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CS. S Badrinarayanan
Chairman,
Mysore Chapter

-: Editorial Team :-

CS Dattatri H M

CS Sarina C H

CS Omkar Gayatri

CS Abhishek Bharadwaj A B

CS Ajay Madaiah

CS Ravishankar Kandhi

CS Vijay Shyam Acharya

CS Madhur N Agrawal

Greetings from Mysore Chapter of ICSI !!

Hope Ugadi was celebrated by all of you in a grand scale. The Financial year 14-15 is coming to an end and the New Financial Year 15-16 is commencing with a very positive note especially for the profession. As you all know the economy is improving at a faster pace, the share market is booming and there is positive sign on the inflation front. The government is also taking all important decisions towards vibrant economy.

This is nothing but positive sign for the professional people like us. Lots of opportunities in the offing and we have to capitalize on this situation.

On the Mysore Chapter front, March 2015 was another hectic month. Career Awareness Program was held on 18th March 2015 at De Paul First Grade College, Mysore in which more than 50 students from Commerce and Management stream attended. Brochures containing brief details of the CS course were distributed by our Members.

Preparations for UMANG 2015, a student program which is organized by the students of the chapter every year, is in full swing and a preliminary rounds of competitions for the same were conducted on 29th March 2015. Around 80 students from various colleges participated in this round. The final round is scheduled on 5th April 2015 in the Chapter premises.

There was an interactive session in SIRC, Chennai on 29th March 2015 in which all Chairmen of Southern India Chapters had the privilege of meeting with the President of ICSI, Chairman-SIRC and other Council Members. It was a very productive session in which both Chapters as well as profession related issues were discussed.

The Highlight of the last day of the financial year 2014-15 is the visit of President of ICSI CS. Atul H Mehta to Mysore Chapter on 31-03-2015. Our President Sri Mehta despite his tight schedule agreed to my request to visit Mysore and interact with students and members on the same day. In the student meet where he interacted with more than 40 students, President highlighted the importance of the profession in the present scenario and motivated the students to pursue the course with total dedication and self-belief. The Management committee members were present at the meet.

In the evening President also met the ICSI members of the Mysore Chapter. In the meeting wide range of subjects were discussed by the President as well as the Members. President also briefed the various initiatives mooted by the institute in empowering the students and the members. Members present thanked the President whole heartedly for the support the Chapter is getting from HO and SIRC.

With the above positive things your Chapter is moving to the next financial year with great hope.

..o0O

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You may send this link to your friends too!

Please write your comments and feedback to us: newsletter.icsimysore@gmail.com

Career Awareness Programme Held at De Paul First Grade College

On 18.03.2015 Mysore Chapter of ICSI organised a Career awareness Program at De Paul First Grade College, Mysore. Around 50 students from Commerce & Management stream attended the program. CS Pracheta M, Secretary of the Mysore Chapter Management Committee conducted the session and explained the course offered by the Institute



and the eligibility for the course, examination, requirements of training etc. She highlighted the importance of making the right career choice so as to be successful in life.

CS Pracheta also spoke about the role of a Company Secretary and importance of the profession of Company Secretary in the changing economic scenario. Brochures containing brief details of the Company Secretary Course were distributed to the participants.

Preliminary Rounds of Umang 2015

The preliminary rounds of Umang 2015, annual students program was conducted in Mysore Chapter Premises on 29.03.2015. Competitions like Quiz, Essay Writing, Block & Tackle were conducted. CS Phani Datta & Ms. Priscilla Sherene Latha were present as judges for the program to select the students for the final round. Around 80 Students from various colleges in and around Mysore were participated in the Preliminary rounds. Students qualified in the preliminary rounds are eligible to participate in the finals on 05th April 2015 - Umang day in Mysore Chapter Premises.

Students Meet with President

President of ICSI CS. Atul H Mehta visited to Mysore Chapter on 31.03.2015. During his visit, he addressed the CS students at a program held at the Chapter premises.

In his address, he highlighted the importance of the profession in the present corporate scenario and motivated the students to pursue to the Course with total dedication and self-belief. He emphasised that it is important for the students to ensure that they build a strong foundation to become a Good Company Secretary. He also answered the queries of the students.



CS. Badrinarayan, Chairman and CS. Pracheta M., Secretary of the Mysore Chapter were present at the occasion.

Members Meeting with President

During the visit to Mysore Chapter, President of ICSI CS Atul H Mehta also met the members of Mysore. He emphasised the need to ensure professionalism in discharge of duties by the Members.

He also highlighted the importance of Secretarial Audit and the initiatives taken up by the Institute in hand holding the members in effective discharge of duties. He also briefed the various initiatives of the Institute in empowering the students and the members.



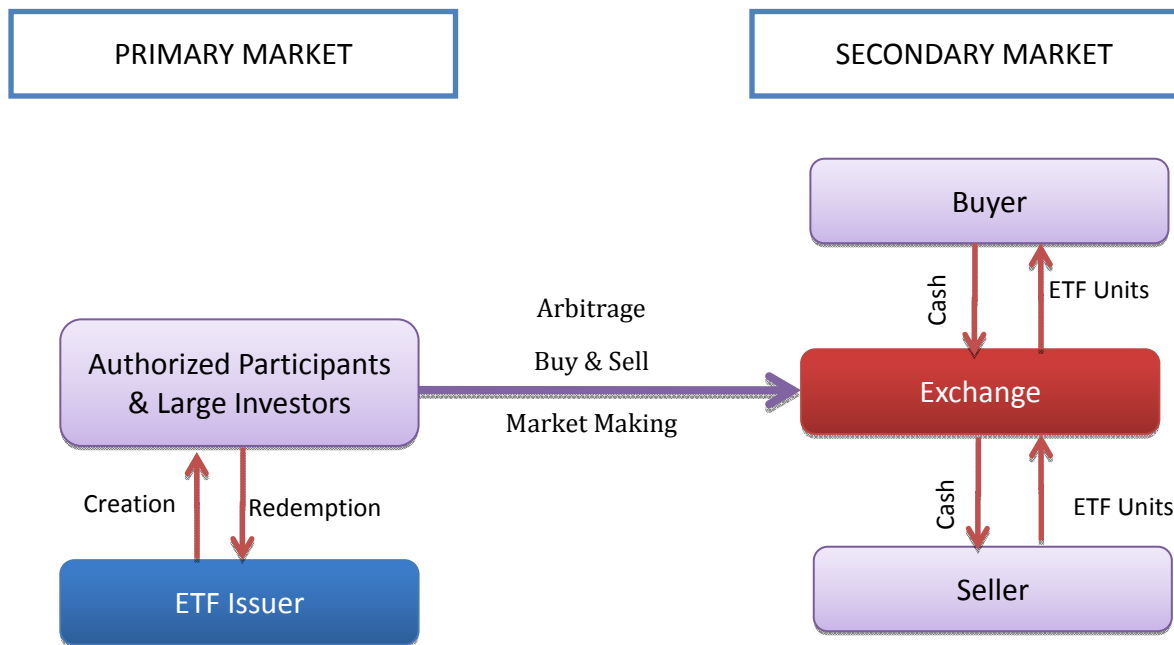
Exchange Traded Fund:

History, evolution benefits and operational process

Part 4

{In the previous editions we introduced ETF, discussed its advantages over Mutual Funds, introduced index tracking & index funds and compared ETF funds with other mutual funds}

Structure of an ETF



* Creation & Redemption of ETF units is done only in integral multiples of creation units.

Creations & Redemptions

ETFs are different from Mutual funds in the sense that ETF units are not sold to the public for cash. Instead, the Asset Management Company that sponsors the ETF (Fund) takes the shares of companies comprising the index from various categories of investors like authorized participants, large investors and institutions. In turn, it issues them a large block of ETF units. Since dividend may have accumulated for the stocks at any point in time, a cash component to that extent is also taken from such investors. In other words, a large block of ETF units called a "Creation Unit" is exchanged for a "Portfolio Deposit" of stocks and "Cash Component".

The number of outstanding ETF units is not limited, as with traditional mutual funds. It may increase, if investors deposit shares to create ETF units; or it may reduce on a day if some ETF holders redeem their ETF units for the underlying shares. These transactions are conducted by sending creation / redemption instructions to the Fund.

Continued in page 7...



A peep into The balance sheet approach of accounting for deferred taxes

Part 2

CS H.R. Sampath Kumar, M.Com. ACS.
Company Secretary,
Karnataka Vidyuth Karkhane Ltd, Bangalore
deshik1990@yahoo.co.in



[Part 1 has introduced the concept of accounting for deferred taxes under IndAS12 which is based on Balance Sheet Approach (also called Asset- Liability approach) as against Income Statement approach of IndAS-22. To calculate deferred taxes under the Balance Sheet approach, the first thing to be done is to determine an entity's Temporary differences. The terms 'Temporary difference', 'Taxable temporary differences', 'Tax deductible temporary differences', 'Permanent differences', 'Book Base of an asset or Liability', 'Tax Base of an asset' and 'Tax Base of a liability' were explained.]

As stated earlier, the difference between and Tax base and Book Base of an Asset or a Liability resulting in to Tax-deductible or Taxable leads to Deferred Tax Asset or Deferred Tax Liability. The following simple formula may be helpful in easily remembering it.

Sl No.	Particulars	What arises	When
1	ASSETS	Deferred Tax Asset	Tax Base is more than Book Base
2	ASSETS	Deferred Tax Liability	Tax Base is less than Book Base
3	LIABILITIES	Deferred Tax Asset	Tax Base is less than Book Base
4	LIABILITIES	Deferred Tax Liability	Tax Base is more than Book Base

Normally, the following items result in Temporary differences: (Illustrative and not comprehensive)

- Assets, due to different methods of depreciation provided in Books and different methods of depreciation allowed for tax-purposes will have different bases, leading to Temporary difference.
- Certain Liabilities for expenses or Provision for expenses shown in the Balance Sheet will have different base for tax purposes based on their allowability or disallowability and quantum and period of allowability/disallowability.
- Interest Receivable is recognized on accrual basis , but tax law taxes interest on cash basis.

WORKING METHODOLOGY:

The following steps are required to be followed while implementing the Balance Sheet Approach of accounting for Deferred Tax:

- 1) Determination of the Tax base and comparing it with Book base for identification of Temporary Differences,
- 2) Segregating the above into of Taxable differences and Tax Deductible differences.
- 3) Applying the applicable Tax rate to the items in SI No.2 above.
- 4) Pass necessary journal entries to account for Deferred Tax Assets for Tax deductible differences and Deferred Tax Liabilities for Taxable differences.
- 5) Disclose in the Notes on Accounts, the Closing balance of ALL Temporary differences categorized into TAXABLES AND TAX DEDUCTIBLES separately, and finally,
- 6) Disclose the net amount of DTA and DTL in Balance Sheet on the Asset or liability side depending upon whichever is higher.

WORKED EXAMPLE:

Based on the formula and the activities listed above, a “Schedule of Temporary Differences” and “Schedule of Deferred Tax Asset/ Liability”, for two consecutive years has been appended to illustrate the concept based on hypothetical figures.

A. SCHEDULE OF TEMPORARY DIFFERENCES AS ON 31-3-2014.

Sl No.	Particulars	Tax Base * at the end of the year	Book Base at the end of the year	Temporary Difference at the end of the year	Future Taxable/ Future Tax-deductible	Resulting in
1	2	3	4	5 = (3 minus 4)	6	7
1	Plant & Machinery	1000	1200	200	Future Taxable	Deferred Tax Liability
2	Provision for Gratuity	1500	3000	1500	Future Tax Deductible	Deferred Tax Asset.
3	Provision for Excise Duty on FG	500	1200	700	Future Tax Deductible	Deferred Tax Asset.
4	Provision for Leave Pay	200	500	300	Future Tax Deductible	Deferred Tax Asset.
5	Provision for Warranty Expenses	000	800	800	Future Tax Deductible	Deferred Tax Asset.
6	Provision for Voluntary Retirement Compensation	40	200	160	Future Tax Deductible	Deferred Tax Asset.

(B) SCHEDULE OF DEFERRED TAX ASSETS/DEFERRED TAX LIABILITIES @ AN APPLICABLE TAX RATE OF 35% AS ON 31-3-2014

Sl No.	Particulars	Future Taxable/Future Tax-deductible Temporary Differences at the end of the year		DTA/DTL at the end of the year		Accounting Entry on 31-3-2014
1	2	3		4		5
1	Plant & Machinery	200	Future Taxable	70	DTL	Debit P&L A/c and Credit DTL for 70
2	Provision for Gratuity	1500	Future Tax Deductible	525	DTA	Debit DTA and Credit P&L A/c for 525
3	Provision for Excise Duty on FG	700	Future Tax Deductible	245	DTA	Debit DTA and Credit P&L A/c for 245
4	Provision for Leave Pay	300	Future Tax Deductible	105	DTA	Debit DTA and Credit P&L A/c for 105
5	Provisions for Warranty Expenses	800	Future Tax Deductible	280	DTA	Debit DTA and Credit P&L A/c for 280
6	Voluntary Retirement Compensation	160	Future Tax Deductible	56	DTA	Debit DTA and Credit P&L A/c for 56

* In respect of Assets it is the amount that will be deductible for tax purposes and in respect of Liabilities, it is the carrying amount less the amount that will be deductible in future periods.

(C) JOURNAL ENTRIES ON 31-3-2014:

First Entry.

Particulars	Debit	Credit
Profit & Loss A/c Dr To Deferred Tax Liability	70	70
<i>(Being the Deferred Tax Liability provided for on Taxable Temporary Difference as on 31-3-2014, as per Statements enclosed)</i>		

Second Entry

Particulars	Debit	Credit
Deferred Tax Asset A/c Dr To P & L Account	1211	1211
<i>(Being the Deferred Tax Asset recognized on Tax deductible Temporary Differences as on 31-3-2014, as per Statements enclosed) (525+245+105+280+56)</i>		

(D) DISCLOSURE IN THE FINANCIAL STATEMENTS:

(1) Disclose in the Notes on Accounts the amounts shown in column No. (5) of Table (A) above. i.e., "Schedule of Temporary Differences" as components of Deferred Tax Assets and Deferred Tax Liabilities

(2) Disclose in the Balance Sheet as at 31-3-2014 "Deferred Tax Assets (Net)" at Rs. 1141/- on the Asset Side. (i.e. Rs. 1,211 minus 70)

Since the Deferred Tax Asset Account and Deferred Tax Liabilities Account are two separate Accounts, it is advisable to maintain them separately in parallel, in the General Ledger.

To conclude, since IndAS12 has not yet become effective, our learning on the same can firm-up only over a period of time.

Exchange Traded Fund

... Continued from page 4

The Portfolio Deposit closely approximates the proportion of the stocks in the index together with a specified amount of Cash Component. This "in-kind" creation / redemption facility ensures that ETFs trade close to their fair value at any given time.

Some investors may prefer to hold the creation units in their portfolios. While others may break-up the creation units and sell on the exchanges, where individual investors may purchase them just like any other shares.

ETF units are continuously created and redeemed based on investor demand. Investors may use ETFs for investment, trading or arbitrage. The price of the ETF tracks the value of the underlying index. This provides an opportunity to investors to compare the value of underlying index against the price of the ETF units prevailing on the Exchange. If the value of the underlying index is higher than the price of the ETF, the investors may redeem the units to the Sponsor in exchange for the higher priced securities. Conversely, if the price of the underlying securities is lower than the ETF, the investors may create ETF units by depositing the lower-priced securities.

This arbitrage mechanism ensures maintenance of balance between prices of underlying assets and ETF.

Conclusion:

ETF have indeed emerged as unique financial instrument, providing differentiated advantage to the other financial instruments in the market. The unique advantages have contributed to the recognition and growth in the trading of ETF's.





Mr. Sharath Mahendra Kumar
B.Com, MBA, LLB, MPhil, PGDMM. (ACS, LLM)
Bangalore
sharathm_kumar@yahoo.com

Know About Provident Fund Loan

Eligibility for PF Loan:

1. Employee should complete continuous 5 yrs of service. Up to 70% to 80% of Employee share + Employer share:

- Purchase of site/ land - (Sale agreement, Mother deed, EC for 13 years, Tax paid receipt for 3 years & Katta)
- Purchase of Flat - (Sale agreement, Mother deed, EC for 13 years, Tax paid receipt for 3 years, Approval from BDA or BMRDA & Katta)
- Construction of Building - (Quotation from Authorised Engineer, Copy of Approved Plan approval from Corporation, Copy of Katta, Sale deed, Mother deed, Tax paid receipt last three years, EC for 13 years, Electric city Approval documents from Karnataka Electric Board)

2. Employee should complete continuous 7yrs of service. Up to 50% of employee share:

- For Marriage Purpose –for Self, Son & Daughter (Wedding Card, Quotation from Marriage Hall & Letter from Employer)
- Medical Purpose *Self, Hospitalisation - For 1 month or more* (Certificate from the Medical Practitioner mentioning the amount for hospitalization or operation)
- Major surgical operation in a hospital
- Suffering from TB, leprosy, paralysis, cancer, mental derangement or heart ailment and having been granted leave by his employer for the treatment of said illness

3. Family (Spouse, Son, Daughter, Dependent Father, Dependent Mother)

- Major surgical operation in a hospital and 1 month or more hospitalisation for the operation
- Suffering from TB, leprosy, paralysis, cancer, mental derangement or heart ailment
 - **Eligibility** - No minimum service required
 - Certificate from ESI or from Employer that the ESI facility are not available to the member
 - A doctor [or registered medical practitioner] of the hospital certifies that a surgical operation or hospitalisation for 1 month or more is/was necessary in case of TB, leprosy ..etc., a specialist doctor to certify.
- Education **Purpose** - (Declaration by the member which is attested by the employer & bona fide Certificate duly indicating the fees payable from the educational institution)

4. Employee should complete continuous 10yrs of service. Up to 70% to 80% of employee share & employer share

Repayment of Loan to any Bank - (A certificate from lending Bank, furnishing the details of loan and outstanding amount & The Covering letter submitted to Bank while applying for Loan)

FAQ.

- Where to submit the form – Form to be submitted in counter in concern EPFO Dept.
- Time Taken for Approval/Sanction – 1.5 to 3 months.
- Whether interest to be paid to loan amount – No. Loan will be approved from the part of employee PF A/c.
- Whether loan should be Re-Payment to EPFO Authorities – No.
- Form 31 & Declaration required for all purposes

The Elephant Rope

As a man was passing the elephants, he suddenly stopped, confused by the fact that these huge creatures were being held by only a small rope tied to their front leg. No chains, no cages. It was obvious that the elephants could, at anytime, break away from their bonds but for some reason, they did not.

He saw a trainer nearby and asked why these animals just stood there and made no attempt to get away. "Well," trainer said, "when they are very young and much smaller we use the same size rope to tie them and, at that age, it's enough to hold them. As they grow up, they are conditioned to believe they cannot break away. They believe the rope can still hold them, so they never try to break free."



The man was amazed. These animals could at any time break free from their bonds but because they believed they couldn't, they were stuck right where they were.

Like the elephants, how many of us go through life hanging onto a belief that we cannot do something, simply because we failed at it once before?

Failure is part of learning; we should never give up the struggle in life.

Words Worth Millions

"To handle yourself, use your head; to handle others, use your heart."
-Eleanor Roosevelt

"Don't tell people how to do things, tell them what to do and let them surprise you with their results."
- George Patton

"Management is doing things right; leadership is doing the right things."
-Peter F. Drucker



Patent Protection

Dear Readers,

Claims for patent protection do not survive, if the stated invention lacks originality, novelty, utility and inventiveness. Rightly so – else, imitations will also enjoy protection, thereby defeating the very purpose of patent laws. However, many a time, determining as to whether a claim is genuine or imitative is very complex and time consuming. Before ultimate determination of claims and counter claims, arguments and counter arguments, as to whether a genuine patent is being actually infringed, or is the said patent merely a copy (and hence invalid as a patent), it is not uncommon for courts to grant interim injunction(s) restraining acts which are allegedly infringing. In this month's update, we shall see, in the context of Indian patent laws, the factors which courts will consider before granting interim injunctions in such situations.

Among other things, courts consider three main factors before granting interim injunctions when there is a claim that a patent is being infringed. They are-

1. **Prima facie case** – The claimant who alleges patent infringement will first have to prove the court on merits, that a strong case exists, which justifies a thorough analysis of the matter. Existence of a prima facie case is essential before an interim injunction can be justified. Else, if interim injunctions are routinely granted, the same can be unfairly exploited to cause considerable business loss to a rival or competitor. The burden is on the claimant to prove prima facie that on the merits of its patent rights, there is considerable reason to believe that the claimant may be able to conclusively prove that its patent is being infringed. In other words, the claimant has to prove, prima facie, that it is not merely making a frivolous claim. In order to prove a prima facie case, the claimant will have to prove, amongst other things, that its patent is prima facie inventive, not a mere copy of other already existing patent(s), the patent prima facie describes the invention and the method by which it is to be performed, the patent claims are not over-broad, the patent does not lack usefulness, and so on. For example, in case of medicine patents, the core of the invention is that the patent qualifications should prima facie add medicinal or therapeutic value.
2. **Irreparable injury** – the claimant who alleges patent infringement will have to prove that irreparable injury will be suffered by such claimant if the interim injunction is not granted. In other words, even if the claimant were to succeed in the proceedings ultimately, the fact that the infringement continued in the interim, would by itself cause considerable loss to the claimant. Proving this is not so easy in patent related claims – the other side contends that even if the claimant were to ultimately succeed in the proceedings, the loss can then be monetarily compensated, hence there is no hurry to grant an interim injunction. The counter argument is that an interim injunction is necessary to ensure that the market forces are not affected during the interim period; in the absence of such interim injunction, the ultimate relief may be merely symbolic.
3. **Balance of convenience and public interest** – if the price difference between the claimant's products and the products sold by the other side is quite high, thereby depriving larger public interest if products by the other side were to be restrained from being sold, courts would not be very comfortable in granting interim injunctions. On the other hand, if the prices of the products on either side are more or less the same, public interest is not affected if an interim injunction is imposed on the other side. For example, let us consider the example of medicines for diabetes. If an interim injunction were to deny the availability of low cost medicines to several thousands of people, the balance of convenience does not lie in favour of grant of an interim injunction.



Guruprasada Bhat
CS Professional Student, Bangalore
guruprasadbhatcs@gmail.com



Global Issues

Social, Political, Economic and Environmental Issues That Affect Us All

There is a saying that “One who does not desire to update his knowledge will be treated as uneducated.” I take this opportunity to introduce a very informative website that talks about the burning issues of the world. You would find information on the most happening of events around us. Having knowledge about the current scenario and the situation of the world is very necessary to each and every businessman.

<http://www.globalissues.org/> is one of the best sites that provide information regarding the global burning issues. This web site looks into global issues that affect everyone and aims to show how most issues are inter-related. An interesting array of topics and articles relating to trade, poverty, globalization, human rights, geopolitics, environment and much more, is what the website is made of.

This site broadly has the following: Issues, World News, Support, World, Economy, Environment, Health, Geopolitics, Human rights and Climates.

<http://www.globalissues.org/> also provides details and discussions relating to the global financial crisis, global warming, women’s rights foreign Aid etc. This is helpful to the professionals and businessmen to be abreast with the current issues. Go for it....

e-Tools for the Professionals

Manjunath S. Bhat, M.Com, LLB
CS Professional Student, Bangalore
msbhat321@gmail.com



File Manager: An Android application for mobiles

File Manager, an Android application allows us to view and manage our files in either list or grid display options, compress to save files, search and save easily, view thumbnails for all kind of files and edit text files on the go. With simple search and share features and a user friendly interface, File Manager is one of the best applications of its kind in Android. Application allows us the compression and decompression of files, also multiple selections and sorting support as well. Application supports cloud storage services including Dropbox, Box, Google Drive, SkyDrive etc.

Features: Supports both local and remote files; Built in text editor, image gallery; Supports more than 28 languages; Cut, copy and paste options for files and Supports file shortcuts on the home screen for easy access;

Specification:

1. Price- Free
2. Required Android- varies with devices

Download File Manager app here: <https://play.google.com/store/apps/details?id=com.rhmsoft.fm&hl=en>

News Room

CS Chakri Hegde
Company Secretary,
Synova Innovative Technologies Pvt Ltd, Bangalore
chakrih@synovaindia.com



CS Vijayalakshmi
Company Secretary
Hoysala Projects Pvt Ltd, Bangalore
vijayalakshmi.k@hoysalaprojects.com



Flash News

- CCI has rejected charges that Suzuki Motorcycle India abused its dominant position in the market for manufacturing and sale of two-wheeler vehicles.
- Pharma companies dominate 2014 list of Indian firms filing for global patents under the Patent Cooperation Treaty (PCT) in 2014
- RBI will keep a hawk eye on the trajectory of inflation, the impact of unseasonal rains on farm output and reforms measures of the Government, to track food prices and reforms
- SC rejects Kingfisher's plea, against the order of Karnataka High Court, challenging Rs 372 crore TDS demand
- Foreign fund inflows cross Rs 81k crore mark in 2015 into India
- SEBI to raise headcount; to hire officers from tax departments
- Stronger investor vigil must to check corporate frauds
- Six years after Satyam scam, many companies still indulge in 'aggressive accounting practices' to dress-up their books to impress the investors and even large corporates "manage" their earnings, experts say.
- SBI offers cheapest home loans to women at 9.85%-The move comes after HDFC has announced that it will provide home loans at 9.9%.
- Aviation minister wants states to reduce ATF tax
- Companies queue up for IPOs as markets rally. Nearly a dozen companies have filed draft offer documents with SEBI in the last one month for launching IPOs.
- SEBI proposes including family trusts, NBFCs in QIB segment
- Cabinet clears creation of real estate regulator
- India may go to the World Trade Organisation (WTO) if the European Union does not reconsider a decision to suspend the sale of about 700 generic drugs that were approved based on clinical trials by GVK Biosciences Pvt Ltd, the firm's CEO said. After an appeal by the company, the Indian government set up a panel of experts last year to investigate the matter and found no manipulation

No women on board? Pay 50k, says SEBI

From July 1, for every day of non-compliance, companies will be fined Rs 1,000 for the next three months that is till September 30. Thereafter, the fine will be hiked to Rs 5,000 per day till the day of compliance by the defaulting companies.

RBI warns public against 'balance checking' software app

RBI has warned the general public that it has not developed any software application allowing a person to check balances in various bank accounts. In a statement, the central bank said that it has come to its notice that a software application is doing rounds on WhatsApp purportedly to facilitate checking of balance in customers' bank accounts. The software application has the RBI logo on it with the title 'All Bank Balance Enquiry

No' and has listed several banks with either mobile number or call centre number.

Foreign bank alerts SEBI on HNI kickbacks

One of the largest foreign banks in India has complained to SEBI that some of the big brokerages, including a few controlled by high-street banks, are doling out generous kickbacks to high net worth individuals and ultra-rich clients in selling various financial products.

India 19th among Top 30 Merchandise Exporters

India's rank remained unchanged at 19th in 2014 among the top 30 merchandise exporters of the world, while China continues to hold the top slot, according to the WTO report. Similarly, New Delhi's rank as a leading importer too has not changed in 2014 at 12th position. In imports, the US topped the list.



National Restaurants Association of India (NRAI)

National Restaurants Association of India (NRAI) is an association of owners and operators of independent and chain restaurant of India. It is one of the leading associations of Indian restaurant industry and is having its head quarters at New Delhi. With the vision of leading Indian restaurant Industry to greater profitable growth, it represents the interest of its members through advocacy, training, research and industry events. It aims at advocating changes in the law governing Indian restaurant industries at local, state and central levels, provides opportunities and support to new entrants of the industry and also to educate its members.

NRAI has pan India presence with approximately 1100 members in 20 states comprising of restaurants, suppliers and educational institutes associated with it. It is governed by a committee consisting of over 20 restaurant CEOs/Owners representing various national and international brands from the F&B sector. The achievements of NRAI includes winning the cases of Withdrawal of excise levy on prepared food products in restaurants by Union Government in 2011, getting the benefit of duty free import of liquors/alcoholic beverages/capital goods extended to stand alone restaurants at 10% of the foreign exchange earnings of the preceding financial year in 2004 and such other national and state level cases. NRAI has also launched its India Food Report Services Report in 2013 sharing details of detailed information on the industry size and highlights the industry's trends, growth and contributions to the economy.

Did You Know?

How does 3D printing work?

3D printing is the most trending and fast approaching technology of today. But, have we ever given a thought on how it works? The process of 3D printing starts with making a virtual design of the object you want to create. This virtual design is made in a CAD(Computer Aided Design) file using a 3D modeling program (for the creation of a totally new object) or with the use of a 3D scanner (to copy an existing object). The 3D modeling program slices the final model into hundreds or thousands of horizontal layers. This prepared file on uploading, instructs the 3D printer to create the objects layer by layer. These layers are blended with no sign of the layering visibility, resulting in a three dimensional object. This mode of printing is also called Additive manufacturing (AM).

Authorisation for Filing Forms

When a Director is authorized to file any specific form through a board resolution and if that particular director vacates the office due to resignation or death before filing of the form, then a separate resolution may be passed before his vacation if possible, to authorize other Director in his place or a separate resolution after vacation may be passed to authorize other Director to file the form. In such cases, the number and date of resolution in the declaration part of the form would be new resolution number and date.

Pick of
the
month

Regulatory Updates



Compiled by:
CS Abhishek Bharadwaj A.B.
Partner, AAA & Co, Bangalore
csabhishekbharadwaj@gmail.com

FEMA Updates by:
Team Genicon,
Chennai



Service Tax Updates by:
CA Ashit Shah,
Mumbai



CUSTOMS & FTP

Notifications/Circulars/News

The Central Government has notified the Customs Tariff (Determination of Origin of Products under the Duty Free Tariff Preference Scheme for Least Developed Countries) Rules, 2015 for determination of origin of products being imported from least developed countries. - *No. 29/2015-Cus (NT) Dt. 10 March, 2015*

The Central Government has instructed the field formation to strictly implement the Steel and Steel Products (Quality Control) Order, 2012 and Steel and Steel Products (Quality Control) Second Order, 2012 with respect to import of steel and steel products. - *No. 8/2015-Customs Dt. 24 March, 2015*

Case Law

Delhi Tribunal held that the value of goods could not be enhanced without reference to a contemporaneous bill of entry or NIDB data showing higher import value of similar goods.

CC v Virasat Electronics (2015 (317) ELT 295)

Mumbai Tribunal held that once the transaction value of the goods was rejected, value had to be determined sequentially following rules 4 to 8.

Armstrong World Ind (I) Pvt Ltd v CC (2015 (317) ELT 324)

Ahmedabad Tribunal held that the assessable value of LNG had to be determined on the basis of quantity of LNG ex-ship delivered in India, at the contracted price arrived at on the basis of an agreement, and not on the basis of LNG quantity declared in Bill of Entry. - *CC v Reliance Ind Ltd (2015-TIOL-358-CESTAT-AHM)*

The Supreme Court of India held that import of saloon cars used as tourist taxi, were eligible for exemption and refund of 10% of CVD under Notification No. 64/93-Central Excise.

Aidek Tourism Services Pvt Ltd v CC (2015-TIOL-23-SC-CUS)

Madras High Court held that the Custom House Agent was not responsible in case of any mis-declaration in the nature of goods by the exporter which was not apparent from physical view of the product.

CC v Moriks Shipping and Trading (P) Ltd (2015 (317) ELT 3)

The Mumbai Tribunal held that the exporter was not liable for penalty in case the shipping line made any procedural lapse without the knowledge of export.

Pratibha Syntex Ltd v CC (Export) (2015 (317) ELT 333)

The Bombay High Court held that once the Directorate General of Foreign Trade (DGFT) had issued the Export Obligation Discharge Certificate (EODC), the retention of bank guarantees/pay orders was not permissible under law.

Sampark Ind Ltd v Uol (2015 (317) ELT 5)

Chennai Tribunal held that Customs duty cannot be paid by utilising Duty Entitlement Pass Book scrips on clearance of capital goods when there was a Public Notice specifically disallowing the same.

CC v Dornier India Medical Systems Pvt Ltd (2015 (317) ELT 114)

Calcutta High Court held that if there was no accrual of foreign exchange from the overseas buyer and the export loss was covered for payment by the Export Credit Guarantee Corporation, duty drawback could not be claimed unless there was a specific exemption. - *Scheffelds Intl Pvt Ltd v Uol (2015 (317) ELT 209)*

The Chennai Tribunal held that the conversion of a shipping bill from DEPB scheme to advance licence scheme was allowed where there was documentary evidence in existence at the time of export, showing intention to claim benefit under advance licence scheme.

Larsen and Toubro Ltd v CC (2015-TIOL-501-CESTAT-MAD)

Ministry of Corporate Affairs

Notifications/Circulars/News

Deposits - Clarification / Changes: MCA has amended the Companies (Acceptance of Deposits Rules), 2014 vide *Notification No.1/8/2015-CL-V Dt. 31.03.2015* and issued clarification vide *Circular No.2/2015 Dt. 30th March 2015*. Please find below gist of amendments;

- The amount received by way of subscriptions to any shares, stock, bonds or debentures before the 1st April, 2014 and disclosed the same in the balance sheet for the financial year ending on or before the 31st March, 2014 against which the allotment is pending on the 31st March, 2015, the company shall, by the 1st June 2015, either return such amounts to the persons from whom these were received or allot shares, stock, bonds or debentures or comply with these rules.
- Every eligible company [having a net worth of not less than Rs. 100 Crores or a turnover of not less than Rs. 500 Crores] shall obtain, at least once in a year, credit rating for deposits accepted by it in the manner specified herein below and a copy of the rating shall be sent to the Registrar of companies along with the return of deposits in Form DPT 3. The rating must be not below investment grade.
- Companies may accept deposits without deposit insurance contract till 31st March, 2016 or till the availability of a deposit insurance product in the market (Till now banks deposits alone can be insured), whichever is earlier.
- After notification the Companies Act, 2013, there was no clarity on treatment of unsecured loan received from the directors, shareholders and their relatives of a private limited Companies, which was exempted from the deposit under the



Companies Act, 1956. Based on various representation from the stakeholders, MCA vide Circular No.2/2015 Dt. 30th March 2015 has clarified that such amount received by the private limited Companies prior to 1st April, 2014 shall not be treated as 'deposits' under the Companies Act, 2013 and Companies (Acceptance of Deposits) Rules, 2014 subject to the condition that relevant private company shall disclose, in the notes to its financial statement for the financial year commencing on or after 1st April, 2014 the figure of such amounts and the accounting head in which such amounts have been shown in the financial statement.

Delegations of Powers in MCA

Central Government vide notification Dt. 31st March, 2015 hereby delegates to the Regional Directors at Mumbai, Kolkata, Chennai, Noida, Ahmedabad, Hyderabad and Shillong, the powers and functions vested in it under sub-section (5) of section 94 (i.e. Place of keeping and inspection of registers, returns, etc.) of the Companies Act, 2013 which give immediate power to Central government to direct the about the inspection of the document on request of person requiring it.

Applicability of Section 186 - Loans to Employees - Clarification

MCA, vide Circular No.4/2015 Dt. March 10, 2015 has clarified that grant of loans and advances by Companies to their employees other than the managing or whole time directors (which is governed by section 185) are not governed by the requirements of section 186 of the Companies Act, 2013.

Clarification on filing of e-Form DIR 11 and 12 - Directors Appointment / Resignation

As per existing MCA system, when a director files his resignation in e-form DIR 11 with RoC, his name will be removed from the list of authorized signatory and consequently his DSC will be automatically deactivated from the system difficulty arises when none of the new Director's details have been filed. As a result, the Company could not file e-form DIR 12 for appointment of directors / KMP due to non-availability of authorized signatory as per MCA portal. To cure the above infirmity, MCA vide Circular No.3 /2015 Dt. March 03, 2015 clarified that any one of the resigned directors who was an authorized signatory, can file DIR 12 only for appointing a new director. However the company should pay the requisite additional fee for delay in filing DIR 12.

Power of the Board - Clarification

Section 179(3) of the Companies Act deals with the list of transaction can be transacted by means of resolution passed at the Board Meeting. In addition, the Rule 8 which deals with the list of transactions which can be exercised by the Board of Directors only by means of resolutions passed at meetings of the Board. Vide the Companies (Meeting of Board and its powers) Rules, 2015 (amendment rules) Dt. March 18th 2015, following transactions are omitted from the rule 8:

- To take note of appointment(s) or removal(s) of one level below the Key Management Personnel
- To take note of the disclosure of director's interest and shareholding
- To buy, sell investments held by the company (other than trade investments), constituting five percent or more of the paid up share capital and free reserves of the investee company
- To invite or accept or renew public deposits and related matters
- To review or change the terms and conditions of public deposit
- To approve quarterly, half yearly and annual financial statements or financial results as the case may be

As a result of the above said amendments, the question of filing e-form MGT 14 does not arise for above said transactions.

Amendment Companies (Meeting of Board and its Powers) Rules, 2015

Vide Companies (Meeting of Board and its Powers) Rules, 2015 (amendment rules) Dt. March 18th 2015, following changes have been made:

- Signing of Share certificate by C.S - clarification - (rule 5(3)) The First Proviso to the said Rule is omitted. In this Proviso, The Company Secretary was deemed an authorized person for signing the share certificate
- Issue of renewed or duplicate share certificate by listed company - (Rule 6(2)): Listed companies shall issue the duplicate share certificate within Forty five days (Earlier it was fifteen days), from the date of submission of complete documents with the company.
- Issue of employee stock options to Employees of associate company - (Rule 12): Now, employees of associate company are excluded from the meaning of "employee" for the purpose of Issuing employee stock options.
- Issue of shares on preferential basis - (Rule 13) Any preferential offer made by a company to one or more of its existing members, then PAS 4 (Offer letter) and PAS 5 (Record of private placement) shall not apply.

Issue of debentures - Rule 18: Following provisions are newly inserted:-

- I. If non-banking financial company issues debentures, then the charge or mortgage may be created on ANY movable property (earlier on Specific movable property).
- II. If Government Company issues debentures, which are fully secured by the guarantee of the Central/State Government, then the requirement for creation of charge shall not apply.
- III. For the loan taken by the subsidiary company, charge may be created on the properties of the holding company. Creation of debenture trust deed by the company issuing debentures in favour of the debenture trustees - Rule 18(5): Trust deed should be created within 3 months of closure of offer (Earlier it was sixty days of allotment of debentures).

Issue of commercial paper (18(9)) & offer of foreign currency convertible bonds (Rule 18(10): If amount is received in accordance with the guidelines issued by the Reserve Bank or any offer of foreign currency convertible bonds in accordance with the Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993, then procedure relating to issue of debentures shall not apply.

Amendment in Companies (Management and Administration) Rules, 2014

Provisions of this rule shall apply in respect of the general meetings for which notices are issued on or after the date of commencement of this rule. Rule 20: Voting through electronic means has been fully substituted by new provisions.

Clarification with regard to section 186 (7) of the Companies Act, 2013

The Ministry of Corporate Affairs (MCA) vide General Circular No. 06/2015 Dt. April 9, 2015 has issued clarification under sub-section (7) of section 186 of the Companies Act, 2013 that in cases where the effective yield (effective rate of return) on tax free bonds is greater than the prevailing yield of one year, three year, five year or ten year Government Security closest to the tenor of the loan, there is no violation of sub-section (7) of Section 186 of the Companies Act, 2013. Section 186 (7) of the Companies Act, 2013 provides that no loan shall be given under this section at a rate of interest lower than the prevailing yield

of one year, three year, five year or ten year Government Security closest to the tenor of the loan.

If the company opts for tax-free bonds whose rate of interest, although less than the prevailing rate of interest of government securities, will not be in violation of section 186 (7) provided that the effective return is greater than the prevailing yield of one year, three year, five year or ten year Government Security closest to the tenor of the loan. This clarification is similar to the clarification issued by the Ministry vide General Circular No 06/2013 Dt. 14.03.2013 under section 372A(3) of the Companies Act, 1956.

CENVAT

Case Law

Ahmedabad Tribunal held that pre-delivery inspection charges incurred only at the instance of buyer was not includible in the assessable value. - *CCE v Lubi Submersibles (2015 (317) ELT 299)*

The value of the scrap generated at job work premises was includible in the assessable value of goods cleared under job work arrangement.

CCE v Ankur Packaging Pvt Ltd (2015-TIOL-472-CESTAT-MUM)

Charges collected from customers towards expenses incurred for transportation of goods from warehouse to depot, storage expenses and investment cost were includible in the assessable value.

Indian Oil Corporation Ltd v CCE (2015-TIOL-539-CESTAT-MUM)

Bangalore Tribunal held that steel plates and sheet used for maintenance of storage tank were eligible for input credit.

Hindustan Petroleum Corpn Ltd v CCE (2015 (317) ELT 134)

CENVAT Credit was admissible on welding electrodes used for repair and maintenance of plant and machinery. - *NOCIL Ltd v CCE (2015-TIOL-532-CESTAT-MUM)*

Plastic crates used as material handling equipment in factory premises were eligible for credit as capital goods and as input also. - *CCE v Tractors And Farm Equipments Ltd (2015-TIOL-531-CESTAT-MAD)*

Endorsed BoE was a valid document for availing CENVAT credit.

Raheja Plastics v CCE (2015-TIOL-435-CESTAT-MUM)

Supplies to Developer of SEZ by a DTA unit would not be considered as exempted supply, and hence provisions of rule 6 were not applicable in such cases.

S P Fabricators Pvt Ltd v CC (2015-TIOL-474-CESTAT-MAD)

Delhi Tribunal held that CENVAT credit was admissible on original triplicate copy of invoices issued by supplier when there was no dispute on duty paid nature of goods.

Ultratech Cement v CCE (2015-TIOL-408-CESTAT-DEL)

Madras High Court held that interest was payable on supplementary invoice issued subsequent to date of clearance of final product, even if differential duty was paid voluntarily.

Alstom T & D India Ltd v CESTAT (2015 (315) ELT 182)

For achievement of 25% or more enhancement in installed capacity for the purpose of exemption under Notification No. 50/2003-CE, it was not necessary that the expansion should be in each and every section of the manufacturing plant.

CCE v Bhandari Deepak Ind Pvt Ltd (2015-TIOL-413-CESTAT-DEL)

VAT, Sales Tax and Entry Tax

Case Law

Karnataka High Court held that under the provisions of Karnataka VAT laws, a dealer was eligible to claim tax benefit on discounts only when such discounts were shown on the face of the invoice. The court further observed that discounts given by way of credit notes were not allowed to be adjusted from taxable turnover.

Southern Motors v State of Karnataka (2015 (3) TMI 433)

Supreme Court held that in order to constitute inter-State sales, the movement of goods from one State to another should be inextricably connected to each other. When a sale transaction concludes in one State, the mere transport of goods from one State to another cannot result in an inter-State sale.

CCT v Desai Beedi Company (2015-TIOL-21-SC-CT-LB),

A contract for printing of annual reports as per the instructions of the customer was a works contract transaction, and not a sale contract. The HC observed that where the finished goods supplied to a particular customer were not commercial commodities in the sense that they could not be sold in the market to any other person, the transaction was a works contract.

Heritage Printers v The Joint CCT (2015-TIOL-608 (HC)-Mad-CT)

Service Tax

Notifications/Circulars

CBEC has issued central excise and audit norms to be followed by Audit Commissionerates, with detailed guidelines as to manpower utilization, criteria for selection of assesses for audit, frequency of audits, etc. - *No. 995/2/2015-CE Dt. 27.02.2015*

Case Laws

Bombay HC held that the dispute as to whether a service was exempt or not, or whether it was exempt under one notification or the other, related to the rate of duty. Accordingly, it was held that appeal was not maintainable before High Court and the same should be referred to the Apex Court. The underlying dispute related to refund claim filed by an SEZ unit towards input services wholly consumed in SEZ for authorized operations. - *CCEST v Credit Suisse Services (2015-TIOL-552-HC-MUM-ST)*

Kerala HC held that the right of appeal should be governed by the law prevailing at the time of initiation of the suit or proceedings, and not by the law that prevails on the date of its decision or on the date of filing of appeal. Accordingly, it was held that the condition of mandatory pre-deposit of 7.5% would not be applicable for cases initiated before 16/08/2014.

Muthoot Finance v Uol and Ors (2015-TIOL-632-HC-KERALA-ST)

In a slump sale of manufacturing facility on going concern basis including technical know-how and the entire technical staff, the royalty could not be held liable to service tax under 'scientific and technical consultancy' services merely because a royalty had been paid in addition to a lumpsum consideration. This was based on the argument that there was complete absence of any kind of scientific or technical advice or consultancy in lieu of royalty. - *Universal Pharmacy, Universal Ayurvedate v CCE (2015-TIOL-373-CESTAT-MUM)*

The handling charges incurred in relation to procurement of spares used while rendering services of repairing or servicing of vehicles could not be included in the value of services liable to ST, since handling charges were included in the value of spares while calculating VAT liability. - *Automotive Manufacturers Private Ltd v CCEC (2015-TIOL-390-CESTAT-MUM)*