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STUDENTS' JOURNAL

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President's Communication

Dear Students,

At the outset, I wish to convey my best wishes to all the students who are appearing in the May 2012 examinations. I sincerely hope that all of you will do well in the examination. At the same time, I do understand that your stress level before and after the examinations is on the higher side. But you should not allow this to be an obstacle for you to become successful. If you have done your preparations with devotion, dedication and passion, I am sure that your hard work will earn you good results. Your methodical and systematic study combined with careful planning and strategy will definitely help you to reach heights. Just remember that there is no substitute for hard work.

As you all know that Chartered Accountancy as a profession and as an academic course involves a great amount of hard work. It does not stop at clearing the CA final but is a continuous education process in the fast changing world. The expectation of the industry from a qualified Chartered Accountant is increasing day by day. To meet these expectations, one should have expert level of knowledge. Students should not appear for the examination with a pre-conceived notion that these are the toughest and impossible to clear. Nor should these examinations be taken lightly. CA, like any other professional examinations require a great deal of dedication and commitment. Chartered Accountancy course is a rigorous one and hence it requires dedicated efforts on the part of students. Many students are not able to get better results because they cannot cope up with the time. If you can manage your time properly, you can have the best results.

I am happy to say that a large number of students have participated in the Mock Tests organized by the Board of Studies through the Regional Councils and Branches across the country. This will greatly benefit the students appearing for the May 2012

Examination. A rigorous follow-up was done to ensure that maximum number of students avail of the benefit. In order to facilitate students to face the CA Examinations confidently, a booklet titled "How to face CA Examination" is brought out by the Board of Studies and distributed among the students at the Special Counseling Programs held by Regional Councils and Branches. Now we have further revised the booklet and hosted on the website. This will definitely help the students to face the examinations more confidently and without fear.

There are students who do not realize their true potential. Most of them are very happy with whatever they are able to achieve. With the fast changing scenario, it has become very essential for the students to get good results and excel. You should also be very clear about what you intend to achieve in your life. You should have a high degree of self-confidence to achieve your goals in life. **Swami Vivekananda** said, ***"We are responsible for what we are, and whatever we wish ourselves to be, we have the power to make ourselves. If what we are now has been the result of our own past actions, it certainly follows that whatever we wish to be in future can be produced by our present actions; so we have to know how to act."***

I would like to suggest you all to stay focused on your desires. If you remain focused, you never lose your desire and passion to obtain which you seek. Once your examinations are over, take a brief break to avoid monotony and rejuvenate your mind. Assimilation will be better with a relaxed mind. You should also learn how you can utilize your idle time in a productive manner.

Before I wind up this message, once again I wish you all good luck for your examinations. Keep your mind strong, goals firm so that you can deliver the best.

Yours sincerely,

CA. Jaydeep Narendra Shah
President, ICAI, New Delhi



Vice-President's Communication

Dear Students,

I take this opportunity to extend my best wishes to all of you for your forthcoming CA Examinations, which is scheduled to be held in May 2012. I am confident that your strenuous and persistent efforts will lead you to the path of glorious victory. If you have put your maximum efforts with utmost sincerity in your preparations, which will definitely reward you in a befitting manner. A thorough preparation of your subjects will help you to secure good marks. Along with subject preparation, students undertaking practical training seriously will definitely do well. Above all, you should try to reap maximum benefits from the available educational inputs like study materials, revision test papers, suggested answers and other supplementary study materials developed by the Institute on a regular basis. Senior, experienced, and devoted faculty members prepare the materials. Their devotion and ceaseless efforts are well reflected in the materials that are given to you. If you find any difficulty in understanding the materials or wish to clear doubts, you can always address the Board of Studies. The faculties at this end are very eager to answer your queries and assist you in improving your assimilation of different concepts.

I can say with full confidence that the system of education, training and examination we give is such that a Chartered Accountant can command the respect and confidence of the members of the society. Moreover, our system of education will also help to mould a Chartered Accountant into a person with good character and integrity and competent and knowledgeable to render professional services. The character and integrity of a professional will depend on his personal qualities.

I would like to suggest that once the examinations are over, you need to take a decision on which direction, you want to take your professional life. Options are umpteen before you. You have to choose your career path according to your interest and aptitude. First of all, you need to carefully develop a specialist in you by acquiring in-depth knowledge, undertaking deeper study, having practical outlook and a committed focus on the area of your interest. You should see your qualification as only the starting point and not as the end for your professional education and development. In this highly competitive era, you should be capable enough to market yourself very effectively. Need of the Industry is changing, technology is changing and you should always remain adaptive to the changes. Develop strong communication and technology skills, use every opportunity to broaden and extend your knowledge. If you want to remain successful in your chosen field, you have to shift your emphasis from the tasks the accountants have traditionally done to those the Industry requires presently such as business analysis, strategic planning, decision support, information management and so on.

I assert that every professional must be a leader in a knowledge-intensive world of ceaseless innovation and change. As institutions are turned inside out by technology, globalization, and rising public and client expectations of every sort, every job now demands professionals with high degree of leadership qualities and skills. You all should combine your technical skills and strategic vision to contribute effectively to the new range of performance measures, the stakeholders demand at present.

Yours sincerely,

CA. Subodh Kumar Agrawal
Vice President, ICAI, New Delhi.



Chairman's Communication

My Dear Students,

By the time this Journal reaches you, you would be in the midst of your examinations. I can understand the anxiety you would be feeling at this time. Don't let any negative feelings come your way. Stay focussed

and take the examinations with positive and cool mind. Positive Attitude is a key to success for Professional Examinations like ours. Our mind works best when it is calm.

I am happy to inform you that the initiative of the Board of Studies (BOS) in conducting Mock Test Papers through its Regional Councils and Branches has been well received by the students. A good number of students appeared in these mock tests. Since the whole drill was conducted under replicated examination conditions, the students got the taste and feel of actual examinations. The solutions to these tests are available on the Institute's website. Students can compare their answer papers with suggested answers and find out where they lacked and take corrective actions for Exams. I am sure after doing the mock test one would be able to sit in the actual examinations with more confidence and aplomb. Those of you who could not appear in these mock tests can still have the benefit of these tests as these are available on the Institute's website. It is for your well being that you solve these papers under examination conditions and look at the given solutions only after seriously solving the papers.

It is my pleasure to share with you that the Institute has arranged Health Insurance (Mediclinam) for its Students, Members and Employees from New India Assurance Company Limited at premium which is at a good discount to the comparable products. Students can get health cover of Two Lakh Rupees. Students who already have health insurance would get discount in the premium amount against their cumulative bonus in existing policy. For details regarding the Policy and premium, please visit the Institute's site <http://icai.newindia.co.in>

Recently the Board of Studies organized Orientation Programme for Chairmen / Incharge of Students Associations / Activities at Branches and Regional Councils, elected representatives as well as employees. A detailed presentation about students' related activities to be taken up was made and chairmen were motivated to increase students related activities multifold. The meeting was successful in its objective and I am confident that our Regional Councils, Branches and Students' Associations will increase the activities in greater number for the benefits of our students.

The Students' Journal acts as a forum of exhibiting your writing and comprehending skills. From May issue onwards, the BOS is planning to bring special issues of Students' Journal. A detailed announcement to this effect is being published in this issue and also being hosted on the Institute's website. It is my earnest advice to you that do pen down your thoughts and write and submit articles on the listed topics. This will not only help you in organizing and assimilating your thoughts but also help sharpen your writing skills which will ultimately help you in your professional advancement. An honorarium of Rs 2500 is also given to the authors of the published articles. A word of caution: please remember that the articles sent should adhere to the guidelines mentioned in the announcement i.e. it should be original, it should not exceed the word limit mentioned and it should reach the Board of Studies along with the undertaking before the date mentioned in the announcement.

As communicated in the last message, the General Management and Communication Skills (GMCS) course is being made more contemporary and comprehensive. It will now be conducted at two levels - GMCS I and GMCS II. GMCS I will have to be completed during the first year of articleship and GMCS II will have to be done after completion of 18 months of articleship but before completion of the articleship. This new scheme will be applicable for students registering on and after May 1, 2012.

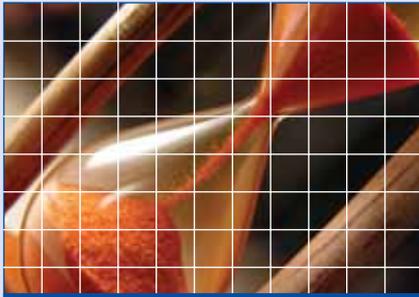
As you are well aware that the BOS organizes a multitude of activities for furthering the development of its Students. One of the activities is holding Student Conferences / Seminars. These Conferences / Seminars with technical sessions on contemporary issues give the participants a platform for exchanging ideas and honing their inter-personal and communication skills. To begin with, a number of National Conventions are lined up in the coming months - Vasai and Hyderabad in June 2012, Jaipur and Kolkata in July 2012. Apart from these, there will be International Students Convention in Nagpur and All India Students Convention in Baroda in July 2012. Do actively participate in these Conventions not merely as participants but also by writing and presenting papers on the issues being discussed at these Conventions. I am sure these educative and interactive experiences will go a long way in shaping your overall personality.

Hard Work Is Like 'Steps' & Luck Is Like A 'Lift'.. Lift may fail sometime, But Steps will Always Get You To The 'Top'.

Wishing you All the Very Best for the Forthcoming Examinations

Yours sincerely,

**CA Nilesh S. Vikamsey,
Chairman, BOS**



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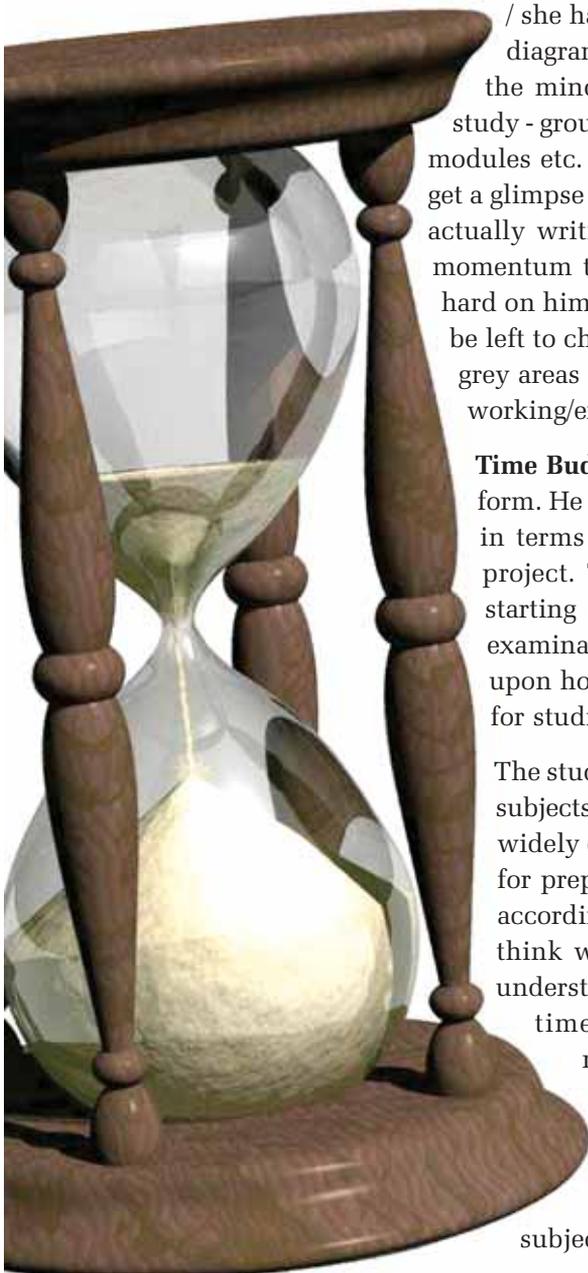
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Time Management

"Take care of the minutes and the hours will take care of themselves."

Lord Chesterfield



Time is a scarce commodity. Since the study time at the disposal of a student is scarce, it is valuable. The individual student should make most efficient use of available study time by being swift, punctual and regular in his study activities. He has to be always conscious of time and its sanctity.

He has to prepare a budget for allocation of time for completion of study of the various subjects together with a time schedule. He/ she has to do at least two or three rounds of study and revision of the course material. He / she has to prepare brief notes while studying. He may use charts, diagrams, mini maps, tables etc. to get the concepts imprinted in the mind. It is better to use a combination of various methods of study - group discussion, use of audio- visual CDs, referring to e-learning modules etc. He/ she has to undertake some self-assessment exercises to get a glimpse of his state of preparedness in terms of knowledge as well as actually writing in exam conditions. He/ she has to maintain a study momentum throughout the study period. He/ she has to be ruthless or hard on himself/ herself; nothing is to be taken for granted; nothing is to be left to chance; no selective topics for study, no short cuts, no dark or grey areas and no compromise on reaching the required level of basic/ working/expert knowledge, as the case may be.

Time Budget: The student has to prepare a time budget in a written form. He has to make a rough estimate of the total time at his disposal in terms of number of days or hours which can be spared for the project. Though the number of days is a fixed stock between the starting date of the preparation and the date of commencement of examination, the number of hours is flexible. They vary depending upon how many hours the student is able to squeeze from each day for studies and related activities.

The student has to allocate the total available time among the various subjects for which he decides to appear in the examinations. Students widely differ in their perception on the amount of time they require for preparation in each subject and they make allocative decisions accordingly. They may like to focus on some subjects which they think will fetch more marks or which are somewhat difficult to understand and remember. Of course, practical subjects need more time, since several problems and illustrations have to be repeatedly worked out to gain familiarity. Similarly, subjects perceived as relatively complex and tough deserve to be given more time and attention. It is desirable to give equitable, if not equal, attention to each subject and to allocate time accordingly, so as to prepare well in all the subjects.

To be more specific, students should consider the time period between the date of commencement of studies and one or two days prior to the date of commencement of examinations as the resource of time (like finance) available to him. He should make allocations after ascertaining the time required for each subject based on following factors:

- Number of pages required to be read/studied per subject.
- The reading speed of the student.
- Number of days available for reading i.e., the time resource available.
- Expected number of hours study per day.
- Number of readings required.

After ascertaining the reading time required for all the subjects, he/she may then prepare the time budget for the first reading. The total time required for every subsequent reading may be then suitably reduced as every subsequent reading will familiarise the student with the subject matter so that he can read faster.

Time Schedule: As a follow up of the time budget, it is also desirable to prepare a time schedule, so as to have on hand a tentative structure of sequence of subjects for study. There is considerable merit in scheduling the study of practical subjects for a few hours every day throughout the project period. Depending on the number of practical subjects to prepare for, the student may give continuous attention to one or two subjects for a fixed number of hours—say two hours for each subject every day. This may be a better strategy than that of scheduling each practical subject for 'full time' (relatively speaking) study every day for a specific number of days at a stretch. Keeping in continuous touch with practical subjects is likely to make the student internalise its intricacies and dynamics.

The scheduling of study of theoretical subjects like Auditing, Mercantile/Corporate Laws, Strategic Management, etc. may be done at a time for a few hours every day for a specified number of days at a stretch. It is a smart idea to start with the most complex subject and try to rip through its complexity at an early stage rather than neglecting and relegating such a subject towards the end.

The scheduling of the study of the various subjects is

to be done with provision for adequate number of revisions - one, two, three or more - for each subject, during the project period. Time for relaxation in between is desirable and should be factored.

However meticulous the student is in preparing his time budget and time schedule, he may tend to run short of time for preparing upto his satisfaction in all the subjects. Too much study matter chases too little time. A serious student always stands, sits and sleeps on a razor's edge so far as the time factor is concerned; he cannot run away from it till he successfully completes the project.

Certain rules **of thumb on proper time management** are:

- *Don't waste time on matters which do not need your attention.*
- *Whenever possible, delegate some activities to others who are willing and able to help you.*
- *Postpone doing things, which can wait till after the examination.*
- *Don't take more time than absolutely necessary in doing certain things.*
- *Allocate time every hour or so for relaxation. Maybe take a walk, drink water, mild exercise, chat with friends/family members...*

Time Management during Examination

Time management becomes even more important during examination hours as student needs to give the best answer in a given time framework. This is quite challenging and calls for a very intelligent strategy to handle. Reach examination hall well in time. The 15 minutes reading time should be judiciously used in making the right strategy of attempting the paper. Time should be planned in a manner that equal time is awarded for each mark. It is important that each question should be completed within the allocated time. Some time should also be kept for revision.

More than the number of hours, the intensity of use and productivity of each hour are critical elements of a student's acquisition of knowledge.

Best wishes for your thorough preparation and success in the May/June examinations. ■

Transfer Pricing - Spreading its reach...

CA. Priya Subramanian

The dynamic Indian tax system has seen developments of far-reaching implications in the last decade. Globalisation and the expansion of the economy have thrown in several challenges to the tax administrator. As usual, the administration has responded with a variety of initiatives in the tax arena. These initiatives are meant to measure up to the changes in the economic and business scenario. Since an increasing number of non-residents and multinational enterprises are having business relations with India, the issues relating to transfer pricing are assuming more and more importance with every passing year. This article focuses on the issues relating to transfer pricing, with specific reference to the changes proposed by the Finance Bill, 2012.

Anti-Avoidance measures : Need of the hour

The anti-avoidance proposals in the Finance Bill, 2012 are a matter of hot debate in the corporate fora, be it on introduction of GAAR (General Anti-Avoidance Rules) to check aggressive tax planning or incorporation of retrospective provisions to tax offshore gains of transactions where the value is attributable to the underlying assets located in India or requirement of "tax residence certificate" as a necessary but not sufficient condition for availing the benefits of a DTAA (Double taxation avoidance agreement). All these measures, no doubt, indicate that the taxman is leaving no stone unturned not only to curb tax evasion but to prevent tax avoidance as well. In this context, it is necessary to appreciate the line of distinction between the terms "tax evasion" and "tax avoidance". While the former refers to escapement of tax by means of falsification of books, misrepresentation of facts or downright fraud, the latter refers to structuring of transactions in a manner so as to technically satisfy the requirements of the law to gain the tax benefits thereunder, though the same was never intended by the legislature while introducing such provisions.

While on the topic of tax avoidance, it may be pertinent to recall the decision of the Apex Court, in *Union of India v. Azadi Bachao Andolan* (2003) 132 Taxman 373, observing that "tax avoidance", unless

expressly prohibited by law, is permissible. The Supreme Court reaffirmed this position in its recent landmark ruling in *Vodafone International Holdings B.V. v. Union of India* (2012) 341 ITR 1. The decision of the Apex Court in *Azadi Bachao Andolan's* case holding that "treaty shopping" is permissible and a resident of a third country can take advantage of the benefits of a treaty entered into between two countries in the absence of an express limitation, clearly indicated that structuring of transactions within the four corners of law to take benefit of a treaty provision was permissible. However, now, with the requirement of "Tax Residence Certificate" as a necessary but not sufficient condition for availing the benefits of the treaty between two countries, the tax authorities have engraved the true legislative intent that no one should be permitted to structure a transaction in a manner so as to avail the benefits under any provision of law or treaty which was not actually intended by the legislature. The anti-avoidance provisions in the Finance Bill, 2012 voice this message loud and clear.

"Transfer pricing" net widened: "Specified domestic transactions" covered

One may recall that the concept of "transfer pricing" found its way into the Indian law book in the year 2001, when the provisions relating to pricing of international transactions between associated enterprises were first introduced by the Finance Act, 2001. The Explanatory Memorandum to the Finance Bill, 2001 clarified that the objective for bringing in such provisions was the presence of multinational enterprises in India and their ability to allocate profits in different jurisdictions by controlling prices in intra-group transactions in such a manner that there were either no profits or negligible profits in the jurisdiction which taxes such profits and substantial profits in the jurisdiction which is a tax haven or where the tax liability is minimum, ultimately affecting a country's share of due revenue. Therefore, transfer pricing provisions were introduced with a view to provide a statutory framework which can lead to computation of reasonable, fair and equitable profits to be taxed in India, in the case of such multinational enterprises.

(The author is Sr. Assistant Director, ICAI)

The reason for introduction of transfer pricing provisions in respect of international transactions, as clarified by the CBDT in its *Circular No.14/2001 dated 9.11.2001*, was to prevent **shifting out** of profits by manipulating prices charged or paid in international transactions, thereby eroding the country's tax base.

However, now, more than a decade after introduction of transfer pricing provisions, the Finance Bill, 2012 proposes to extend the ambit of transfer pricing to certain domestic transactions, if the monetary threshold exceeds ₹5 crore in aggregate in respect of such transactions entered into by an assessee during the year. The proposal to widen the transfer pricing net to include domestic transactions is consequent to the observation of the Supreme Court in *CIT-IV, Delhi v. M/s. Glaxo Smithkline Asia (P) Ltd.* requiring the Ministry of Finance to consider the question of extending transfer pricing regulations to domestic transactions to reduce litigation occurring in complicated matters.

Consequently, by virtue of the proposed amendment, the application of arm's length principle for determining the transfer price would now become neutrally enforceable in respect of "specified domestic transactions" as defined in section 92BA, namely, -

- any expenditure in respect of which payment has been made or is to be made to a person referred to in section 40A(2)(b);
- any transaction referred to in section 80A;
- any transfer of goods and services referred to in section 80-IA(8);
- any business transacted between the assessee and other person referred to in section 80-IA(10);
- any transaction referred to in any other section under Chapter VI-A or section 10AA, to which the provisions of section 80-IA(8) or section 80-IA(10) are applicable;
- any other transaction as may be prescribed by the CBDT.

Though such application of ALP to domestic transactions may deter arbitrary shifting of profits between related entities, it may lead to possible economic double taxation. Let us consider, for example, a transaction in which payment is to be made to a person referred to in section 40A(2)(b), wherein the relations specified have an exceedingly far reach.

Such transactions are as of now valued at common fair market value. However, once under the transfer pricing net, they would have to be valued at the more precise arm's length price to be determined in the prescribed manner. If payment made to an entity referred to in section 40A(2)(b) is to be subject to the transfer pricing rigor, then, a corresponding adjustment should be permitted while determining the tax liability of the related entity taking into account the arm's length price so determined in the hands of the first mentioned entity. The absence of provision for corresponding adjustment in the hands of the related entity may result in double taxation.

Transactions involving payment made to a person referred to in section 40A(2)(b) would, in its present form, also include payment of managerial remuneration to directors. The moot issue is the manner in which such transactions would be benchmarked in the absence of proper standards and comparable data. Where the payment of managerial remuneration is in compliance with Schedule XIII to the Companies Act, 1956, the same should, ideally, be spared from the applicability of arm's length test, since such payments are permitted by law even in case of loss-making companies and companies with inadequate profits, subject to certain limits and approvals.

It is pertinent to note that though many jurisdictions across the world have domestic transfer pricing provisions in place, at the same time, they also have corresponding provisions to exempt transactions which are not vulnerable to erosion of tax. For example, a transaction, in which the parties concerned are in the same tax bracket and do not enjoy any specific profit-linked incentives, should be exempt from applicability of transfer pricing provisions even though the parties thereto may be related. However, in India, the proposed domestic transfer pricing provisions do not contain any such exemption or exclusion. Consequently, in such cases, while on one hand there would be no monetary gain by way of additional income to the Revenue, on the other hand, this may result in avoidable hardship to the related entities on account of cumbersome compliance and administrative requirements. Further, with the phasing out of profit-linked incentives and expansion of scope of investment-linked tax deductions, the possibility of shifting of profits from one entity to another would, in any case, be considerably reduced.

Meaning of "international transaction" : Amplification of scope with retrospective effect

The meaning of "international transaction" provided under section 92B(1), though all-encompassing, is not very specific, leaving scope for varying interpretations by the courts of law as to the inclusion or otherwise of certain transactions. The Finance Bill, 2012 proposes to elucidate the meaning of "international transaction" to clarify the scope of "intangible property" included therein and include a transaction of business restructuring or re-organisation, entered into by an enterprise with an associated enterprise, whether or not it has a bearing on the profits, income, losses or assets of such enterprises at the time of the transaction or at any future date. For this purpose, an *Explanation* amplifying the scope of "international transaction" is proposed to be inserted with retrospective effect from 1.4.2002, being the date from which the transfer pricing provisions came into force.

Since transfer pricing provisions are attracted in respect of international transactions entered into between associated enterprises, consequently, the proposed amendment with retrospective effect would require the persons who have entered into such transactions to maintain the books of account prescribed under section 92D and to obtain the report of an accountant and furnish such report under section 92E on or before the specified date, being the due date of filing return of income under section 139(1). Non-compliance with such provisions would attract penalty @ 2% of the value of the international transaction under section 271AA and ₹1 lakh under section 271BA.

This may cause genuine hardship to persons who have entered into such transactions in the past based on the understanding of the provisions of law as it stood at that point of time. Such persons who have acted in good faith may also be subject to the penal consequences for non-maintenance of books of account and non-furnishing of report of an accountant. Further, comparable data for the earlier years may also not be available making it difficult to determine the arm's length price.

The scope of the expression "intangible property" is also proposed to be exemplified to include intangibles relating to marketing, technology, goodwill, human capital, contracts etc. Consequently, the use of logo of a parent company located outside India by its Indian subsidiary would also be covered under this definition

and the transaction would have to be valued at arm's length price. This would involve measurement of the gains accruing to the foreign holding company on account of promotion of its logo by the Indian subsidiary. It may be practically difficult to have an objective basis of determination of arm's length price in case of marketing intangibles, due to absence of specific comparables. Therefore, ideally, marketing intangibles should be kept out of the transfer pricing net. In any case, appropriate safe harbour rules should be introduced in respect of all intangibles.

"Safe harbour" means the circumstances in which the income-tax authorities shall accept the transfer price declared by the assessee. In fact, enabling provisions for safe harbour rules have already been introduced in the Income-tax Act, 1961, vide insertion of section 92CB by the Finance (No.2) Act, 2009 with effect from 1.4.2009, conferring power on the CBDT to make appropriate safe harbour rules. Such rules are, however, yet to be notified by the CBDT. Introduction of effective safe harbour rules at an early date would ensure to some extent, certainty, administrative simplicity, compliance relief and reduced scope for litigation.

Advance Pricing Agreements : A "red carpet welcome" measure

Ushering APAs into the Indian transfer pricing regime is indeed a measure deserving a red carpet welcome. Countries like USA, Australia, Germany, Japan and UK already have a system of APAs in place.

An APA is essentially an arrangement or agreement between a taxpayer and the tax administration which specifies the method and manner of determining the arm's length price (ALP) of an international transaction. The CBDT is to be empowered to enter into an APA with any person undertaking an international transaction, to determine the ALP of an international transaction or specify the manner in which ALP shall be determined. An APA is to be valid for the period, not exceeding five consecutive previous years, as specified in the agreement and such APAs would be binding on the person and the Commissioner and his subordinate authorities in respect of the specified transaction. However, an APA will not be binding if there is any change in law or facts having a bearing on the APA.

In India, the concept of APA initially introduced in the Direct Taxes Code Bill, 2010 is now proposed to be imported into the Income-tax Act, 1961 by the

Finance Bill, 2012, perhaps, consequent to the deferment of the implementation of the Code. It may be interesting to study the recommendations of the Parliamentary Standing Committee in relation to APAs under the proposed Direct Taxes Code, which would squarely hold good for the APAs proposed under Income-tax Act, 1961 also. The Committee has suggested entrusting the task of determination of ALP to an independent agency, appointed by the CBDT, consisting of technical and judicial members, to ensure that the APAs reflect the prevalent commercial practices/realities. The Committee has also desired that the scheme guidelines should put in place procedural safeguards to secure the interest of applicants. It also opined that APAs should be concluded in a time bound manner.

No doubt, APAs would help bringing in an element of certainty, in application of tax provisions concerning transfer pricing, by determining in advance the transfer pricing methodology to be adopted for an international transaction. It will also go a long way in preventing/reducing uncertainty in the tax element on account of fresh issues cropping up at a later point of time.

However, there are some concerns regarding the proposed APAs which need to be addressed. For example, it is not apparent from the language of the proposed provisions as to whether the APAs would be bilateral or unilateral. Further, the proposal, in its present form, does not provide for withdrawal of APAs by the applicant, even on account of commercial or business grounds. The proposed law is also not clear on the validity of an APA in case of succession in business where the successor desires to pursue the same arrangement. Most importantly, if specified domestic transactions are to be brought within the transfer pricing net, then, the benefit of APAs should also be available in respect of such transactions. It is hoped that these concerns are addressed while enacting the Bill.

Permissible range : A "tolerance band" and not a "standard deduction"

Section 92C requires application of the most appropriate method for determination of arm's length price (ALP). Where more than one price is determined by the most appropriate method, the ALP shall be the arithmetical mean of such prices. However, as per the second proviso to section 92C(2), as it stood with effect from 1.10.2009 (after the amendment by the Finance (No.2) Act, 2009), if the ALP so determined is within

5% of transfer price, then no adjustment is required to be made and the transfer price would be deemed to be the ALP of the international transaction. Prior to such amendment, the position of law, as it stood since 1.4.2002, was that in a case where more than one price was determined by the most appropriate method, the arm's length price shall be taken to be the arithmetical mean of such prices, or, at the option of the assessee, a price which may vary from the arithmetical mean by an amount not exceeding 5% of such arithmetical mean.

The amendment by the Finance (No.2) Act, 2009 had put to rest the controversy on whether the said 5% represented a tolerance band or a standard deduction, and clarified that the same was a tolerance band to be computed as a percentage of transfer price. However, the controversy in respect of assessments pending as on 1st October, 2009 continued to exist. Owing to the interpretation of the limit of 5% by the judicial fora as a standard deduction, on the basis of the language of law as it then read, it is now proposed to clarify, with retrospective effect from 1st April, 2002, that the said limit of permissible variation was only a tolerance range and not a standard deduction. Further, in order to settle the legal disputes on this issue, it is clarified that the provisions, as amended by the Finance (No.2) Act, 2009, would be applicable in respect of all assessment proceedings pending as on 1st October, 2009.

The proposed changes may cause hardship to the taxpayers as these are not in line with the interpretation of judicial rulings. Since transfer pricing is not an exact science, the taxpayers who have interpreted the range as a standard deduction based on the provisions as it was understood at that point of time may be put to genuine difficulty.

Last year, vide the Finance Bill, 2011, the permissible variation at a standard rate of 5% of the transfer price for all segments of business activity and range of international transactions was substituted by such percentage of the transfer price, as may be notified by the Central Government in this behalf. Accordingly, the Central Government is empowered to prescribe the rate of permissible variation for different segments of business activity and class of international transactions. This amendment was effective from financial year 2011-12. However, no such notification has been issued so far by the Central Government. This year, the Finance Bill, 2012 proposes a cap of 3% on the limit of permissible variation, with effect

from financial year 2012-13. It may be noted that for the F.Y.2011-12, it is not yet clear as to whether the initial tolerance range of 5% would be permissible or the new tolerance range of 3% would be made applicable. A clarification in this regard is necessary to avoid any ambiguity regarding the tolerance band which would be applicable for that year. Further, if industry specific tolerance bands are to be notified by the Government, it would be necessary to review such bands from time to time to ensure that they reflect the contemporary position.

Empowerment of DRP : A measure for facilitation of speedy resolution of disputes?

Under the current legislation, an "eligible assessee" can file an appeal directly with the Appellate Tribunal against the order passed by the Assessing Officer in pursuance of the directions of the DRP. However, the Department was not empowered to file an appeal against the directions given by the DRP. This unintended inequity is now proposed to be removed by incorporating an enabling provision for the Commissioner to direct the Assessing Officer to file an appeal before the Appellate Tribunal.

Further, the powers of DRP are proposed to be enhanced to include the power to examine any matter arising out of the assessment proceedings, even though the same may not have been raised by the "eligible assessee". At present, the powers of the DRP are restricted to issuing directions only in respect of the objections raised by the "eligible assessee". It is possible to take a view that the proposed amendment

may not be in sync with the legislative intent of introducing a DRP mechanism since it may further unsettle issues, instead of resolving them. Therefore, the law in its present form entrusting the Assessing Officer with the task of framing the draft order, making any variation in the income or loss returned, and entrusting the DRP with the task of resolving a dispute, seems to be quite apt in this regard.

Efficient and Effective Transfer Pricing Mechanism : A Sine qua non

While some of the anti-avoidance provisions proposed in the Finance Bill, 2012 are worth lauding, at the same time, it may not be prudent to ignore the consequent hardship which genuine taxpayers may face on implementation of certain provisions, if they are enacted in the same form and manner, particularly the amendments which are proposed to be made effective retrospectively. Viewed from a macro level, some of these provisions may also directly impact foreign investment in India. Also, the major move to extend the transfer pricing net to domestic transactions, in a scenario where profit-linked incentives are being phased out, may, instead of adding up to the coffers of Revenue, end up imposing a heavy compliance cost and burden on the tax payer coupled with administrative burden on the Revenue. It is hoped that these concerns are duly addressed before enacting the Finance Bill, 2012 to ensure an efficient and effective transfer pricing mechanism that would deter tax avoidance without imposing undue compliance burden on genuine tax payers. ■

CROSSWORD

April, 2012

Solution

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Analysis of Budget Proposals Pertaining to Transfer Pricing

CA. Hemali Deepak Thakkar

The Finance Minister presented the Union Budget 2012 before the Parliament on 16 March 2012. Various proposals aim at reversing the effects of various judicial precedents which were in support of assessee on issues such as extension of scope and applicability of TP regulations, introduction of APAs, proposed diminution in availability of the standard deduction, applicability of TP to business restructuring transactions, etc. These proposals are expected to leave behind a big dent, not only the years to come, but in certain cases, on the past years and the decisions already pronounced as well.

Let us look through the various proposals offered by the Budget 2012, and execute an analysis of the same:

Expanded Scope of Applicability of Transfer Pricing Regulations

The scope of transfer pricing regulations to be extended to the transactions entered into by domestic related parties or by resident sister undertakings for the purposes of section 10AA, 40A, 80A, 80-IA and Chapter VI-A. This proposes to extend the applicability of the TP regulations to profits arising from transactions between domestic related parties.

Now, let's say, from the date of implementation of the said provision, if a company makes a payment to its director or to a person having substantial interest (i.e. 20 % voting power), it will now be considered to fall under the purview of a 'specified domestic transaction' and will thus fall under the transfer pricing net. It will then have to be reported accordingly in the Accountants Report prepared in Form 3CEB.

It may hereby be noted that this amendment will be applicable only if the aggregate amount of all such specified domestic transactions exceeds INR 5 crores.

This amendment will be effective from AY 2013-14.

This provision seems to be a clear outcome of the judgment pronounced by the Honourable Supreme Court in case of Glaxo SmithKline Asia Private Limited. In this pronouncement, it was emphasized that tax laws are required to be amended in order for domestic transactions between related parties to be brought within the ambit of the Indian TP provisions. It had been suggested by the Supreme Court that the Ministry

of Finance should consider appropriate provisions in law to make transfer pricing regulations applicable to certain related party domestic transactions.

Being compliant with Indian transfer pricing regulations and requirements will now become more burdensome on assessee, and will be an additional saddle on their shoulders. Whether this will meet the objective for which it has been sought to be introduced will need to be seen as the future unfolds.

Definition of 'International Transaction' Spread out

The definition of international transaction has been altered in such a way that it leaves immense scope for interpretation now. With retrospective effect from 1 April 2002, international transaction has been clarified to specifically include the following:

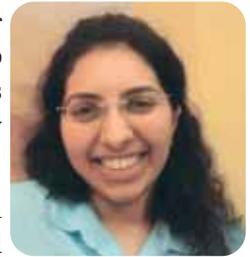
- Guarantees
- Any debt arising during course of business
- Business reorganizations or restructuring. This is irrespective of whether the same has an impact on current year's profits, income, losses or assets, or not.
- Intangible properties comprising marketing intangibles, human assets, technology related intangibles, etc.

The current definition of "International Transaction" was rather broad and an exclusive one, leaving scope for wide interpretation and creating scope for lacunae, wherein many international transactions were not being reported by taxpayers in their Accountant's Report.

This amendment of including four more transactions in the net of 'international transactions', is a way to nullify numerous judgments on a retrospective basis. Following are some judgments that may now face a reversal:

- **Four Soft Ltd.:** In this case, the Hyderabad Tribunal had recently held that guarantee is not

(The author is a member of the Institute. Mem.No. 141126)



an international transaction and thus, need not be reported in the Accountants Report.

- **Nimbus Communications Limited:** The Mumbai Tribunal held that any debt arising during the course of business (e.g. credit period on outstanding receivables) is not an 'international transaction. It had further held in this case, that overdue accounts receivable balance from associated enterprise is not an international transaction per se, but is a 'result' of an international transaction and hence no tax adjustment is required to be made for such outstanding accounts receivables. A similar stand was taken by the Pune Tribunal in case of Patni Computer System.
- **Dana Corporation (AAR):** Business reorganizations or restructuring have been proposed to be included in the definition of an international transaction. This inclusion has been proposed irrespective of whether the same has an impact on current year's profits, income, losses or assets. This would topple over the following decisions where it was held that in case there was no income chargeable to tax in India, the TP regulations would not apply:
 - *Amiantit International*
 - *Goodyear Tyre & Rubber Co.*

Benefit of Variation from Arm's Length Price Restricted

The Finance Bill 2011 had proposed that instead of a variation of 5 percent, the allowable variation would now be such percentage as may be notified by Central Government. The Finance Bill 2012 has indicated that this variation will be 'not more than 3%', meaning that the upper ceiling would be 3%. The Government has tapered this band, indicating that considering the TP regulations have been introduced more ten years now, a narrow band of difference between the arms length and actual profitability ought to be comfortable for the assessee to adhere to.

This variation is proposed to be effective from 1 April 2013.

Powers of a TPO Widened

The TPO can now examine international transactions not reported in the Accountant's Report furnished by the taxpayer and identified during assessment proceedings. This is a retrospective amendment with effect from 1 June 2002. However, it has also been specifically clarified that reopening of assessments is not permissible in case the assessment proceedings

are completed before 1 July 2012. This invalidates the following judgments:

- Amadeus India Private Limited (Delhi Tribunal)
- Glaxo Smithkline Consumer Healthcare Ltd. (Chandigarh Tribunal)

It has also been proposed that in all cases where it is seen that an international transaction has not been reported either by non-filing of report or otherwise by not including such transaction in the report mentioned in section 92E, then such non-reporting would be deemed to be a means of escaping income and such a case can be reopened under section 147 of the Act. This amendment will take effect from 1st July, 2012.

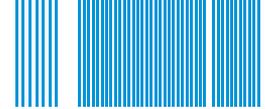
Advance Pricing Agreements

An Advance Pricing Agreement/ Arrangement (APA) offers a way to secure tax authority approval of the assessee's transfer pricing policies and methodologies for up to five years in advance. It is a framework for the tax administration and a taxpayer to agree that, provided the taxpayer files its tax return in accordance with the agreed APA conditions for the APA covered years, the tax administration accepts the tax outcome as being consistent with arm's length outcomes, and thereby refrains from auditing the taxpayer's international transaction(s) covered by the APA.

The objective of an APA is to deliver certainty, for both the taxpayer and the tax authorities, of the tax outcomes of the taxpayer's international transactions by agreeing in advance the arm's length pricing methodologies to apply to the taxpayer's international transactions covered by the APA. An APA may thus remove an audit threat (eliminate the need for a transfer pricing audit), deliver a particular tax outcome based on the terms of the agreement, and often substantially reduce compliance costs over the term of the APA. This enables a more efficient and effective management of transfer pricing compliance requirements by bringing fairness, simplicity and efficiency, which may otherwise lead to protracted and disputed dealings between a taxpayer and the tax authorities, including difficulties involved in resolving economic double taxation. Thus, for a taxpayer, an APA can be an effective tool for better managing the tax risks arising from international transactions. For tax authorities, an APA can similarly be an effective tool for better and more efficient administration of the transfer pricing laws, with lesser litigation costs.

Though the introduction of APAs was expected with the advent of the Direct Tax Code (DTC), these provisions are now proposed to be introduced from 1 July 2012, with the following key salient features:

- An agreement between a taxpayer and the tax



authorities for specifying the manner in which the arm's length price is to be determined in relation to an international transaction

- The arm's length price shall be determined on the basis of prescribed methods or any other method
- Valid for a maximum of five consecutive years unless there is a change in the provisions or the facts having a bearing on the international transaction
- In the case an APA covering a particular year is obtained after filing the return of income, a modified return to be filed based on the APA and assessment or reassessment to be completed based on such modified return.
- An APA to be declared void ab initio if obtained by fraud or misrepresentation of facts.

The introduction of the APA regime is one of the important positive steps taken by the revenue with the objective to settle potential tax disputes. However, as of now it is nothing less than a mystery whether the APA regime will actually thrive successfully in India.

Amendments pertaining to the Dispute Resolution Panel (DRP)

In 2009, a new system of redressal in the form of Dispute Resolution Panel (DRP) was introduced. A collegium of three commissioners form the Panel, which would go through the records, examine the facts and submissions and would issue directions to the AO as regards manner of assessment and the AO would issue orders accordingly, and in a quick manner. The ITAT route would still be available to the assessee, but not to the revenue. The way the DRPs have been functioning so far has not been taken too well from an assessee's perspective as representatives and assesses generally feel that it is predominantly a pro-revenue body.

As the directions given by the DRP are binding on the Assessing Officer, it has now been accordingly proposed through this budget that the Assessing Officer may also file an appeal before the Income-tax Appellate Tribunal (ITAT) against an order passed in pursuance of directions of the DRP. This totally eradicates the incentive of an assessee knocking the doors of a DR Panel, when such incentive is quick redressal of objections to the AO's order. To be optimistic, it may only be hoped that this proposed amendment will result in merit based and unbiased directions being issued by the DRP as the Revenue can now appeal to the Tribunal. These amendments will take effect from the 1st day of July, 2012.

It has also been proposed to widen the power of the DRP to consider any matter arising out of the assessment proceedings relating to the draft assessment order, irrespective of the fact whether such matter was raised by the eligible taxpayer or not. This proposal nullifies the judgment passed by the Karnataka High Court in the case of GE India Technology Centre Pvt. Ltd wherein the court held that the powers of the DRP under Section 144C of the Act is bound to dealing with only those issues in respect of which variations are proposed as per the draft assessment order. This amendment will be effective retrospectively from the 1st day of April, 2009 and will accordingly apply to Assessment Year 2009-10 and subsequent assessment years.

Penalties

The scope of penalty equaling to 2 percent of the value of international transactions has been now expanded to include non-reporting of international transaction or furnishing of incorrect information or documents. This is in addition to the existing penalty of INR 1 lac for non-filing of an Accountant's report. This amendment will take effect from 1st July, 2012.

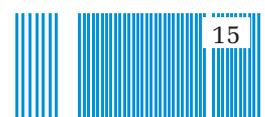
Due date for filing Return and completion of assessment

The time limit for completion of assessment or reassessment as provided in Section 153 of the Act has been amended to extend the same by three months, effective from 1 July 2012. The same would be applicable for all pending proceedings before the TPO on or after 1 July 2012 and also where the reference to the TPO is received after 1 July 2012.

For instance, currently, assessment proceedings are on-going for assessment year 2009-10. If in such a case, an order as regards this ongoing assessment is not passed by 1 July 2012, or if a reference to the assessee is received after 1 July 2012, then in such a case the time limit for completion of the above TP assessment would not be 31 October, 2012, but would be 31 January 2013.

Conclusion

The Finance Bill 2012 has resulted in reversal and invalidation of numerous erstwhile TP provisions causing extreme anxiety among TP consultants. One of the important positive steps which the Government has taken to determine certainty to the tax payer is the introduction of the APA. However, its effectiveness and acceptance is yet to face the test of time. Given the whooping TP adjustments in India as regards the AY 2008-09 assessments that have recently concluded, to the tune of approximately 44,500 crore rupees, the introduction of APAs in India is a welcome measure among the assessees. ■



Drafting of Business Documents

CA. Rajkumar S. Adukia

"To write well, I don't need to be Shakespeare; I must, though, have a sincere desire to inform and not confuse"

Introduction to Drafting

Drafting is an art, the success of which depends on the mastery skills of a draftsman, the depth of his knowledge and experience of law and life. A good draftsman should be direct, simple, brief, vigorous and lucid.

Drafting is the synthesis of law and fact in a language form. Perfection cannot be achieved in drafting unless the nexus between law, facts and language is fully understood.

Documents frequently drafted by Chartered Accountants

A Chartered Accountant is a professional with multi-disciplinary talent. He is looked upon as a complete business provider. He is the best person to draft documents because of abundance of knowledge in varied avenues.

Some documents frequently drafted by chartered accountants include:

- I Documents for Formation of an Entity
- II Wills
- III Business Agreements
- IV Property Agreements
- V Documents Relating to Intellectual Property
- VI Banking Documents
- VII Documents for Export / Import
- VIII Documents relating to Labour Laws
- IX Documents relating to Insurance
- X Documents relating to Public Interest Litigation, Environmental Issues etc.
- XI Documents Relating to Private Equity Form of Funding
- XII Documents relating to cyber law

Knowledge of Legislations

Writing a document these days is a highly complex job. Unless one has a comprehensive knowledge of the codified Hindu Law, the Land Reform Laws, the Income Tax Laws, Partnership Laws, Company Laws, the Law of Registration, Stamp Duty Provisions of various States etc., it is extremely difficult to draft a document.

Each situation requires a different handling, a different recital, a different approach to the problem and the document may sometimes have to be moulded to be in conformity with the laws of the country and at the same time satisfy the main intention of the parties. For the purpose of doing justification to the task of drafting, detailed understanding of the various applicable legislations as per the law of the land is imperative.



Golden Words of Wisdom

- Every Transaction is unique in its own way. Simply copying a Model Form does not reward in the long run.
- The draftsman should be aware of the quantum of stamp duty payable before drafting the documents on the Stamp Paper.
- Use words that most of the people know.
- Cut out unnecessary words.
- Keep sentences short.
- Use a single word instead of a group of words.
- Use minimum legalese and jargon.
- Prefer the active voice to the passive voice.
- Avoid non-English words and phrases.
- Avoid old-fashioned words and phrases.
- Avoid circumlocution: don't use two words of the same meaning.
- Stay away from nominalization: use verbs instead of their nouns.
- Keep related words close to each other.

Clarity in Drafting

The Aim of drafting documents should be to communicate unambiguously and clearly. Good modern drafting must, achieve both precision and clarity. The Golden Rule of Writing is that the words employed should be such as to convey to the reader the meaning of the writer.

The purpose of any writing is to put across some

(The author is a member of the Institute. Mem.No.34769)

message to be read and understood by the reader. Communication depends upon a word as used by one person being understood by another.

Principles of Good Drafting

1. Determine Purpose of Document and Prepare an outline
2. Establish a single principle of division and use that principle to divide the subject matter into major topics.
3. Arrange the items within a topic in a logical sequence
4. Follow the Rule - One Sentence, One Idea
5. Accuracy is of utmost importance
6. Brevity is the soul of good writing
7. Avoid excessive use of Adjectives and Adverbs
8. Be careful with the Syntax (arrangement of words in sentence)
9. Active / Passive Voice
10. More use of Short and concrete Words
11. Use proper Punctuation
12. Don't use gender-specific terminology.
13. Use short words instead of a group of words or phrase
14. Write short and simple sentences.
15. Don't include unnecessary or irrelevant material
16. Avoid Tautology (needless repetition of an idea in different words)
17. Avoid Latinism - Prefer English Words and Phrases to Non English ones

Registration of Documents

The Registration of documents is made under the provisions of the Registration Act, 1908. The Act is used for proper recording and registration of documents / instruments, which give them more authenticity.

Registration refers to the recording of the contents of a document with a Registering Officer appointed by the State Government. The authorities dealing with registration under the Registration Act, 1908 are as follows:

- Inspector General of Registration
- Inspectors of Registration Offices
- The State Government shall form Districts and Sub-Districts for purpose of the Registration Act 1908
- Registrars of Districts
- Sub-Registrars of Sub-Districts

Stamping of Documents

Stamp duty is a form of tax that is levied on documents. The provisions regarding levying, collection and payment of stamp duty are contained in the Indian Stamp Act, 1899. Under the Stamp Act, certain documents need to be legitimised by paying applicable stamp duty on them.

The Indian Stamps Act, 1899 (to the extent falling within jurisdiction of the Union) is administered by Department of Revenue. The Department of Revenue functions under the overall administrative direction and control of the Secretary (Revenue), Ministry of Finance. The Headquarters of the Department of Revenue looks after matters relating to administration of the Indian Stamp Act, 1899.

Stamp Duty is paid to the Collector of Stamps. The proceeds of the Duty go to the State in which they are levied.

The prevailing system of physical stamp paper/franking is now being replaced by E-stamping system. E-stamping in simple terms, means electronic purchase of stamp paper and electronic mode of stamp duty payment.

E-stamping is prevalent in the States of Gujarat, Himachal Pradesh (commissioned on 8.11.2011), Karnataka, NCT of Delhi, Maharashtra, Assam, Rajasthan (launched on 22.7.2011) and Tamil Nadu. E-Stamping agreements were signed with Union Territory of Daman and Diu & Union Territory of Dadra and Nagar Haveli on 5th September 2011 and with Government of Uttarakhand on 22nd December 2011.

Conclusion

Probably Shylock in 'Merchant of Venice' would have won his cause if proper instruments impeccably drafted were there in his favour! Such is the importance of a well-drafted document.

A draftsman should:

1. Appreciate how powerful language is and how words have the power to persuade us
2. Realize how the misuse of language can have serious consequences
3. Believe passionately that language is serious business

Simple, effective and clear communication is the need of the hour in the age of globalization and the speed of the digital age. All forms of written and spoken communication should be as clear and effective as possible in order to facilitate the domestic and international trade agreements and cross-border financial commitments. ■

Story of Appreciation

This is a powerful message to our modern society. We seem to have lost our bearings and our sense of direction. A young academically excellent person applied for a managerial position in a big company. He passed the first interview; the director did the last interview, made the last decision. The director discovered from the CV that the youth's academic achievements were excellent all the way, from secondary school until the postgraduate research, never did he have a year when he did not score highest marks. The director asked, "Did you obtain any scholarships in school?"

The youth answered "none". The director asked, "Was it your father who paid your school fees?"

The youth answered,

"My father passed away when I was one year old, it was my mother who paid all my school fees". The director asked, "Where did your mother work?"

The youth answered,

"My mother works as a washer of clothes". The director requested the youth to show his hands.

The youth showed a pair of hands that were smooth and perfect. The director asked, "Have you ever helped your mother wash clothes?"

The youth answered,

"Never, my mother always wanted me to study and read more books."

"Furthermore, my mother can wash clothes faster than me." The director said, "I have a request. When you go back today, go and clean your mother's hands, and then see me tomorrow morning." The youth felt that his chance of landing the job was high. When he went back, he happily requested his mother to let him clean her hands. His mother felt strange, happy but with mixed feelings, she showed her hands to her son. The youth cleaned his mother's hands slowly. His tears fell as he did that. It was the first time he noticed that his mother's hands were so wrinkled, and there were so many cuts and bruises in her hands. Some bruises were so painful that his mother shivered when they were cleaned with water. This was the first time the youth realized that it was this pair of hands that

washed other people's clothes everyday which had enabled him to pay his school fees. The bruises in his mother's hands were the price that the mother was paying for his graduation, academic excellence and his future. After cleaning his mother's hands, the youth quietly washed all the remaining clothes for his mother. That night, mother and son talked for a very long time. Next morning, the youth went to the director's office. The Director noticed the tears in the youth's eyes, asked: "Please tell me what you did and what you learned yesterday?" The youth answered, "I cleaned my mother's hand, and also washed all the remaining clothes." The Director asked, "please tell me what you felt." The youth said,

Number 1,

I know now what appreciation is. Without my mother, there would not be the successful me today.

Number 2,

by working together and helping my mother, I now realize how difficult and tough it is to get something done.

Number 3,

I have come to appreciate the importance and value of family relationships.

The director said,

"This is what I am looking for to be my manager. I want to recruit a person who can appreciate the help of others, a person who knows the sufferings of others to get things done, and a person who would not put money as his only goal in life. You are hired." Later on, this young person worked very hard and received the respect of his subordinates. Every employee worked diligently and as a team. The company's performance improved tremendously. A child, who has been protected and habitually given whatever he wants, will develop the "entitlement mentality" and would always put himself first. He would be ignorant of his parent's efforts.

When he starts work, he would assume that every person must listen to him, and when he becomes a

(Contd... p-20)

Accounting

Delay in Implementation of IFRS

Shri R.P.N. Singh, the Minister of State in the Ministry of Corporate Affairs, replied to a written question regarding the reasons for which the Ministry is not implementing the International Financial Reporting Standards (IFRS) accounting system in the country by internationally committed deadline of April, 2011; the implications of the delay in implementing IFRS; whether implementation date has been decided by the Ministry; and the details thereof.

In this regard, he answered, in the Rajya Sabha, that keeping in view the consultation held with various stakeholders on certain issues including tax related issues it was decided to implement convergence of Indian Accounting Standards with International Financial Reporting Standards (IFRS) in a phased manner to ease the process for all the stakeholders.

The date of implementation will be decided after the relevant issues are resolved. However, the relevant Indian Accounting Standards which are converged with IFRSs namely, the Ind Accounting Standards (Ind-AS) have been placed on the website of the Ministry for information of all the stakeholders so that they get familiarized with such standards and take timely steps to implement them once these are implemented.

(Source: www.pib.nic.in) (Release ID :81233)

Amendments to the Equity Listing Agreement - Formats for Disclosure of Financial Results

Ministry of Corporate Affairs vide Notification dated February 28, 2011 has revised the format for disclosure of Balance Sheet under Schedule VI of the Companies Act, 1956.

Pursuant to the same, SEBI vide circular CIR/CFD/DIL/4/2012 April 16, 2012 decided to carry out consequential amendments to Clause 41 of the Listing Agreement regarding interim disclosure of financial results by listed entities to the stock exchanges, which has been drawn from the format under Schedule VI of the Companies Act, 1956. The format for the said disclosure shall be applicable for financial year ended on March 31, 2012 for all filings made after the date of this circular.

All stock exchanges are advised to ensure compliance with this circular and carry out the amendments in their Listing Agreement.

This circular along with the format is available on SEBI website at www.sebi.gov.in under the categories "Legal Framework" and "Issues and Listing".

(Source: www.sebi.gov.in)

(Compiled by CA. Shilpa Agrawal, BoS)

Auditing

Statutory Auditor's Reporting Responsibilities in Respect of Depositing of Cess Pursuant to Clause 4(ix)(a) of the Companies (Auditor's Report) Order, 2003 and Section 227(3)(g) of the Companies Act, 1956

1. The Council of the Institute, at its 312th meeting held on December 25 - 27, 2011, noted that paragraph 4(ix)(a) of the Companies (Auditor's Report) Order, 2003 required the statutory auditor to report on the matter relating to regularity of the company in depositing undisputed statutory dues as follows:

"Is the company regular in depositing undisputed statutory dues including Provident Fund, Investor Education and Protection Fund, Employees' State Insurance, Income-tax, Sales-tax, Wealth Tax, Service Tax, Custom Duty, Excise Duty, Cess and

any other statutory dues with the appropriate authorities and if not, the extent of the arrears of outstanding statutory dues as at the last day of the financial year concerned for a period of more than six months from the date they became payable, shall be indicated by the auditor.[Paragraph 4(ix)(a)]"

2. The Council also noted that paragraph 63(g) of the Statement on the Companies (Auditor's Report) Order, 2003, issued by the Institute of Chartered Accountants of India states as follows:

It may be noted that at present, no Rules relating to the amount of cess for rehabilitation or revival or protection of assets of sick industrial companies, payable by a company under section 441A of the Act have been notified by the Central Government.

Thus, it would not be possible for the auditor to comment on the regularity or otherwise about the cess till the time relevant rules or regulations are issued.

However, till the time such Rules are prescribed, the auditor should also state in his report under this clause that the Government has not notified any Rules under section 441A of the Companies Act, 1956 and, therefore, the auditor is unable to comment on this particular issue. (emphasis added)

- The Council noted that till date the Central Government had not notified the effective date of section 441A of the Companies Act, 1956. Consequently, no Rules thereunder had also been prescribed by the Central Government. Accordingly, there was no question of reporting thereon under the Companies (Auditor's Report) Order, 2003. The Council, therefore, decided that in view of the aforementioned situation, the statutory auditor need not report in respect of cess payable under section 441A of the Companies Act, 1956 as envisaged under paragraph 63(g) of the Statement on the Companies (Auditor's Report) Order, 2003. The Council, therefore, decided to modify paragraph 63(g) of the said Statement as follows:

"It may be noted that at present, no Rules relating to the amount of cess for rehabilitation or revival or protection of assets of sick industrial companies, payable by a company under section 441A of the Act have been notified by the Central Government. Thus, it would not be possible for the auditor to comment on the regularity or otherwise about the

cess till the time relevant rules or regulations are issued.

- The Council, incidentally, also noted that section 227(3)(g) of the Companies Act, 1956 required the statutory auditor's report to state, "Whether the cess payable under section 441A has been paid and if not, the details of amount of cess not so paid." It was also noted that the operative date of even section 227(3)(g) had not yet been notified by the Central Government.
- Accordingly, as a corollary to the Council's views on auditor's reporting responsibilities on cess under section 441A of the Companies Act, 1956, pursuant to clause 4(ix)(a) of CARO, 2003, the Council was of the view that the statutory auditor's report need not contain any comment on section 227(3)(g) of the Companies Act, 1956.

For more details visit <http://220.227.161.86/25580announ15262.pdf>

(Compiled by CA. Karuna Bhansali, BoS)

Corrigendum in the Revision Test Paper of 'Paper 1 - Financial Reporting' of May, 2012 at Final level

In Answer 19 given at page 66-67 of RTP May, 2012 of Paper 1: 'Financial Reporting', NOPAT would be calculated as ₹20,762.09 lakhs; Cost of Debt = $\frac{487 \times (1 - 0.2445)}{8,100} \times 100 = 4.54\%$; WACC should be 14.224%; Cost of Capital employed will be ₹11,521.44 lakhs; and EVA will be ₹9,240.65 lakhs. Calculation errors committed therein is deeply regretted.

Story of Appreciation (Contd...)

manager, he would never know the sufferings of his employees and would always blame others.

This kind of people, who may be good academically, may be successful for a while, but eventually would not find achievement.

He will grumble and be full of hatred and fight for more. If we are this kind of protective parents, are we really showing love or are we destroying our kids instead? You can let your kids live in a big house, give them a Driver & Car for going around, Eat Good Meals, learn to play the Piano, Watch a Big Screen TV. But when you are Cutting Grass or cleaning the car or working, please let them experience it. After a Meal, let them Wash their Plates and Bowls together

with their Brothers and Sisters. Tell them to Travel in Public Bus, It is not because you do not have Money for Car or to Hire a Maid, but it is because you want to LOVE them in the right way. You want them to understand, no matter how rich their parents are, one day their hairs too will Grow Grey, same as the Mother of that young person. The most important thing is that your kids learn how to appreciate the efforts of their parents and others and experience the difficulty that goes into giving them every luxury and learn the ability to work with others to get things done. You would have forwarded many mails to many and many of them would have mailed you too...but try and forward this story to as many as possible...this may change somebody's fate... ■

Income-Tax

- (1) **Can the expenditure incurred on the assessee-lawyer's heart surgery be allowed as business expenditure under section 31 by treating it as current repairs considering heart as plant and machinery or under section 37 by treating it as expenditure incurred wholly and exclusively for purposes of business or profession?**

Shanti Bhushan v. CIT (2011) 336 ITR 26 (Delhi)

In the present case, the assessee is a lawyer by profession. The assessee argued that the repair of vital organ (i.e. the heart) had directly impacted his professional competence. He contended that the heart should be treated as plant as it is used for the purpose of his professional work. He substantiated his contention by stating that after his heart surgery, his gross receipts from profession increased manifold. Hence, the expenditure on the heart surgery should be allowed as business expenditure either under section 31 as current repairs to plant and machinery or section 37 as an expense incurred wholly and exclusively for the purpose of profession. The department argued that the said expenditure was personal in nature and was not incurred wholly and exclusively for the purpose of business or profession, and therefore, the same should not be allowed as business expenditure.

On this issue, the Delhi High Court observed that a healthy and functional human heart is necessary for a human being irrespective of the vocation or profession he is attached with. Expenses incurred to repair an impaired heart would thus add to the longevity and efficiency of a human being which would be reflected in every activity he does, including professional activity. It cannot be said that the heart is used as an exclusive tool for the purpose of professional activity by the assessee. Further, the High Court held that:-

- (i) To allow the heart surgery expenditure as repair expenses to plant, the heart should have been first included in the assessee's balance sheet as an asset in the previous year and in the earlier years. Also, a value needs to be assigned for the same. The assessee would face difficulty in arriving at the cost of acquisition of such an asset for showing in his books of account. Though the definition of plant as per the provisions of section 43(3) is inclusive in nature but

the plant must have been used as a business tool which is not true in case of heart. Therefore, the heart cannot be said to be plant for the business or profession of the assessee. Therefore, the expenditure on heart surgery is not allowable as repairs to plant under section 31.

- (ii) According to the provisions of section 37, *inter alia*, the said expenditure must be incurred wholly and exclusively for the purposes of the assessee's profession. As mentioned above, a healthy heart will increase the efficiency of human being in every field including its professional work. Therefore, there is no direct nexus between the expenses incurred by the assessee on the heart surgery and his efficiency in the professional field. Therefore, the claim for allowing the said expenditure under section 37 is also not tenable.

Hence, the heart surgery expenses shall not be allowed as a business expenditure of the assessee under the Income-tax Act, 1961.

- (2) **Do the tips collected by hotel and disbursed to employees constitute salary to attract the provisions for tax deduction at source under section 194C?**

CIT (TDS) v. ITC Ltd [2011] 338 ITR 0598 (Del.)

The assessee-company was engaged in the business of owning, operating and managing hotels. The assessee-company allowed the employees to receive tips from the customers, by virtue of the employment, and in case the employer himself collected tips, those were also disbursed by the employer to the employees. Once the tips were paid by the customers either in cash directly to the employees or by way of charge to the credit cards in the bills, the employees gained additional income, which was by virtue of their employment. When the tips were received by the employees directly in cash, the employer hardly had any role and it may not even know the amounts of tips collected by the employees. That would be out of the purview of responsibility of the employer under section 192.

However, when the tips were charged to the bill either by way of a fixed percentage, say 10 per cent. or so on the total bill, or where no

percentage was specified and the amount was indicated by the customer on the bill as a tip, the tip went into the receipt of the employer and was subsequently disbursed to the employees. As soon as such amounts were received by the employer, there was an obligation on the part of the employer to disburse them to the rightful persons, namely, the employees. Simultaneously, a right accrued to the employees to claim the tips from the employer. By virtue of the employer-employee relationship, a vested right accrued to the employee to claim the tips. The High Court, therefore, held that the tips would constitute income within the meaning of section 2(24) and are thus, taxable under section 15. It was obligatory upon the company to deduct tax at source from such payments under section 192.

In this case, the assessee-company had not deducted tax at source on tips under a *bona fide* belief that tax was not deductible. This practice had been accepted by the Revenue by accepting the assessments in the form of annual returns of the assessees in the past. The High Court held that since no dishonest intention could be attributed to the assessees, they could not be made liable for levy of penalty as envisaged under section 201.

The High Court, however, observed that payment of interest under section 201(1A) is mandatory. The payment of interest under that provision is not penal. There was, therefore, no question of waiver of such interest on the basis that the default was not intentional or on any other basis.

- (3) **Can a company engaged in the business of owning, running and managing hotels claim interest on borrowed funds, used by it for investing in the equity share capital of a wholly owned subsidiary company, as deduction where the subsidiary company was formed for exercising effective control of new hotels acquired by the parent company under its management?**

CIT v. Tulip Star Hotels Ltd. (2011) 338 ITR 482 (Del.)

The assessee-company was engaged in the business of owning, running and managing hotels. The assessee had borrowed certain funds which it had utilized to subscribe to the equity capital of the subsidiary company. The investment in the wholly owned subsidiary was for effective control of the hotels acquired by the assessee-company under its management and the subsidiary company also used the funds for the said purpose.

The assessee paid interest on the borrowed money. This interest liability incurred by the assessee was claimed by it as deduction under section 36(1)(iii) on the ground that it was business expenditure. The Assessing Officer refused to allow the expenditure. However, the Commissioner (Appeals) reversed the decision of the Assessing Officer and this opinion was confirmed by the Tribunal.

The High Court held that the assessee was in the business of owning, running and managing hotels. For the effective control of new hotels acquired by the assessee under its management it had invested in a wholly owned subsidiary company. The expenditure incurred was for business purposes and was thus allowable under section 36(1)(iii).

Note: Under section 36(1)(iii), the amount of the interest paid in respect of capital borrowed for the purposes of the business or profession is allowable as deduction. In this case, it has been held that interest paid on capital borrowed for investment in a subsidiary company is allowable as deduction since the subsidiary company was formed to carry on the business of the parent company in a more effective manner.

- (4) **Would the expenditure incurred for issue of convertible debentures be treated as revenue expenditure or capital expenditure?**

CIT v. ITC Hotels Ltd. (2011) 334 ITR 109 (Kar.)

On this issue, the Karnataka High Court held that the expenditure incurred on the issue of debentures shall be treated as revenue expenditure even in case of convertible debentures, i.e. the debentures which had to be converted into shares at a later date.

Note: However, it may be noted that Ahmedabad High Court in the case of *Banco Products (India) Ltd. v. CIT (1999) 63 Taxman 370* held that since the convertible debentures have characteristics of equity shares, such debentures cannot be termed as debt and therefore proportionate issue expenses of such debentures that relates to the equity base of the company has to be treated as capital expenditure.

- (5) **Can exemption under section 54F be claimed in respect of capital gain arising on transfer of depreciable assets held for more than 36 months i.e. a long-term capital asset, though the same is deemed as capital gain arising on transfer of short-term capital asset by virtue of section 50?**

CIT v. Rajiv Shukla (2011) 334 ITR 138 (Delhi)

In the above mentioned case, the assessee had claimed benefit of exemption under section 54F in respect of capital gain arising on the sale of property, being a depreciable asset held for more than 36 months i.e. long-term capital asset. However, the department contended that no exemption under section 54F is available in this case, as the said exemption is granted in respect of the capital gain arising from the transfer of a long-term capital asset whereas the capital gain arising on transfer of depreciable asset is deemed to be capital gain arising from transfer of short-term capital asset by virtue of provisions of section 50.

The Delhi High Court, in the present case, relying on the decision of the Bombay High Court in the case of *CIT v. Ace Builders P. Ltd. (2006) 281 ITR 210* and the decision pronounced by Gauhati High Court in *CIT v. Assam Petroleum Industries P. Ltd. [2003] 262 ITR 587*, in relation to erstwhile section 54E, held that the deeming fiction created by section 50 that the capital gain arising on transfer of a depreciable asset shall be treated as capital gain arising on transfer of short-term capital asset is only for the purpose of sections 48 and 49 and not for the purpose of any other section. Section 54F being an independent section will not be bound by the provisions of section 50. The depreciable asset, if held for more than 36 months, shall be a long-term capital asset as per the provisions of section 2(29A).

Therefore, the exemption under section 54F on transfer of depreciable asset held for more than 36 months cannot be denied on account of fiction created by section 50.

- (6) **In case of change of incumbent of an office, can the successor Assessing Officer initiate reassessment proceedings on the ground of change of opinion in relation to an issue which the predecessor Assessing Officer, who had framed the original assessment, had already applied his mind and come to a conclusion?**

H. K. Buildcon Ltd. v. Income-tax Officer [2011] 339 ITR 0535 (Guj.)

On this issue, the Gujarat High Court referred to the ruling of the Apex Court in *CIT v. Kelvinator of India Ltd. (2010) 320 ITR 561*, wherein it was held that the Assessing Officer has the power only to reassess and not to review. Reassessment has to be based on fulfillment of certain precondition and if the concept of change of opinion is removed, then, in the garb of reopening the assessment, review would take place. The Apex Court further laid down that one must treat

the concept of change of opinion as an in-built test to check abuse of power by the Assessing Officer. The Apex Court referred to *Circular No.549 dated 31.10.1989* explaining the amendment made by the Direct Tax Laws (Amendment) Act, 1989 with effect from 1.4.1989 to reintroduce the expression “reason to believe”, and concluded that if the phrase “reason to believe” is omitted, the same would give arbitrary powers to the Assessing Officer to reopen the past assessment on mere change of opinion and this is not permissible even as per legislative intent.

The Gujarat High Court, applying the rationale of the Apex Court ruling, observed that in the entire reasons recorded in this case, there was nothing on record to show that income had escaped assessment in respect of which the successor Assessing Officer received information subsequently, from an external source. The reasons recorded themselves indicated that the successor Assessing Officer had merely recorded a different opinion in relation to an issue to which the Assessing Officer, who had framed the original assessment, had already applied his mind and come to a conclusion. The notice of reassessment was, therefore, not valid.

- (7) **In case there is no possibility of recovery of loan given by a NBFC, which is an NPA as per RBI guidelines, can the interest on such loan be treated as income of the NBFC, following mercantile system of accounting?**

DIT v. Brahamputra Capital Financial Services Ltd. (2011) 335 ITR 182 (Delhi)

In the present case, the assessee, a non-banking financial company (NBFC), gave interest bearing loans to group concerns. The NBFC is bound by the NBFC Prudential Norms (RBI) Directions, 1998 which states, *inter alia*, that the interest/discount or any other charges on non-performing assets (NPA) shall be recognised only when it is actually realized. Accordingly, the assessee did not credit the interest in the profit and loss account relating to certain loan amount which had become NPA as per the said norms. Even the recovery of principal amount of the said loan was doubtful.

The department did not dispute that the recovery of the said loan was doubtful but contended that since the assessee is following mercantile system of accounting, it is required to declare interest income on the above loan on accrual basis in the relevant assessment year, irrespective of the date of actual receipt of interest. It contended that

such interest should be treated as income of the assessee as per the provisions of section 5 and taxed accordingly.

On the said issue, the Delhi High Court held that it was prudent decision on the part of the assessee that the interest on the non-performing asset, whose recovery was doubtful, was not accounted for in the books of account. Also, the assessee was bound by the RBI guidelines, which required the said treatment of the interest income.

Therefore, in this case, the High Court held that there was no real accrual of interest income in the hands of assessee and, hence, it would not be chargeable to tax under section 5.

- (8) In case the share capital is raised in a foreign country and repatriated to India on need basis from time to time for approved uses, can the gain arising on the balance sheet date due to fluctuation in foreign exchange, in respect of that part of share capital which is to be used as working capital, be treated as a revenue receipt?**

CIT v. Jagatjit Industries Ltd. (2011) 337 ITR 21 (Delhi)

On this issue, the assessee contended that the entire gain arising from the fluctuation in foreign exchange on the balance sheet date, in respect of the share capital raised in foreign country,

should be treated as capital receipt as the source of funds was capital in nature.

However, as per the Tribunal's decision, gain due to fluctuation in foreign exchange arising on that part of share capital which is used for acquiring fixed assets should be treated as capital receipt and the remaining gain that arises on that part of share capital which is used as working capital will be treated as revenue receipt and accordingly, would be chargeable to tax.

The Delhi High Court observed that in this case, the manner of utilization of such fund partly for acquiring fixed asset and partly as working capital was approved by the Ministry of Finance. The High Court held that the capital raised, whether in India or outside, can be utilized both for the purpose of acquiring fixed assets and to meet other expenses of the organization i.e. as working capital. For determining the nature of receipts, due consideration should be given to the source of funds and not to the ultimate use of the funds.

Therefore, the entire gain has to be treated as capital receipt as the source of fund in this case is capital in nature.

*(Compiled by CA. Priya Subramanian/
CA.Nidhi Agarwal, BoS)*

Indirect-Tax

Security agency services

- 1. Whether a concern not having profit motive can be regarded as a security agency under section 65(94) of the Finance Act, 1994?**

Punjab Ex-Servicemen Corporation v. UOI 2012 (25) S.T.R. 122 (P & H)

Facts of the case:

The assessee was a statutory corporation under the provisions of the Punjab Ex-Servicemen Corporation Act, 1978 (PESCO Act). Its activities were of deploying Ex-servicemen by way of providing security agency service. After the security agency service became taxable, the appellant applied for registration under the Act and was issued the registration certificate. However, in spite of registration, the appellant neither paid service tax nor filed return.

The Revenue issued notice to the assessee requiring it to file the return contending that even if the appellant did not have profit motive and

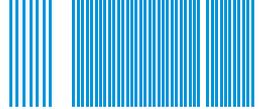
was not 'commercial concern', it was liable to pay service tax.

Decision of the case:

Considering the charging provision under section 68 and definition of value of taxable service under section 67, the High Court observed that there was no requirement that the service provider should provide service for profit motive.

The Court further noted that use of the word business in the definition of security agency is not enough to hold that service provider must have profit motive. The word business does not necessarily imply requirement of profit motive. The expression is used in a taxing statute in the sense of occupation or profession which occupies time, attention and labour normally with the object of making of profit as against support or pleasure.

Hence, the assessee was held liable to service tax in the given case.



Note: As per section 65(94) of the Finance Act, 1994:-

"Security agency" means any person engaged in the **business** of rendering services relating to the security of any property, whether movable or immovable, or of any person, in any manner and includes the services of investigation, detection or verification, of any fact or activity, whether of a personal nature or otherwise, including the services of providing security personnel.

Renting of immovable property services

2. In case where rooms have been rented out by Municipality, can it pass the burden of service tax to the service receivers i.e. tenants?

Kishore K.S. v. Cherthala Municipality 2011 (24) S.T.R. 538 (Ker.)

Facts of the case:

The petitioners entered into agreements with the respondent-Municipality and had taken rooms on rent from it. They were called upon to pay service tax.

The primary contentions of the petitioners were as follows:-

- (a) Under the agreement, there was no provision for payment of service tax. Therefore, the demand for payment of service tax was illegal. Further, service tax was payable by the Municipality and there was no authority with which the Municipality could pass it on to the petitioners.
- (b) Since they were small tenants, the Municipality must be treated as units of the State within the meaning of Article 289 of the Constitution of India and, therefore, levy of service tax on the property or on the income of the Municipality was unsustainable.

The Revenue contended that service tax was an indirect tax. Though primarily the person liable to pay the tax was Municipality, there was nothing in the law which prevented passing of the liability to the tenants.

Decision of the case:

The High Court rejected the contentions of the assessee and opined as under:-

- (a) As regards the contention that there was no mention of the service tax liability in the contract, the Court held that this is a statutory right of the service provider/Municipality by virtue of the provisions under law to pass it on to the tenants. It is another matter that they may decide not to pass it on fully or partly. It is not open to the petitioners to challenge the validity of the demand for

service tax, in view of the fact that service tax is an indirect tax and the law provides that it can be passed on to the beneficiary. Hence, the service tax can be passed on by the service provider i.e. Municipality.

- (c) The word "State" in Article 289 does not embrace within its scope the Municipalities. Hence, when service tax is levied on the Municipality there is no violation of Article 289. Moreover, Municipality has not raised the contention that there was a violation of Article 289.

Hence, it was held that Municipality can pass on the burden of service tax to the tenants.

Pandal or shamiana services

3. Can marriage be regarded as a social function for the purpose of levying service tax under pandal or shamiana contractor services?

All India Tent Dealers Welfare Organization v. UOI 2011 (24) S.T.R. 385 (Del.)

Facts of the case:

The assessee pleaded that erection of pandal/shamiana for Hindu marriage is fundamentally a sacrosanct and sacred religious function and can never be treated as a social function to invite service tax. Thus, Explanation to section 65(77a)* is unconstitutional and hence should be quashed.

Decision of the case:

The High Court noted that apparently, Hindu marriage is not treated or regarded a social function per se. Only when a "pandal or shamiana" is used for marriage, it earns the status of "social function" because the service component is involved. Since the statute itself postulates that marriage is to be regarded as a social function, full effect has to be given to the same. Besides, the pre-requisite is the use of "pandal or shamiana". Hence, the High Court elucidated that when a "pandal or shamiana" is used for marriage, it would be regarded as "social function" and would be liable to service tax.

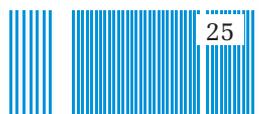
*Note: Explanation to section 65(77a) was inserted by the Finance Act, 2007. Section 65(77a) reads as under:-

"Pandal or shamiana" means a place specially prepared or arranged for organising an official, social or business function.

Explanation: For the purposes of this clause, "social function" includes marriage.

Section 11BB of the Central Excise Act, 1944

4. What is the date of commencement of the period for the purpose of computing interest on delayed



refunds under section 11BB- the date of receipt of application for refund or date on which the order of refund is made?

Ranbaxy Laboratories Ltd. v. UOI 2011 (273) E.L.T. 3 (SC)

Decision of the case:

The Apex Court observed that interest under section 11BB becomes payable, if on an expiry of a period of three months from the date of receipt of the application for refund, the amount claimed is still not refunded. Thus, the only interpretation of section 11BB that can be arrived at is that interest under the said section becomes payable on the expiry of a period of three months from the date of receipt of the application under section 11B(1).

The Apex Court further noted that Explanation appearing below the proviso to section 11BB introduces a deeming fiction that where the order for refund of duty is not made by the Assistant Commissioner/Deputy Commissioner of Central Excise but by an Appellate Authority or the Court, then for the purpose of this section the order made by such higher Appellate Authority or by the Court shall be deemed to be an order made under section 11B(2). It is apparent that the explanation does not bearing or connection with the date from which interest under section 11BB becomes payable and does not postpone the said date.

In the light of the aforesaid discussion, the Supreme Court elucidated that section 11BB of the Central Excise Act, 1944 comes into play only after an order for refund has been made under section 11B. However, the liability of the revenue to pay interest under section 11BB commences from the date of expiry of three months from the date of receipt of application for refund under section 11B(1) and not on the expiry of the said period from the date on which order of refund is made.

Note: Section 11BB provides as under:

If any duty ordered to be refunded under sub-section (2) of section 11B to any applicant is not refunded within three months from the date of receipt of application under sub-section (1) of that section, there shall be paid to that applicant interest at such rate, not below five percent and not exceeding thirty per cent per annum as is for the time being fixed by the Central Government, by Notification in the Official Gazette, on such duty from the date immediately after the expiry of three months from the date of receipt of such application till the date of refund of such duty :

Where any duty ordered to be refunded under sub-section (2) of section 11B in respect of an application under sub-section (1) of that section made before the date on which the Finance Bill,

1995 receives the assent of the President, is not refunded within three months from such date, there shall be paid to the applicant interest under this section from the date immediately after three months from such date, till the date of refund of such duty. [Proviso]

Explanation - *Where any order of refund is made by the Commissioner (Appeals), Appellate Tribunal National Tax Tribunal or any court against an order of the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, under sub-section (2) of section 11B, the order passed by the Commissioner (Appeals), Appellate Tribunal National Tax Tribunal] or, as the case may be, by the court shall be deemed to be an order passed under the said sub-section (2) for the purposes of this section.*

Section 2(f) of the Central Excise Act, 1944

- 5. Whether the metal scrap or waste generated during the repair of his worn out machineries/ parts of cement manufacturing plant by a cement manufacturer amounts to manufacture?**

Grasim Industries Ltd. v. UOI 2011 (273) E.L.T. 10 (S.C.)

Facts of the case:

The assessee was the manufacturer of the white cement. He repaired his worn out machineries/ parts of the cement manufacturing plant at its workshop such as damaged roller, shafts and coupling with the help of welding electrodes, mild steel, cutting tools, M.S. Angles, M.S. Channels, M.S. Beams, etc. In this process of repair, M.S. scrap and Iron scrap were generated. The assessee cleared this metal scrap and waste without paying any excise duty. The Department issued a show cause notice demanding duty on the said waste contending that the process of generation of scrap and waste amounted to the manufacture in terms of section 2(f) of the Central Excise Act.

Decision of the case:

The Apex Court observed that manufacture in terms of section 2(f) includes any process incidental or ancillary to the completion of the manufactured product. This 'any process' can be a process in manufacture or process in relation to manufacture of the end product, which involves bringing some kind of change to the raw material at various stages by different operations. The process in relation to manufacture means a process which is so integrally connected to the manufacturing of the end product without which, the manufacture of the end product would be impossible or commercially inexpedient.

However, in the present case, it is clear that the process of repair and maintenance of the

machinery of the cement manufacturing plant, in which M.S. scrap and Iron scrap arise, has no contribution or effect on the process of manufacturing of the cement, (the end product). The repairing activity in any possible manner cannot be called as a part of manufacturing activity in relation to production of end product. Therefore, the M.S. scrap and Iron scrap cannot be said to be a by-product of the final product. At the best, it is the by-product of the repairing process.

Hence, it held that the generation of metal scrap or waste during the repair of the worn out machineries/parts of cement manufacturing plant does not amount to manufacture.

Section 32E(1) of the Central Excise Act, 1944

6. Whether a consolidated return filed by the assessee after obtaining registration, but for the period prior to obtaining registration, could be treated as a return under clause (a) of first proviso to section 32E(1)?

Icon Industries v. UOI 2011 (273) E.L.T. 487 (Del.)

Facts of the case:

The petitioner got its units registered after few days of the search conducted in its units. Thereafter, it filed consolidated return with the Department for the period prior to search. After that, it filed a settlement application in respect of the proceedings issued by the Commissioner.

The Settlement Commission opined that the units were registered only after the search was conducted and prior to that there was no registration and no returns as mandated by clause (a) of first proviso to section 32E(1) of the Central Excise Act, 1944 were filed. Consequently, the Commission rejected the settlement application

on the ground that the application did not conform to the parameters as stipulated under section 32E(1) of the Act.

Decision of the case:

The High Court noted that certain riders have been provided in section 32E(1) for entertaining applications for settlement. Clause (a) of first proviso clearly lays down that unless the applicant has filed returns, showing production, clearance and Central Excise duty paid in the prescribed manner, no such application shall be entertained.

The Court referred the case of M/s. Emerson Electric Company India Pvt. Ltd. wherein it was held that although section 32E(1) does not refer to rule 12 of the Central Excise Rules, 2002 under which ER-1/ER-3 returns are prescribed, since the said returns contain details of excisable goods manufactured, cleared and duty paid in the prescribed manner, the said return can be deemed to be the 'return' referred to in section 32E(1). Hence, the concept of return has to be understood in context of rule 12 of the Central Excise Rules, 2002. However, in case of consolidated returns filed in the instant case, the applicant would not be able to indicate 'duty paid' in the prescribed manner (or even in any manner) and question would continue to agitate about the details of production and clearance to be filled in such belated returns.

Considering the above discussion, it rejected the submission of the petitioner that filing of consolidated return covering all the past periods would serve the purpose. Hence, it held that the order passed by the Settlement Commission was absolutely justifiable.

(Compiled by CA. Shefali Jain, BoS)

ANNOUNCEMENT

Students' Conferences/Conventions

The following **STUDENTS' CONFERENCES/CONVENTIONS** have been scheduled in the month of June and July 2012:-

International Conference for CA Students	Nagpur (13th & 14th July, 2012)
All India Conference for CA Students	Baroda (6th & 7th July, 2012)
National Conventions for CA Students	Hyderabad (28th - 29th June, 2012)
	Vasai (29th - 30th June, 2012)
	Jaipur (9th & 10th July, 2012)
	Kolkata (14th & 15th July, 2012)

Students are advised to visit the Institute's website www.icai.org for further details.

Director (Board of Studies)

Annual Monetary Policy for 2012-13: Highlights

The Reserve bank of India recently announced the Annual Monetary Policy for 2012-13. Following are the major highlights of the Policy:

Global Economy

- The US economy continues to show signs of modest recovery.
- Large scale liquidity infusions by the European Central Bank have significantly reduced the stress in global financial markets.
- However, a sustainable solution to the euro area debt problem is yet to emerge.
- Recent developments, for example in Spain, indicate that the euro area sovereign debt problem will continue to weigh on the global economy.
- Growth also slowed down in emerging and developing economies (EDEs) reflecting the combined impact of monetary tightening and slowdown in global growth.
- International crude oil prices have risen by about 10 per cent since January and show signs of persisting at current levels.

Indian Economy

- Economic growth in India decelerated last year, dropping from 7.7 per cent in the first quarter to 6.9 per cent in the second quarter and further down to 6.1 per cent in the third quarter. This was mainly due to deceleration in industrial growth. Growth in the services sector held up relatively well. On the demand side, gross fixed capital formation contracted both in the second and third quarters of last year.
- The Central Statistics Office (CSO) put out an advance estimate of GDP growth for last year of 6.9 per cent.
- The Reserve Bank's baseline projection of GDP growth for the current year is 7.3 per cent.
- Headline WPI inflation, which remained above 9 per cent during April-November 2011, moderated to 6.9 per cent by end-March 2012.
- Food articles inflation continues to be high. Significantly, inflation in protein items is in double digits, reflecting persistent structural demand-supply imbalances in protein foods.
- Fuel inflation, on the other hand, moderated from over 15 per cent in November-December 2011 to 10.4 per cent in March 2012 even as global crude oil prices rose sharply. This reflects the absence

of a commensurate pass-through to domestic consumers.

- Non-food manufactured products inflation decelerated significantly from 8.4 per cent in November 2011 to 4.7 per cent in March 2012, on the back of a slowdown in domestic demand and softening of global non-oil commodity prices.
- Even as WPI inflation has softened, inflation as measured by the new series of consumer price index (CPI) suggests that price pressures are still high at the retail level.
- The Reserve Bank's projection of inflation for March 2013 is 6.5 per cent.
- Consistent with growth and inflation projections, M3 growth for 2012-13 is projected at 15 per cent.
- Risk Factors to our growth and inflation projections: 1. Any disruption in supplies is likely to lead to further increase in crude oil prices, 2. Any slippage in the fiscal deficit will have implications for inflation. 3. The large Government borrowing budgeted for 2012-13 has the potential to crowd out credit to the private sector. If that happens, the supply response required to accelerate growth could be inhibited. 4. The financing of the current account deficit will continue to pose a major challenge. 5. Structural imbalances in protein-rich foods persist, and consequently, food inflation is likely to remain under pressure.

Measures Announced

Based on an assessment of the current macroeconomic situation it has been decided to:

- Reduce the repo rate under the liquidity adjustment facility (LAF) by 50 basis points. The repo rate will accordingly drop from 8.5 to 8.0 per cent.
- The reverse repo rate under the LAF gets calibrated to 7.0 per cent.
- Similarly, the marginal standing facility (MSF) rate, which has a spread of 100 bps above the repo rate, stands adjusted to 9.0 per cent.
- In order to provide greater liquidity cushion, it has also been decided to raise the borrowing limit of scheduled commercial banks under the marginal standing facility (MSF) from one per cent to two per cent of their net demand and time liabilities (NDTL).

These changes have come into effect immediately after the announcement.

Monetary Policy Stance

The policy document also spells out the three broad contours of our monetary policy stance. These are:

- first, to adjust the policy rates to levels consistent with the current growth moderation;
- second, to guard against risks of demand-led inflationary pressures re-emerging; and
- third, to provide greater liquidity cushion to the financial system.

Expected Outcomes

- First, growth will stabilise around its current post-crisis trend.
- Second, risks of inflation and inflation expectations re-surfing will be contained.
- Finally, the liquidity cushion available to the system will be enhanced.

(For details regarding the Annual Monetary Policy 2012-13, please visit <http://www.rbi.org.in>)

ANNOUNCEMENT

Articles invited for Students' Journal

The Board of Studies is planning to bring out theme based Special Issues of the Chartered Accountant Students' Journal in the upcoming months. We invite articles from members, academicians, students and others as follows:-

S.No	Month	Theme
1.	June 2012	Indirect Tax Reforms
2.	July 2012	Special Issue coinciding with ICAI Foundation Day
3.	August 2012	Direct Tax - Tax Audit
4.	September 2012	Corporate Social Responsibility
5.	October 2012	Corporate Governance- Role of Independent Directors/ Audit Committee
6.	November 2012	Limited Liability Partnership
7.	December 2012	Corporate Law
8.	January 2013	Information Technology
9.	February 2013	Accounting & Social Audit

The theme-based articles should be received at the Board of Studies latest by 10th of the preceding month in which the article is to be published. The article should comprise 1600 to 2400 words only. The authors are advised to enclose the following along with the articles:-

1. A formal & signed undertaking in the form of a letter stating that the article is original in all respects and does not infringe any copyright and has not been published elsewhere or has been sent for publication.
2. A latest passport size colour photograph (with full name and registration number written on the back).
3. A soft copy of the article with complete communication and E-mail address. Articles received without the details/ enclosures specified above will not be considered.

An honorarium of ₹2500/- will be paid if the article is published. All correspondence in this regard should be made to **The Director, Board of Studies, ICAI Bhawan A-29, Sector-62, Noida - 201 309** with the full name, complete address and the membership/ registration number if applicable.

International CA Students Conference - Nagpur

(Icon 2012)
Friday, 13th and Saturday, 14th July 2012

Venue:
Vasanttrao Deshpande Hall, Civil Lines,
Nagpur, Maharashtra

Organised by:
Board of Studies, ICAI

Hosted By:
Nagpur Branch of WIRC of ICAI & Nagpur Branch of WICASA

Theme: INTERACT TO INNOVATE

Particulars	Particulars
DAY 1: Friday, 13th July, 2012	DAY 2: Saturday, 14th July, 2012
Registration	<i>Technical Session-III</i>
INAUGURAL SESSION	Legal ,Technical and Communication
<i>Chief Guest</i>	<i>Technical Session-IV</i>
Dr.APJ Abdul Kalam * <i>Former President Of India</i>	International Accounts and Taxation
<i>Guest of Honour</i>	<i>Special Session II</i>
CA Jaydeep Narendra Shah, <i>President , ICAI</i>	Learn to lead
<i>Technical Session-I:</i>	Valedictory Session
Accountability in Public Domain	<i>Chief Guest</i>
<i>Technical Session-II</i>	CA Kumar Mangalam Birla *
Emerging Opportunities	<i>Guest Of Honour</i>
Special Session 1 - Interact to Innovate	CA Nilesh Vikamsey, Chairman Board of Studies
	Cultural Evening

Outstation Branches and Foreign delegates please inform in advance if you wish to perform

Registration Fee: ₹500/-

Accommodation facility available for outstation delegates if they inform in advance

Topics for Paper presenters will be announced shortly.

For Further details: contact:
CA Satish Sarda, Conference Co-ordinator
International CA Students Conference

Nagpur Branch of WIRC of ICAI
ICAI Bhawan, 20/1, Dhantoli, Nagpur - 440012.
Tel No. 0712 - 2443968, 2441196 Fax no. 0712 - 2454166
E-mail: nagpuricon@gmail.com website: www.nagpuricai.org

**Subject to confirmation.*

CA. Satish Sarda
Conference Co-ordinator

CA. Nilesh Vikamsey
Chairman, Board of Studies
& Conference Chairman

CA. Madhukar N. Hireganje
Vice-Chairman, Board of Studies
& Conference Vice-Chairman

National Convention for CA Students 2012 (Kolkata)

Saturday, 14th and Sunday, 15th July 2012

Venue: Calcutta University – Centenary Hall
Calcutta University Campus, College Street,
Kolkata- 700 073

Organised by:
Board of Studies, ICAI

Hosted By: EIRC & EICASA OF ICAI

Theme: Challenging Times, Leading the Way

Particulars

DAY 1: Saturday, 14th July, 2012

Registration: 9 am - 10 am

INAUGURAL SESSION

CA Jaydeep Narendra Shah, President, ICAI

CA Subodh Kumar Agrawal, Vice President, ICAI

CA Nilesh S. Vikamsey, Chairman, Board of Studies, ICAI

CA Madhukar N Hiregan ge, Vice Chairman, Board of Studies, ICAI

Technical Session-I: Financial Accounting & Reporting

- 1) Ind-AS: Issues in Implementation.
- 2) Revised Schedule VI: Salient Features.

Special Session 1

Role Of Students in Nation Building

Technical Session-II: Taxation

- 1) Tax Audit u/s 44 AB including Presumptive Tax Audits.
- 2) Excise, Service Tax & Customs: Recent judicial pronouncements.

Panel Discussion by Rank Holders:

"Perceive – Believe – Achieve"

Cultural Programme by students

Particulars

DAY 2: Sunday, 15th July, 2012

Technical Session-III

Anditing And Auditor's Role

- 1) Role Of Auditors in Governance, Risk And Compliance (SA 300, 315, 330).
- 2) Auditors' Responsibility in the era of Corporate Fraud.

Special Session II - Motivational Talk

"Rise and Shine" by Akash Gantam (Chandigarh)

Technical Session-IV

Corporate Law And Information Technology

- 1) Comparative Analysis Of Company, firm & LLP
- 2) Cyber Forensics

**Open House & Valedictory Session followed by
Distribution of Certificates**

Registration Fee: ₹500/- per student

- ❖ Fees for outstation delegates (Delegate fee plus Rs.200 per day for accommodation).
- ❖ **Outstation delegates are requested to confirm their participation latest by 20th June, 2012 for accommodation arrangement.**
- ❖ Outstation candidates are to send Demand Draft drawn in favour of "Institute Chartered Accountants of India, EIRC", payable at 'Kolkata'.
- ❖ Registration fees of ₹ 500 can be paid in cash only at EIRC office with effect from 1st June 2012 during office hours on working days.
- ❖ Students are invited to contribute papers for the technical sessions. Two papers on each topic will be selected. Selected paper writers will be exempted from payment of registration fee. All selected paper-writers of the National Convention will be reimbursed to and from AC 2 tier railway fare by the shortest route in trains / Express on production of necessary proof (both ways ticket) and also be paid an allowance of ₹1,500/- per day (upto 3 days) to meet expenses (deducting expenses for stay on actual basis). Students interested to submit a paper can do so by sending soft copies (**MS – Word format in 2003 version, 12 points typing, not exceeding 10 pages**) to erobos@icai.in & sbardhan@icai.in, **clearly mentioning registration number, course of study, complete postal address for communication, phone no. (Landline & mobile), e-mail id and a scanned passport size photograph within June 20, 2012.** One student cannot submit more than one paper.
- ❖ **Students joining the programme would get their delegate certificate at the end of the Convention.**
- ❖ **All correspondence relating to registration may be addressed to:**

Chairman, EIRC, ICAI,

7, Anandilal Poddar Sarani (Russell Street),
Kolkata, 700 071

Phone: 033-30211121- to 23, Fax: 033- 2227 2317;

E-mail: ero@icai.in, erobos@icai.in

Website: www.icai.org / www.eircicai.org

Health Insurance Scheme for Members & Students of ICAI with the New India Assurance Company Ltd.

The Institute of Chartered Accountants of India (ICAI) has entered into an arrangement with the New India Assurance Company Ltd. for providing specialised Health Insurance Scheme for the Members and Students of ICAI with attractive features. Some of the features are as under:-

For Members

- Up to 45% Discount in the premiums for the Members of ICAI
- Sum insured available in slabs of ₹5 lacs, 7 lacs and 10 lacs.
- Floater Sum Insured for the entire family of Self, Spouse and dependent children.
- Dependant Parents covered under separate Floater Sum Insured, equivalent to the Sum Insured of the Member family.
- No Health check-up. No age limit & entry barrier.
- Premium discount in lieu of Cumulative Bonus.
- Hospital Cash Allowance @ 0.10% of Sum Insured, for a maximum of 10 days.
- Wide Coverage for Pre-existing diseases.

For Students

- Up to 45% Discount in the premiums for the Members of ICAI
- Sum Insured available in slabs of ₹1 lac & 2 lacs
- Age- 18 to 35 years
- Insured for self

Premium Chart for Students

Sum Insured	Any where in India except Mumbai, Greater Mumbai, Delhi, Delhi NCR & Bangalore (in ₹)	Any where in India except Mumbai & Greater Mumbai (in ₹)	Any where in India (in ₹)
100,000.00	600 + applicable taxes	675 + applicable taxes	788 + applicable taxes
200,000.00	935 + applicable taxes	1,052 + applicable taxes	1,227 + applicable taxes

Exclusive portal for the Health Insurance Scheme

A portal has been developed for on line solution for the Members of ICAI. The link for the aforesaid portal for the Health insurance Scheme is available at <http://icai.newindia.co.in>

Queries on Health Insurance Scheme

Any queries related to the portal for the Health Insurance Scheme, Please contact Shri Mukesh Yadav, A.O., New India Assurance Co. Ltd. On Tel. No. 022-24620311 or Mr. Kumresh of M/s Gradatim on Mobile No. 09241114119,

For details please visit <http://icai.newindia.co.in>

E-Mail: ccbcaf@icai.org

Phone No.-01130110497

Famous Personalities Who Failed At First

BUSINESS GURUS

Henry Ford

Ford is known for his innovable success but he failed five times before he founded the FORD Company.

R.H. Macy

Before the success of MACY, he failed in seven businesses and finally succeeded with his new store.

Soichira Honda

The billion-dollar business, that is Honda, started initially with a series of failures. He started making scooters of his own at home and spurred on by his neighbors, finally started his own business.

Bill Gates

Gates didn't seem like a shoe-in for success after dropping out of Harvard and starting a failed first business with Microsoft co-founder Paul Allen called 'Traf-O-Data'.

Harland David Sanders

Sanders founded KFC and his famous secret chicken recipe was rejected 1,009 times before a restaurant accepted it.

Walt Disney

Walt Disney had a bit of a rough start and he was fired by a newspaper editor because, 'he lacked imagination and had no good ideas'. He kept plugging along, however, and eventually found a recipe for success that worked.

SCIENTISTS

Albert Einstein

Einstein did not speak until he was four and did not read until he was seven, and his teachers and parents thought he was mentally handicapped, slow and anti-social. But he caught on pretty well in the end, winning the Nobel Prize and changing the face of modern physics.

Charles Darwin

In his early years, Darwin gave up on having a medical career and was considered as a lazy boy. Now, Darwin is well-known for his scientific studies.

Isaac Newton

Newton failed so many times in his school days and was sent off to Cambridge where he finally blossomed into the scholar we know today.

Thomas Edison

Edison was fired for being unproductive in his early years. Even as an inventor, Edison made 1,000 unsuccessful attempts at inventing the light bulb.

Orville and Wilbur Wright

After numerous attempts at creating flying machines, several years of hard work, and tons of failed prototypes, the brothers finally created a plane.

PUBLIC FIGURES

Winston Churchill

This Nobel Prize-winning, twice-elected Prime Minister of the United Kingdom struggled in school and failed the sixth grade. After many years of political failures, finally became the Prime Minister at the ripe old age of 62.

Abraham Lincoln

After Lincoln failed many times in business and defeated in numerous runs, he became a greatest leader.

Oprah Winfrey

Oprah faced a rough and abusive childhood as well as numerous career setbacks in her life to become one of the most iconic faces on TV.

WRITERS AND ARTISTS

Steven Spielberg

Spielberg's was rejected from the University of Southern California School of Theater, Film and Television three times. Thirty-five years after starting his degree, Spielberg returned to school in 2002 to finally complete his work and earn his BA.

J.K. Rowling

Rowling may be rolling in a lot of Harry Potter dough today, but before she published the series of novels she was nearly penniless, severely depressed, divorced, trying to raise a child on her own while attending school and writing a novel.

ATHLETES

Michael Jordan

Most people wouldn't believe that a man often lauded as the best basketball player of all time was actually cut from his high school basketball team, 'I have failed over and over and over again in my life. And that is why I succeed'.

SAFA Student exchange- 26th National CA Students' Conference - Sri Lanka



I was given the opportunity by the Institute of Chartered Accountants of India to attend the 26th National CA Students' Conference in Sri Lanka and participate in the SAFA Student Exchange Programme. Nine other students from different parts of India were also selected for the same.

The Conference was held in Colombo on April 4, 2012 and the theme was "Dream...Focus...Excel". Well known business leaders, members of profession, students of the Institute of Chartered Accountants of Sri Lanka and student delegates from the SAARC Countries- India and Pakistan attended the Conference. The President, ICASL Mr. Sujeewa Rajapakse explained in length, the qualities and skills

required by a CA student to broaden his horizons. The Key note speaker Mr. Channa De Silva emphasized on the fact that "Don't Live the dream of others." Be creative, be yourself. The CEO of CA Sri Lanka, Aruna Alwis, encouraged students to dream which could give rise to innovation and then working on putting it into action.

A panel discussion was structured over the expectations of CA Students from the Corporate Sector which comprised of two delegates each from India, Pakistan and Sri Lanka. It was a healthy discussion and students discussed what they expect from industry in return of their expertise, knowledge and services. In turn, we were addressed by the delegates from Corporate Sector mentioning their expectations from us. This discussion was very prolific as now we understand what is being expected from a budding Chartered Accountant and vice versa.

We were housed at one of the best service apartments in Sri Lanka which offered the best of facilities at all times. On the day following the Conference, we visited a big firm where we met two women partners and spent valuable time with them. Later on we were taken to the Institute of Chartered Accountants of Sri Lanka where we met the President and CEO of ICASL. They were happy to see the three countries on one platform and hoped for better trade relations. Evening was a beautiful as we visited Galle Face Beach where we tasted some authentic Sri Lankan dishes. We were later taken to the Gangaram Buddhist temple. On the fourth day, a wonderful trip was organized to the Unawatuna Beach which is almost a two hour drive from Colombo. The Sri Lankan students made sure we were safe at all times and took care of us. Girls loved the 5th day a lot as shopping at House of Fashion was a part of the agenda. In the evening a boat ride was arranged at Mt Lavinia followed by a Farewell party for all of us at a beach facing restaurant. Unfortunately we had to end this memorable tour on sixth day. But there were innumerable amazing memories that each one of us carried back home. The hospitality of the Sri Lankans was something to learn from. The mutual love, bonding and respect that India-Pakistan-Srilanka counterparts had for each other was commendable.

We will never be able to forget such a wonderful trip. We thank the ICAI from the bottom of our hearts who gave us this opportunity to go to Sri Lanka and also the ICASL & PACSS (CASS) for showering us with the love, care, support at all times.

Contributed by Ms. Divya Pai, PCC Student, Mumbai



CA. Jaydeep Narendra Shah, President, ICAI, CA. Subodh Kumar Agrawal, Vice President, ICAI and CA. C.J.S.Nanda, Central Council Member in a meeting with Shri Pranab Mukherjee, Hon'ble Union Finance Minister in New Delhi.



CA. Jaydeep Narendra Shah, President, ICAI, CA. Subodh Kumar Agrawal, Vice President, ICAI in a meeting with Hon'ble Union Minister of Corporate Affairs, Dr. M. Veerappa Moily in New Delhi.



CA. Nilesh Vikamsey, Chairman, Board of Studies addressing the students at the Orientation Programme held at the Centre of Excellence in Hyderabad on April 3, 2012. CA. Madhukar N. Hiregange, Vice Chairman, Board of Studies, CA.J. Venkateswarlu, Central Council Member, CA. Devaraja Reddy, M, Central Council Member and Shri Vijay Kapur, Director, Board of Studies also seen in picture.



CA. Jaydeep Narendra Shah, President, ICAI along with Hon'ble Shri Piyush Goyal, Member of Parliament, Rajya Sabha at the Orientation Programme held in New Delhi on March 17, 2012.



Chief Guest Shri Karunakaran, Assistant Divisional Manager, New India Assurance Company addressing the Career Guidance Programme organized by Sivakasi Branch of SIRC of ICAI on March 29, 2012.



A group photo of the Career Guidance Programme organized by Sivakasi Branch of SIRC of ICAI on March 29, 2012.

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◀ CROSSWORD

Across

3. Short sleep.
5. The geometric arrangement of the devices on the computer network.
6. Weighted deduction has been proposed in respect of _____ linked tax deduction under section 35AD for certain specified businesses.
8. The representation of written language.
11. As per Revised Schedule VI, net deferred tax asset will always be classified as _____.
14. When goods are delivered by one person to another for some specific purpose, they are said to be _____.
15. _____ is a computer network that allows controlled access from the outside, for specific business or educational purposes.
19. It means : And others. (abr.)
20. _____ Shopping is a method by which a third party resident can take advantage of the DTAA between two countries.
23. New Category of NBFC made by RBI in December, 2011
24. RBI reduced _____ by 75 basis points from 5.50 % to 4.75 % of their Net Demand and Time Liabilities (NDTL) wef March 10, 2012.
25. As per Union Budget 2012-13, taxation of services will be based on the concept of _____ list of Services.

Down

1. a type of debt.
2. The Finance Bill, 2012 proposes to extend transfer pricing provisions to specified _____ transactions.
3. A stock exchange based in New York City, also known as the Big board.
4. A formal agreement in international relations usually between two or more sovereign states.
6. The Finance Bill, 2012 proposes to amplify the scope of _____ property in the definition of "international transaction".
7. The Assessing Officer can make a reference to _____ under section 92CA.
9. Many _____ amendments have been proposed in the Finance Bill, 2012.
10. In DBMS, _____ data type is used in case the user needs to store text more than 255 characters.
12. A non-profit Company to provide neutral Internet Exchange Point services in the country.
13. The instructions for booting the computer reside in _____.
16. Control chart related to single observation per time period developed by Schwartz.
17. An Act relating to electoral roll.
18. Loan with repayment period beyond thirty six months is classified as _____ loan.
20. A _____ is known as a check mark.
21. To acquire through merit.
22. _____ is a branch of mathematics that studies triangles and the relationships between their sides and angles. (abr.)