



Newsletter - 39

February - March 2007

Mysore Chapter

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Umang...

Mysore Chapter Celebrates its 27th Foundation Day

Reported by: Shwetha Nadig and Abhishek (ACS Inter)

"Umang, the enthusiasm" has been the mantra of Mysore chapter. That was the title for its 27th Foundation Day celebrations held on 11th March 2007 at B.N.Bahadur Institute of Management Sciences, Mysore. The day-long program saw active participation by the students of the Mysore and Bangalore Chapters and had an exciting itinerary of quiz on Company Law, mock stock market, Management game and session on 'Creative Skills' by R. Sai Prakash of Chennai.

'Coordinated Team work is indispensable for success' was the call of the management game conducted by students from ICSI Bangalore. 'Creativity is seeing what everybody see and think what nobody has thought' said Mr. Sai Prakash, Chennai in his session on 'Creative Skills'. He gave some handy tips on bringing out the creativity within oneself.



Mis Sarina, Sai Prakash, Pradeep Mehta, D D Bhat and Jayalakshmi

Mr. Pradeep Mehta, Chairman, CII-Mysore Zone, the Chief Guest of Honour of the Foundation Day, while congratulating the students for making Company Secretaryship a Career choice emphasised the need for 'integrity, being a team player, having Core competency, Finance sense, taking failure in our stride, to have fire-in-the-belly attitude, smartness and a cross-cultural exposure'.

He said that these were pointers that he had gathered from his industry experience of 25 years.

Legal Latest

Excise

Mere electrostatic printing on sheets - Manufacturing?

The Tribunal has held that the process of mere electrostatic printing on sheets, not resulting in the emergence of a new product, does not amount to manufacture under excise law.

CCE Vs. Sign & Display Systems (2006 (206) ELT 823)

Duty on goods retained in the future factory.

The Tribunal has held that no duty is payable on manufactured goods retained in the future factory as samples for investigation of future complaints, if any, in respect of goods cleared from the factory. The Tribunal has held that duty becomes payable only when such goods are cleared from the factory.

Omega Pharma Vs. CCE (2006 (206) ELT 908)

Trade discount - Whether deductible from value of goods?

The Tribunal has held that trade discounts, known at the time of sale of goods and passed on to the customer, are permissible deductions from the value of goods. It has further held that the fact that such discounts have been granted subsequently to removals, through issuance of credit notes is not relevant.

Mahavir Spinning Mills Ltd. Vs. CCE (2007 (207) ELT 94)

Input credit - First Aid boxes supplied with vehicle.

The Tribunal has held that first aid boxes supplied along with the vehicles, are accessories to the vehicles and hence eligible for input credits under the Credit Rules.

Bajaj Tempo Limited Vs. CCE (2006 (139) ECR 583)

Students Successful in the ICSI examinations held in June & December 2006 were given merit prizes, sponsored by the Mysore Chapter and Adarsha Charitable Trust. The winners of the Essay competition on 'How to overcome the menace of Terrorism', which was organised by the Mysore Chapter for the general public, received prizes on the occasion. Mr. Pradeep Mehta, Managing Director and Company Secretary of AT&S India Pvt Ltd, was felicitated on taking over as the Chairman of the CII-Mysore. The day concluded with a cultural extravaganza presented by the Spectrum Team, the students' congregation of the Mysore Chapter of ICSI.

Observer

How to Curb the Menace of Terrorism

Tabassum Firdose (B.Sc.) Mysore

ICSI Mysore had organized an essay writing competition for public at large on the topic titled above. "Terrorism" has been on the top of the list of concerns of the Indians last year as per a survey conducted by a TV channel in 2006. This was voiced in a recent speech of Mr. Kalam. That was the relevance and here is the extracts from the essay winning first prize.

Throughout the globe, terrorism is showing its ugly and ghastly face every now and then. Even in the Gandhian land-a land known for non-violence and peace- terrorism has had its toll. Life in this planet is endangered by terrorist activities like political or communal or ethnic or even diplomatic rivalries.

The main reason for this culture is the arms producing nations that have clandestine dealings with the terrorist groups through out the world. Sophisticated weapons are freely smuggled into all parts of the world. It is India that is vociferously crying in high for a global action against terrorism. But its voice has been lost in pernicious bias and it follows a path of neutrality and is emerging as the champion of developing countries. The midnight freedom in the wake also brought communal clashes and terrorisms which besides claiming the life of the Father of the Nation is still blood thirsty and unquenched.

Fortunately, we can take small steps to minimize religious fundamentalism and terrorist recruitment without giving in to terrorist's demand.

We cannot fight terrorism by becoming terrorists. We cannot end terrorism by becoming terrorists. We cannot end terrorism by using the methods of terrorism to bomb and kill Iraqis, to support the terrorist occupation of the Palestinians and to hold the world hostage with our nuclear weapons, but fund non-violent democratic peace makers in Iraq, send food and medicine to Iraq, support United Nations non-violent peace making solutions, end world hunger immediately, cut U.S military aid everywhere, dismantle everyone of

SERVICE TAX

Royalty paid for transfer of technical know-how

The Tribunal has held that royalty paid for transfer of technical know-how for manufacture and distribution of Mercantile Identification System would not be chargeable to service tax under the category of Consulting Engineering Services. The Tribunal observed that such transfer of know-how would be covered under the taxable service category of Intellectual Property Services

Shore to Shore MIS Pvt. Ltd. Vs CCE (2007 (5) STR 109)

Activity of eco-conservation work

The Tribunal has held that the activity of carrying out eco-conservation work to convert wasteland to productive use is not taxable as consulting engineering services.

CCE Vs Nippon Koei Co Ltd. (2007 (5) STR 44)

CUSTOMS:

Wheat & Pulses - exemption extends till 28th Feb 2007 & 31st July 2007 respectively

Wheat attracts NIL rate of duty as per exemption under Notification No. 21/2002-Cus. This exemption was supposed to expire on 01.01.2007. The Notification extending this till 28th Feb 2007 is now issued. (Notification No. 116/2006 -Cus, dated 14.12.06)

Pulses were exempted from customs duty upto 1st April 2007. Now this exemption is extended till 31st July 2007.

Notification No. 115/2006 -Cus, dated 4.12.06

RBI

Liberalisation in Project & Service Exports

With reference to Regulation 18 of Foreign Exchange Management (Export of Goods and Services) Regulations, 2000 notified vide Notification No. FEMA 23/2000-RB dated 3rd May 2000, with a view to simplifying the procedures and providing greater flexibility to project exporters and exporters of

our nuclear weapons, fund jobs, education and health care at home and abroad, teach non-violence to everyone around the world, beginning at home in every classroom.

Violence in response to violence can only lead to further violence. Jesus taught us that as the soldiers were dragging him away to his death when he said "Those who live by the sword will die by the sword". Gandhiji taught us that when he said "An eye for an eye only makes the whole world blind". Violence cannot stop violence. We have to break the cycle of violence, renounce violence, start practicing creative active non-violence on a level that the world has never seen and reach out and embrace the world's poor by meeting their every need, then we will win over the world, and no one will ever want to hurt a human again. On that new day, we will sow the seeds of love and peace and discover what a world with out terrorism, war, poverty, and fear.

Market Round Up

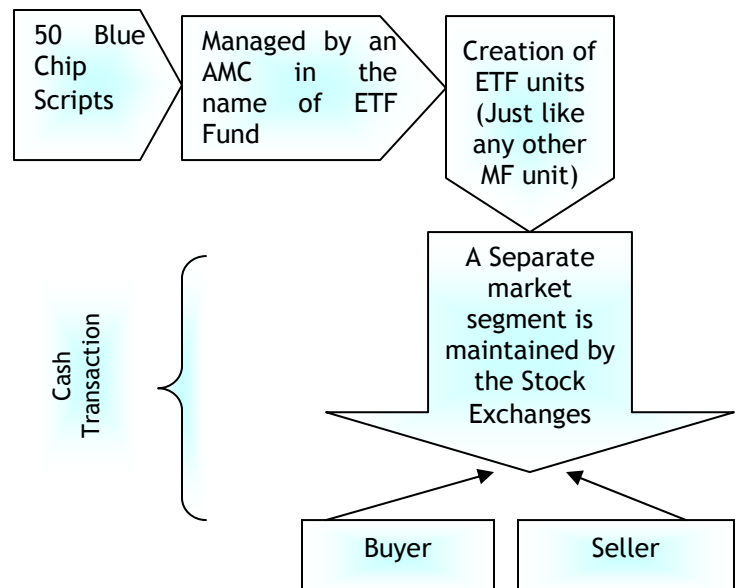
Exchange Traded Funds

Prasanna Patil ACS, Bangalore

This edition will give you an understanding of how an Exchange Traded Funds (ETF) Works. The ETFs are the new variety of Mutual Funds that was first available in the market during 1993-94.

Concept:

The ETFs are one of the instruments, which create market, the position for the scripts as well lower impact of tax on the instrument. The ETF can be understood in the following manner:



When you look at the diagram, you will find that it is similar to any other Mutual Fund (MF) structure, but the only difference is that, the Units of MFs are not traded in the market, they are just reproduction of the performance of stocks, where as ETFs are just what their name

services in conducting their overseas transactions, the guidelines have been modified as set out below:

(i) Inter-Project Transfer of Machinery

The stipulation regarding recovery of market value (not less than book value) of the machinery, etc., from the transferee project is withdrawn with immediate effect. Further, exporters may use the machinery / equipment for performing any other contract secured by them in any country subject to the satisfaction of the sponsoring AD Category - I bank(s) / Exim Bank / Working Group. The reporting requirement for transfer of machinery / equipment will continue as hitherto, and would be monitored by the AD Category - I bank(s) / Exim Bank / Working Group.

(ii) Inter-Project Transfer of Funds

Henceforth, AD Category - I bank(s) / Exim Bank / Working Group may permit exporters to open, maintain and operate one or more foreign currency account/s in a currency/currencies of their choice with inter-project transferability of funds in any currency or country. The Inter-project transfer of funds will be monitored by the AD Category - I bank(s) / Exim Bank / Working Group.

(iii) Deployment of Temporary Cash Surpluses

It has now been decided that, henceforth, Project / Service exporters may deploy their temporary cash surpluses, generated outside India, in the following instruments / products, subject to monitoring by the AD Category - I bank(s) / Exim Bank / Working Group :

(a) investments in short-term paper abroad including treasury bills and other monetary instruments with a maturity or remaining maturity of one year or less and the rating of which should be at least A-1/AAA by Standard & Poor or P-1/Aaa by Moody's or F1/AAA by Fitch IBCA etc. ,

(b) deposits with branches / subsidiaries outside India of an AD Category - I bank in India.

RBI/2006-2007/227 A. P. (DIR Series) Circular No. 26 dated 08.01.2007

implies: baskets of securities that are traded, like individual stocks, on an exchange. Unlike regular open-end mutual funds, ETFs can be bought and sold throughout the trading day like any stock

Most ETFs charge lower annual expenses than index mutual funds. However, as with stocks, one must pay a brokerage to buy and sell ETF units, which is as good as buying any equity share in the market.

Over the last few years more than \$120 billion (as on June 2002) is invested in about 230 ETFs. About 60% of trading volumes on the American Stock Exchange are from ETFs. The most popular ETFs are QQQs (Cubes) based on the Nasdaq-100 Index, SPDRs (Spiders) based on the S&P 500 Index, iSHARES and TRAHK (Tracks) based on the Hang Seng Index. The average daily trading volume in QQQ is around 89 million shares.

Advantages of ETF:

- While redemptions of Index fund units takes place at a fixed NAV price (usually end of day), ETFs offer the convenience of intra-day purchase and sale on the Exchange, and once can take advantage of the prevailing price.
- ETF act as “performance tracker” of the MFs as they provide closer look at the indexes as well as the daily fluctuations.
- They carry very low annual expenses.

ETF in India : The first ETF in India, Nifty BeEs (Nifty Benchmark Exchange Traded Scheme) based on S&P CNX Nifty was launched in January 2002 by Benchmark Mutual Fund. It may be bought and sold like any other stock on NSE. Its symbol on NSE is “NIFTYBEES”.

ETFs Vs. Open Ended Funds Vs. Close Ended Funds

| Parameter | Open Ended Fund | Closed Ended Fund | Exchange Traded Fund |
|----------------------|--------------------------|---------------------------------------|--|
| Fund Size | Flexible | Fixed | Flexible |
| NAV | Daily | Daily | Real Time |
| Liquidity Provider | Fund itself | Stock Market | Stock Market / Fund itself |
| Sale Price | At NAV plus load, if any | Significant Premium / Discount to NAV | Very close to actual NAV of Scheme |
| Availability | Fund itself | Through Exchange where listed | Through Exchange where listed / Fund itself. |
| Portfolio Disclosure | Monthly | Monthly | Daily/Real-time |
| Uses | Equitising cash | - | Equitising Cash, Hedging, Arbitrage |
| Intra-Day Trading | Not possible | Expensive | Possible at low cost |

FEMA:

Enhancement of Foreign Direct Investment ceiling from 49% to 74% in Telecom Sector

The Government, vide Press Note 5 (2005 Series) dated 3.11.2005, had notified the enhancement of Foreign Direct Investment (FDI) limits in the Telecom Sector subject to specified conditions. In terms of para 4 of the said Press Note, an initial correction time of 4 months from the date of issue of the Press Note was allowed to the existing licensee companies for adherence of the conditions. The correction time was extended from time to time and the last extension was allowed up to 2nd January 2007 vide Press Note 7 (2006 Series) dated 3.10.2006. It is notified for the benefit of investors that the Government has decided to further extend the time period for the telecom service provider companies to comply with the conditions set out in Press Note 5 (2005 Series) by three months w.e.f 3.1.2007 up to 2nd April 2007.

PRESS NOTE NO. 1 (2007 SERIES)

SALES TAX

Principle of promissory estoppel

The Calcutta High Court has held that in terms of the principles of promissory estoppel, the withdrawal of an exemption, duly granted by a statute, by mere executive action and without overriding public interest is arbitrary and hence without force in law. However, the doctrine of promissory estoppel is not applicable if the exemption is withdrawn by means of legislative action, as opposed to executive action.

Hindustan Lever Ltd. Vs. State of West Bengal
[(2007) 5 VST 92]

Interest on pre-deposit for appeal.

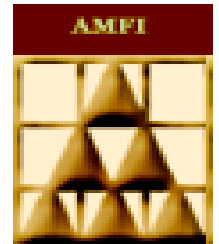
The Punjab & Haryana High Court has held that an assessee is entitled to interest on the refund of the amount predeposited for entertainment of appeal from the date of acceptance of the appeal and not from the date of the order of the assessing authority, upon remand from the appellate authority.

Cobra Instalaciones Y. Services Vs. State of Punjab [(2007) 5 VST 109]

Web Yaatra

www.amfiindia.com

The Association of Mutual Funds in India (AMFI) is dedicated for developing the Indian Mutual Fund Industry on professional, healthy and ethical lines and to enhance and maintain standards in all related areas with a view to protecting and promoting the interests of mutual funds and their unit holders.



AMFI has designed a website www.amfiindia.com which provides information relating to Latest Net Asset Value of all Mutual Funds that are registered with SEBI. It has two zones of information:

1. **Information Zone:** It provides information relating to press releases, circular and its members.
2. **Investors Zone:** It gives information about new fund offer, scheme... etc.

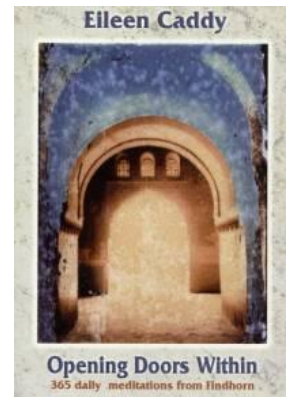
This is one of the best sites that provide needed information relating to Mutual fund.

Book Review

Opening Doors

Nimmo Kinger PCS, Mysore

This month I will share with you another book I have on my bedside table; a book I dip into every now and then. *Opening Doors* was gifted to me by a friend and has become a trusted friend to whom I look to for guidance during those times of confusion.



The book is another 'small book', i.e. in a booklet size but has 365 days, one page for each day of the month. It may be compared to having available a spiritual thought for the day and on some days it is uncannily just what you need! I shall share a few random selections from the book:

- ☞ *"Expect only the very best and expect every need to be met, even the most seemingly impossible. Never at any time limit yourself or feel that you should not expect too much. See your needs very clearly, voice them, and then have complete faith and confidence that they will be met. How it will come about will have to be left in my hands."*

Imposition of purchase tax

The Kerala High Court has held that it is permissible for the State sales tax law to provide for the imposition of purchase tax in relation to purchases of declared goods from a registered dealer who was eligible for an exemption from sales tax otherwise chargeable on such sales.

Peekay Re -Rolling Mills (P) Ltd. Vs. Asstt. Commissioner [(2007) 5 VST 241]

VAT

VAT on imports

The States may be empowered to levy VAT @ 4% on imports, as a means of compensation for the phaseout of the CST. Conceivably, the VAT on imports could be collected by the customs authorities, together with the federal customs duties, and remitted to the particular State in which the goods are intended to be consumed or used. The modalities need to be worked out in order for the import VAT to be imposed and collected in an efficient and fair manner.

[The Economic Times, January 24, 2007]

COMPANY LAW

Cases at a Glance:

1. Vicarious liability of directors an exception, requirements of provision must be satisfied: S. M. S. Pharmaceuticals Ltd. v. Neeta Bhalla p. 268
2. Whether presumption rebutted or not would depend on facts and circumstances of case Burden of proof on the accused is not as high as that on prosecution : Kamala S. v. Vidyadharan M. J. p. 281.
3. Appeal from decision of Company Law Board lies to single judge of High Court not Division Bench : Minería Nacional Limitada v. Sociedade de Fomento Industrial P. Ltd. [FB] (Bom HC) p. 290
4. Following decisions are from Pearson Education Inc. v. Prentice-Hall of India P.Ltd. (CLB) p. 211
 - a. Issue of further shares, not for bona fide reasons, to be set aside.

- ☐ *"Do not talk about love and loving; live it so that all can see what it means, words without actions are meaningless and useless."*
- ☐ *"Be yourself, do not try to be anyone else. It takes all sorts to make the world." "Peace starts within."*
- ☐ **"When you are in tune with life you will find yourself doing everything at the right time. All that you have to do to get into tune is to go into the silence to find your direct contact with Me."*

The ageless truths, which we need to be in touch with on a continuing basis, have been reiterated by the author of the book, Eileen Caddy. She has co-founded the Findhorn Foundation and community in north Scotland and "has based her life on obeying the small still voice within".

Chapter News

Half day Seminar on Budget 2007



Mysore Chapter conducted an analysis session on Budget 2007 on 03rd March 2007 in association with ACAI, FIEO and TEAM. Eminent Indirect Taxes consultant Mr. Shivdasan and Mr. Saleem, Commissioner - Central Excise enlightened the audience representing various companies and business concerns of Mysore.

Program for Investor Awareness

Mysore Chapter has planned to conduct a program for Investor's Awareness on 31st March 2007. The program will be held at Premises of Nanjangud Industrial Association, Nanjangud. Mr. Anand from Bangalore Stock Exchange has consented to interact with investors.

Study Circle Meetings

Chapter has announced the topics for coming study circle meetings as follows:

- 25th March 2007: Income Tax Assessment Proceedings
- 01st April 2007: Capital Market Instruments Part 1
- 08th April 2007: Capital Market Instruments Part 2

- b. In section 397/398 petition CLB has power to pass directions contrary to provisions of articles of association of company modify contractual arrangement.
- c. Shareholder, a foreign company whose change of name is certified by authorised person of that country, entitled to file petition even though change not entered in register of members
- d. Failure to send offer notice of issue of rights shares to correct address of shareholder deliberately to deny shareholder entitlement of shares is oppressive
- e. Increase in remuneration of directors proportionate to profit of company, not mismanagement
- f. Where shareholder has competing business, his right to nominate directors, would result in conflict of interest.
- g. Where no grievance is expressed for non-receipt of notices of general meetings for a long time, it cannot be made an issue in section 397 proceeding
- h. Contractual rights cannot be agitated in section 397 proceeding

Reverse Mortgage:

Introduced in Budget '07

Union Budget Speech Para. No. 89:

"The National Housing Bank (NHB) will shortly introduce a novel product for senior citizens: a 'reverse mortgage' under which a senior citizen who is the owner of a house can avail of a monthly stream of income against the mortgage of his/her house, while remaining the owner and occupying the house throughout his/her lifetime, without repayment or servicing of the loan."

In the scheme, being conceptualised, a senior citizen of 62 years or more, who owns a house, can be given loan up to a fixed amount worked out on the percentage basis of the market value of the house owned and given on mortgage. They can, if they so desire, opt for receiving the amount in monthly installments also.

In such a case, the amount admissible will be spread over in 15 years in the form of annuity.

Spectrum Space

EFT - An introduction

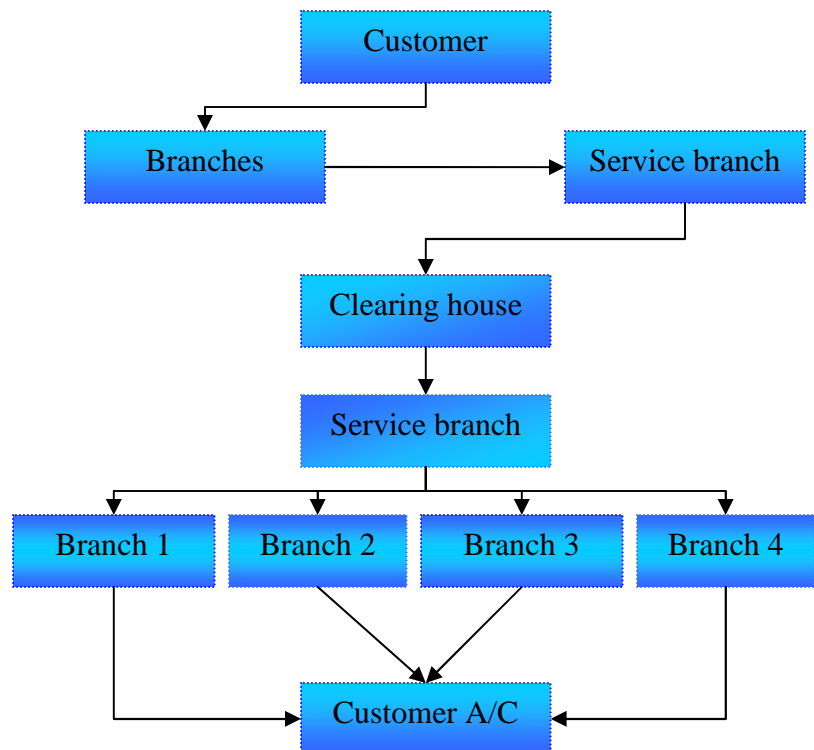
Pavitra P ACS Final

Hello friends,

In our earlier e-newsletters we have shared about various technological advancements like digital signatures, ECS and investors etc. Now we are presenting an other important concept i.e. Electronic Fund Transfer (EFT). This article mainly deals with the meaning, working, advantages and disadvantages of the EFT

The rapid developments of information technology have shrunk the influence of time and geography on the capacity of individuals and enterprises to interact and transact around the world and all set to initiate completely new activities and industries in time to come. One such technological advancement in the regime of banking business is EFT

Working of EFT



Step 1: customer: Where a customer wants to transfer his funds electronically, he shall give all the required information like his account no., name of the receiver, date on which it shall be transferred, amount of transfer etc. to the bank where he opts for the facility. But he need not be the customer of that branch itself.

Living Room

Spare time to...

Betrand Russell

Spare Time to **OBSERVE**
It is to rectify mistakes

Spare Time to **LIVE**
It is the pleasure of life

Spare Time to **LAUGH**
It is the music of life

Spare Time to **THINK**
It is the source of wisdom

Spare Time to **FRIENDSHIP**
It is the root of happiness

Spare Time to **WORK**
It is the base of prosperity

Spare Time to **ADMIRE**
It is for others' encouragement

Spare Time to **WALK/JOG/EXERCISE**
It is the wealth for good health

Spare Time to **PLAY**
It is for discipline & enthusiasm

Spare Time to **LOVE**
It is divine message for unity

Spare Time to **WATCH**
It is the inspiration towards nature

Spare Time to **READ**
It is the foundation of knowledge

Spare Time for **FAMILY**
It is the foundation of humanity

Spare Time to **PRAY**
It is the worship for purity of thoughts

Viduraneeti:

"A forest even if pierced with arrows and cut with the axe flourishes again but a wound caused by bitter speech never heals"

Step 2: Various branches: Whichever bank provides the facility of EFT will be termed participating bank. Each branch of such bank, where the customer opted for EFT, shall collect the information furnished by the customer and send the same to the service branch.

Step 3: Service branch: This is a particular branch which is chosen by the bank to act as an intermediary between the clearing house and various other branches of the bank. This branch shall consolidate all the data collected by various branches and send the same to the clearing house by using networks. The messages are sent in encrypted form and checksums are generated at the record level to ensure data integrity.

Step 4: Clearing house: This is an association of banks that facilitates payments through cheque, between different branches of a bank within a city or place. It acts as a central meeting place for bankers to exchange the cheque drawn on the other and claim funds for the same. Such operations are called clearing operations.

Here the fund transfer messages are consolidated and are classified according to the destinations centers (i.e. service branch of participating banks) after confirmation of settlement and scrutiny. These messages will also be encrypted to maintain security.

Step 5: Further the bank wise reports received from the clearing house are classified by the destination centre and these reports are sent to the respective branches.

Step 6: Each such bank credits or debits the customer's a/c and settlement report are sent to the clearing house

Step 7: The whole process will be done in a day or tow and without physical movement of cheque.

Advantages of EFT

1. The commission charged by participating branch is nominal.
2. It is the cheapest method as the postal charges are excluded.
3. It is highly secured as the messages are encrypted
4. There is no special minimum balance requirement for using this facility.
5. The remitter need not be a customer of particular branch

Disadvantages of EFT

1. All the banks can not afford because they are not equipped with advanced infrastructure requirements.
2. It requires heavy investments at the initial stages.
3. As the operator or participating bank is new, at the initial stages errors may occur and cause inconvenience.

