

Dear Reader,

We are delighted to inform you that this month we have added **two new features** to this news letter. One is '**Spectrum Page**'. I won't tell any thing about this. Page will speak for itself. Please refer page 10 of this newsletter.

Second column is "**Market Roundup**". This is an effort to introduce one financial instrument a month from ever evolving financial market. This brought to you by Mr. Prasanna, company Secretary from Bangalore. Which is the first instrument? Walk up to page 6!

OK, you are reading from quite a some time. Why don't you think of writing in the newsletter? Your friends are ahead of you already by creating new columns. We are waiting for your appearance in this journal. Start mailing to mysore@icsi.edu and mark copy to dattatrics@yahoo.com.

Meet you again...

Dattatri
Sarina and Kasturi
Editorial Committee

From Chairman's desk,.....

Dear Friends, Good wishes to you all!



The Chapter activities have been on fast forward mode during the month of March. The Chapter conducted two programs both well attended. The program on Union Budget – 2006- Indirect taxation was conducted jointly with ICA; ICWAI and TEAM on 7th March, 2006.

The Investor Awareness Program conducted under auspices of the Investor Protection Fund on 19th March was a grand success with more than 100 investors participating in the program. The feedback from the investors were excellent. The investors requested that a whole day program covering the SEBI guidelines, Take over code etc may be planned. The Chapter seeks the views of the members on the coverage to be aimed for such a program and the faculties etc.

The members are aware that the Ministry of company Affairs have notified the e-Forms under Companies Act. The MCA21 came in to force with effect from 1.3.2006 as announce by the Hon'ble Finance Minister in his Budget presented on 28th February 2006. The Chapter organised a Half Day Program MCA-21 on 14th April, 2006 at 9.30 A.M. at Hotel Sandesh the Prince. Mr. Davey, the Registrar of Companies Karnataka, Mr. Sanjay Kumar Gupta and Mr. Santho Kumar-AROCs had kindly accepted to conduct Program for the benefit of Professionals at Mysore and they kept the words. Mr. Sharat Kumar Jeppu from Sify communications made the program memorable. Those who could not attend, really missed a great opportunity.

The members are requested to give suggestions to maintain the tempo built up in the activities of the Chapter and also to spare their time for the chapter activities.

I also request the members to spare time for career counseling programs.

I request all the members to renew their subscription to "Chartered Secretary" if not already done. The members who have not yet subscribed to the "Company Secretaries Benevolent Fund" are requested to subscribe.

With warm Regards,
D D Bhat

Dear Readers,

Many readers have been requesting for past issues of the newsletter. For all of you, who are interested to read past issues, we have created a web space. Find few of the past issues of newsletter there. Visit www.esnips.com/web/ICSIMysore and tell us could you open the files and suggestions on improvement.

PCs raged up over pre certification issue...

Dattatri H M,
AT&S India Pvt Ltd, Nanjangud

Burning Issue

There has been an emotional turmoil and the issue may not be put to rest until an amicable solution is arrived at. As per the reports, in several parts of the country, practicing secretaries are conducting meetings and working out strategies to convince the Ministry of Company Affairs. The issue on hand is that the authority of pre-certification of e-forms to be filed with ROCs by companies has been given to all three professionals, where as it is the core area of Company Secretaries. Now practicing secretaries are asking a relevant question, 'Dear MCA, either you reserve our area to us solely or please allow us to enter into chartered accountants' and cost accountants' domain'.

Events in the Past.....

This is not the first time the company secretaries are facing a threat. It has never been as vociferous as this one. We may recall a couple of incidents in the past. In 1998, as you are aware, there was a good initiative to revamp the Companies Act. A comprehensive amendment Act was framed. In that Act Company Secretaries were recognized like never before. The flimsy excuse for not appointing Company Secretary as required under section 383A that 'we tried, but could not get one!' was deleted. Meaning to say, the appointment was made mandatory in real sense. The amendment could not take place immediately. However, most of the amendments were implemented in 2002, leaving 383A intact. The ICSI questioned the Government about the retention of this elusive provision in Sec 383A. The Government cited that the retention was inevitable attributing it to the lack of the members' numbers. There was not much debate on this move.

The following year, a circular, not backed by any amendments to Companies Act, was issued. That circular exempted companies whose corporate office is situated at a place having less than 5 lakh population, from appointing company secretaries. What an illogical reasoning! What is the relation between size of population and requirement of company secretary? The Government was questioned again and the reply was the same as on the previous occasion. 'The inability of the Institute to supply the required number of professionals' was held as the trump card. We let this pass too.

If you will recall, Certification under Corporate Governance was also entrusted to Chartered Accountants in the first instance. Later, the practicing Company Secretaries were also authorized.

If you remember, certifying corporate governance was delegated to Chartered Accountants only in the first instance? Later practicing company secretaries were also authorised.

What now?

Now MCA21 project has become a reality. E filing has been initiated. Pre-certification is made compulsory. But any professional CA-CS-CWA- any one of these can pre-certify! When the domain experts are here, the work was given to any one among three professionals. Fortunately advocates were not authorised for this. During my deliberations with many office bearers of different chapters and SIRC, I was informed that, when ICSI represented on this matter with the ministry, the top officials gave the same reason as before. It appears that the MCA is buying our silence with this answer.

It is true that the number of PCs in the country is about 7000. But according to estimation, there are around 3.5 lakh active companies in the country. Providing quality service to all these companies by a small number of PCs is difficult. But, once, other professionals encroach upon our core domain, in the long run, the relevancy of the profession will come under question. Then, what is the solution?

The solution is.....

In my opinion, as far as the e-forms are concerned, in the first phase pre-certification should be exempted for-

1. Private Limited Companies and
2. Companies which have appointed a whole time Company Secretary

Then existing number of PCs will be sufficient. Later, once the concept stabilizes, on need basis it may be extended to all companies. Every year about 1000 company secretaries are emerging. Each year

Friends, what do you say? E-mail your thoughts to dattatrics@yahoo.com.

“CS, CEO and CFO are the triumvirate of governance”

-Mr H. M. Choraria, President ICSI



Interview by Mr. D Murali for Business Line 22.03.2006

Mr H. M. Choraria, PCS from Kolkata, is the new president of the ICSI. **Excerpts from his interview by Mr. D Murali:**

As the helmsman of the ICSI, what are your immediate priorities?

There is a continuity of agenda set by the Council and the past presidents. My job is to consolidate on the strengths built up and opportunities opened up by my predecessors. We have been trying to attract brighter and career-minded students to the company secretaryship course. Our vision is to provide global leadership in developing professionals in corporate governance. The certification by PCS under Clause 49 of the Listing Agreement is a major step forward in this direction.

I will urge the Government, regulatory authorities and chambers of commerce to recognise the competence and expertise of company secretaries as independent corporate professionals who can provide advice and objectivity, not only in the decision-making process of the corporate boards, but also in the management, administration and governance of companies.

How is the job market for freshly-qualified company secretaries?

At present, there are more jobs in the corporate sector than the number of fresh company secretaries available for the jobs. But our emphasis is on building capacities and multi-skilling of our members. Thus, whether in job or in practice, companies will be fully confident of the quality of our members' services.

Are any changes being considered in the syllabus?

We are in the process of revising the syllabus and remodelling the training requirements, envisioning the role profile of a company secretary, say, a decade hence.

How do you ensure that company secretaries keep themselves updated with changes in law?

Continuing Professional Development Programs, fortnightly update over email to all the members, Institute's Web site, and *Chartered Secretary*, the best professional journals are for this purpose only.

One gets the impression that while company secretaries in full-time employment have done well, those in practice are yet to find their bearings. Why is this so?

The impression is wrong. Yes, the practising profession is relatively new and not as long established as other professions are. Yet, the professionals have made big strides. In fact, many well-established and highly posted company secretaries in the corporate sector have left lucrative jobs and set up independent practice.

Will a full-fledged secretarial audit for all the listed companies, on the lines of financial audit, be the solution for the corporate shenanigans, besides being a practicing avenue for your members?

It is a wrong notion. Secretarial audit of listed companies will help companies maintain and upgrade their standards of good corporate governance. It will, thus, enhance the confidence of the investors in the corporate sector that their money is in safe hands.

There is still a considerable overlapping in the ICSI and ICAI syllabi. What is your take on this?

The focus of each syllabus is different and distinguishable. The ICSI syllabus focuses on making the members specialists in corporate governance through corporate laws, corporate

management and balanced services to all stakeholders. We are soon reaching a multi-disciplinary era, where complementarities of different professions would act as a boon to the corporate clients.

How do you react to the suggestion that professionals like CAs, CSs and advocates should be allowed to become professional proxies with the right to speak at annual general meetings?

It is necessary to provide a situation where professionals are allowed to act as proxies of shareholders with a right to speak at general meetings. In many other countries, professional proxies do represent members. A proxy is an agent. An agent can do what the principal can.

The fortunes of secretaries and the capital market went hand in hand in the latter part of the last century. Is the trend still continuing?

Company secretaries have become more independently trusted and valued professionals, the rise and fall in capital markets notwithstanding. Thus, it may not be true that the fortunes of company secretaries are linked to that of the capital markets.

Any changes that the ICSI is pressing for in company law and other legislation?

The ICSI was represented on the J. J. Irani Committee, which has taken the view that the company secretary, the CEO and CFO form an essential triumvirate of good corporate governance.

What is the role of company secretaries in the changing scenario, especially in the context of Ministry of Company Affairs (MCA) 21 project?

The MCA-21 project has heightened the importance of the company secretary in e-governance of the corporate sector. With their specialisation in compliance with company law and better mastery over the nitty-gritty of e-forms and procedures, they are bound to be the most successful frontline professionals under the project.

Why are certifications/mandatory appointments of company secretaries always sought after, instead of leaving these things as options to the industry?

Although market forces do determine the appointments of company secretaries and the work that flows to practising company secretaries, betterment of corporate governance in various countries has been dominated by the requirement of trained professionals working for the corporate sector. For this, the law and the regulatory requirements do provide for compulsory involvement of company secretaries in corporate matters.

Why do we not find much interest evinced these days by bright students in the professional courses of the three Institutes?

This is not true. With globalisation, BPO and KPO, and the advent of new demands from the corporate sector, the avenues open to the bright students have understandably increased.

Is it possible for a freshly qualified ACS to make a decent living if he chooses to be in practice?

Whether in practice or in a job, a professional like a company secretary has to struggle for a comfortable living.

In fact, with globalisation there are more opportunities on the practice front. If the entrepreneurial mindset is nurtured, professional practice can be fulfilling and challenging.

Investor Awareness Program

Reported by: **Reshma Anwar**, CS Student

A program on Investor Awareness and Foundation Day of the Mysore Chapter of ICSI was conducted at Hotel Dasprakash, Gandhi Square, Mysore on March 12, 2006 by ICSI Mysore, under the auspices of the Ministry of Company Affairs, Govt. of India.

Mr. Anand Kumar, Executive Director, Bangalore Stock Exchange was the Chief Guest. He explained various investment risks and the ways in which investors could be deceived by the companies, brokers and other market participants. He advised them to keep themselves informed about miscreants of the market and misleading advertisements regarding issues. He advised to be rational enough to invest money in the remunerative securities and funds and be the ruler of the market and enjoy huge returns on the investments. In the meantime, he guided to be aware of rights, rules, regulations applicable to investors and various grievance redressal mechanisms.

The students of ICSI Mysore made four presentations covering prospectus, securities market, corporate governance, market participants, SEBI rules applicable to investors, grievance redressal machinery etc.

The audience appreciated the initiative taken by the Ministry of Company Affairs' in creating general awareness among the investors and requested to henceforth periodically conduct similar programs.



The investor awareness program was followed by the foundation day celebration of the Mysore Chapter of ICSI. Students who have successfully got through the examinations conducted in December 2005 were awarded merit certificate, cash gifts, etc. which was jointly sponsored by Adarsha Charitable Trust & Mysore Chapter of ICSI.

Presentations by Shweta, Reshma, Suhasini, Rakesh, Kamal and Sunil

MCA 21: e-filings & Digital Signatures

Mysore chapter of ICSI had organised a half day workshop on MCA21: Digital Signatures and e-filing on 14th April 2005. Mr. V C Davey Registrar of Companies -Karnataka, Mr. Sanjay Kumar Gupta and Mr. Santhosh Kumar -Asst. Registrars of Companies gave a practical introspection into the project and its level of implementation. Mr. Sharath Kumar Jeppu from Sify Communications, Bangalore explained the technicalities of Digital Signatures and its security features. The image gallery of the newsletter will cover the photo of the session in the next edition.

STOP PRESS...

New income tax laws on the anvil: FM

PTI April 13, 2006

NAGPUR, APRIL 12: A new and simplified income tax law is in the offing and the government is working on a comprehensive legislation to replace the cumbersome and voluminous Income Tax Act. Indicating this, finance minister P Chidambaram said, on Wednesday, that four working groups set up to provide inputs for drafting a new income tax legislation would submit their reports by the month-end.

SEBI format for filing shareholding pattern

Maharashtra : In another major amendment to the listing agreement, the Securities and Exchange Board of India (SEBI) has decided to amend Clause 35 of the listing agreement. Through which it has introduced a revised reporting format for filing their shareholding patterns with the stock exchanges.



Mr. D D Bhat, Chairman CISI Mysore, Mr. Anand Kumar Director B'lore Stock Exchange and Mr C K Sabareeshan, Member Management Committee, ICSI Mysore

NEWS OF USE

Compiled from various sources.



Pay tax on time to get holiday

Companies will lose tax holiday benefits and deductions available under the Income Tax Act if they do not file their returns on time. They will be liable to pay penalties for late filing of returns. This provision is contained in the Budget. It will be effective from the current financial year. For companies, the financial implication of this proposal can be massive. If a company does not file returns by the due date, it will end up paying tax on even that part of its income which would otherwise have not attracted tax. Infrastructure development companies, 100 per cent export oriented units, those operating cold storage plants and industries in the Northeast may end up paying tax if they delay in filing returns. Infrastructure development companies that get tax benefits include telecom firms, entities involved in developing roads, ports, airports, industrial parks and special economic zones and those handling water and waste management.

Facility for importers to access US companies

The US Commercial Service, the export promotion agency of the US Department of Commerce, has launched a 'better-access sourcing' from America program for Indian importers. The program enables importers to source their requirements in the US more effectively and efficiently. The commercial section of the US Consulate in Mumbai and six other Indian cities concentrates on promoting exports from the US to India. It focuses on the needs of Indian importers by providing consultation and services.

Company affairs get paperless from April 30, 06

Officials at the 20 Registrar of Companies (RoC) offices in India are likely to be a relieved lot. In about a year's time, they would no longer have to deal with an annual deluge of 60 million sheets of paper when 6 lakh companies make their annual filings. MCA21, an e-governance initiative of the ministry of company affairs (MCA), is to be rolled out across all RoCs by April 30. Electronic filing of documents is the key feature of MCA21, which aims to bring about a paperless environment, shorten the time taken by the MCA to provide services, and provide greater transparency. There were around 30,000 companies in

1956, and today about 6 lakh companies file about 100 pages of information every year. The number is only bound to increase. The project will cost Rs 345 crore, of which Rs 314 crore went to Tata Consultancy Services for implementing the project and for support for six more years. The RoC at Coimbatore was last year chosen as the first centre for the project's implementation. The MCA stands to reap considerable benefits soon. RoCs, for instance, have to maintain a company's records for seven years. Under MCA21, company filings from 2003-04 have been digitised. In another four years, RoCs would have the required legacy data in electronic form, i.e. end to demand for more space, said government officials. Companies, the key stakeholders in the project, would be spared the need to send people to RoCs for the annual filing. While the larger companies have the means to deal with the transition, a number of smaller companies might face problems. The MCA has arranged for a transitory mechanism in the form of 53 physical front offices (PFOs) to help companies for three years to make the electronic filings.

Tax return preparers` plan by July

The scheme involving "Tax Return Preparers" will be operationalised from July 1 this year (it was announced in the Budget) and will cover most categories of taxpayers barring corporate houses and cases under litigation. Self-employed, small businessmen with a total income of less than Rs 3 lakh per annum, women, senior citizens and salaried employees will benefit by availing of the services of a tax preparer. Eligibility for becoming a tax preparer, expected to be initially restricted to only law and commerce graduates, may be extended at a later stage. This proposal will keep the preparers within a manageable limit of 1500 to 2500 at a time. It is recommended that tax preparers could charge a fixed fee of Rs 250 from taxpayers for each return filed by them. In the first three years, the tax preparers could be reimbursed a percentage of the tax collected.

Short news

- India and Australia have signed a Trade and Economic Framework on 6th March. This agreement is considered a major step towards the eventual creation of a Pan Asian Free Trade Area.
- India has signed a Preferential Trade Agreement (PTA) with Chile on 8th March 06. The PTA provides tariff preferences ranging from 10 to 50% on 178 tariff lines

at the 8- digit level for imports from Chile to India and a similar range of preferences on 296 tariff lines at the 8-digit level for exports from India to Chile. The Cabinet Committee on Economic Affairs has approved a proposal to extend the Duty Entitlement Passbook Scheme (DEPB) for exporters by one year.

VAT Implementation Status: The five BJP ruled States i.e. Gujarat, Madhya Pradesh, Chattisgarh, Rajasthan and Jharkhand have switched over to the VAT regime, as committed, w.e.f. April 1, 2006. Tamil Nadu and Uttar Pradesh are still undecided on implementation of VAT. Pondicherry will most likely implement VAT along with Tamil Nadu.

Market Roundup

Capital Market Instruments

Prasanna Patil CS Final, Bangalore

The 1992 effect (Market Crash) made investors to lose their faith in the Capital market. There was no one to guarantee the credibility of the stocks. To guard this risk Securities Exchange Board of India (1992) was incepted. Since then we could see the growth in market as people regained the confidence in Capital Market. Now in 2006, SENSEX crossed 11000 points.

This kind of growth has provided an opportunity for financial engineering in the instruments that are traded. Many of us know the basic instruments as to equity, debt and derivative instruments. There are various kinds of securities, which have not been identified by us due to the complicacy involved in them. This column is targeting to ensure that the professionals are updated with the new instruments that are traded in the market.

At macro level, the securities' market is classified as:

- A. New/Further Issues' Market (Primary Market)
- B. Trading of actual securities (Secondary Market)
- C. Trading of virtual securities (Derivatives)
- D. Mutual Funds Market

We all know about the eminent instruments that are issued in the primary market. There are certain options exercised within these instruments. Some of them are:

1. PCDs with Khokha Buy- Back
2. Equipref
3. FCCBs etc.

1. PCDs with Khokha buy-back Option:

Company while issuing a Security to the existing owners, may provide an option of Buy-Back. As we know, PCD Contains two parts a) One portion that is convertible into

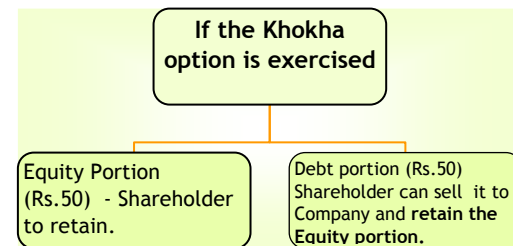
equity b) another portion that is non-convertible portion (NCD part) redeemed at the end of certain period.

For the benefit of the prospective applicants of the issue the Company provides an option of Buy back of NCD through a mode called Khokha. Khokha works like this:

Lets say the Company issued a PCD of Rs. 100

Part A - Convertible into Equity Share of Rs.10 with a premium of Rs.40

Part B - Non Convertible portion redeemed after 5 years of a Face Value of Rs.50 per unit



2. Equipref

Equipref refers to Fully Convertible Cumulative Preference Shares. The instrument contains two parts - A & B. Part A is convertible into equity shares automatically on the date of allotment without any application by the allottee, and Part B is redeemed at par or converted into equity shares after lock in period, at the option of the investor at a price as decided by the management.

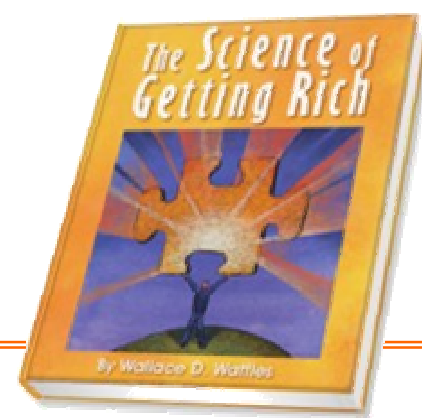
The preferential dividend is given only to Part B Shares.

3. FCCBs

Under the head Foreign Currency Convertible Bonds, there are various instruments available to the Company and to the investors, which will be discussed, in the upcoming issues.

The Science of Getting Rich

Nimmoo Kinger,
Practicing Company Secretary, Mysore



The Science of Getting Rich by Wallace D Wattles is an e-book which can be downloaded free from this website: <http://www.scienceofgettingrich.net/index.html> and from the e-library of ICSI Mysore chapter at <http://www.esnips.com/web/EBooksReviewed>.

As the author says in his preface: “this book is pragmatical, not philosophical; a practical manual..... intended for the men and women whose most pressing need is for money; who wish to get rich first, and philosophize afterward.”

Wattles believes that every one has a right to be happy, to be rich, to live the life of one’s dreams. In a clear, unequivocal manner, he lays down the principles by which one can get wealthy. It is a blueprint to success and wealth. The book is an amazing affirmation of LIFE. When I first read it, it sent shivers down my spine: it was so true. It consolidated what I believed, while putting it all so directly and in such simple terms. Although written in 1910, it may appear revolutionary to those who are not conversant with the prevailing New Age philosophies.

It is a book I would recommend to all those who have any dreams, any goals/ambitions which they want to achieve for Wattles’ principles can be applied to whatever you want to create in your life.



Web yatra

Manjunatha Hegde,
Company Secretary, Ionidea, Bangalore

This month’s web yatra is dedicated to the booming Indian Stock Market. With the Sensex nearing 12K, Stock Markets have become one of the most favoured destinations for the Investors, especially the retail/individual investors.

With the advancement of technology, investing in Stock Market has become so easy that at the click of the mouse, one can invest in the equities of the Companies listed on the Stock exchanges without much hassles. Since these sites work largely on real time basis, it avoids any unnecessary fluctuations which may be encountered if one is unable to get through the broker phone lines.

www.icicidirect.com is one of the pioneers in the segment with a considerable customer base. Subscribers to icicidirect.com are able to invest not only in the equities, but also are able to buy the units of mutual fund, apply for the IPOs, trade in F & O and subscribe to various schemes of Postal Savings Scheme. So the investor is provided with various options under one roof.

In addition to the above, the site widely covers the market information, corporate announcements and provides useful educational materials on Futures, Options and Derivatives. One of the important features of the site is the Corporate Infobank which has an exhaustive collection of research reports on most the companies listed on the Stock Exchanges including the latest audited/unaudited Quarterly, Half Yearly and the audited Annual Results.

In short this is one of the sites which not only assists in investment but also provides all the related information required for the investment decision.

LEGAL ROUNDUP...

Compiled from various sources



Trade Marks Act

Case Laws:

Trade Marks Act, 1999

Plaintiff seeking amendment to withdraw the admission made in the plaint about the date of prior user. Such amendment cannot be allowed. Section 34 of the Trade Marks Act, 1999 gives a specific right in favour of a person who is prior user of the trade mark. It is undoubtedly true that the plaintiffs by making averments in the plaint have admitted that the user of the trade mark "Manikchand" in respect of the tobacco product was only from 1961. Once the said averment is made, it is not open for the plaintiff to go back on the said averment and thereafter now contend that it is not from 1961 but much prior thereto. (Sections: 34)

Rasiklal Manikchand Dhariwal & Ors. Versus Kishore Washwani & Nitesh Ashok Wadhvani.

Application for registration of trade mark "SONICO" in respect of rubber bushes. Opponent's trade marks "SONY" and "SONYCO" registered in respect of electronic goods. Both the marks "SONICO" and "SONYCO" visually and phonetically similar. Opponent's mark having global goodwill and reputation and use of such mark by others not be permitted irrespective of the goods being different as it would cause confusion and deception among public. Order of Asst. Registrar rejecting opposition set aside and application for registration of impugned mark dismissed. (Section: 9, 11, 12, 18)

Sony Corporation. Versus Jasbir Singh Kohli & Anr.

Customs

Notifications / Circulars/ Trade Notices

Warehoused goods - Waiver of interest - Consolidated instructions

With regard to the issue as to whether interest in case of export of warehoused goods u/s 69 is payable in terms of the guidelines as Board Circular or not, Board has decided to adopt the ratio of Hon'ble Supreme Court's judgment

in the case of *M/s. Pratibha Processors v. UOI* (1996 (88) ELT 12 (S.C.) wherein the Apex Court has held that the interest on warehoused goods is merely an accessory of the principal and, if the principal is not recovered/payable, so is the interest on it. The interest under Section 61(2) of the Customs Act, 1962 has, thus, no independent or separate existence

M.F. (D.R.) Circular No. 10/2006-Cus, dated 14.02.2006

Cargo- Measures for expeditious disposal of unclaimed, uncleared and confiscated cargo:

For the purpose of expeditious disposal of unclaimed, uncleared goods it has been decided to prescribe the simple procedure as follow:

- The goods which have undergone auctions / tenders at least 3 times by the custodians and which are still lying unsold, are to be offered for final tender once more and the highest bid received to be accepted by the department. This process should be completed by 31st March, 2006.
- Disposal of goods shall be done through auction/ tender conducted regularly every month.
- Hazardous waste to be disposed in terms of Circular No. 31/04 dated 26-04-2004.
- Each Customs House is to conduct comprehensive review of all consignments and intimate the custodians, details of old consignments which cannot be connected with any records should be intimated to the custodians which should be completed within 120 days of the date of the issue of this Circular.
- Further it is decided to conduct quarterly meeting between the customs and the custodians at each customs station to review the pendency of uncleared/unclaimed cargo and to update the status of the pending consignments. Further in such review meetings, the pendency with the custodian should be matched with the figures of uncleared consignments as per Customs record.

M.F.(D.R.) Circular No.11/2006-Cus., dated 16.02.2006 (2006 (194) ELT T 25)

Antidumping Duty

Customs law-Anti-dumping duty imposed on imports of Styrene Butadiene Rubber (SBR)-SBR imported to India

below normal value resulting in dumping-Tribunal not justified in converting anti-dumping duty into US Dollars-Duty to be imposed in rupee terms.

Rishiroop Polymers Pvt. Ltd. versus Designated Authority & Addl. Secretary, 23-3-2006

Excise/CENVAT

Export of goods under bond - Non levy of duties of Excise - Clarifications

It is specifically clarified that none of the duties under any Act of Parliament is required to be paid when goods are exported under bond under Rule 19 of the Central Excise Rules.

C.B.E.C. Section 37B Order No.60/1/2006- CX., 13-1-2006

Review of orders by Committee of Chief Commissioners - Procedure in case of difference of opinion between members of Committee

The procedure to be followed in case of difference of opinion between the members of Committee would be when the two members take a common view, there would be no difference of opinion, however, in a rare case where the two members differ their views, i.e. one member takes a view to file an appeal, and the other member opposes it, the decision should be to file an appeal.

However, u/s 35B of Central Excise Act, 1944 and 129A of Customs Act, 1962, it is the 'Committee of Commissioners', which is required to form an opinion with regard to filing of an 'Appeal' and not any one member. This Circular overrides the above statutory provisions stating that 'Appeal' can be filed on the basis of opinion of any one member of the Committee.

If the intention was to anyway file the appeal, why have such statutory provisions other than to create work for Chief Commissioners.

C.B.E. & C. Circular No. 824/1/2006-CX - This is the second Circular bearing the same number

Case Laws

Inputs utilized outside the factory but in relation to manufacture

It was held by a Bench of three Judges that input utilization within the factory premises is not the only criterion since there is no difference between schemes of Modvat and Cenvat and therefore overruled the Supreme Court's decision in CCE v. J.K.Udaipur Udyog Ltd 2004 (171) ELT 289 and approved the decision in the case of

Jaypee Reva Cement v. CCE 2001 (133) ELT 3. The net effect is that inputs utilized outside the factory but in relation to manufacture would also be eligible for input credit - like inputs used in mines in relation to a cement factory.

Vikram Cement v. CCE - 2006 (194) ELT 3 (S.C.)

Non-filing of an appeal against an order

It was held that non-filing of an appeal against an order in any event would not be a ground for refusing to consider the matter on its own merit. When public interest is involved in interpretation of law, the court is entitled to go into the questions.

CCE v. Hira Cement - 2006 (194) ELT 257 (S.C.)

Who can claim refund of duty?

It was held that refund claim should not necessarily be filed only by manufacturer and even buyer of goods can make the refund claim. The person who has borne the duty burden can also claim the refund, there is no restriction in that.

McNally Bharat Engineering Co. Ltd. v. CCE - 2006 (194) ELT 318 (Tri.)

Don't assess software with hardware

The apex court held that the value of the operational software loaded on the computer was not includable in the assessable value of the computers.

CCE. Pondicherry Vs. Acer India Ltd. 2004(172)E.L.T 289 (S.C)

Service Tax

Rebate of service tax paid on input services

Clause (IA)- has been inserted, so as to insert a new section 93A in the Finance Act, 1994. The newly inserted section 93A empowers the Central Government to grant rebate of service tax paid on input services used in the manufacturing or processing of goods and provision of services, which are exported. This provision enables the Central Government to prescribe schemes for neutralization of service tax on input services used in export goods or services. The extent and manner of rebate will be prescribed separately.

Section 94, which gives powers to the Central Government to make rules, is also being amended so as to prescribe rules for rebate of service tax on export of goods or services.-PIB



**"Coming together is the beginning
Keeping together is the progress
Working together is the success."**

Lok Adalats - An overview

Omkar N. G. ACS Final - Spectrum Team

"Justice delayed means Justice denied". To avoid delays, Lok Adalats were established which have gained popularity today. It is an alternate dispute redressal form to provide qualitative and speedy justice to a common man, where the parties compromise and settle their dispute amicably.

In ancient India Lok Adalat was popular with different names like Panchayat System or Nyaya Panchayats which was destroyed during British rule. After independence, with the active and innovative approach of Judges in administration of Justice, Lok Adalat emerged back. Hon'ble Justice P.N.Bhagwati realised the utility of Lok Adalat and started holding it in the State of Gujarat. After his elevation to the Supreme Court he spread this movement to all over India. The importance of Lok Adalat is recognized, supported and strengthened by the Legislature under the Legal Services Authorities Act, 1987 (Ss.19-22). The Act provides for Lok Adalat at High Court level, District Lok Adalat and Taluka Lok Adalat. These Lok Adalats may be organised by Legal Services Authorities and Committees at State, District and Taluk Levels.

The Bench of Lok Adalat shall consist of atleast one sitting or retired Judicial Officer (not below District Judge in case of Lok Adalat at High Court level) and not more than two members out of the following

1. Member of legal profession
2. Social worker
3. Person of repute interested in legal services schemes
4. Representatives of voluntary social organisations
5. Member of legal clinic, if any.

Any suit pending before the Court, where compromise is possible and is compoundable under any law in force can be transferred to Lok Adalat on the application of the any party/parties after hearing the other party. . A case may also come before the Lok Adalat at first instance. The principle of Natural Justice is to be observed by Lok Adalats. Based on the settlement Lok Adalat shall make an award which is signed by the members of the Bench and also by the parties. It is deemed to be the decree of the court. No appeal shall lie against the award as the parties have agreed for the same. In case no settlement is arrived in Lok Adalat, the case will come before the jurisdictional Law Court.

Lok Adalats result in the speedy disposal of the cases. One should not underestimate the quality of justice through Lok Adalat as it consists of sitting or retired Judicial Officer/s.

SPECTRUM is a team of young & vibrant students of Mysore Chapter of ICSI. These students came together, have been together & are working towards achieving professional excellence. The team is the brain child of Mr. H.M.Dattatri, Secretary of Mysore Chapter.

SPECTRUM emerged with the support of Mysore Chapter on the 25th Foundation Day of the chapter. Now it has grown one year young. With its toddling, SPECTRUM has already climbed few steps towards professional excellence. Some of them being:

- 1) Organizing TRISHNA-thirst for knowledge, a student oriented program.
- 2) Representations at the SIRC conference at Chennai
- 3) Representations at MILAAP-2006 held at Chennai & Bangalore respectively.
- 4) Actively participated in the 3-day residential program conducted by Mysore Chapter.
- 5) SPECTRUM has been successful in taking part in study circle meets every Sunday at chapter premises. Mysore Chapter has conducted a record of 49 study circle meets out of 52 Sundays in the year 2005.

Now the team is not only limited to Mysore students, but from other cities are also now part of it.

This column is dedicated to encourage the creativity of Spectrum team.