



Mysore Chapter

eNewsletter - 82

November 2010

happy deepawali

"Mimansa"

The Indian Rules of Interpretation



7

"WINNING LOSING"

- The Share
Market Sutra



5



For Private Circulation Only

Words worth Millions...



"The true laboratory is the mind, where behind illusions we uncover the laws of truth"

- Jagdish Chandra Bose
November 30, 1858 - November 23, 1937

☞ First to prove that plants too have feelings.

☞ First to invent wireless telegraphy a year before Marconi patented his invention.

-: Editorial Team :-

CS. Dattatri H M,
CS. Sarina C H,
CS. Omkar N G,
CS. Rashmi M R

Support Team:

CS. Harish B.N.,
CS. Ravishankar Kandhi,
Kiran T

For past editions of eNewsletter:

<http://www.icsi.edu/mysore> or
<http://www.esnips.com/web/icsimysore>

Join 1000+ members' strong "CSMysore"
eParivaar at

<http://www.groups.google.com/group/csmysore>

For updates on news concerned with CS, send

SMS 'ON CS_GOVPRO' to 09870807070

Disclaimer:

Views and other contents expressed or provided by the contributors are their own and the Chapter does not accept any responsibility. The chapter is not in any way responsible for the result of any action taken on the basis of the contents published in this newsletter. All rights are reserved.

Message from Chairperson



Dear Professional Colleagues and Students,

"Small is beautiful" - wonder if the students realize this of the Mysore Chapter. In a small group, Camaraderie is best maintained. Dialogues become easier in smaller peer groups. The study circles over the last few years have been a testimony to the success rate amongst the Mysore students. A great deal of learning happens here, more than you do by burning the midnight oil.

To quote Robin Sharma, "There is a cure for aging that no one talks about. It is called learning. As long as you learn something new each day, stretch your personal frontiers and improve the way you think, you cannot grow old." Regular interactions, study circles are the genesis of small learning each day. It is for the students and the members alike, to take advantage of such platforms.

Do remember that we all have a responsibility to be well-rounded citizens with a world class perspective. We all migrate into responsible and powerful positions on acquiring our professional membership. More power, more is the responsibility.

Certain administrative changes have been made at the Chapter office. Mr. Prahlad, a retired Government official, has agreed to help us with the administration matters since this month. We request the co-operation from all concerned.

Here's hoping that after the Deepawali blast, the students are settling in for a rigorous preparation for the Dec 10 exams!

Yours in CS fraternity,

CS K. Sarina Chouta Harish

Inside.....

Articles:

Note on Preferential Voting...3

Winning Losing...7

Company Deposits: Part - 6 8

Columns:

Observer: Mimansa: The Indian Rules of Interpretation...5

Living Room: Plant More Trees...6

IT for professionals: PDF Rider...9

Web Yatra: IndiaITLaw...9

Spectrum Space...10

Legal Roundup ... 11

News Room...13



Note on Preferential Voting



The elections to the Central / Regional Councils of our Institute has been announced. Details are given elsewhere in this edition. These elections are held on the 'single transferable'

vote system, under which the voter has to indicate the preference about the candidates by inserting the figures 1,2,3, etc., against the names of candidates according to his/her preference.

Some members are under the impression that only the 'First Preference' vote is of value. This impression is not correct. A candidate is required to obtain only a specific number of first preference votes for getting himself elected. If the first preference votes obtained by him are more than the required number, the excess is transferred, at appropriate value, to the candidates who have secured 2nd and 3rd preferences. If voters exercise only their first preference for a particular candidate and do not mark subsequent preferences and that candidate gets more than the required first preference votes, the balance of votes will go waste. Similarly, if the number of first preference votes received by a candidate are much below the required quota, the candidates getting subsequent preferences will get advantage by way of transfer of such votes at appropriate value. It is, therefore, essential to note that a voter should not select only one candidate of his choice but should select as many candidates as possible and mark his preferences for such candidates. It may be noted that by giving second or subsequent preferences, the position of the candidate to whom the first preference vote is given will not be jeopardized. This will help the voter to get at least one of the candidates of his choice elected.

Here is an Illustration (Purely Hypothetical)

Assumptions:

1.	Number of candidates	20
2.	Number of candidates to be elected	8
3.	Total voters	4700
4.	No. of voters who have voted (valid votes)	2249
5.	Quota for election of a candidate will be $(2249+1)/(8 + 1)$	250

Thus, a candidate who gets 250 votes first preference votes will get elected.

Let us presume that in the ensuing elections number of first preference votes secured by each candidate is as per table below: purely hypothetically.

Position after First Pref., Vote Sr.No.	Candidate No. on Ballot	First Pref. Votes	Position after First Pref., Vote Sr. No.	Candidate No. on Ballot	First Pref. Votes
1	A	300	11	K	90
2	B	260	12	L	85
3	C	201	13	M	75
4	D	169	14	N	65
5	E	130	15	O	59
6	F	129	16	P	55
7	G	120	17	Q	50
8	H	115	18	R	49
9	I	110	19	S	47
10	J	105	20	T	35
TOTAL					2249

a. First Count

Candidate No. "A" & "B" will be declared as elected as they get more than the required quota of 250 votes.

SURPLUS DISTRIBUTION:

Candidate No. A got 300 Votes as against quota of 250 and therefore 50 Votes will be treated as Surplus Vote. If all the 300 voters have marked their second preferences, the value of each surplus vote will work out to 1/6 (50 / 300). On distribution of second preference votes, the position of Candidates who have secured second preference votes (i.e. "X" and "Y") will be as under.

Candidate No.	Original First Preference	Distribution of No. Votes	Value of Surplus from 'A' @ 1/6	Total
S	47	120	20	67
T	35	180	30	65
	82	300	50	132

b. Revised position on distribution of Surplus Votes of Candidate No. "A".

Position after First Pref., Vote Sr. No.	Candidate No. on Ballot	First Pref. Votes	Position after First Pref., Vote Sr.No.	Candidate No. on Ballot	First Pref. Votes
1	A	ELEC TED I	11	K	90
2	B	ELEC TED II	12	L	85
3	C		13	M	75
4	D		14	S	67 (47 + 20)
5	E		15	N	65 (35 + 30)
6	F		16	T	65
7	G		17	O	59
8	H		18	P	55
9	I		19	Q	50
10	J		20	R	49 [being Eliminated]

Please note that "S" and "T" who were earlier in 19th and 20th position have moved on to 14th and 16th positions due to surplus distribution.

c) Elimination of Candidate No. "R"

Since there is no surplus votes with other candidates, the candidate who has got the lowest number of votes will be eliminated first. On this basis, Candidate No."R" with 49 votes will be eliminated and second preference votes marked by the 49 voters will be transferred to candidates who have received second preference votes. (Please note that all the votes will be transferred on actual basis whereas in case of "surplus distribution" it is done on proportion basis.

Further, any second preferences recorded for candidates already elected from the poll will be ignored. If a voter has given Preferences for Mr. R, B and Q then on elimination, his vote will get transferred to Mr. Q as Mr. B is already elected. Now, let us assume, that the 49 votes polled by Mr. R is transferred as under:

Candidate No.	Original First Preference	Distribution of No. Votes	Value of Surplus from 'R'	Total
C	201	49	49	250

Revised position after Elimination of Candidate No. "R" would be as under:

Position after First Pref., Vote Sr. No.	Candidate No. on Ballot	First Pref. Votes	Position after First Preference Vote Sr. No.	Candidate No. on Ballot	First Pref. Votes
1	A	ELECTE D I	11	K	90
2	B	ELECTE D II	12	L	85
3	C	ELECTE D III 201+49=250	13	M	75
4	D	168	14	S	67 (47 + 20)
5	E	130	15	N	65 (35 + 30)
6	F	129	16	T	65
7	G	120	17	O	59
8	H	115	18	P	55
9	I	110	19	Q	50 [Eliminated]
10	J	105	20	R	ELIMINATE D I

d. Further Elimination

Likewise, after each elimination:

- any candidate obtaining 250 votes will be declared elected
- his surplus will be distributed to the other candidates
- the table redrawn to find out the candidate with the lowest votes to select him for elimination

In this manner the counting will go on and the Candidates, who remain at the bottom, stand eliminated and his Second, Third Preference etc. keep transferring to the respective candidates.

In this process there are all chances, like our candidate No. 3, that candidates at Serial No. 14 or 15 will receive (after transfer votes) total votes exceeding 250.

Invalidity of Votes

Please be careful that you must give preference by indicating 1,2,3,... or I, II, III.... Or One, Two, Three.... etc. The following are the grounds of invalidating a ballot paper under Rule 31:

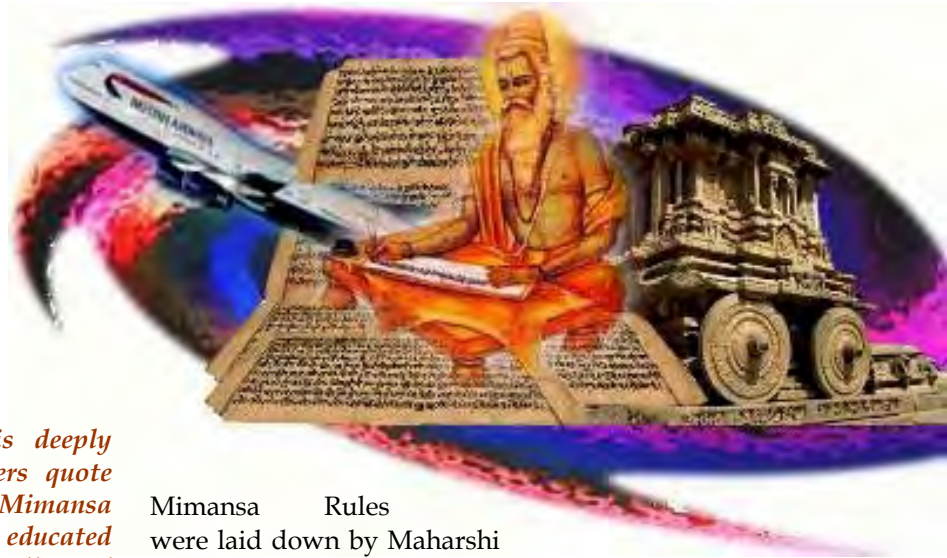
- if a voter signs his name or writes any word or figure upon it or makes any mark including a tick () / cross (X), not being a mark of 'X' put under clause (c) of sub-rule (2) of Rule 20, upon it by which the ballot paper becomes recognizable or by which the voter can be identified; or
- if it is not printed by or under the authority of the Council or it is different in any manner from the ballot papers printed under Rule 25; or
- if number 1 (in Arabic or Roman numerals or in words) is not marked on it; or
- if **number 1** (in Arabic or Roman numerals or in words) is set opposite the name of **more than one candidate**; or
- if number 1 (in Arabic or Roman numerals or in words) and some other numbers are put opposite the name of the same candidate; or
- if it is unmarked or the marks made are void or cannot be unambiguously determined; or
- if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established.

Every Company secretary either in practice or in Industry must exercise his/her voting right on the dates of polling. Elect a candidate you think is best from the points of view of integrity, honesty, knowledge and capability to contribute to the profession.

PLEASE EXERCISE YOUR RIGHT OF VOTING

“Mimansa”

The Indian Rules of Interpretation



“.....we would like to say that it is deeply regrettable that in our Courts of law, lawyers quote Maxwell and Craies but nobody refers to the Mimansa Principles of Interpretation. Today our so-called educated people are largely ignorant about the great intellectual achievements of our ancestors and the intellectual treasury they have bequeathed us. The Mimansa Principles of Interpretation is part of that intellectual treasury, but it is distressing to note that apart from a reference to these principles in the judgment of Sir John Edge, the then Chief Justice of Allahabad High Court, in *Beni Prasad vs. Hardai Devi*, (1892) ILR 14 All 67 (FB), there has been almost no utilization of these principles even in our own country.....”

These are the exact extracts from the judgment in *U.P. State Agro Industrial Corporation Ltd v Kisan Uppbhokta Parishad & others* (7th Dec 2007)

It is not that advocates do not know about the existence of Mimansa rules of interpretation. There are advocates who took help from these rules but limited to Hindu Law matters, particularly ‘Dattaka’ related issues. However in few cases, court itself proactively used these Indian rules of interpretation. The lead name is of Justice Markandey

Mimansa Rules

were laid down by Maharshi Jaimini. More than two thousand years ago, Indian societies had various legal codifications, which were called as “Smritis”. Smritis were basically prescribe rules and procedures for Vedic rituals apart from codifying the legal aspects. No smriti can go against Vedas. Smritis are *Pramanas* (Authenticated) only through Vedas. Mimansa rules were used for resolving conflicts between these Smritis.

A Mimansa rule “Popular meaning overpowers the etymological meaning” was used in the above cited judgment. We can use the same example used in the said judgment to understand this principle. The word ‘*pankaja*’ literally means whatever grows in mud. The word ‘*panka*’ means mud, and the suffix ‘*ja*’ means ‘which is born in’. Hence, the etymological meaning of the word ‘*pankaja*’ is that which is born in mud. Thus literally there can be several things which could mean ‘*pankaja*’ e.g. worms or insects born in mud, all kinds of vegetation which are born and found in mud, etc. However, by popular usage the word ‘*pankaja*’ has acquired a particular meaning in common parlance i.e. lotus. This shows that we should prefer the popular meaning or the meaning in common usage to the literal meaning of a word. Based on this principle, court said “Bullock Cart” can not be called as agricultural equipment like a plough which is driven by oxen, though it is used for carrying the agricultural produce from the farm to the market.

Donald R. Davis, Jr says in his book “Law and Law Books in the Hindu Tradition” that “*the rules and interpretive cosmology of Mīmāṃsā established a framework for both the theoretical and practical solution of legal problems... [however] their use was an ornamental overlay on legal decisions arrived at by other means.*”

This is clearly because we made it a fashion to discard our traditional knowledge and adopt everything from western world, upfront!



We, being the proud successors of great knowledge treasure, shall put more efforts to learn the real India, harness the ancient ‘jnana’ and bring back ‘the light’ to the world.
|| Tamasoma Jyotirgamaya||

CS. Dattatri H M, B Com, LLB, ACS, PGD IBL
 AGM-Legal & CS, Essilor India, Bangalore
 dattatrics@gmail.com

Katju, who not only relied on these rules in his judgments but also tried to bring awareness about using these rules, rather than Maxwell’s rules in interpretation of statutes.

The fundamental reason for most of us not being aware Mimansa is that it is not made part of our curriculum – neither in LLB nor in CS kind of law oriented courses.

In India about 2500 years ago, Jaimini's Mimansa Sutras laid the foundation of a whole system of rational interpretation of texts which was used not only in religion but also in law, philosophy, grammar, etc.

Law Commission of India submitted its 183rd Report to be a continuum on the General Clauses Act, 1897 with special reference to the admissibility and codification of external aids to interpretation of statutes in November, 2002. In this report Justice M. Jagannadha Rao accepted the importance of Mimansa by stating that that "...in our country, rules for interpretation in the form of a scientific system were developed since very early times known as Mimansa Principles of Interpretation. These principles were regularly used by our renowned jurists. These Mimansa rules were laid down by Jaimini in his Sutras written around 500 B.C...." However he did not recommend incorporating the rules of mimansa in the legislative form. The reason given was that if rules of extrinsic aid and construction are codified then it may be that some radical sources are kept out of purview of interpretation unknowingly. We can clearly see that his conclusion was based only on an apprehension.

There are some more case laws where the Mimansa rules are used.

In Jaipur Golden Transport Co. Pvt. Ltd. Vs Commissioner of C. Ex., Surat (Appeal Nos. E/2782, 2806-2812/2002 & 2216/2003-Mum) "Gunapradhana" rule from Mimansa was used. 'Guna' means subordinate or accessory, while 'Pradhan' means principal. The Gunapradhana rule states: "If a word or sentence purporting to express a subordinate idea clashes with the principal idea, the former must be adjusted to the latter or must be disregarded altogether". Further "When there is a conflict between the purpose and the material, the purpose is to prevail, because in the absence of the prescribed material a substitute can be used, for the material is subordinate to the purpose".

LIVING ROOM

Futuristic photo:

A day in future....

Plant more trees...

Based on this rule, court adjudged that It may be that in isolation Rule 9(2) conveys some other meaning, but when it is read along with Section 14 of the Customs Act, it must be given a meaning which is in accordance with the object of Section 14. The object of Section 14 is 'primary' whereas the conditions in Rule 9(2) are the 'accessories'. The 'accessory' must, therefore, serve the 'primary'

In ISPAT Industries LTD. Vs Commissioner of Customs, Mumbai (29-9-2006), Court compares Maxwell and Mimansa with respect to particular rule of interpretation.

"In Mimansa, *casus omissus* is known as adhyahara. The adhyahara principle permits us to add words to a legal text. *However, the superiority of the Mimansa Principles over Maxwell's Principles in this respect is shown by the fact that Maxwell does not go into further detail and does not mention the sub-categories coming under the general category of casus omissus.* In the Mimansa system, on the other hand, the general category of adhyahara has under it several sub-categories, e.g., anusanga, anukarsha, vakyashesha, etc.

The anusanga principle (or elliptical extension) states that an expression occurring in one clause is often meant also for a neighbouring clause, and it is only for economy that it is only mentioned in the former. In our opinion, in the present case, the Anusanga principle of Mimansa should be utilized and the expression 'relevant subject' should also be inserted in the qualification for the post of Reader after the words "at the Master's degree level". Hence, we cannot accept the submission of Mr. Patwalia in this respect.

We being the proud successors of great knowledge treasure, shall put more efforts to learn the real India - burning coal covered with ashes.





“Winning Losing”

Prior to 1992 Olympics in Barcelona, sprinter Derek Redmond was famously known to have shattered the British 400-meter record at a mere age of 19. Post that remarkable feat, however, Redmond had unfortunately been continually living under the dark clouds of injuries, one of which even forced him to withdraw just 10 minutes before the start of the 400-meter sprint at the earlier Seoul Olympics in 1988.

In fact with an uncompromising state of mind, Redmond had geared himself that time round, to grab that one medal that would bring an end to his jinxed career. He posted the fastest time in the first round and further won the quarter-final as well. In the semi-final, Redmond again grabbed the lead by cruising past his fellow-runners in no time. However, only about 250 meters away from the finish, his right hamstring tore! He could not help but cringe to the ground in shock and pain. Stretcher bearers made their way over to him, but Redmond ignored them deciding that he wanted to finish the race one way or another. Fighting acute pain, he limped along the track struggling to complete the race somehow.



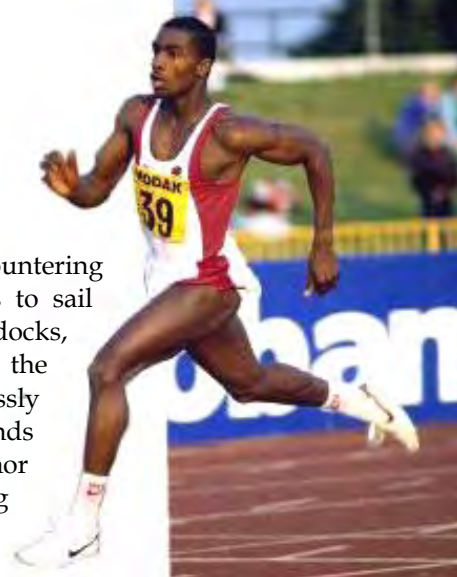
His father, Jim Redmond could no longer hold himself in the crowd and broke past security to reach out to his son who was fighting a lone battle. Jim and Derek together completed the race with Derek leaning on his father's shoulder for support. As the father-son duo crossed the finish line, the crowd of 65,000 spectators roared and gave Derek a standing ovation. Derek

was officially disqualified and the Olympic records state that he “Did Not Finish” the race, nevertheless, Derek's mighty courage and his father's undying belief in him still stands as one of the most talked about stories of human spirit!

Did Derek Redmond win the race? No, he didn't! Well, that means he lost the race or did he really? Derek had every odd in his favor to win the race. Even though fate could not perch him on the pedestal, his extraordinarily courageous act unanimously won people's hearts enough to unofficially yet unforgettably register him as a winner that day. *It is thus, the tenacity that you exhibit in moments of lost glory or despair that carve out winning ways for yourself in the long run.*

Strangely but truly indeed, the principles that should govern our approach towards life, can be applied to our stock market experiences as well. In the same way that

ships sometimes encountering turbulent waters yet needs to sail across towards safe docks, investors engaged in the markets need to relentlessly pursue profitable grounds regardless of the minor hiccups encountered during their journey. The hiccups however, need to be ensured to be curbed to a minimum! It is noteworthy to realize that ships are unfailingly armed with lifeboats, life jackets, etc. to ensure timely and safe exits; likewise, your investments constantly demand you to arm them with safety to protect against unexpected turn of events.



In one of the biggest stock market crashes in 2008, most investors whether big or small, faced major unavoidable losses. Some investors unfortunately incurred insurmountable losses. However, the magnitudes of losses were relatively minimized for wary investors who always have defensive measures in place alarming them to make exits early enough to save further losses in a worse-case scenario. Even if these investors did face losses, their losses seemed minor in mass opinion and consequently could not prove fatal enough to break their belief in making a comeback. At times as such, where everyone loses massively, investors who lost the least undoubtedly are winners still. There could be a win in every loss then! Your ploys or strategies or attitude in general, turns losses into wins!



Ships are unfailingly armed with lifeboats, life jackets, etc. to ensure timely and safe exits; likewise, your investments constantly demand you to arm them with safety to protect against unexpected turn of events. Only then one can win the lose!

Sajjad A Qadir

CEO, Windfall Information Technology Systems Pvt. Ltd.
sajjad@winwindfall.com, www.winwindfall.com

A keen yet precautionary, ambitious yet courageous person will soon become immune to the statuses - win and loss. Only when a person may be able to overcome the distress caused by a loss that s/he truly wins each and every time! The glass may sometimes be half-full or even empty but in any case there is always room to fill it up! *“Winning Losing” is evidently a pun intended here!*

Deposits from NRIs



Foreign Exchange Management (Deposit) Regulation 2000 deals with the provisions pertaining to acceptance of deposit from and making of deposit with a person resident outside India by an Indian resident.

As a thumb rule no person resident in India shall accept any deposit from, or make any deposit with, a person resident outside India, except with permission from RBI.

Regulation 7 of the Foreign Exchange Management (Deposit) Regulation 2000 provides exception to above rule. Accordingly, resident Indian persons and concerns are allowed (A) to accept deposit from NRIs on non-repatriation basis and (B) renew the deposits accepted before 24-4-2004, from NRIs, on repatriation basis.

(A) Acceptance of Deposit on non-repatriation basis:

As per these regulations a manufacturing / trading company registered under the Companies Act, 1956, NBFC, partnership firm, proprietary concern are allowed to accept deposit from NRIs on non-repatriation basis by debit to NRO account of **NRI** provided such amount does not represent inward remittance or transfer from NRE/ FCNR (B) account on fulfilling following conditions specified in Schedule 7 of the Regulation.

1. The deposit should be accepted under public deposit scheme or under private arrangement.
2. If deposit accepting company is an NBFC it should be registered with RBI and should possess minimum required Credit Rating from an Agency.
3. The deposit must be for a period less than 3 years.
4. The interest offered on the deposit should be in accordance with the NBFC directions issued by RBI or Company deposit rules as the case may be.
5. The amount of deposit shall be received by debit to NRO account of NRI provided such amount does not represent inward remittance or transfer from NRE/ FCNR (B).
6. The amount of deposit shall not be used for re-lending (not applicable to NBFC), for agriculture and plantation activities and for real estate business.
7. The amount of deposits accepted shall not be allowed to be repatriated outside India.

(B) Acceptance (Renewal) of Deposit on repatriation basis:

All manufacturing/trading companies registered under the Companies Act, 1956, bodies corporate created under an Act of Parliament and NBFCs are not permitted to accept deposit on repatriation basis from a **non-resident Indian** with effect from 24th April 2004. However, all such deposits accepted before this date may be renewed from time to time on fulfilling following conditions, specified in Schedule 6 of the Regulation.

1. The deposit should be accepted under public deposit scheme only.
2. If deposit accepting company is an NBFC it should be registered with RBI and should possess minimum required Credit Rating from an Agency.

3. The representing the deposit is received by inward remittance from outside India through normal banking channel or by debit to the Non-Resident (External) Account or Foreign Currency (Non-Resident) (Bank) Account maintained with the authorized dealer/ authorized bank in India.

4. The interest on the deposit should be in line with the NBFC directions by RBI or Company deposit rules as the case may be.

5. The deposit must be for a period less than 3 years.

6. The amount of deposit shall not be used for re-lending (not applicable to NBFC), for agriculture and plantation activities and for real estate business.

7. The company accepting the deposit shall comply with all applicable legislations.

8. The amount of aggregate of deposit accepted by the company shall not exceed 35% of its net owned fund.

9. The payment of interest net of taxes may be made by the company to the depositor by remittance through an authorized dealer or by credit to depositor's NRE / FCNR (B) / NRNR/ NRO/ NRSR account as

desired by him.

10. The repayment of deposit may be made by the company to the depositor by remittance from India through an authorized dealer. While remitting the deposit amount the company should certify that the amount of deposit was received either by inward remittance from outside India through normal banking channel or by debit to the depositor's NRE / FCNR (B) account, as the case may be.

11. The amount representing repayment of deposit may also be credited to the depositor's NRNR / NRO or NRSR account, at the option of depositor.

Thus, for accepting and renewing deposit from NRIs or persons of Indian origin resident outside India, no specific approval from RBI is required provided conditions specified in Schedule 6 or 7, as applicable, are complied with. However, above regulations do not permit acceptance or renewal of deposit by any Indian company, firm, NBFC etc. from any foreign national individual or body. For accepting such deposit specific prior approval from RBI is required.

Submission of info about interest payment and TDS:

Section 195 of the Income Tax Act, 1961 deals with TDS on payment of interest to NRIs. Section 195 (6) requires the payer of interest to furnish certain information pertaining to payment of interest and TDS there on to IT Department and RBI. The person responsible for making payment of interest to non-residents shall furnish necessary information to IT Department in the Form No. 15 CA electronically to the web site designated by the Income Tax Department and thereafter two copies of signed print out of the said form along with a certificate from a CA in Form No. 15 CB shall be submitted to RBI prior to remitting the payment. The RBI shall send one copy of the same to concerned Assessing Officer of the payer. On completion of these formalities the amount of interest, net of tax, shall be remitted to NRI depositor.

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



As a thumb rule no person resident in India shall accept any deposit from, or make any deposit with, a person resident outside India, except with permission from RBI.

CA. Kamlesh C. Agrawal B.Com; LL.B; FCA
Allahabad, kcagarwal44@yahoo.co.in



PDF Rider

Working with pdf documents is quite common in our day to-day life. Some times we might need to modify the pdf documents, extract some pages, merge multiple pdf files, insert pages from another pdf file, delete pages and so on.

Here is a nice utility called "PDF Rider" which can do all of those easily. It is an open source freeware which comes with a build in pdf viewer and pdf manipulation capabilities. From the main interface, under Application menu, click Open Document to specify the PDF document. Under Tools menu, you will find all the aforementioned tools and features. Document can be encrypted from Security, you will just need to enter password to encrypt the document.

For extracting or deleting pages from the file, you just have to provide the range of of pages which you want to extract or delete respectively. Inclusion of PDF file requires specifying the document path and PDF page rotation feature offers a list of angles by which you can rotate the document.

To merge multiple documents together, click Merge Documents and select the PDF files which you want to merge, it also lets you choose whether to merge whole document or only specific pages.

This application works with Windows XP, Vista and Windows 7. You may download it from <http://pdfriider.codeplex.com>



Web Yatra

Pavan Kumar MS,
Student CS Professional Program, Mysore

INDIAITLAW.com
Law for the Information Technology Industry

Technology plays crucial role in our day to day activities. But at the same time, we should be aware of the INFORMATION TECHNOLOGY LAW which regulates IT sector. www.indiaitlaw.com makes an attempt to become the primary source of information about legal issues concerning information technology industry and for all those who deal with this in their day to day work.

Site helps not only to technical students, but also to Entrepreneurs and IT managers. All questions regarding Information Technology Law in India will find answers here. Further, site provides IT Act 2000, its objects, highlights and some important definitions and clauses of the Act. Concept of Digital Signature, Certifying Authority and DSC (Digital Signature Certificate) are explained in layman's language. Also site provides information on E-

commerce which includes Payments, Systems Security, Direct taxation, Tax Administration and Compliance. Further, site deals with following aspects:

- Computer crimes
- Copyright
- Trademarks
- Legal Contracts

Site provides interesting links like Cyber Crime, WIPO and Commission on International Trade Law.

Get registered for free with this site and make optimum use of this site. We shall continue our Yatra with another informative and interesting site in the next issue.

ICSI has notified Elections for the Central and the Regional Councils

Whoever gets elected, will formulate the policies for the future of the profession. Let us not miss the opportunity to elect right candidates having vision for the profession. Please speak to candidates contesting for regional and central councils to understand their vision for the profession. Measure their capability. Decide whom to vote.

Let us ensure that we vote!

Dates for Physical Voting: Delhi/New Delhi/ Mumbai (or any other place where elections are required to be held on two days): Friday & Saturday, the 10th & 11th December, 2010. Other places: Friday, the 10th December, 2010. Time: 8.00 A.M. to 8.00 P.M.

If you are voting through Postal Ballot, ensure the receipt of your ballot papers at ICSI before 5.00 P.M. on Friday, 10th December, 2010.

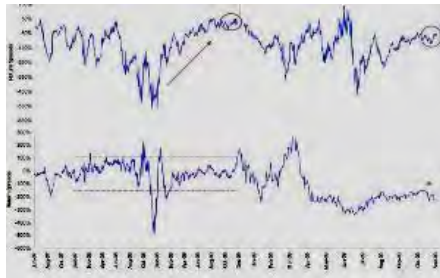


Spectrum Space

Compilation:
CS. Ravishankar Kandhi,
Bangalore

Learners' Corner

Hedge Funds



The term hedge fund is not fully descriptive because the hedged position is generally designed to isolate a bet rather than to reduce risk.

Hedge funds can be defined as funds that seek absolute returns. These funds functional structure have few features Mutual Funds however unlike mutual funds they are open to a limited range of investors.

Hedge funds are lightly regulated investment funds and the performance fee will be charged by fund's investment manager to the investor. The fees normally comprises of a management fee and an incentive fee proportion to realised profits.

These funds can be categorised in variety of ways such as long/short term funds, market neutral funds, global macro funds, event driven funds, convertible arbitrage and fixed income arbitrage funds. Typically the investors who are ready to accept high level of risk invest in such funds and also expect high returns on their investment. The net performance of the fund is calculated by subtracting the fund management fee from the gross performance.

The level of leverage will normally be high in hedge funds. Often high leverage is used as a part of the trading strategy and in many instances it is an essential part of the strategy in which arbitrage return is so small that leverage is needed to amplify the profit. The risks associated with these funds are liquidity risk, pricing risk, counterparty credit risk, settlement risk, short squeeze risk, and financing squeeze risk.

In terms of performance, hedge funds are generally viewed as delivering a good return in both up and down markets. The biases present in hedge fund performance and risk reporting include self-selection bias, backfilling bias, smoothed pricing in infrequently traded assets, option like investment strategies, and fee structure-induced gaming.



Open Contract

Options Contract is a type of Derivatives Contract which gives the buyer/holder of the contract the right (but not the obligation) to buy/sell the underlying asset at a predetermined price within or at end of a specified period.

The buyer / holder of the option purchases the right from the seller/writer for a consideration which is called the premium. The seller/writer of an option is obligated to settle the option as per the terms of the contract when the buyer/holder exercises his right.

The underlying asset could include securities, an index of prices of securities etc.

(Source: www.sebi.gov.in)

World Gold Council



World Gold Council (WGC) report revealed that India owns over 18,000 tonnes of above ground gold stocks worth approximately \$ 800 billion and representing at least 11% of global stock.

This is equivalent to nearly half an ounce of gold ownership per capita, a figure which is significantly below consumption in Western markets, representing scope for additional future growth", says a WGC research paper entitled 'India: Heart of Gold'.

(Source: <http://www.mediacentre.gold.org/>)

Legal Roundup

Customs

Notifications/Circulars

The Mumbai Commissionerate has streamlined the procedure to be followed by local Chartered Engineers for the inspection of imported second hand machinery in order to substantiate the value of such machines.

Public Notice No. 102/2010 dt 7/10/2010

The Central Government has issued instructions in which it has provided the following monetary limits for filing appeals by the Department before the CESTAT and High Courts in order to reduce Government litigation.

Appellate Authorities	Duty involved or total revenue including fine or penalty
Tribunal	> 1 lakh
High Court	> 2 lakh

(Instruction No.390/Misc./163/2010 dated 20/10/2010)

Case Law: Classification

The Supreme Court has held that images of drawings and designs of engineering goods imported on CD - ROM cannot be classified under Chapter 49, which is intended to cover paper goods.

These imports would also not be entitled to the exemption available to imports of software under Chapter 85, since the imported goods do not provide instructions for computer hardware and therefore cannot be termed as software.

L.M.L Ltd. Vs CC (2010 (258) ELT 321)

The Tribunal has held that the application software etched on the hardware forms an integral part of the imported automatic data processing (ADP) machine and should be classified as an ADP machine

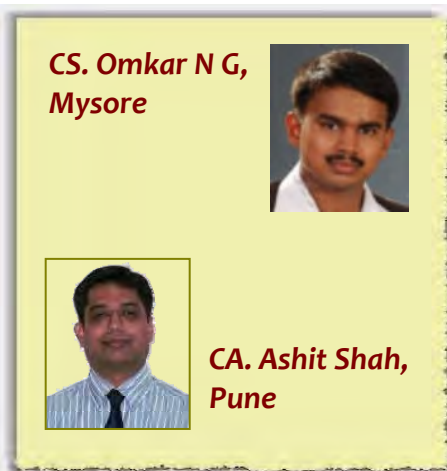
under Customs Tariff Heading (CTH) 84.71.

Mirc Electronics Ltd. Vs CC (2010 (258) ELT425)

Valuation

The Tribunal has held that demurrage charges are not to be included in the assessable value for the purpose of calculating the duty liability.

Tamil Nadu Newsprint & Papers Ltd Vs CC (2010-TIOL-1327)



The Tribunal has held that an importer must be granted the benefit of doubt if the Department has no evidence of any contemporaneous imports at higher values than those declared.

Crystal Dot Scan Pvt. Ltd. Vs CC (2010 (180) ECR 0226)

The Tribunal has held that in the case of re-exportation of goods, the time limit of six months instead of one year applies for claiming the refund of customs duty equivalent to the excise duty paid at the time of import.

Sri Suguna Machine Works Pvt. Ltd Vs CC (2010-TIOL-1341)

Foreign Trade Policy

Notifications/Circulars

The Central Government has clarified that the refund of the 4% Special Additional Duty (SAD), debited at the

time of imports to the duty benefit scrip, is available by way of recrediting the scrip, irrespective of whether the scrip has expired or not.

Public Notice No. 02/2009-14/(RE:2010)/ dated 08/10/2010

Case Law

Karnataka HC: Restrictions imposed under the Foreign Trade Policy are applicable only to personal computers and laptops and not to servers, since these items are considered different in application as well as in commercial parlance.

CC Vs Microsoft Corporation India (P) Ltd. (2010-TIOL-694)

CENVAT

Case Law: Manufacture

Gujarat HC: Mere fact that waste arising during the course of manufacture could be sold in the market is not sufficient to establish its marketability.

CCE Vs. Dhakad Metals Pvt. Ltd. (2010 (257) ELT 535)

CENVAT/MODVAT

Karnataka HC: The bar on avilment of credit of additional duty paid for reason of suppression, fraud etc. is not applicable when such duty is payable on the goods stock transferred to another unit of the same company.

Karnataka Soaps & Detergents Ltd. Vs. CCE (2010 (258) ELT 62),

Tribunal: CENVAT credit is eligible on the goods used within the factory premises for transportation and storage of raw materials, semi-finished goods and finished goods.

Geltec Pvt. Ltd. Vs CCE (2010 (258) ELT 391)

Others

The SC: The Commissioner (Appeals) has no power to condone delays beyond a period of 30 days for filing of appeals.

Amchong Tea Estate Vs. UOI (2010 (257) ELT 3)

The Tribunal has held that inputs can be cleared as such without payment of duty against CT-1 certificates for use in export goods under Notification 43/2001-C.E (N.T).

Gujarat Heavy Chemicals Ltd Vs CCE (2010 (258) ELT 574)

Service Tax

Case Law

The Mumbai High Court has held that the service tax paid on mobile phone services is eligible to be availed as credit under the CENVAT Credit Rules, 2004.

CCE Vs M/s Ultratech Cement (2010-TIOL-686)

The Punjab & Haryana High Court has upheld the order of the Tribunal holding that a delay in filing of a declaration, being a procedural matter, cannot be made the basis for denial of a substantial benefit of rebate of service tax paid on input services.

CST Vs. Convergys India Pvt. Ltd. (2010-TIOL-711)

The Tribunal has held that an importer of goods cannot be held liable to pay service tax on transportation services provided by an overseas supplier for delivery of goods until the importers' premises in the absence of an express agency relationship between the two parties.

Sumangalam Suitings (P) Ltd. Vs. CCE (2010-TIOL-1284)

The Tribunal has held that the issuance of a credit note, by the claimant of refund of service tax, to his customer is sufficient evidence for meeting the bar of unjust enrichment.

CST Vs. Poornima Advertising & Promotion Pvt. Ltd. (2010 (20) STR 107)

The Tribunal has held that an assessee is not liable for payment of service tax on services received from outside India prior to the enactment of Section 66A on 18/04/2006.

Dr. Reddy's Laboratories Ltd. Vs. CCE (2010-TIOL-1263) and Nippon Thermostat (India) Ltd. Vs. CST (2010-TIOL-1301),

No ST Credit for Phone at Residence:

Hon'ble Tribunal observed that it is nowhere coming out that the telephone installed at the residence of the Executive, are being exclusively used for the business purpose. As per the Board' Circular No.59/8/03 dated 22.06.2003 it is clarified that service tax credit is available for the telephone installed only in the business premises.

[Mileen Engineers - 2010 - TIOL - 1362 - CESTAT - Mumbai]

No ST Credit for Services at employee residential colony

Hon'ble High Court observed that establishing a residential colony for the employees and rendering taxable services in that residential colony may be a welfare activity undertaken while carrying on the business and such expenditure may be allowable under the Income Tax Act. However, to qualify as an input service, the activity must have nexus with the business of the assessee.

Manikgrah Cement - 2010 - TOIL - 720 - HC - Mumbai

Composition Scheme for Lottery

The Lottery Distributors or Agents have been provided an option to pay the service tax at special rate of tax instead of paying tax at the rate specified in Section 66 of the Act subject to fulfillment of certain conditions, by inserting sub rule (7C) in rule 6 of Service tax Rules, 1994.

[Notification No. 49/2010 - ST dated 08-10-2010]

Lottery Agents subject to ST

Board has exempted persons marketing the lottery tickets other than the distributors or selling agents appointed or authorized by the lottery organising State from the whole of service tax leviable thereon under section 66 of the Finance Act on the taxable service of marketing of lottery, if the optional composition scheme under sub-rule

(7C) of rule 6 of Service Tax Rules 1994 is availed of by such distributor or selling agent, in respect of such lottery during the financial year.

[Notification No. 50/2010 - ST dated 08-10-10]

Companies Legislations

Revision in additional filing fees by MCA:

MCA has notified that it has decided to revise the additional fees payable as per Section 611(2) of the Companies Act, 1956 (except for Form 5) as per below details with effect from 5th December 2010 :-

1. Period of Delay up to 30 days: Two times of normal filing fee
2. More than 30 days and up to 60 days: Four times of normal filing fee
3. More than 60 days and up to 90 days: Six times of normal filing fee
4. More than 90 days: Nine times of normal filing fee

Companies Bill misses one more session:

Government will not be able to table the new Companies Bill that was expected to be enacted by the end of this year, in the Parliament's winter session. Failing to meet the earlier deadline of tabling the Companies Bill 2009 in the winter session, now the bill might come in the budget session beginning February next year.

Income Tax

Tax saving financial Structure is legal:

Income Tax Appellate Tribunal, Mumbai held on 10th November 2010 that "As long as the finance structure adopted by the taxpayer is not specifically prohibited by the applicable tax treaty provisions and as long as there are no specific anti-abuse provisions, the effect of the finance structure cannot be ignored."

Besix Kier Dabhol SA.



Is India still the pharmacy of the world?

During 2008 and 2009, at least 16 consignments of Indian generic drugs were seized by Dutch authorities while in transit through the Netherlands. Most of these were essential drugs destined for developing countries in Africa and Latin America. Perceiving a clear violation of GATT and TRIPS provisions, India along with Brazil had sought consultations with the EU under the WTO dispute settlement process.

According to a UNITAID study, Indian generics manufacturers supply over 80% of donor-funded AIDS medicines to developing countries. Domestically, the Indian industry now faces challenges due to the implementation of the commitments that India undertook under the TRIPS Agreement. In overseas markets, the renewed push for enforcement of IPRs being spearheaded by some developed countries threatens to circumscribe the market access that Indian industry has enjoyed so far.

Russia - Still looking for WTO

Russia's journey towards membership of the World Trade Organisation has been a slog. Negotiations started in 1993 when Boris Yeltsin was in the Kremlin and Russian troops were in Poland. Seventeen years later, Russia is the largest economy and the only BRIC country not to have joined the organisation. Now the end may be in sight: US and Russian officials have suggested (optimistically) that accession will happen in 2011.

Civil Nuclear Pact: South Korea & India

An agreement on civil nuclear cooperation between India and South Korea has been finalised and now awaits signature, National Security Advisor Shivshankar Menon has said. The Comprehensive Economic Cooperation Agreement has been agreed upon and the agreement on cooperation in civil uses of nuclear energy now awaits signature. Also there has been considerable progress in cooperation in civil aviation and space, and several areas. The economic relationship too is moving forward steadily.

Easy visa norms for 4 Asean members

In an initiative to boost tourist traffic from Asean nations, India has announced visa on arrival facility for the nationals of Vietnam, Cambodia, Indonesia and the Philippines. The facility can be availed starting January 1, 2011.

Bangladesh to charge only transit fee

Bangladesh will charge fees from India instead of duties for transit facilities of goods to its northeastern states like Tripura through its territory. Bangladesh has been offering India a transit facility since the pre - independence period before 1971 through waterways and according to officials the country now receives fees of around Taka 5 crore annually. But a new set of rules was now required for all the transit routes as there has been no such facility for road and rail transport. Dhaka and New Delhi signed a crucial transshipment agreement in March this year finalising an earlier deal to allow Indian goods to be shipped to its isolated northeastern state Tripura through Bangladesh territory

After Obama visit, India to build on trade links with US

"After the successful visit of president Obama, we should seriously consider to engage in negotiations for a comprehensive economic partnership agreement (Cepa), which encompasses trade, investment and services," Commerce and industry minister Anand Sharma has said.

Indians student rank second in UK

Indian students represent the second largest group of international students numbering over 50,000 currently pursuing higher education in the UK, British Council officials have said. "The number is growing at the rate of 13 per cent each year," they said.

Foreign NGOs under scanner in Lanka

Sri Lanka will introduce new laws to regulate both local and international NGO's, some of whom have been accused of supporting "terrorism" and anti-government activities. Sri Lanka has also proposed doing away with visa on arrival for nationals from over 85 countries, including Westerners and South Asians, amid fears that remnants of Tamil Tiger rebels were trying to regroup.

UK copyright laws to be reviewed

Britain's IP laws are to be reviewed to "make them fit for the Internet age" and to remove barriers such as the cost of obtaining permission from rights holders and the cost and complexity of enforcing IP rights in UK and internationally.