.

In spite of the best of hopes, Questions which perturb my mind:

- 1) Is the lure of money and riches the only attraction which we can give to the prospective young ones to join the profession?
- 2) Are we solely subservient to the interests of selfish corporate bodies or can ICSI take the lead and blacklist corrupt corporate bodies?
- 3) If a member decides to fight against corruption, will ICSI support the member or should the member share the fate of the former Malabar Cements Secretary and his young ones?
- 4) Should our members sell their services or their values?
- 5) And finally, do icsi tolerate corruption?

- ✓ **Fight is against corruption, not against the government.**
- ✓ **ICSI should take up initiative to convince government for early abolition of archaic outdated laws and procedures which are also contributing for the growth of corruption.**
- ✓ **Any sort of involvement by a CS in corruption should be treated as Professional Misconduct.**
- ✓ **ZERO TOLERANCE TO CORRUPTION should be the motto.**
- ✓ **Members fighting against corruption should be supported by ICSI.**
- ✓ **Let us sell our services, not values.**

I beseech the ICSI to come out with the following measures:

- ICSI to proclaim a historic declaration: **"A Declaration against Corruption"**

- Amend the definition of 'professional misconduct' to prescribe that any member, if found, after due inquiry, to have indulged in the act of bribing any government official or been a wilful party to any practice of corruption, will be barred from ICSI.
- Conduct a sustained awareness programme with mandatory attendance meant for each of the members and registered students, on the evils of being an accessory to corruption.
- Hold constant meetings and deliberations with MCA, ROCs, RD Offices, Official Liquidators, High Court Judges, Trade and Industry bodies, civil society members, consumer associations etc till the message is conveyed clear and loud enough - THERE WILL BE ZERO TOLERANCE TO CORRUPTION - and work out jointly the measures to tackle and kill the menace.
- Interact with the industry on a sustained basis with a clear cut time schedule and work out a list of rules, regulations, bye-laws etc which provides discretion to the bureaucracy and companies to play for their own benefit, as the case may be, which per se are impractical and harmful but are being implemented for the reason that they are in the law books!! (In the proverb 'Rules are meant to be broken', 'rules' refers to these 'virus' rules). These rules, regulations, etc are to be strongly taken up with the Government/s and if the Government/s do not budge, take up the matter legally before the Courts. The ICSI should take the lead in this respect. (Early abolition of archaic outdated laws and procedures should be one of the principle agendas)
- Career counselling to have a mandatory agenda confirming that ICSI do not tolerate corruption at any cost. This is the strongest ever brand image which ICSI can ever have in the domestic and international academic and business arena.

In our lifetime and that too near in the future, we would like to see a strong and resurgent India which is not only rich but also happy, where inequality is minimum, and where there is a rule of law.

Let it never be misunderstood that only affluent persons can fight corruption. It is the reverse case. Great revolutions including the present one have been initiated and fought by the middle class. The rich do not have the 'time' or the 'convenience' to fight for values. The poor are too weak to fight for values.

I implore the President of ICSI not to get offended by my communication and to kindly go through my letter with patience and come up with a courageous executable plan!!

I feel that any fight against corruption by ICSI will be incomplete without the association and support of ICAI and ICWAI. The more the stronger.

We are with ICSI in any of the courageous efforts it takes to support the ongoing revolution against corruption and for general reforms in our dear nation.

SIR M VISVESVARAYA



Born on September 15, 1860 at Muddenahalli, Chikballapur, Karnataka.

"Sir M Visvesvaraya" was a notable Indian engineer, scholar, statesman and the Diwan of Mysore during 1912 to 1919. Studied engineering at Poona Civil Engineering College. He was a recipient of the Indian Republic's highest honour, the **Bharat Ratna**, in 1955.

He was knighted as a Commander of the Indian Empire by King George V for his myriad contributions to the public good. Every year, 15 September is celebrated as Engineer's Day in India in his memory.

He is held in high regard as the first and pre-eminent engineer of India. He was the chief designer of the flood protection system for the city of Hyderabad.

Sir MV died on April 14, 1962 at the age of 101 years at Bangalore.

Documentary Films on Sir MV:

<http://www.youtube.com/watch?v=f1LbPgeTekw>

http://www.youtube.com/watch?v=s_t0Op4OLo&feature=related

<http://www.youtube.com/watch?v=3S7GkMggm5Y&feature=related>

(Source: http://en.wikipedia.org/wiki/Mokshagundam_Visvesvaraya)

FDI IN

MULTI-BRAND RETAIL: NOW NEARER



Probably, it is time to forget the discussions on the pros and cons of allowing FDI in Multi-brand Retail in India. Of course, the discussions do stand the test of merit. Concerning was the manner in which the issue was approached, and the reasons given to justify FDI in Indian Multi-brand retail. It was indeed illogical to push such FDI as the redeemer to free the common man from the clutches of food inflation.

Be that as it may, the Committee of Secretaries (COS) has approved a proposal to allow FDI up to 51% in multi-brand retail in India, clearing the decks for the final approval from the Union Cabinet. Before Cabinet, the proposal will have to go to the Commerce Ministry. There is still a long way to go; but the policy direction is clear. This will be a starting point to further liberalize foreign investment in the sector.

This comes with conditions aimed at ensuring that the alleged disadvantages of permitting such FDI are kept at bay, and only the advantages flow in, so that an idealistic and desirable scenario is achieved. The conditions stipulate that the foreign investors invest at least a certain percentage in back-end infrastructure, warehousing and the like; they are to procure at least a certain percentage of the merchandise from micro, medium and small enterprises; such FDI will be allowed only in cities where the population is above a specified limit, say for instance, the metros. Further the approval of the concerned State Government may also be required. Moreover, a minimum threshold is also proposed, so that the size of the

investment is big enough to have only serious players.

One aspect which attracts attention is the confusion which starts when one tries to get into details. It apparently seems that the idea is to show that there is, on one hand, policy liberalization by allowing such FDI, and on the other hand, restrictions to prevent misuse of the liberty, and on yet another hand, exemptions to ease the rigidity caused by the restrictions.

For instance, take the stipulation regarding minimum investment in 'back-end infrastructure'. Claiming that the root cause for high inflation in India is the huge wastage of perishable food items before they reach the market, it was said that allowing FDI in multi brand retail will usher investment in back end

infrastructure such as cold chain and supply infrastructure, thereby reducing such wastage and increasing supply of products, leading to reduction in prices. But the foreign investor would not invest merely in such back-end infrastructure (in which 100% FDI is anyway permitted) since the return on investment may not be attractive; therefore, if allowed to invest in front end infrastructure like stores and multiple retail formats which are expected to generate good growth and return, there would be an incentive for the foreign investor to set up back-end infrastructure as well. However, to ensure that the objective of investment in back-end infrastructure is not defeated, a certain minimum percentage of the overall investment should compulsorily be made in back-end infrastructure. Again, to ensure that such stipulation of minimum back-end investment does not deter the foreign investor, the definition of back-end infrastructure' could be expanded to include design development, quality control and packaging of products. Another proposal to ease the rigidity of minimum investment in back-end is that the back end investment need not be made by the same company making such FDI, but by an outsourced entity



Allowing FDI into the Multi-brand retail sector is coming to reality, with Committee of Secretaries approving the proposal and forwarding it to Union Cabinet, through Commerce Ministry. Yes, the approval is proposed with certain terms and conditions. Here is a reality check of the proposal.

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"The views expressed in this article are personal."



specifically commissioned for the purpose. In short, something is permitted, but subject to something else, which in turn is exempted by some thing else.

Another important area which seems to have been overlooked is the distinction between different forms of retail. Retail is not just food, beverage and grocery; there could be apparel, jewelry, cosmetics, electronics, accessories, beauty, footwear...the list can go on. The requirements of the individual sectors vary. For instance, while retailing of fruits and vegetables requires huge investment in cold storage chains, procurement linkages and the like, the same may not be the case for apparel or other non-perishable items. While presence of a foreign retailer in fruits and vegetables could trouble the *kirana* stores or vegetable and fruit vendors in smaller towns, a foreign retailer selling branded international perfumes in a Tier II City may not have the similar affect, since there may be hardly few local players in that segment of business. Further, a stipulation as to minimum percentage of

procurement from local small scale enterprises may not be possible where the product is an imported one. Even within a given retail segment, there could be great differences in the mode of business. For example, retailing of apparel, watches, fashion accessories, footwear, perfumes and the like at a mass market level is so very different from retailing of the same items under luxury brands. Such luxury retail business has little to do with the back-end; the business is driven by high investment at the front end (that is, the retail store), where the customer expects not only an exclusive product but also a discerning shopping experience.

Already, many foreign investors have expressed doubts as to how all this will work. As can be expected, the local retail associations are unhappy that such FDI is being allowed, to their detriment. Is it a case of trying to have the cake and eat it too?

ENVIRONMENT STRATEGY FOR CENTRAL BOARD OF EXCISE AND CUSTOMS

In a first for any taxation department, the Union Finance Minister Shri Pranab Mukherjee has given his go-ahead to an “Environment Strategy” for the Central Board of Excise and Customs (CBEC) that would change the way business is done by the Customs, Central Excise and Service Tax officials.

CBEC’s ‘Environment Strategy’ formalizes a concept paper “The Greening of Indian Customs” that encompasses various measures - legal, enforcement, administrative etc. - to ensure the Department’s core functions are sensitive to our environment. This includes the mandated role of the Customs and its premier intelligence agency, Directorate Revenue of Intelligence (DRI) in implementing multilateral environmental agreements (Basel Convention, Cartagena Protocol, CITES, etc.) as well as relevant domestic laws (Customs Act, 1962, Environment Protection Act, 1988).

The new strategy recognizes the fact that environmental protection is of paramount importance for individuals and organizations thereby requiring a broad based approach. It underlines the fact that our environment is so critical a subject that it cannot be left only to the experts.

Some of the important elements of CBEC’s Environment Strategy include:

- (i) Training of officers for monitoring international trade in environmentally sensitive goods.
- (ii) Sensitizing officers of DRI, Customs (Preventive) etc. to enhanced detection of environmental violations
- (iii) Creating database and disseminating relevant environmental information.
- (iv) Protecting frontline officers from hazardous substances by providing radiation detection kits;
- (v) Dematerializing documents and eliminating paper documentation.
- (vi) Promoting web-based external and internal communication.
- (vii) Developing and implementing green standards for infrastructure

CBEC emphasizes that besides contributing to a cleaner environment, decisions such as reducing documentation would serve the objective of trade facilitation by reducing transaction costs.





Shruthi K.
CS Professional Program, Mysore



<http://www.ourprofessionalteam.com>

Like money, law is also the life blood of any business. Corporate Law consists of set of mandatory rules and regulations which are required to be complied with by the Entrepreneurs for smooth functioning of the business.

Indian Corporate Laws are so vast that it's difficult for an Entrepreneur to keep in his memory all provisions! Here is a site- www.ourprofessionalteam.com for entrepreneurs/professionals to provide update of Indian corporate laws and procedure in following segments:

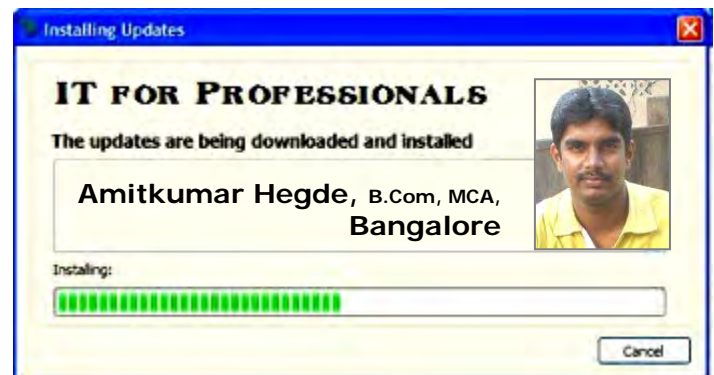
- Corporate laws & rules
- Consumer law
- Insurance laws
- Intellectual property laws
- Labour laws & rules
- Environment law
- General & commercial laws
- Banking laws



This site provides detailed procedure and activity schedule for different events. All these procedures are in simple language and are explained with flow chart as well. This site also provides general format of different type of agreements, notices and minutes. It has well-structured FAQ's and forms under a specific heads. To conclude it is a "single window solution" for all corporate law requirements.

BatteryCare

Nothing has annoyed laptop users as much as battery backup. Worst part is its life dwindles as you use your laptop over a period of time. There is no easy way to ensure that the laptop provides best backup and to increase life of battery. But there are couple of tools which aid in this process. I verified many such tools and found BatteryCare to be good one.



BatteryCare is a freeware which you can download from <http://batterycares.net>. The installation is very simple which involves a couple of steps. Once it is installed, a tiny icon appears on the system tray which allows you to switch the power plans and it shows some details about the battery. Settings window will provide additional optimizations such as disabling the widgets, aero theme, pausing resource hungry windows services etc. You can also set notifications such as "notify when battery level is below 25%" etc.

The website also has a guide on how to get best out of the battery and unfolds some of the myths about the battery usage. Some of the guide lines covered includes "Memory Effect" which is a common phenomenon of Ni-MH battery but not Li-Ion battery.

There is a nice little guide on performing battery calibration (full discharge) which ensures that the battery provides its best all the time. Battery Meter also has a feature to keep track of calibrations performed and it alerts when the next calibration is due.

I have been using this tool for quite some time and I am happy with this nice little utility. Hope it should help you too.

Battery Usage Guide: <http://batterycares.net/en/guide.html>
Download Location: <http://batterycares.net/en/download.html>

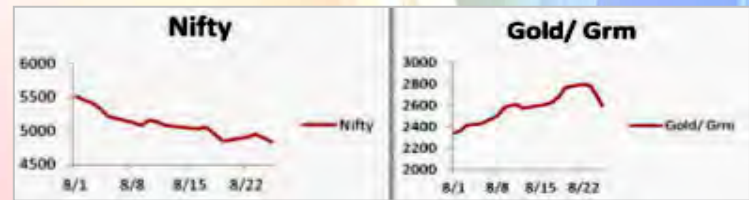


Gold as an alternative investment to Stock Market

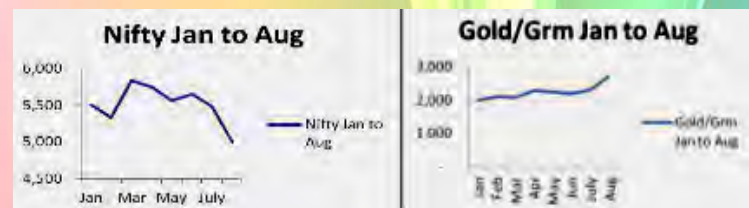
CA. M.G. Vaishnavi, Bangalore

When we speak about market, what comes to our mind is NIFTY or SENSEX. There are many factors which impact the market and create fluctuation in returns on investments. Considering the globalization, any news or impact on foreign markets like DOW, NASDAQ etc., also impact the Indian Market. Whenever investor finds hard to make good returns in such markets, he looks for an alternative to invest which runs in negative co-relation to Stock Market. One such area of investment is gold Market. Gold being a natural resource. Supply of gold is restricted to the extent of reserves explored from the earth and unearthed mine. The affection of the Indian people towards gold always kept the demand high which made the gold as relatively a safe investment. Stock market runs on sentiments, when market is falling people liquidate their money and try to move the investment to alternate avenues. In such case, other most preferred options are investing either in Fixed Deposits, Government bonds or Gold. The first two are low yielding as compared to Gold.

Therefore, a typical investor would prefer to invest in gold as an investment option. The below chart on nifty movement and gold price movement for the month of August 2011. Nifty market commenced with 5517 and tapered down to 4840 on 25th August 2011. Net to net falling was by 12%. At the same time gold reflected a positive trend from Rs 2342/gram to Rs 2594/gram reflecting a growth of 11%.



The same result is observed even if the historical data is studied from Jan 2011 to Aug 2011. However, the point observed is Gold has appreciated by 36%, whereas market is fallen by 9%.



Though many factors are involved in ascertaining the gold price prevailing in the market, one can not disagree with the fact that stock market and gold have a negative co-relation. This apart, gold is also considered as a very strong parallel currency to dollar. Indian currency is printed based on gold reserves available in the country. Gold use is not restricted to ornaments alone but has been a good investment option as well in a bearish market. History evidenced a long term investment in gold always fetched a lucrative return.

Pick of the Month

BSE's Book Building System

BSE offers a book building platform through the Book Building software that runs on the BSE Private network. This system is one of the largest electronic book building networks in the world, spanning over 350 Indian cities through over 7000 Trader Work Stations via leased lines, VSATs and Campus LANS. The software is operated by book-runners of the issue and by the syndicate members, for electronically placing the bids on line real-time for the entire bidding period. In order to provide transparency, the system provides visual graphs displaying price v/s quantity on the BSE website as well as all BSE terminals.

Courtesy : www.bseindia.com

Did you Know?

MCA deferred STP mode of incorporation of Companies.

MCA vide general circular dated 5th September 2011, has deferred the implementation of the online incorporation of the Companies vide STP mode of approval of forms 1, 18 and 32 (based on the certification and declarations given by Practicing Professionals).



**CS. Abhishek
Bhardwaj A.B.,
Bangalore**

**Team Genicon,
Chennai**

**CA. Ashit Shah,
Mumbai**



The Central Government has added port of Cochin to the existing locations for online transmission of data for Advance Authorization Scheme, Export Promotional Capital Goods(EPCG) Scheme and DEPB Scheme. Accordingly, applications for these schemes in respect of shipping bills issued on or after 08/08/2011 from Cochin needs to be filed electronically.

(Policy Cir. No. 36 (RE-2010)/2009/2014 Dt. 05/08/2011)

The Central Government has clarified that waiver from requirement of filing of Bank Guarantee in respect of Export Oriented Units (EOUs) will be allowed even if any show cause notice for procedural lapse has been issued to the EOU.

(Cir. No. 36 Dt. 12/08/2011)

The Central Government has asked all the Export Promotion Councils/Commodity Boards /Authorities to upload of data for Registration- Cum-Membership Certificate (RCMC) on the website of Director General of Foreign Trade (DGFT) by 31/10/2011 so that RCMC number is available in DGFT records and exporters are not required to produce the RCMC certificate while applying for various export promotional schemes.

(Trade Notice No. 17 Dt. 23/08/2011)

Case Law:

A Circular can reduce the benefit under DEPB Scheme prospectively and not retrospectively. - *Delhi High Court Uol Vs Himsheel International (2011-TIOL-462)*

The Tribunal has held that the date on which bill of entry is filed should be taken as the cut off date for deciding the importability of item and not the bill of lading when the import is effected with the payment of duty.

M/s Raj Fabrics Vs Uol(2011- TIOL-1002)

The Tribunal has held that concessional rate of duty available to an EOU on clearance of goods manufactured wholly from the raw material manufactured in India cannot be denied in case some imported consumables are used since use of consumables will not breach the underlying condition.

Super Spinning Mills Limited Vs CCE (2011 (186) ECR 68)

The Delhi High Court has held that DGFT authorities cannot deny the benefit under Duty Free Entitlement Scheme once it has been allowed by the Standing Grievance Committee by relaxing any provision of the FTP.

UoIVs Dewas Soya Limited (2011 (270) E.L. T 17)

The Kerala High Court has held that duty credit is available even in the absence of Customs Notification providing such exemption in case DGFT has clarified on the entitlement to duty credit.

M Far Hotels Ltd. Vs Uol(2011 (270) E.L. T. 158)

Antidumping duty Notifications/Circulars

The levy of antidumping duty extended on imports of specified rubber chemicals, falling under Chapters 29 and 38 of the Customs Tariff Act originating in or exported from China PR, Chinese Taipei, European Union and United States of America. The levy duty has been extended for a period of five years w.e.f. 28/07/2011.

Notn. No. 67/2011 Dt. 28/07/2011

CUSTOMS

Notifications/ Circulars

The Central Government has implemented the "Authorised Economic Operators" (AEO) programme to ensure security in supply chain of import and export goods. The intention is to give AEO certified operators preferential treatment in terms of relaxed procedural requirements. The importer can voluntarily apply for this programme, subject to fulfillment of prescribed conditions.

(Cir. No. 37/2011- Customs Dt. 23/8/2011)

The Mumbai Commissionerate has re-structured the centralized refund cell which deals with the processing and sanctioning of 4% Special Additional Duty of Customs on the basis of Chapters specified under the Customs Tariff Act, 1985.

(Public Notice No. 105/2011- Customs Dt. 27/07/2011)

News

The Cabinet has given approval for introducing Legislative Amendment Bill to amend Section 28 of the Customs Act, 1962 which will allow the recognized Customs officers like Officer of Directorate of Revenue Intelligence (DRI) to undertake assessment of the customs duty.

Source: The Indian Express, New Delhi, Dt. 22/07/2011

To ensure security in supply chain of import and export goods "Authorised Economic Operators" (AEO) programme has been implemented. The importer can voluntarily apply for this programme, subject to fulfillment of prescribed conditions.

Cir. No. 37/2011- Customs Dt. 23/8/2011

Case Law

The Supreme Court held that the royalty payable by the importers would be included in the customs assessed value of the imported goods as these payments are made as a condition of sale of the CDs.

CC Vs M/s Living Media (India) Ltd. (2011- TIOL-81)

If refund to be granted to the importer is delayed, the interest is calculated only on duty component and not on duty and interest. - *Madras High Court*

CC Vs VBC Industries Ltd. (2011 (270) ELT 314)

Foreign Trade Policy

Notifications/ Circulars

The Central Government has added Inland Container Depot Merripalem Gutur, Andhra Pradesh as a port of registration for availing export promotion benefits under Advance Authorisation.

(Public Notice No. 69 (RE-2010)/2009-2014 Dt. 04/08/2011)

Provisional antidumping duty imposed on “opal glassware” falling under tariff heading 7013 originating in or exported from China PR and UAE. This duty has been imposed for a period of six months from 09/08/2011. *(Notn. 72/2011 Dt. 09/08/2011)*

Definitive anti-dumping duty imposed on imports of “Caustic Soda” falling under Chapters 28 of the Customs Tariff Act, originating in or exported from, Thailand, Chinese Taipei and Norway. Duty has been imposed for a period of five years from 23/08/2011. *Notn. No. 79/2011 Dt. 23/08/2011*

Foreign Trade Agreement Notifications/Circulars

Concessional duty rate of customs duty provided on specified goods when imported into India from Japan under the Comprehensive Economic Partnership Agreement between India and Japan. This exemption is effective on imports made w.e.f. 01/08/2011. *Notn. 69/2011-Cus Dt. 29/07/2011*

Export Inspection Council has been authorised for issuing Certificate of Origin under India Japan Comprehensive Economic Partnership Agreement. *Public Notice No. 70 Dt. 12/08/2011*

CENVAT Notification/Circulars

Legal Metrology Act, 2010 has substituted the erstwhile Standards of Weights and Measure Act, 1976 with reference to Section 4A of the CE Act, 1944, w.e.f. 01/08/2011. *(Notn. No. 18/2011 - CE (N.T.) dt. 28/07/2011)*

With a view to reduce litigation, the Board has specified the monetary limits of Rs. 5,00,000/-, Rs. 10,00,000/- & Rs. 25,00,000/- for filing appeals by the Department before CESTAT, High Courts & Supreme Court respectively. *(CBEC Cir. F.No. 390/Misc/163/2010 - JC dt. 17/08/2011)*

Case Law

The process of cannibalizing parts from the old machines and using the same along with new parts, frame and body for assembling a new machine will amount to manufacture under excise law. *Xerox India Ltd. Vs. CCE (2011 (270) ELT 395)*

Services received in respect of assessee’s guest house, having no nexus with the manufacture of finished goods, are not eligible for CENVAT credit. *Hindustan Zinc Vs. CCE (2011 (270) ELT 111)*

The appeal to the High Court is not maintainable in cases involving CENVAT credit entitlement. *CCE Vs. Switchgear & Control Technics (2011 (269) ELT 496)*

Service Tax Notifications/Circulars

Electronic filing of service tax returns is a mandatory requirement for all assesseees regardless of turnover. *Service Tax Notn. No. 43/2011 Dt. 25/08/2011*

Chamber of Commerce, Export Promotion Councils and Trade Associations are authorized by Government to issue Country of Origin Certificate (COOC) to exporters in the prescribed form, on payment of appropriate fees. It has been clarified that activity carried out by the Chamber involves certification of national character of the export goods and squarely falls under

“technical inspection and certification services” and would attract service tax. *Cir. No. 145/14/2011 - ST Dt. 19-08-2011*

Every assessee have to file half yearly service tax returns in Form ST - 3, electronically through website of ACES with effect from 01-10-2011 and physical return would not be accepted. These will not only covers returns due after 01-10-2011 but all returns or revised returns filed for the past periods as well. *Notn. No. 43 / 2011 - ST Dt. 25-08-2011*

Levy of Service tax on delayed payment charges collected by Stock Brokers from their clients towards delay in making payment to the stock brokers would not attract service tax. It has been clarified that delayed payment charges received by the stock brokers are not includible in taxable value as the same are not the charges for providing taxable services. Such charges are on account of delay in making payments by the service recipient to the service provider and are in the nature of a penal charge for not making the payment within stipulated time. Such amounts are not includible in the taxable value for charging service tax. *F. No. 137 / 25 / 2011 - ST Dt. 03-08-2011*

The CBEC has fixed the following monetary limits below which appeal shall not be filed by Department in the Tribunal, High Court and the Supreme Court:

Sl.	Appellate Forum	Monetary limit
1.	CESTAT	Rs.5,00,000/-
2.	High Courts	Rs.10,00,000/-
3.	Supreme Court	Rs.25,00,000/-

F. No. 390 / Misc / 163 / 2010 - JC - Dt. 17-08-2011

Case Law

The value of the SIM card is includible in the taxable value for the purpose of levy of service tax and not subject to sales tax. *Idea Mobile Communication Ltd. Vs. CCE (2011-TIOL-71-SCST)*

A substantive benefit of refund of input service tax cannot be denied on minor procedural and technical grounds such as the absence of service tax registration number on the invoices. *Ashima Dyecot Ltd. Vs. CCE (2011-TIOL-905-CESTAT-AHM)*

No service tax is leviable on computerized data processing services provided to a client prior to 01/05/2006 in view of the express exclusion of information technology service from the ambit of Business Auxiliary Services. *CCE Vs. Galaxy Data Processing Centre [(2011 (23) S.T.R. 375)*

FEMA & RBI Notifications/Circulars

As per existing provisions only SEBI registered FII’s and NRI’s can invest in units of Domestic Mutual Funds on repatriation basis. The RBI decided to allow Qualified Foreign Investors other than FII’s and NRI’s to purchase units in rupee denominated equity schemes on repatriation basis in primary market subject to fulfilling of certain conditions. *Sources: A.P. (DIR Series) Cir. No. 08 Dt. August 9, 2011.*

The RBI has decided to delegate the powers to AD’s to approve the request with respect to change in the recognized lender subject to the fulfilling of certain conditions. However, changes in the foreign equity holder and collaborator remain to be examined and approved by RBI. *Sources: A. P. (DIR Series) Cir. No. 11 Dt. September 07, 2011*



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India may allow EU's Pak package

India is likely to withdraw its opposition on the controversial trade-aid package proposed by the European Union (EU) for Pakistan, at the General Council of the WTO. Around 75 tariff lines or products from Pakistan would get concessional access to European markets. This concession was offered by the 27-nation EU to help Pakistan in the wake of the devastating floods last year that claimed several lives and made many homeless.

WTO asks India to train other emerging economies in negotiation skills

In an endorsement of the hard bargaining by India in trade negotiations, WTO has asked New Delhi to train other emerging economies in evolving trade policies and developing negotiation skills. India has been playing an increasingly important role as a leader of developing and least developing countries in the on-going Doha round of the WTO. Together with China and Brazil, India has represented developing countries in all small group negotiations in the round.

SEBI Plans Exit Rules for Exchanges

The SEBI may soon introduce exit norms for stock exchanges wanting to close their operations completely. Some regional bourses are finding it difficult to stay afloat due to inadequate business and difficulties in complying with regulations, but cannot formally close down because there is no set of rules to deal with the assets and liabilities of a defunct stock exchange. The Securities Contracts (Regulation) Act, 1956, will have to be amended to introduce rules for complete derecognition of stock exchanges, both voluntary and involuntary.

Govt Approves 5% Stake Sale in BHEL

The Government has cleared a proposal for divesting a portion of its stake in state-owned Bharat Heavy Electricals Ltd (BHEL). It will disinvest 5 per cent paid-up equity, out of its share holding of 67.72 per cent, through the book building process in the domestic market. The stake sale, is expected to mop-up over Rs 4,500 crore for the Government, going by the current market price.

EU-India Agreement in WTO Dispute Raises Bar for EU Drug Seizures

India and the European Union announced an agreement that puts more conditions on EU customs authorities before they can stop the shipments of generic pharmaceuticals passing through Europe. No longer is the existence of an EU patent on passing generics sufficient cause to stop shipments. The agreement suspends a WTO dispute started by India last year.

Hero MotoCorp Drops Honda Brand

Country's largest two-wheeler maker Hero MotoCorp will start dropping the Honda brand from its existing products this fiscal year. Last month, the company had announced its new brand identity after the two joint venture partners of Hero Honda decided to part ways in December 2010.

Philippines refuse to open up its services market to Indian professionals

Philippines has refused to make any meaningful offer to open up its services market to Indian professionals, thus playing the spoilsport in the recent India-Asean services negotiations in Indonesia. Philippines maintained that it had to protect its services sector as it was vulnerable and the country's laws did not allow opening of the sector.

RBI lens on Off-Balance Sheet Exposures of Foreign Banks

The RBI has stepped up its oversight on the off-balance sheet (OBS) exposures of foreign banks, which have risen exponentially. Off-balance sheet deals, which include currency and interest rate derivatives, securitized loans and guarantees, are more lucrative for banks than their other portfolios. In the aftermath of the global financial crises, central banks across the world have not been at ease with high proportion of OBS exposures of banks. Banks typically make money on these exposures through fee and margin income.