



For Private Circulation only

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CS S Badrinarayanan
Chairman,
Mysore Chapter

Greetings from Mysore Chapter of ICSI!!

Happy to interact with you through this monthly e-magazine. Festival season has begun and now it is time for all of us to celebrate this festival season in a grand manner and seek the blessings of the Almighty.

During this month of Sep 2015, the Mysore Chapter has conducted four Career Awareness programs in and around Mysore City. The programs were well received by the student community as around 300 students attended this event. It is gladdening to note that the profession is getting lot of attention from the student community. This augurs well for the future of the profession.

As all of you are aware the Central government is taking lot of initiatives to improve the economy and develop the Nation. This month Reserve Bank of India has implemented the much awaited rate cut by 50 basis points, which will have a huge impact on improving certain fundamental sectors like housing, infrastructure, manufacturing etc. The improvement in these sectors means opportunity for employment generation and particularly for professionals. Also there was favorable report from global institutions like World Bank, IMF, UN Economic Cell and certain others on India's positive GDP growth in the coming years. Hope our members will be ready to grab the opportunity and be part of this growth story.

October is the month for celebrations! On October 2nd the birth anniversaries of the Father of The Nation and Shastriji were celebrated all over the country. Navaratri has just begun. I wish all of you a very HAPPY DASARA AND NAVARATHRI FESTIVAL.

..o00

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Career Awareness Programs

Sl	Date	Name of the school/college with address	Addressed By	No. of participants
1	07.09.2015	Bishop Norman Carr Sargent College Of Commerce & Business Management, Mysore	CS Pracheta M	60
2	08.09.2015	Government First Grade College, Siddarthanagar, Mysore	CS Manjunath S	150
3	11.09.2015	Maharshi Degree College, Vishweshwaranagar, Mysore	CS Phani Datta D N	60
4	14.09.2015	Maharshi Pu College, Vishweshwaranagar, Mysore	CS Phani Datta D N	50



The Speakers in all the above sessions highlighted the importance of making the right career choice so as to be successful in life.



They then 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 Secretaryship Course was distributed to the participants.

Various doubts and issues raised by the participants were clarified.



Devaluation of Currency

Devaluation of currency means deliberate lowering of the value of currency against designated currency or group of currencies. The need for devaluation of currency is, to set right the imbalances in economy of the country devaluing the currency. For example, China recently resorted to devaluation of currency by about 2% to protect its exports, foreign investment and control deficits.

Positive Impacts of devaluation of Currency:

1. Exports become cheaper and more competitive to foreign buyers. Therefore, this provides a boost for domestic demand and could lead to job creation in the export sector.
2. Higher level of exports should lead to an improvement in the current account deficit. This is important if the country has a large current account deficit due to a lack of competitiveness.
3. Higher exports and aggregate demand (AD) can lead to higher rates of economic growth.

Negative Impact of devaluation of Currency:

It is likely to cause inflation because:

- Imports more expensive (any imported good or raw material will increase in price)
- Firms / exporters have less incentive to cut costs because they can rely on the devaluation to improve competitiveness. The concern is in the long-term devaluation may lead to lower productivity because of the decline in incentives.

Date	Exchange Rate	
	INR	Chinese Yuan
16.8.2015	1	0.09783
15.8.2015	1	0.09793
14.8.2015	1	0.09816
13.8.2015	1	0.09862
12.8.2015	1	0.09824
11.8.2015	1	0.09713
10.8.2015	1	0.09716
09.8.2015	1	0.09716

The same can be illustrated with the example of current devaluation of Chinese Yuan Currency against Indian Rupee currency (See the box). Source: <http://www.oanda.com/currency/converter/>

Indian rupee was at the rate of 0.097 against Chinese Yuan, on 11.8.2015. On devaluation, Yuan became cheaper against the same value of Indian rupee. **When the value becomes cheaper the absolute currency term increases.** Hence on 12.8.2015, the Chinese Yuan increased by about 0.00108 against Indian Rupee.

Now let us presume a scenario when, India is importing goods from China. If India, imports goods from China before 11.8.2015, for a value of Rs.1/- import it would get value worth Rs.0.09716 in Chinese Yuan. However after 11.8.2015, if India was to import, for the same value of Rs.1/- it would receive goods imports worth Rs.0.09824. For India Imports from China becomes cheaper, in the second scenario. Hence as imports become cheaper, cost being a major driver for profits, economies would like to import from China rather than manufacturing locally, or importing from other countries where the prices would be costlier. As a precautionary measure, countries to protect their local manufacturing will have to invoke monetary and non-monetary tools to protect their local production and Current Account Deficits. Hence devaluation by a country of its currency can spurt a currency war internationally.

In the cited Example of Chinese Devaluation, the Indian Government hiked the customs duty by 2.5% for specified goods coming under Chapter 72 of Customs tariff immediately to counter the Chinese devaluation and protect Indian manufacturing. Chapter 72 among others pertains to base metals, which includes commodities such as iron and steel, copper, nickel, aluminum, lead, zinc, tin, tungsten (wolfram), molybdenum, among others.

Devaluation of currency, favours the country devaluing the currency, in making its goods cheaper in foreign markets and hence increasing the exports. On the flipside of the devaluation, imports into the country devaluing the currency,

become costlier. Devaluation also protects against withdrawal of investments made by other countries into the devaluing country. If the investor country decides to take out its investments, he will receive less value in its currency. In the instant case, China felt that devaluation was necessary to protect its stock markets and prevent investors from taking out their investments.

Then a question may arise, whether any country can keep continuing to devalue its currency to protect its exports and investments. No this may not be wise, as devaluation will negate the value of currency and make it valueless which will have adverse impact on the economy.

Devaluation of Currency and Depreciation of Currency:

Devaluation of Currency is a voluntary effort by monetary authority usually governmental authority, to peg its currency down against other currencies. On the other hand depreciation of the currency is an involuntary reduction in value of the currency due to normal economic situations of inflation etc. Depreciation happens due to non-governmental activity.

Devaluation of Currency and Revaluation of Currency:

A deliberate downward adjustment to the value of a country’s currency, relative to another currency, group of currencies or standard is devaluation. Whereas revaluation is contrast to devaluation and is upward revision of currency value, deliberately relative to another currency or group of currencies or standard. In the given instance, the devaluation of Chinese Yuan also impacts the values of other countries exchange rates between each other. To illustrate see the box:

Source: <http://www.oanda.com/currency/converter/>

Date	Exchange Rate	
	USD	INR
16.8.2015	1	64.98
15.8.2015	1	65.03
14.8.2015	1	64.96
13.8.2015	1	64.66
12.8.2015	1	64.09
11.8.2015	1	63.66
10.8.2015	1	63.56
09.8.2015	1	63.56

The value of one rupee as on 10.8.2015 against USD was INR.63.56/-. INR started losing its value from 11.8.2015 as illustrated to reach a peak of Rs.65.03 on 15.8.2015. In other words, Indian exports to US would be costlier for US Importers, now. To illustrate, for an import of one USD worth goods/services from India, America will have to pay Rs.65.03 on 15.8.2015 against Rs.63.56/- on 10.8.2015. Hence the Chinese Devaluation has not only made their exports cheaper but has also made their competitor countries exports costlier. This makes their countries exports most attractive. Hence chances of currency war getting started looms large between countries.

Story of two devaluations by India: In June 1966, India devalued its currency by a massive 57.4%. In the 15 years to 1965-66, Indian exports had grown by a modest 20 per cent, while imports (despite being artificially compressed through controls) had shot up by 131.3%. Balanced trade flows in 1950-51 had given way to a massive trade deficit. After the devaluation, the story changed direction. Exports rose faster than before, while imports actually shrank. By 1970-71, therefore, the trade deficit had collapsed to barely a tenth of what it had been just five years earlier. The devaluation had been required, and had worked. (Source:http://www.business-standard.com/article/opinion/story-of-two-devaluations-113081601231_1.html)

Better known is the history of the devaluation of the early 1990s: from Rs. 19.64 to the dollar in March 1991 to Rs. 31.23 a year later (a drop of 59 per cent). The consequence was that, by 1993-94, the trade deficit had shriveled to barely one-sixth of its size three years earlier. The non-oil trade balance had moved from a deficit to a massive surplus. Devaluation is resorted as a last tool, to protect the currency and deficits from going bad.

Conclusion: India in its two devaluation has achieved its objective of reducing the deficit considerably, under those circumstances. As regards the Chinese devaluation now, it is doubtful that it would deliver the desired economic outcome. Despite talk of currency wars, Asian countries have so far avoided full-scale hostilities over their exchange rates. If the region’s biggest economy launches an offensive, others would surely follow, wiping out any advantage it hoped to gain. In fact, devaluation might hurt the economy. A falling yuan might spur the outflow of capital. It would certainly endanger China’s companies, which have amassed \$1 trillion in foreign debt, which would become more expensive to service if the yuan lost ground. Devaluation is not solution to all problems; it is twin edged tool which can be highly risky. In the above background, the outcome of Chinese Devaluation is yet to be seen.



Pricing of RPTs under Cos. Act & Listing Regulations

Pricing of Related Party Transactions under Companies Act, 2013:

Pursuant to the provisions of Section 188 of Companies Act, 2013 ('CA, 2013'), a transaction will qualify as 'related party transactions' ('RPT') if a company [private company or public company] enters into any prescribed transaction [7 transaction laid down in Sec. 188 of CA, 2013] with a prescribed related party [in accordance with Sec. 2(76) of CA, 2013]. For crystallizing the mode of approval, it is necessary to determine whether such transaction is in the ordinary course of business and at entered at arm's length basis. Pursuant to the third proviso to sub-section (1) of Section 188 of CA, 2013, if the transaction is not entered in the ordinary course of business or / and at arm's length basis, then the company is required to obtain the approval of the board of directors and shareholders, in addition to Audit Committee (as may be applicable). CA, 2013 does not provide any guidance for a transaction to be in the 'ordinary course of business', however, Explanation (b) to Section 188(1) of CA, 2013 defines the expression 'arm's length transaction' means a transaction between two related parties that is conducted as if they were unrelated, so that there is no conflict of interest.

Third proviso to sub-section (1) of Section 188 of the CA, 2013, lays emphasis on the transaction being at arm's length basis, i.e. pricing, terms and conditions etc, as there is no reference to 'arm's length pricing' but there is reference to 'arm's length transaction' and the same has been explained as a transaction between two related parties that is conducted as if they were unrelated, so that there is no conflict of interest. The board of directors or the audit committee of the company can take necessary guidance from the provisions of Income Tax Act, i.e. Domestic Transfer Pricing and International Transfer Pricing provisions.

Pricing of RPTS under SEBI (Listing Obligations and Disclosure Requirements), Regulations, 2015:

After elaborate deliberation and consultation process, SEBI notified¹ the Listing Obligations and Disclosure Requirements, Regulations, 2015 ('Listing Regulations') on September 2, 2015 and the same is ought to be implemented in 90-days i.e. December 1, 2015. The Listing Regulations consolidates and streamlines the provisions of existing listing agreements for different segments of the capital market. The Listing Regulations have thus been structured to provide ease of reference by consolidating into one single document across various types of securities listed on the Stock exchanges.

'Related Party Transaction' are defined in sub-regulation (zc) of Regulation 2 of the Listing Regulations as *it means transfer of resources, services or obligations between a listed entity and a related party, regardless of whether a price is charged and a 'transaction' with a related party shall be construed to include a single transaction or a group of transactions in a contract, however, the definition of 'related party transaction' excludes, the units issued by mutual funds which are listed on a recognised stock exchange(s).*

¹vide the Press Release No. 226 / 2015 dated September 3, 2015

Therefore, the pricing of RPTs by a listed entity is irrelevant under Listing Regulations, as the definition of RPT under Listing Regulations provides for a term ‘regardless of whether a price is charged’. The price charged by the listed entity for transfer of services, resources or obligation to a related party need not be at arms’ length, but can be at fair value, face value, discounted value or free of charge.

Balancing the ‘pricing’ factor:

Pursuant to the sub-regulation (4) of Regulation 23 of Listing Regulations, all the ‘material’ related party transactions shall require approval of the shareholders through resolution. The threshold for ‘material’ related party transaction has been defined in an explanation to sub-regulation (1) of Regulation 23 as: *A transaction with a related party shall be considered ‘material’ if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceeds 10% of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity.*

The listed company is required to balance the compliance of the CA, 2013 and Listing Regulations, not just for the RPT compliance, but also for other provisions like: Independent Directors, Audit Committee, disclosures in Boards’ Report, etc. So, if a listed entity enters into a transaction with related party, not on arm’s length price but at discounted value, there would be thorough compliance of Listing Regulations but the company would be required to obtain the approval of the board of directors and shareholders, pursuant to the third proviso to Section 188(1) of the CA, 2013, in spite of not breaching the threshold prescribed in Listing Regulations.

Further, the listed company is required to pass an ordinary resolution for obtaining the approval of the shareholders of the company for all ‘material’ related party transactions, even if such are at arms’ length basis (contemplated under third proviso to Section 188(1) of CA, 2013 read with sub-regulation (4) of Regulation 23 of Listing Regulations).

Therefore, if the listed entity enters into such transaction on arms’ length basis and the ‘material’ threshold is not breached, the entity complies with both (CA 2013 and Listing Regulations), and it will not be required to obtain the approval of the board of directors and shareholders, but the approval of Audit Committee will be required as provided in the Listing Regulations.

Decode the Code: drop by drop

PREFIXING CS TO MEMBERS NAME



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The Council of the Institute in its 173rd meeting held on June 23-24, 2007 has decided that a member of the Institute may prefix CS to his name in order to distinguish himself from other professionals and to create brand image of the CS profession. It means that only the members of the ICSI, both practicing and non-practicing are allowed to use the prefix CS.



The global practice of prefixing designation, in case the designation is of two words such as Company Secretary, Chartered Accountant, etc. is to use the acronym of the same. Therefore the correct way of prefixing Company Secretary designation to your name is, CS and not C.S., CS., ACS or FCS.

Trivia: A doctorate who is also an active member of the ICSI and not in employment or practicing company secretary may prefix both CS & Dr. designation to his name.

Living Room...

Can I do it?



Once upon a time, two young boys were playing on thin ice. As they were playing, one of them fell through that ice into the lake underneath. The other one tried hard and he couldn't reach his friend through that gap.

So he walked up to a tree, pulled and broke a branch of enormous size. He came back and started beating the ice and he saved his friend.

When the paramedics came and they were able to revive the kid, they were baffled and they couldn't understand that how did his friend break an enormous sized branch and then beat the ice and save his friend. They thought it was IMPOSSIBLE

Then the old man who was standing there said, "I can tell you how he did it."
They said, "How? How he did it."

The old man said, "There was no one here to tell him that he can't do it."

There is always someone who'll tell you "you can't do it", don't pay attention to such comments in life, do what your heart says and you'll reach your goal and find success & happiness.

Words Worth Millions

You must not lose faith in humanity. Humanity is an ocean; if a few drops of the ocean are dirty, the ocean does not become dirty.

Whatever you do will be insignificant, but it is very important that you do it. You must be the change you want to see in the world.

MAHATMA GANDHI

True democracy or the swaraj of the masses can never come through untruthful and violent means, for the simple reason that the natural corollary to their use would be to remove all opposition through the suppression or extermination of the antagonists.

Those who govern must see how the people react to administration. Ultimately, the people are the final arbiters.

LAL BAHADUR SHASTRI



Sharath Mahendra Kumar

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The Apprentices Act, 1961

1. Apprentices Act, 1961 is enacted with the object of promotion of new manpower at skills improvement / refinement of old skills through theoretical and practical training in number of trades and occupations.
2. The act is applicable to areas and industries as notified by Central and Respective State Government.
3. The term Apprentice is derived from the Greek work “Apprente” which means learning.
4. Industry under this act means, Industry or Business in which any trade, occupation or subject / field in engineering or technology or any vocational course may be specified as designated trade.
5. Such designated trade will have to be notified by the Apprenticeship Advisor who is appointed by the Central or State Government as the case may be.
6. Apprenticeship training is provided to ITI, Diploma and Engineering qualified students.
7. The minimum age criterion to become an apprentice in any designated trade is 14 years.
8. The apprenticeship training is carried out by executing contract of apprenticeship which mandates the payment of specified stipend.
9. Such contract can be brought to an end after completion of training or by notice on the part of both the parties.
10. An apprentice is not allowed to do overtime and work between 10 pm to 04 am unless approved by Apprenticeship advisor.
11. An apprentice is eligible for 12 days of casual leave, 15 days of Medical leave and 10 days of extraordinary leaves.
12. Total number of working hours:
 - A. 42 to 48 hrs per week during theoretical training.
 - B. 42 hrs per week during basic training.
 - C. 42 to 45 hrs per week in second year of training.
13. Offences and Punishment: 06 months imprisonment for engaging unqualified person as apprentice and failure to carry out the terms of the apprenticeship contract.



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e-Tools for the Professionals



India Law House App

An Android application for mobiles

India Law House is an Android based application for Smart Phones and Tabs to search Indian Laws and Acts. Application allows its user to browse various Laws and Acts including Criminal Laws, Civil Laws, Business and Trade Laws, Consumer Laws, Corporate Laws etc. Users can search related laws, sections by name and section numbers. Users can browse this application by Category, years and Alphabetic also for easy access of different Acts and Laws. The 'Share' option in the Home page of the application allow users to share the content of the particular page with others through e-Mail, SMS, Bluetooth and such other mode of sharing ways.

Specification: 1. Price- Free | 2. Required Android- 2.2 or above

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Web Yatra



सत्यमेव जयते



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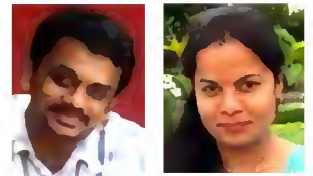
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www.iirs.gov.in/ briefly contains inter alia About IIRS, Administration, Academic Programme, Distance Learning, Student section, Faculty section, Facilities, Notice Board, Calendar etc.,

This site portrays distance education programme offered by the IIRS. Either we can register for the exams or we can simply learn any course offered by the Institute. The above mentioned site not only contains the above but also provides various links i.e. Space Centers, ISRO, latest and upcoming events and NEWS bulletins etc.

Grab the opportunities to improve your skills!

News Room



- Column by CS Chakri Hegde and
CS Vijayalakshmi Karur

NEWSROOM EXPRESS

- ✓ G-20 finance ministers meet: Final action plan for BEPS gets approval
- ✓ India has reiterated the need for global implementation of reciprocal information exchange under common reporting standards to tackle the menace of tax evasion and black money.
- ✓ IMF-World Bank appreciative of India's policy steps
- ✓ Spacewood attracts 'India's first FDI' in furniture industry
- ✓ The Centre and states have completed the drafting of model Goods and Services Tax law as well as an integrated-GST or IGST law, which will be put up in public domain by early November.
- ✓ SEBI wants mutual funds to lower costs of investments and be more vigilant about risky assets.
- ✓ Yes Bank gets RBI nod for mutual fund, AMC and trustee co
New Schemes Soon for Rupee Bonds abroad, Easier Norms for Foreign Companies
- ✓ Serious Fraud Investigation Office may probe top 50 cases of willful default in state-run banks

[Insurers protest IRDA's curbs on parking FDs in promoter banks](#)

Insurance companies promoted by banks have unanimously lobbied against the insurance regulator's suggestion barring them from parking fixed deposits (FDs) and certificate of deposits (CDs) with promoter banks. At present, insurers are allowed to invest a maximum 5 per cent of their investible funds with promoter banks and the industry captains have urged the Insurance Regulatory & Development Authority (IRDA) to maintain status quo. The insurance industry, which is trying to come out of a long period of sluggishness, isn't too happy with the proposals which are likely to make things tough for them. Universal Sompo General Insurance Company executive chairman ON Sigh told ET has said that "At least, IRDA should not prevent us from depositing money in nationalised banks," he said.

[CREDAI moves CCI against cement firms](#)

Realtors' apex body CREDAI has filed complaint with CCI against cement manufacturers alleging manipulation in prices of construction material that have risen by up to 40 percent in last two months. Last month, CREDAI's NCR chapter decided to stop buying cement from companies like Ultratech and Lafarge for unilaterally increasing cement prices in last one month. "To control the cost of construction and make home prices work for the common man, the CREDAI has moved the CCI against cement manufacturers who have been unduly increasing the cost of cement," the association said in a statement. In its submission to the CCI,

CREDAI has pointed out that the cost of raw material used in manufacturing cement has come down from January 2015 to September 2015 but the companies never passed on this benefit to their consumers.

[CCI probes alleged cartelization in airfares](#)

Noting that concerns over sudden rise in airfares are "understandable", Competition Commission has said it is again probing alleged cartelisation in air ticket prices even though earlier probes did not find any evidence in this regard. Cartelisation in airfares is something we have looked at in the past. The investigator (DG) could not find any evidence of cartelisation. The CCI had asked its investigation arm Director General (DG) to look into the matter of airfares on three previous occasions but did not find any evidence of fair trade norm violations.

[SEBI plans 10 page abridged prospectus for IPOs](#)

SEBI will soon allow the companies to file ten-page abridged prospectus for initial public offers as part of its efforts to help disseminate information in a more investor-friendly manner. The abridged document would have only 10 pages without compromising on information that an investor is required to know, SEBI's Executive Director (Corporation Finance Department) P K Nagpal said. "Very soon we will come out with abridged prospectus... It will be really understandable for investors. Whatever (information) is required to take well informed decisions, it will be available in ten pages," he said.

NDMA

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National Disaster Management Authority (NDMA) headed by the Prime Minister of India, is the Apex Body for Disaster Management in India. The setting up of the NDMA and the creation of an enabling environment for institutional mechanisms at the State and District levels is mandated by the Disaster Management Act, 2005. The primary purpose of NDMA is to coordinate response to natural or man-made disasters and for capacity-building in disaster resiliency and crisis response. The agency is responsible for framing policies, laying down guidelines and best-practices and coordinating with the State Disaster Management Authorities (SDMAs) to ensure a holistic and distributed approach to disaster management. The responsibilities of NDMA includes Laying down policies on disaster management, approval of National Plan and plans prepared by the Ministries or Departments and states, laying down guidelines for drawing up the State Plan, Coordinating the enforcement and implementation of the policy and plans for disaster management, Recommending provision of funds for the purpose of mitigation etc. NDMA has a separate pro-active Operations and Communication Division which remains fully apprised on the latest updated information to tender advice to the Govt. of India on the disaster situation. This division has a Control Room located at the NDMA Bhawan which is a repository of disaster specific information and data input facility. NDMA through its divisions shares critical disaster related inputs with the concerned state and coordinates response activities through **National Disaster Response Force (NDRF)**, a specialized force capable of dealing with all types of natural and man-made disasters.

Did
You
Know?

Project Loon

Project Loon is a research and development project which began in 2013 in New Zealand being developed by Google X – a semi secret development lab of Google, with the mission of providing internet access to rural and remote areas. Loon is a network of balloons traveling on the edge of space, designed to connect people in rural and remote areas, help fill coverage gaps, and bring people back online after disasters. The balloons float in the stratosphere – about 20 KMs above the earth, twice as high as airplanes and the weather. In the stratosphere, there are many layers of wind, and each layer of wind varies in direction and speed. Loon balloons go where they are needed by rising or descending into a layer of wind blowing in the desired direction of travel. By partnering with Telecommunications companies to share cellular spectrum Google has enabled people to connect to the balloon network directly from their phones and other LTE-enabled devices. The signal is then passed across the balloon network and back down to the global Internet on Earth.

APPLICATION OF BALANCE OF AMOUNT IN SECURITIES PREMIUM ACCOUNT

Section 52 of the Companies Act 2013 restricts to utilize the balances of Securities Premium Account only to the clause (a) to (e) of Sub Section 2. The wordings of Sub-Section (2) of Section 52 reads as “.....the securities premium account may be applied by the company” it may be noted here that restriction is only for **applying** such balances, but not for **utilization**. Hence, if company wants to apply for any non cash expenditure, only then it has to be for the purposes mentioned in the above clauses. For cash expenditures, it can be utilized for other purposes also.

Pick of
the
month

Regulatory Updates

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CUSTOMS & FTP

Notifications/Circulars/News

The Central Government has appointed Shri Vinay Chhabra as the Director General (Safeguard) with effect from 07 September 2015
No. 91/2015-Customs (N.T.) dated 07 September, 2015

The Central Government has notified Kathuwasand Mandhan Village, District Alwaras Inland Container Depots (ICD's) for unloading of imported goods and loading of export goods
No. 85/2015-Customs (N.T.) dated 04 September, 2015

The Central Government has clarified that Procedure/documentation given in Para 5.10(d) of Hand Book of Procedures is applicable to third party export made on or after 01 April, 2015 under EPCG Scheme.
No. 3/2015-20, dated 02 September, 2015

The Central Government has further clarified the procedure for filing application under MEIS and SEIS by units located in SEZs and EOU).
No. 30/2015-20, dated 26 August, 2015

The Central Government has notified the Standard Input Output Norms (SION) for 'Dipped Belting Fabrics (EP) Conveyor Duck/specific Synthetic Fabrics'
No. 33/2015-20, dated 4 September, 2015

The Central Government has notified that modifications in Electronic IECs as well as physical IECs will be carried out online with effect from 21 September 2015.
No. 36/2015-20, dated 14 September, 2015

Case Law

Ship demurrage charges are not includable in assessable value for levy of Customs duty on imported goods.
CC. v Grasim Industries. (2015 (323) ELT 181)

Import of parts in Semi Knocked Down (SKD) condition under different bills of entry for tax management would be classified as complete units.
CC. v Pundrick Ravindra Tridevi (2015-(322)-ELT-812-SC)

Imported coal having calorific value greater than 5,833 Kcal per Kg and volatile matter exceeding 14%, shall be classified as "bituminous coal" under Customs Tariff Heading (CTH) 2701 12 and not as "steam coal" under CTH 2701 19.
Shri Iranyakeshi Sahakari Sakkare Karkhane Niyamit v CC (2015 (323) ELT 180)

Supreme Court of India held that Customs duty is payable on the quantity received into India and not on quantity exported from suppliers' countries.
Mangalore Refinery and Petrochemicals Ltd. vCC. (2015-TIOL-199-SC)

When agreement for purchase of raw material stipulates that importer has freedom to procure raw material from any other

person provided desired standards are maintained, then royalty is not includable in the value of imported goods since royalty not a condition of sale of imported goods.

CC v Can-Pack India Pvt Ltd. (2015-TIOL-201-SC-CUS-LB)

Exemption cannot be granted by extending the scope of "specified equipment" covered in any notification on the basis of multiple use of such equipment, since exemption notification are required to be construed strictly. In this case the court held that exemption is available to an ultrasound equipment having A-scan only and is not available to an equipment having A, B and M-scan.
CC. v GE BE Limited (2015 (322) ELT 785 SC)

Exemption available to "Base Trans receiver Station (BTS)" also available to the antenna and installation material used in the Base Transceiver Station since these are an integral part of the BTS without which the BTS would not even function.

CC v Hutchison Essar South Ltd. (2015-TIOL-210-SC-CUS)

Specific permission for DTA sale of by-product from EOU to DTA is not required in case Letter of Permission is obtained in respect of the said by-product provided the total sale in DTA should not exceed 50% of FOB value of export clearances.

Aqua pharm Chemical Pvt Ltd. vCC (2015 (323) ELT 374)

Central Government cannot impose anti-dumping duty with respect to imports made during the period between the expiry of the provisional anti-dumping duty and the imposition of the final anti-dumping duty.

CC v G M Exports and Others (2015-TIOL-209-SC-CUS)

DEPB scrips issued on re-export of imported goods can be registered at any port and there is no specific requirement that it should be registered at the port from where re-export is made.

Cipla Ltd. v CC (2015-TIOL-1927-CESTAT-MUM)

For issues related to denial of drawback, appeal shall be made with the Government of India and not before Tribunal.

Able Shipping Agencies (I) Pvt Ltd. v CC. (2015-TIOL-1827-CESTAT-MUM)

Cut flowers cleared from 100% EOU to DTA are liable to Customs duty, even if not a excisable product.

CC v Horizon Flora India Ltd. (2015 (323) ELT 177)

Ministry of Corporate Affairs

Notifications/Circulars/News

In the Companies (Acceptance of Deposits) Rules, 2014, in rule 2, in sub-rule (1), in clause (c), for sub-clause (viii), the following shall be substituted, namely:- "(viii) any amount received from a Person who, at the time of the receipt of the amount, was a director of the company or a relative of the director of the Private company: Provided that the director of the company or relative of the director of the private company, as the case may be, from whom money is received, furnishes to the company at the time of giving the money, a declaration in writing to the effect that the amount is not being given out of funds acquired by him by borrowing or accepting loans or deposits from others

and the company shall disclose the details of money so accepted in the Board's report;". In the said rules, in rule 3, - (a) for the words "paid-up share capital and free reserves", wherever they occur, the words "Paid-up share capital, free reserves and securities premium account" shall be substituted;

Companies (Acceptance of Deposits) Second Amendment Rules, 2015 dated 15 September 2015

CENVAT

Case Law

Aluminium dross and ash emerging as by-products during the die-casting of aluminium parts were not manufactured goods, and hence the same was not liable to central excise duty.

Bajaj Auto Ltd v CCE (2015 (322) ELT 419)

Mere cutting of the lengthy conveyor belt into smaller sizes did not amount to manufacture.

CCE v Tejo Engineering Services P. Ltd. (2015 (322) ELT 418)

Cost plus principle method would not apply where the arm's length price was below cost of production.

Tamilnadu Petro Products Ltd v CCE (2015 (322) ELT 805)

Valuation of physician samples distributed free of cost would be done on cost of production basis, and not on basis of value of same goods sold in market.

Biochem Pharmaceuticals Ind. Ltd. v CCE (2015 (322) ELT 808)

Bagasse that emerged during the manufacture of sugar as a waste product was a non-excisable item even after introduction of Explanation to section 2(d) effective from 16 May, 2008, and therefore Rule 6(3) was not applicable to such waste products.

Union of India v DSCL (2015 (322) ELT 769)

When bill of entry was misplaced, CENVAT credit could be claimed on the basis of authenticated exchange control copy of the bill of entry obtained by the assessee from the bank.

CCE v Matsushita Television and Audio India Ltd (2015-TIOL-2003-HC-ALL-CX)

There was no requirement to reverse credit on inputs destroyed in fire at the job worker's premises before reaching final stage of goods.

Sreepathi Pharmaceuticals Ltd v CCE (2015-TIOL-1823-CESTAT-BANG)

CENVAT Credit was admissible on welding electrodes used for repair & maintenance of plant and machinery.

Ultra-Tech Cement Ltd v CCE (2015-TIOL-1826-CESTAT-MUM)

CENVAT credit could not be denied on loss of inputs when shortage was below 0.5% of the total quantity used in the manufacturing process.

Castrol India Ltd v CCE (2015-TIOL-1852-CESTAT-MUM)

CENVAT credit was admissible on iron and steel items used in erection and fabrication of plant and machinery.

CCE v Facor Alloys Ltd (2015-TIOL-1854-CESTAT-BANG)

Service tax paid on commission agent's services was admissible when agent not only sold the goods, but also actively approached new clients, put advertisements, and gave away diaries and calendars, since such activities could clearly be termed as "sales promotion" activities.

Maharashtra Seamless Ltd v CCE (2015-TIOL-1880-CESTAT-MUM)

When the property was sold under auction by secured creditors such as banks and financial institutions, recovery of Government

dues under Section 11 could not be made from the buyer of such property.

Rajaram Steel Industries Pvt Ltd v CCE (2015-TIOL-1917-CESTAT-MUM)

Mumbai Tribunal held that interest under Section 11BB was payable from the expiry of three months from the date of refund application, and not from the date of the refund order.

CCE v Western Cans Pvt Ltd (2015-TIOL-1869-CESTAT-MUM)

GST (VAT, Sales Tax and Entry Tax)

Case Laws

No VAT was payable on consideration charged for implementation of customized software under a separate service contract. The Court observed that implementation of software was a post-sale activity undertaken to integrate the software with the banking system.

Infosys Ltd v Deputy Commissioner of Commercial Taxes, Bangalore & Others (2015-TIOL-2106-HC-KAR-VAT)

Supply of goods in a turnkey contract was not eligible for CST exemption available for in-transit sales under section 6(2) of the CST Act, as the goods were considered to be sold post their incorporation in the project.

M/s. Larsen and Toubro v State of Andhra Pradesh (TS-507-HC-2015(TEL & AP)-VAT)

Sale of goods to purchaser's branch office in Chennai pursuant to an export order executed by the head office in Bombay was eligible for CST exemption under Section 5(3) of the CST Act. The Court observed that it was immaterial whether the declaration in form H was issued by the branch office or head office, so long as the sale had occasioned export of goods outside India.

PVC Leathers, Paper Mills Ltd. v State of Tamil Nadu (TS-476-HC-2015 (MAD)-VAT)

Service Tax

Case Laws

Matters, which essentially raised disputed questions of fact, could not be decided by the High Court by way of writ, and needed to be adjudicated appropriately by the Adjudicating Authority.

Damco India Private Limited v Union of India (2015-TIOL-2118-HC-MUM-ST)

Refund claim of service tax paid on services approved by the approval committee, and consumed for authorised operations by a SEZ unit, could not be denied for want of nexus.

Dell India Private Limited v CCE, Bangalore (2015-TIOL-1824-CESTAT-BANG)

The CESTAT could dismiss an appeal for non-compliance with pre-deposit order without hearing the appeal on merits.

Landmark Construction v Commissioner, Service Tax (2015-TIOL-2059-HC-MUM-ST)

CESTAT held that CENVAT credit of service tax paid on input services availed and utilised at other offices, although not registered, could be availed at the registered office, so long as there was no dispute regarding the availment of CENVAT credit at the other offices.

Mah India v Commissioner, Service Tax (2015-TIOL-1846-CESTAT-DEL)

The CESTAT observed that when the assessee's records were audited by the revenue once, and no short payment was observed, the revenue could not invoke the extended period of limitation to demand tax for the period for which audit was done earlier.

Trans Engineers India Private Limited vCCE (2015-TIOL-1947-CESTAT-MUM)

Appellant filed appeal against order of Commissioner (Appeals) and sought for condonation of delay of 12 days on ground that marriage of son of appellant's Chief Executive Officer was scheduled in October 2013 at Vijaywada (Andhra Pradesh) and Chennai (Madras), which caused delay. Hon'ble Tribunal denied condonation on ground that (a) each day's delay has not been explained; and (b) organisation had other officers to take steps to file appeals. Hon'ble High Court observed that it is age old theory that every day's delay has to be explained meticulously is not to be followed like an Euclid's theorem. Reasons stated by assessee were not disputed as false or frivolous. Appellant was not a limited company to draw an inference that there are other officers to take care of affairs. When a proprietary concern or a partnership firm is assessee, it is but natural for such concerns or firms to rely upon individual leadership to take any major decision. Hence, refusal to condone delay of 12 days especially when assessee has nothing to gain out of delay is not proper.

Didar Motors - (2015) 61 Taxmann.com 239 (Madras)

Appellant was engaged in customization of motor vehicle as per requirement of customer. Department argued that as per chapter Note 3 of Chapter 87 body building/fabrication etc. on chassis amounts to manufacture; therefore, customization is also manufacture. Appellant argued that it was merely carrying out restyling of interior body and not fabricating completely new body and mounting on chassis. It was upheld by Hon'ble Tribunal that Appellant is carrying out activity of cosmetic changes inside/outside of duty paid cars/vehicles and these duty paid vehicles are completely ready for use with its body. Hence, said activity does not amount to manufacture in general sense. Even as per Chapter Note 3 ibid, activity would not amount to manufacture, as appellant has only made partial changes in completely built up vehicle and has neither fabricated any body/equipment nor mounted same on chassis.

Dilip Chhabria Designs (P) Ltd. - (2015) 61 Taxmann.com 375 (Mumbai)

Appellant was providing telecommunication Service. Appellant had claimed credit of duty paid on towers (in CKD/SKD form), parts of towers, shelters/pre-fabricated buildings purchased by them used for erection of telecom tower, which, in turn, was used for providing output service. Revenue denied credit on ground that same were ineligible for credit, as they were not used "for" providing output services viz. telecommunication

services. Appellant argued that judgment in Bharti Airtel - (2015) 51 Taxmann.com 254 (Bombay) required review and sought reference to larger bench. Hon'ble High Court upheld that judgment in Bharti Airtel (supra) had considered all aspects of matter and had, then, come to conclusion in favour of revenue. Said judgment was binding and did not require any review or reference to larger bench. Appellant has recourse by way of challenge before Supreme Court in fact appeal against said judgment was already admitted. But for this court issue stands concluded by said judgment and hence credit was denied.

Vodafone India Ltd. - (2015) 61 Taxmann.com 327 (Bombay)

Respondents filed refund claim in respect of Service Tax paid by them on several services received and utilized in export of the goods under Notification No. 41/2007-ST, dt. 17.10.2007. Department denied refund of service tax paid on courier services and Customs House Agent (CHA) services used for export on ground that conditions of notification were not fulfilled and service provider wrongly paid Service Tax under CHA while service was Business Auxiliary Services. Hon'ble Tribunal upheld that Jurisdictional Central Excise Officer of service recipient cannot question classification of service by service provider. Respondent had furnished relevant invoices but revenue could not point out any specific irregularity. Further, courier receipts clearly showed importer-exporter code (IEC), number of exporters, export invoice number, etc. and even otherwise, any such failure is merely procedural infirmity, when payment of service tax and export of goods are undisputed and hence Refund was granted.

Cadila Healthcare Ltd. - (2015) 61 Taxmann.com 403 (Ahmedabad - CESTAT)

Appellant had constructed classrooms, hostels, etc., for educational institutions during the period October 2008 to June 2012. Revenue demanded service tax on ground that it was 'civil construction primarily for commerce or industry', as institutions earning profits are to be regarded as commercial/industries. Hon'ble High Court observed and upheld that even assuming that education is an industry, exemption cannot be denied if constructions are used other than for commerce/industry. Since appellant had given details of educational institutions, department could have called for records from Income-tax department to satisfy itself as to usage of buildings or civil structures. In absence of any evidence and even without giving appellant an opportunity to produce evidence that 'educational institutions were not profit-oriented', department could not hold to contrary. Hence, matter was remanded back for fresh consideration.

G. Rammoorthi Constructions (I) (P) Ltd. - (2015) 60 Taxmann.com 469 (Madras)

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