



The Chartered Accountant Student

Price ₹ 50

The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)

Your Monthly Guide to the CA News, Information & Events

STUDENTS' JOURNAL

April 2013 Vol SJ4 Issue 4

Pages 36



Values Virtues Vision



President's Communication

Dear Budding Professionals,

At the outset, I would like to congratulate the Hon'ble Union Finance Minister, Mr. P.Chidambaram for unveiling an investment and growth oriented budget for the Financial Year 2013-2014 with a focus on fiscal consolidation, infrastructure and skill development. It is a well-balanced budget and the implications of this budget will boost the morale of Indian Economy and help in the inclusive growth. The Finance Minister made a bold effort to revive the investor sentiments and to boost their confidence in the economy. Domestic and foreign investments have been emphasized, while inclusive growth and development accorded top priority. I strongly feel that this Budget will lead into the next positive cycle for growth and investments. Through the budget, the Finance Minister has made a sincere effort to revive the manufacturing sector by announcing investment allowance. I am sure that this will have a positive spillover for the overall economic growth. I am also very happy to share with you that the Finance Minister has considered some of our significant suggestions pertaining to Direct and Indirect taxes in the Pre-Budget memorandum in the Finance Bill, 2013.

Recently, the Economic Survey 2012-13 was presented in the Parliament. The survey tabled by the Finance Minister, Mr. P.Chidambaram paints a cautiously optimistic picture of the Indian Economy. The survey projected a growth rate of 6.1 to 6.7 percent for the financial year 2013-2014. This is by and large a reasonable rate of growth. Although there is a decline in the industrial growth, agriculture and service sectors continue to perform well.

I wish to extend my heartiest wishes to all those students who are preparing for the Integrated Professional Competence Examination and Final examination in May 2013 and Common Proficiency Test in June 2013. The candidates

appearing for CPT examinations may note that effective from 2013 examination, they are required to secure a minimum of 30 percent marks in each section subject to an aggregate of 50 percent, subject to the principle of negative marking, for passing the examination. I am sure that you will prepare the syllabus in a holistic and systematic manner. As you are well aware that CA examinations are aimed not only to test theoretical skills but application skills as well for final students. I am very much confident that final students will outshine in both these facets and be triumphant with soaring heights. I understand and acknowledge the seriousness and hard work that are required to attain success in the professional examination of high quality like ours. I would like to advice you to take up your examinations earnestly and make the optimum use of the available educational inputs such as study material, revision test papers, suggested answers, supplementary study materials etc. that are exclusively designed and developed by the Institute to cater to your academic pursuits.

I feel that the youngsters of our profession should imbibe all the professional qualities that a Chartered Accountant is expected to possess. At the global level, the graph of expectations is scaling new heights. We can live up to these expectations and deliver our best, only when we are supported with high level of competencies and skills. The CA profession is marching towards a glorious future. Numerous opportunities are opening up. There is a paradigm shift in the way the business was done hitherto and the way it will be done in future. The swift changes in business dynamics require a quick and timely response from the profession. I wish you very best for your examinations and look forward to your becoming a member of this noble and exciting profession.

Best wishes,

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



Vice President's Communication

Dear Students,

At the beginning, I really appreciate the constant efforts of our Hon'ble Finance Minister P.

Chidambaram for presenting a union budget with the aim at achieving high economic growth despite the global slowdown prevailing in the global market for the financial year 2013-14. The reform measures announced in this budget would go a long way in establishing success and achieving the higher growth leading to inclusive and sustainable development. As a CA student, it is very important that you keep yourself updated with the amendments proposed in the Union Budget in Direct and Indirect Taxes.

With about a month left for the examinations, it is time for the students to gear up their efforts. It is not only how much you study but what you study and how well you study that determines your success in the examinations. The Chartered Accountancy course is very challenging and demands your complete dedication, focus and hard work. However, with proper time management, sincere efforts, hard work, positive attitude and a burning desire to be successful, you will be able to emerge successful. Once you decide and determine to reach the acme, nothing can divert you to accomplish your goals. Do not struggle with insignificant issues rather focus on your set objectives. Make your resolutions loud and clear. Take the optimum utilization of the facilities that are being provided to you by our Institute.

I urge all of you to use the Study Material/ Practical Manuals/Suggested Answers/ Revision Test Papers/ Mock Test Papers of our Institute in a well-planned and cohesive manner. E-learning will also serve as a supplement to our distance learning programme and through this facility you

will have the benefits of learning at your convenience and also assessing your learning through self assessment quizzes. We are determined to cater to the requirements of your professional endeavours.

The Students are the key concern of the Institute and it is our endeavor to provide them the best infrastructure, educational opportunities and exposure that would sharpen their skills and mould them into excellent professionals. CA course is at par excellence with other professional courses. The CA Profession is very dynamic, demanding and rewarding. The profession is growing on stupendous scale and it has stretched its value added services in the wide spectrum. The Chartered Accountants play a very vital role in the society promoting reliable and transparent information both in the public and private domain. Chartered Accountants are not delimited to performing mere traditional duties in the realm of Auditing, accounting, taxation, etc. They are now expected to have a greater understanding of and exposure in the fields of business finance, information technology, corporate management, etc. Hence, the opportunities for the accounting professionals are vast and wide.

As more and more students decide to pursue CA as their profession, it is our utmost responsibility to provide them an easy access to the best education possible. I extend my best wishes to all the aspirants of CA Course and do hope that they will achieve grand success in their objective.

Wishing you all, a very auspicious Ram Navmi.

Yours sincerely

K. Raghu

CA. K. Raghu
Vice President, ICAI, New Delhi



Chairman's Communication

My Dear Students,

The Economic Survey 2012-13 and the Union Budget 2013-14 were recently presented by the Finance Minister in the Parliament.

The Economic Survey showed that the Indian economy after growing at an impressive growth rate of 8.6% and 9.3% respectively in 2009-10 and 2010-11 started showing signs of petering out. The economy could grow only at 6.2 % and 5% respectively in 2011-12 and 2012-13. However, the fact that the Indian economy could manage, even in the face of adverse global economic conditions, an average growth rate of nearly 8% during the decade ending 2012-13, underlines the fact that economy's fundamentals are strong and policy framework is prudent.

Given the background of moderate growth rates in 2011-13, the Budget 2013-14, aims to accelerate growth through sustainable development and inclusive growth. The tax proposals chartered out in the budget - proposing levy of surcharge on the affluent, higher taxes on luxury goods, provision of additional deductions to specified categories - are in tandem with this overall aim of the budget. Bringing in stability in tax regime, ensuring a non-adversarial tax administration, curbing tax evasion and increasing voluntary compliance are some of the other aims of the Budget 2013-14. During these times when the economy is going through a tough phase, the role of chartered accountants assumes significance. Our profession needs to contribute towards best practices in improving productivity, corporate governance, cost controls and risk management. I am sure our CAs would rise up to the occasion and contribute to the pride of our Nation and Profession.

I hope you would have taken the **Mock Tests** held in March 2013 and would also be taking the second series coming in April 2013. I also advise you to go through the general and subject specific tips given by faculty of BOS in the booklet "**How to Face CA Examination**", the revised version of which is

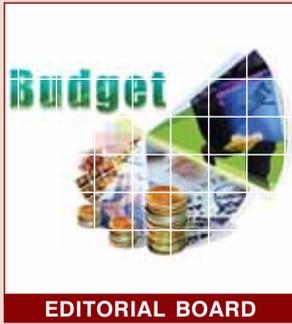
already under print and would be soon available. Besides, you must make the most use of Suggested Answers, Revision Test Papers, Model Test Papers, Students' Journal and all the relevant material published by the Board of Studies for your benefit. Also, do visit the BOS knowledge portal regularly to know the latest announcements pertaining to you. A number of new initiatives are being undertaken by the BOS for your benefit. Very soon, an exclusive website – **Students' Portal** will be launched. It will contain all material – Study Material, Suggested Answers, Revision Test Papers, Training Guide, and Announcements etc. relevant for students. BOS is also strengthening the **accreditation of schools and colleges** so that students may get the benefit of class room teaching. The facility of **Reading rooms** is also being further strengthened so that students may get a conducive environment for studies. I am happy to share with you that the **e-learning programme** for Inter. (IPC) course and CPT is being well received by the students. We will bolster it further. Understanding the problems being faced by the Hindi medium students, the BOS has taken the initiative of expediting the process of **translation of revised English material to Hindi** and also bringing out the **Suggested Answers in Hindi**. For this, the services of Hindi experts are being availed. Very soon these will be made available to students. I hope you will make the most use of these facilities and get benefitted.

Since May 2013 examinations are approaching fast you must be busy studying hard for the examination. I can understand the pressure you would be feeling at this point of time. I would advise you to continue advancing patiently, steadily and tenaciously towards your goal. I am sure if you work hard towards your goals, success will be yours. Please remember the **more gold is heated in the flames, the brighter will be its colour; the more a sword is whetted, the sharper it will become.**

Wishing You All the Best for your Exams.

Yours sincerely,

CA. Vijay Kumar Garg
Chairman, BOS



President and Editor-in-Chief
CA. Subodh K. Agrawal, Kolkata

Vice- President
CA. K. Raghu, Bangalore

Chairman and Editor
CA. Vijay Kumar Garg, Jaipur

Vice- Chairman
CA. V. Murali, Chennai

Members
CA. Atul Kumar Gupta, Delhi
CA. Babu Abraham Kallivayalil, Kochi
CA. Charanjot Singh Nanda, New Delhi
CA. J. Venkateswarlu, Hyderabad
CA. M. Devaraja Reddy, Hyderabad
CA. Mukesh Singh Kushwah, Ghaziabad
CA. Nihar Niranjan Jambusaria, Mumbai
CA. Nilesh Shivji Vikamsey, Mumbai
CA. Prafulla Premeasukh Chhajed, Mumbai
CA. Sanjay 'Voice of CA' Agarwal, New Delhi
CA. Sanjeev Maheshwari, Mumbai
CA. Sumantra Guha, Kolkata
CA. Tarun Jamnadas Ghia, Mumbai
CA. Vijay Kumar Gupta, Faridabad

Co-opted Members
CA. Anil Jindal
CA. Rajesh Sharma
CA. I. S. Prasad
CA. A. Vasudeven
CA. Ravindra Kumar Agarwal
CA. Nirmal Kumar Bothra
CA. Sailendranatha Pillai

Director – Board of Studies
Shri Vijay Kapur

Editorial Support
Prem Bhutani, Deputy Director
K. Sudhakaran, Assistant Director

Office
Board of Studies
 The Institute of Chartered Accountants of India,
 ICAI Bhawan, A-29, Sector-62, Noida-201 309.
Phone : 0120-3045938

Correspondence with regard to subscription,
 advertising and writing articles
Email : writesj@icai.org

Non-receipt of Students' Journal
Email : nosj@icai.org

Head Office
 The Institute of Chartered Accountants of India,
 ICAI Bhawan, Indraprastha Marg, New Delhi-110 104.
http://www.icai.org

Inside

April

2. Message - President
3. Message - Vice President
4. Message - Chairman, Board of Studies
6. Highlights of Economic Survey 2012-13
10. Tax Proposals in the Union Budget 2013-14: Key Features
16. Amnesty Scheme in Service Tax
18. Union Budget 2013-14: Towards Adoption of the Right Framework for Growth
21. Case Laws
28. Academic Update
29. Notification
30. Announcements

Annual Subscription Rates:

CA Students	:	₹	200
Members & Others	:	₹	500
Overseas	:	US \$	100

Total Circulation:
2,92,046

Check your Address : All students should check their mailing address printed on back cover. In case, there is any change or the PIN Code (Postal Index Code) is either missing or is incorrect, kindly inform immediately the concerned Regional Office, giving full particulars of your address alongwith correct PIN Code. This would enable us to ensure regular and prompt delivery of the Journal.

Editor: CA. Vijay Kumar Garg
 Printed and published by **Shri Vijay Kapur**, on behalf of **The Institute of Chartered Accountants of India, New Delhi**. Published at the **Institute's Office at Indraprastha Marg, New Delhi** and printed at **International Print-O-Pac Ltd., B-204, 205, Okhla Industrial Area, Phase-1, New Delhi**.

The views and opinions expressed or implied in THE CHARTERED ACCOUNTANT STUDENT are those of the authors and do not necessarily reflect those of ICAI. Unsolicited articles and transparencies are sent at the owner's risk and the publisher accepts no liability for loss or damage. Material in this publication may not be reproduced, whether in part or in whole, without the consent of ICAI.

DISCLAIMER: The ICAI is not in any way responsible for the result of any action taken on the basis of the advertisement published in the Journal.

Highlights of Economic Survey 2012-13

The Economic Survey, which gives us the state of economic health of the country and its various constituents, was recently presented in the Parliament for the year 2012-13. In the following paragraphs, highlights of the Economic Survey 2012-13 are given:

- Indian economy is likely to pick up pace in 2013-14 and could grow at 6.1-6.7 per cent.
- The Indian economy achieved a growth rate of 8.6 per cent and 9.3 per cent respectively in 2009-10 and 2010-11 despite financial crisis being faced the world over.
- In 2011-12 and 2012-13, the growth rate slowed down to 6.2 per cent and 5 per cent respectively. This happened because of continuing global crisis, high rate of inflation, low rate of investment, moderate growth of industrial and agricultural sectors, and subdued growth rate of services sector and policy restrictions put the Reserve Bank of India.
- Nevertheless, despite the slowdown, the compound annual growth rate for gross domestic product (GDP) at factor cost, over the decade ending 2012-13 is 7.9 per cent.
- Indian agriculture is broadly a story of success. It has done remarkably well in terms of output growth, despite weather and price shocks in the past few years. India is the first in the world in the production of milk, pulses, jute and jute-like fibres, second in rice, wheat, sugarcane, groundnut, vegetables, fruits and cotton production, and is a leading producer of spices and plantation crops as well as livestock, fisheries and poultry. The Eleventh Five Year Plan (2007-12) witnessed an average annual growth of 3.6 per cent GDP from agriculture and allied sector against a target of 4.0 per cent. While it may appear that the performance of the agriculture and allied sector has fallen short of the target, production has improved remarkably, growing twice as fast as population. India's agricultural exports are booming at a time when many other leading producers are experiencing difficulties. The better agricultural performance is a result of: a) farmers' response to better prices; b) continued technology gains; and c) appropriate and timely policies coming together.
- Food grains production in India has shown remarkable improvement in recent years. The production of food-grains in 2011-12 was at a record high of 259.32 million tonnes. However, there are a number of constraints and challenges that need to be addressed. Though India is one of the leading producers in the world of many major crops, the comparison in terms of yield levels is not creditable with it achieving a much lower rank in many of these crops. Another challenge is declining per capita availability of food grains. For ensuring nutritional security, it is not only important to increase per capita availability of food grains but also to ensure the right amounts of food items in the food basket of the common man.
- India is at a juncture where further reforms are urgently required to achieve greater efficiency and productivity in agriculture for sustaining growth. There is need to, have stable and consistent policies, step up private investment in infrastructure, have an efficient supply chain that firmly establishes the linkage between retail demand and the farmer, strengthening of food price management and a predictable trade policy for agriculture. These initiatives need to be coupled with skill development and better research and development in this sector along with improved delivery of credit, seeds, risk management tools, and other inputs ensuring sustainable and climate-resilient agricultural practices.
- The industrial sector grew at a rate of 9.2 per cent in 2009-10 and 2010-11. But there was a decline in its growth rate to 3.5 per cent in 2011-12 and to 3.1 per cent in the current year. The manufacturing sector, the most dominant sector within industry, also witnessed a decline in growth to 2.7 per cent in 2011-12 and 1.9 per cent in 2012-13 compared to 11.3 per cent and 9.7 per cent in 2009-10 and 2010-11, respectively. The growth in electricity sector in 2012-13 has also moderated. The moderation in industrial growth, particularly in the manufacturing sector, is largely attributed to sluggish growth of investment, squeezed margins of the corporate sector, deceleration in the rate of growth of credit flows, infrastructure bottlenecks and the fragile global economic recovery. India has not improved significantly in terms of the ease of doing business and ranks very low in comparison to other industrial peers. The MSME sector in particular faces multiple approval and operational restrictions.

- With improved business sentiments and investor perception and a partial rebound in industrial activity in other developing countries, industrial growth is expected to improve in the next financial year.
- In the last decade, growth has increasingly come from the services sector, whose contribution to overall growth of the economy has been 65 per cent, while that of the industry and agriculture sectors has been 27 per cent and 8 per cent respectively.
- After achieving double-digit growth continuously for five years and narrowly missing double digits in the sixth (between 2005-06 and 2010-11), the growth rate of the services sector also declined to 8.2 per cent in 2011-12 and 6.6 per cent in 2012-13.
- The euro zone is still facing problems of continuing recession and in the USA also there is a fiscal tension. Japan is still under decade long slump. Emerging markets continue to face problems of overheating. All these cast a shadow on the prospects of the global economy. The International Monetary Fund (IMF), in its January 2013 World Economic Outlook Update, reduced global growth forecast for the year 2012 to 3.2 per cent from its October 2012 estimate of 3.3 per cent.
- India's Balance of Payments was under stress during 2011-12, as the trade and current account deficit (CAD) widened primarily on account of higher increase in imports relative to exports.
- The widening of the trade deficit to more than 10 per cent of GDP and the CAD crossing 4 per cent of GDP in 2011-12 and the first half of 2012-13 have been matters of concern. In recent years, net invisible balance reduced the need for financing, while capital inflows were sufficient to finance the CAD safely. In the current fiscal, the growth in invisibles is insufficient to narrow the growing trade deficit. The room to increase exports in the short run is limited, as they are dependent upon the recovery and growth of partner countries, especially in industrial economies. This may take time. The main focus has to be on curbing imports, mainly by making oil prices more market determined, and curbing imports of gold. At the same time, further measures to ease the inflow of remittances and steps to diversify software exports could help reduce financing needs. Greater emphasis on FDI including opening up sectors further can help increase the quantum of safe financing. Finally, external commercial borrowing needs to be monitored carefully.
- India's merchandise trade increased exponentially in the 2000s decade from US\$ 95.1 billion in 2000-1 to US\$ 793.8 billion in 2011-12. India's share in global exports and imports also increased from 0.7 per cent and 0.8 per cent respectively in 2000 to 1.7 per cent and 2.5 per cent in 2011 as per the WTO. Bolstered by the measures taken by the government to help exports in the aftermath of the world recession of 2008 and also the low base effect, India's export growth in 2010-11 reached an all time high since Independence to 40.5 per cent. Though it decelerated in 2011-12 to 21.3 per cent, it was still above 20 per cent and higher than the compound annual growth rate (CAGR) of 20.3 per cent for the period 2004-5 to 2011-12. After registering very high growth of 56.5 per cent in July 2011, export growth started decelerating with a sudden fall to single digits in November 2011 as a result of the emerging global situation and then to negative figures from March 2012. Monthly export growth rates in 2012-13 (April-December) were negative except for a marginal positive growth in April 2012.
- After recovering in 2010-11 from the previous year's fall, India's merchandise imports increased further with a growth of 32.3 per cent in 2011-12. This was due to the increase in growth of petroleum, oil, and lubricant (POL) imports by 46.2 per cent and non-POL imports by 26.7 per cent. POL imports (with a share of 31.7 per cent in India's total imports) registered a high growth mainly due to increase in import price of the Indian crude oil.
- As the capital account surplus fell short of financing current account deficit, there was a drawdown of reserves. As per the latest available data for the first half of 2012-13, India's balance of payments continued to be under stress.
- India's foreign exchange reserves comprise foreign currency assets (FCA), gold, special drawing rights (SDRs) and reserve tranche position (RTP) in the International Monetary Fund (IMF). Beginning from a low level of US\$ 5.8 billion at end-March 1991, they reached all-time high of US\$ 322.0 billion at end-August 2011. However, they declined thereafter and stood at US\$ 294.4 billion at end-March 2012. In 2012-13, the reserves increased marginally by US\$ 0.4 billion from US\$ 294.4 billion at end-March 2012 to US\$ 295.6 billion at end-December 2012.
- India's external debt has remained within manageable limits as indicated by the external debt to GDP ratio of 19.7 per cent and debt service ratio of 6.0 per cent in 2011-12. The active external debt

management policy of the Government of India has helped in containing rise in external debt and maintaining a comfortable external debt position.

- The prospects for world trade and India's trade are still uncertain. The recent global slowdown has thrown up new challenges for India with its export growth being continuously negative since May 2012. With limited fiscal space available for the government and with protectionist measures of trading partners showing signs of rising, the policy options left are only micro, port-specific and sector-specific.
- India has been a late starter in the process of reforming financial markets. Nevertheless, beginning the 1990s, a package of reforms comprising measures to liberalize, regulate, and develop the country's financial sector by adopting best international practices has been initiated. The results of these reforms have been encouraging and the country now has one of the most vibrant and transparent capital markets in terms of market efficiency, transparency, and price discovery process. However, there are still certain challenges in the development of the Indian financial sector which need to be addressed.
- A reasonably well-developed corporate bond market is very much required in any economy to supplement banking credit and the equity market. The need for long-term finance for infrastructure projects is another issue that needs to be looked into in the context of the limitation of banks to finance such projects. Infrastructure projects, given their long pay-back period, require long-term financing in order to be sustainable and cost effective. However banks, which have been the main source of funding these projects, are unable to provide long-term funding given their inherent asset-liability mismatch.
- Inflation as measured by the Wholesale Price Index (WPI), has remained above 7 per cent since December, 2009. Food inflation has been particularly elevated over this period. A moderation in WPI inflation is now clearly visible due to deceleration in the prices of manufactured products. WPI has been in the range of 7-8 per cent during 2012-13.
- High food prices have led to high food inflation. The average food inflation during 2010-11 was 11.1 per cent which decreased to 7.24 per cent during 2011-12. Food prices eased a bit and overall food inflation declined to 5.30 per cent in Q4 of 2011-12, its lowest quarterly level in the last seven quarters. Inflation in both primary food articles and manufactured food products was also at its lowest during 4th quarter.
- Inflation in India, as in other countries stems from a traditional mismatch between demand and Supply. The relative magnitude of the imbalance, which varies across sectors, leads to relatively high or low inflation. Also, a change in controlled prices, as with diesel, can lead to inflation.
- The RBI's monetary policy stance has continued to focus on the twin objectives of containing inflation and facilitating growth.
- The growth rate of the economy since 2003-04 has been strongly correlated with investment rate. The investment rate averaged 34.5 per cent between 2003-04 and 2011-12, much higher rate than before.
- The growth rate declined significantly in 2012-13 on account of the reduction in private investment rate and lower growth of exports vis-à-vis that of imports.
- Since 2004-05, the year when the overall investment rate in the economy first exceeded 30 per cent, the share of public investment in total investment (excluding valuables) has remained fairly stable at around 24 per cent for all the years, except in 2008-09 and 2009-10 when it was 27.6 per cent and 26.5 per cent respectively.
- The reduction in private investment could be attributed to a number of factors viz., increase in policy rates (to combat inflation and inflationary expectations), lower demand for Indian exports from the rest of the world, particularly the advanced countries and policy bottlenecks.
- On the back of strong growth in revenues and the Fiscal Responsibility and Budget Management Act of 2003, the combined fiscal deficit of both the central and state governments declined from 9.6 per cent of GDP in 2002-03 to 4 per cent of GDP in 2007-08. However, in order to boost up the economy, certain fiscal concessions were given and as a result fiscal deficit started growing since 2008-09.
- The high levels of fiscal deficit in the post crisis period added to the overall debt burden of the central government. Prolonged fiscal deficits lead to accumulation of debt beyond levels sustainable for an economy and can result in higher real and nominal interest rates, slower growth in capital formation, and potentially lower the rate of output growth.
- Recognizing the need to put corrective policy measures put in place, the government appointed

a committee headed by Dr. Vijay Kelkar to chalk out a roadmap for fiscal consolidation.

- Following its recommendations, the government unveiled a revised fiscal consolidation - Roadmap in October 2012. It targeted a fiscal deficit of 4.8 per cent of GDP for 2013-14 and through a correction of 0.6 percentage point each year thereafter, a fiscal deficit of 3.0 per cent of GDP in 2016-17.
- Large fiscal deficits may imply lower public savings, lower domestic savings, and given a level of investment, larger CADs. Of course, private savings can increase to make up the shortfall in public savings. Unfortunately, after moving up in 2008-09 and 2009-10, private savings have declined sharply, compounding the decline in public savings.
- The government has also taken a number of steps to revive investment and growth. These comprise setting up the CCI headed by the Prime Minister to fast-track mega projects of over ₹ 1,000 crore; a scheme for restructuring the debts of state power distribution companies, which includes incentives for them to charge reasonable tariffs so that they do not get over-indebted again; movement towards a land acquisition bill that will clarify and make the process of land acquisition fairer; permitting FDI in a number of areas including multiband retail, power exchanges, and civil aviation; increasing investment in irrigation, storage and cold storage networks; and undertaking programmes to improve the production of protein foods.
- Given such a scenario, where all the three major sectors of the economy perform better in 2013-14 as compared to 2012-13, the overall economy is expected to grow in the range of 6.1 to 6.7 per cent in 2013-14.
- Economic growth though important cannot be an end in itself. The Twelfth Five Year Plan, with its focus on 'Faster, More Inclusive and Sustainable Growth', puts the growth debate in the right perspective. The government's targeted policies for the poor, with the prospect of fewer leakages, can help better translate outlays into outcomes.
- India is on the brink of a demographic revolution with the proportion of working-age population between 15 and 59 years likely to increase from approximately 58 per cent in 2001 to more than 64 per cent by 2021, adding approximately 63.5 million new entrants to the working age group between 2011 and 2016, the bulk of whom will be in the relatively younger age group of 20-35 years.
- Given that it is one of the youngest large nations in the world, human development assumes great economic significance for it as the demographic dividend can be reaped only if this young population is healthy, educated, and skilled.
- The emphasis on human development also gains significance in the light of our major social indicators in the recent past being less encouraging.
- The Planning Commission has updated the poverty lines and poverty ratios for the year 2009-10 as per the recommendations of the Tendulkar Committee using NSS 66th round (2009-10) data from the Household Consumer Expenditure Survey. It has estimated the poverty lines at all India level as an MPCE of ₹ 673 for rural areas and ₹ 860 for urban areas in 2009-10. Based on these cut-offs, the percentage of people living below the poverty line in the country has declined from 37.2 per cent in 2004-5 to 29.8 per cent in 2009-10.
- Infant mortality rate (IMR) which was 58 per thousand in the year 2005 has fallen to 44 in the year 2011.
- Despite negligible employment growth, the unemployment rate (CDS method) fell from 8.2 per cent in 2004-5 to 6.6 per cent in 2009-10. The fall in unemployment despite marginal growth in employment in 2009-10 could be due to the demographic dividend, as an increasing proportion of the young population opts for education rather than participating in the labour market.
- In Agriculture there is very low productivity but employs over half the labour force. In contrast, financial and brokerage services are the most productive sector in the economy, but employ tiny share of the labour force. One problem is that while industry is creating jobs, these have been relatively low-productivity jobs. As a result, per capita income in India has not benefited as much from inter-sectoral migration of workers out of agriculture as other Asian countries have.
- The draft Twelfth Five Year Plan has emphasized faster, more inclusive and sustainable growth. A special effort is needed in two areas of human development in India - health and education. These will help translate our demographic advantage into a real dividend. There is also need to address delivery-related issues in a mission mode to ensure optimum utilization of funds and to convert outlays into outcomes. For this, good governance is critical. ■

(Contributed by Prem J. Bhutani, BoS)

Tax Proposals in the Union Budget 2013-14: Key Features

The tax proposals in the Union Budget 2013-14 are in tandem with the objectives as stated by the Finance Minister in his Budget Speech, namely, to ensure clarity in tax laws, a stable tax regime, a non-adversarial tax administration etc. The Finance Minister has endeavored to table the Direct Taxes Code Bill before the end of the Budget Session. The Bill is expected to give due weightage to the recommendations of the Parliamentary Standing Committee on Finance and incorporate the best global practices. Further, the Finance Minister has reaffirmed the Government's commitment to usher in the Goods and Services Tax regime by specifically allocating a sum of ₹9,000 crore towards the first installment of the balance of CST compensation. It is hoped that the consensus of the States would be obtained and the Constitutional Amendment Bill as well as the GST Bill would be introduced in the Monsoon session of the Parliament.

A. Direct Tax Proposals

The major proposals on the direct taxes front are as follows –

I Personal Taxation

- (i) The existing basic exemption limit and tax slabs to continue.
- (ii) Individuals having total income of upto ₹5 lakh entitled to a rebate of upto ₹2,000.
- (iii) Surcharge@10% to be attracted if total income exceeds ₹1 crore.
- (iv) Additional one-time deduction of ₹1,00,000 in respect of interest on housing loan not exceeding ₹25 lakhs taken from any financial institution in respect of the first house property acquired by an individual, provided the value of the property does not exceed ₹40 lakhs.
- (v) The deduction under section 80D to be extended to health schemes similar to CGHS, as may be notified by the Central Government.
- (vi) The deduction under section 80CCG to be available to a new retail investor, being an individual with gross total income of up to ₹12 lakh, for investment in listed equity shares or units of equity oriented fund in accordance with a notified scheme. At present, Rajiv Gandhi Equity Savings Scheme has been notified under section 80CCG. The deduction is to be allowed for three consecutive assessment years.

- (vii) The deduction under section 80G in respect of donation to National Children's Fund to be increased from 50% to 100%.
- (viii) The maximum percentage of premium paid for availing exemption benefit under section 10(10D) of maturity proceeds of insurance policy to be increased from 10% to 15%, where the policy is taken on or after 1.4.2013 and premium is paid to insure the life of a person with disability or severe disability as referred to in section 80U or suffering from a disease or ailment as specified in section 80DDB. The increased percentage would also be the threshold for deduction under section 80C in respect of the premium paid.
- (ix) Immovable property received by an individual or HUF for inadequate consideration to be subject to section 56(2)(vii), if the difference between the stamp duty value and consideration exceeds ₹50,000. Stamp duty value on the date of agreement to be considered, if the date of agreement is different from the date of registration, and at least a part of the consideration is paid on or before the date of agreement by any mode other than cash.
- (x) Cash donations to political parties and electoral trusts not to qualify for deduction under section 80GGC.

II Business Taxation

- (i) Commodities Transaction Tax (CTT) to be levied on non-agricultural commodities futures contracts at the same rate as on equity futures. Trading in commodities not to be considered as a speculative transaction. CTT to be allowed as deduction while computing business income.
- (ii) A manufacturing company to be entitled to investment allowance@15% of the aggregate amount of actual cost of new plant and machinery acquired and installed during the financial years 2013-14 & 2014-15, if the same exceeds ₹ 100 crore.
- (iii) The terminal date for power sector undertakings to set up, start transmission or distribution or undertake substantial

The key features of the Union Budget 2013-14 discussed above reflect the position prior to passing of the Finance Bill, 2013 by the Parliament.

renovation, to be extended by one year i.e. from 31.3.2013 to 31.3.2014.

- (iv) Stamp duty value to be adopted as sale consideration even in case of transfer of immovable property, being land or building, held as stock-in-trade. For this purpose, the value on the date of agreement fixing the value of consideration to be considered, if the date of agreement is different from the date of registration, provided at least a part of the consideration has been paid by any mode other than cash, on or before the date of agreement.
- (v) Disallowance of privilege fee, license fee, royalty etc. which a State Government levies exclusively on its undertakings or any amount appropriated, directly or indirectly from its undertakings. Such amounts would be disallowed under section 40(a)(iib), while computing the business income of the State Government Undertakings.
- (vi) Keyman insurance policy assigned to any person during its term, with or without consideration, to continue to be treated as a keyman insurance policy. Hence, maturity proceeds would not be exempt under section 10(10D) in the hands of the person to whom it is assigned.
- (vii) The deduction for bad debts under section 36(1)(vii) to be restricted to the amount in excess of the credit balance in the provision for bad and doubtful debts made under section 36(1)(viiia), without any distinction between rural advances and urban advances.

III Corporate Taxation & Tax on distributed profits/dividends

- (i) Concessional rate of tax@ 15% under section 115BBD on gross dividends received by an Indian company from a specified foreign company (26% or more shareholding) to further continue for one more year. Further, in case of such Indian company, which is also a holding company, dividends distributed by it in the same year, to the extent of such dividends received from its foreign subsidiary, would be exempt from dividend distribution tax under section 115-O.
- (ii) Introduction of additional income-tax@20% on income distributed by unlisted companies to shareholders through buyback of shares. Consequent income arising to shareholders to be exempt in their hands.
- (iii) Cash donations to political parties and electoral trusts not to qualify for deduction under section 80GGB.

- (iv) Tax on distributed income to be increased from 12.5% to 25% in all cases where distribution is made by a fund, other than equity oriented fund, to an individual or a HUF. In effect, the rate of tax would be 25% if income is distributed to an individual or HUF, irrespective of the nature of the fund.
- (v) Income from activities of securitization vehicles set up as a trust, regulated by either SEBI or RBI, to be exempt from income-tax. However, Securitisation Trust would be liable to pay additional income-tax on income distributed to investors (25% on income distributed to individual & HUF investors and 30% to others). Income received by investor to be exempt from tax. Further, no additional income-tax is payable by the Securitisation Trust if income is received by a person who is exempt from income-tax.
- (vi) Corporate surcharge increased from 5% to 10% in case of domestic companies with total income exceeding ₹10 crore and from 2% to 5% in case of foreign companies with total income exceeding ₹10 crore.
- (vii) Dividend distribution tax to be increased by surcharge@10%.
- (viii) Deduction under section 80JJAA to be available only to Indian companies deriving profits from manufacture of goods in its factory. Deduction not to be available if the factory is hived off or transferred from another existing entity or acquired by the assessee-company as a result of amalgamation with another company.

IV Non-resident Taxation

- (i) Concessional rate of tax@5% under section 115R on income distributed by a mutual fund or NBFC under an infrastructure debt fund scheme to a non-resident investor.
- (ii) Royalty and Fees for Technical Services received by a non-resident under an agreement entered after 31.3.1976 which is taxable under section 115A to be subject to tax at a higher rate of 25%.

V Deduction of tax at source (TDS proposals)

- (i) Tax to be deducted under section 194LC at a concessional rate of 5% on interest payable to a non-resident in case of certain rupee-denominated long-term infrastructure bonds issued by an Indian company. The designated bank should be solely for the purpose of deposit of money in foreign currency and such money should be used, after conversion, for subscription to a rupee denominated long-term infrastructure bond issue of an Indian company.

- (ii) Sale consideration of immovable property other than agricultural land, to be subject to TDS@1%, where the consideration is ₹50 lakhs or more.

VI General Anti-Avoidance Rules (GAAR proposals)

- (i) GAAR provisions amended and proposed to be made effective from A.Y.2016-17 .
- (ii) An arrangement, the main purpose of which is to obtain a tax benefit, to be considered as an impermissible avoidance agreement.
- (iii) Approving Panel to consist of a Chairperson who is or has been a Judge of a High Court, one Member of the Indian Revenue Service not below the rank of Chief Commissioner of Income-tax and one Member who shall be an academic or scholar having specialized knowledge in matters such as direct taxes, business accounts and international trade practices.
- (iv) The directions of the Approving Panel to be binding on the assessee as well as the income-tax authorities.

VII Other Proposals

- (i) Alternate Investment Funds (AIFs) recognized by SEBI to enjoy “pass-through” status, subject to satisfying certain conditions i.e. investment of atleast two-thirds of the funds in unlisted equity/equity-linked instruments of venture capital undertaking, non-listing of their shares/units on a recognized stock exchange and units and non-investment in associate concerns.
- (ii) Definition of “Capital Asset” excludes agricultural land. The scope of the term “Agricultural land” is proposed to be amended in relation to the specified distance from the local limits of municipality/cantonment board *vis-a-vis* population as per the last preceding census. Three categories proposed to be created as regards the second part of the definition. Further, the requirement of measuring the distances aerially by the shortest route is proposed to be incorporated in the definition.
- (iii) “Tax due” for the purpose of section 179, dealing with liability of directors of a private company in liquidation, to include interest, penalty or any sum payable under the Act.
- (iv) Section 132B dealing with application of seized assets against “existing liability” under the Income-tax Act, 1961, Wealth-tax Act, 1957 etc. to be amended to clarify that the “existing liability” does not include advance tax payable.
- (v) Return of income to be treated as defective, unless the self-assessment tax along with

interest, if any, under section 140A is paid on or before the date of furnishing the return.

- (vi) Direction for special audit under section 142(2A) may also be given having regard to the volume of accounts, doubts about the correctness of the accounts, multiplicity of transactions in the accounts or specialized nature of business activity of the assessee and the interests of revenue.
- (vii) Penalty of ₹100 per day of continuing default in case of failure to furnish AIR within the time prescribed under section 285BA(2). Further, in case of issue of notice under section 285BA(5), and failure to furnish Annual Information Return (AIR) within the time stipulated in the notice, penalty at ₹500 to be levied for every day during which the failure continues beginning from the day immediately following the day on which the time specified in such notice for furnishing the return expires.

B. Indirect Tax Proposals

Compared to last year, the quantum of amendments proposed by the Union Budget 2013-14 in the indirect tax laws this year is very less. Rates of service tax, customs duty and excise duty have not been tinkered with. The major indirect tax proposals are as follows –

I. Service Tax

Amendments effective from March 1, 2013

- Service tax abatement decreased from 75% to 70% in case of commercial construction. However, abatement of 75% would continue to be available in case of a residential units having carpet area of upto 2000 sq. ft. or where the amount charged is less than 1 crore.
- Resident public limited companies eligible to seek advance ruling in case of specified matters relating to service tax.

Amendments effective from April 1, 2013

- All restaurants with air-conditioning or central air heating (including restaurants not serving liquor as well) in any part of the establishment at any time during the year to be liable to service tax.
- Transportation of the following items by a Goods Transport Agency would be exempted:-
 - foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages,
 - relief materials for specialized purposes,
 - chemical fertilizers and oil cakes,
 - registered newspapers or magazines and defense equipments.

- The exemptions available in respect of the following services would be withdrawn:
 - Transportation of petroleum and petroleum products, postal mails or mail bags and household effects by railways and vessels.
 - Services provided **by** an educational institution by way of renting of immovable property or auxiliary educational service. However, such services when provided **to** an educational institution would continue to be exempt from service tax.
 - Temporary transfer or permitting the use or enjoyment of a copyright of cinematograph films for exhibition elsewhere than in a cinema hall or a cinema theatre.
 - Services by way of vehicle parking to general public.
 - Services provided to Government, a local authority or a Governmental authority, by way of repair or maintenance of aircraft.
- The exemption limit of ₹ 25 lakh available to charitable organizations providing service towards any other object of general public utility would be withdrawn.

Amendments to be effective from the date of the enactment of the Finance Bill, 2013

- Voluntary Compliance Encouragement Scheme, 2013 (VCES) is proposed to be introduced to encourage voluntary compliance and broaden the tax base. In this scheme, it is proposed to provide one time amnesty by way of (i) waiver of interest and penalty; and (ii) immunity from prosecution, to the stop filers, non-filers or non-registrants or service providers (who have not disclosed true liability in the returns filed by them during the period from October 2007 to December 2012) who pay the “tax dues”. The scheme would be effective from the date of the enactment of the Finance Bill, 2013.
- Courses in ‘designated trades’ offered by Industrial Training Institute or Industrial Training Center affiliated to State Council of Vocational Training to be covered under the negative list.
- Definition of “process amounting to manufacture or production of goods” to include processes on which duties of excise are leviable under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 thereby bringing the same under the negative list.
- Testing activities directly related to production of any agricultural produce like soil testing, animal feed testing, testing of samples from plants or animals, for pests and disease causing microbes to be covered under the negative list.
- A show cause notice issued for fraud cases, if not found sustainable by an appellate authority or

tribunal or Court, to be deemed to be a notice issued for a period of eighteen months.

- Maximum penalty for failure to obtain registration to be restricted to ₹10,000 only as against earlier penalty of ₹10,000 or ₹200 per day of default whichever is higher.
- Director, manager, secretary or other officer of the company, who is in any manner knowingly concerned with specified contraventions, to be liable to a penalty of ₹ 1 lakh. The specified contraventions would include evasion of service tax, issuance of invoices, bill, challan without the provision of taxable service, availment and utilization of credit without actual receipt of taxable service or excisable goods or failure to pay any amount collected as service tax to the credit of the Central Government beyond the period of 6 months from the date on which such payment becomes due.
- Appellate tribunal to admit an appeal or permit the filing of memorandum of cross objections even after the expiry of the period of 3 months in case of assessee appeal also.
- Any person who collects any amount as service tax but fails to deposit the same to the Central Government within 6 months would be punishable with imprisonment for a term which may extend to 7 years but not less than 6 months if such amount exceeds ₹ 50 lakh.
- Section 90 is proposed to be introduced to specify and differentiate the offences provided in section 89(1) into cognizable offences and non-cognizable and bailable offences.
- Commissioner of Central Excise to be empowered to authorize any officer of Central Excise not below the rank of Superintendent of Central Excise to arrest a person for offences specified under clauses (i) & (ii) of section 89(1) i.e., where the amount involved in the offence exceeds ₹ 50 lakh.

II. Central Excise Duty

Amendments to be effective from the date of the enactment of the Finance Bill, 2013

- Speed post with proof of delivery or courier approved by the Central Board of Excise & Customs would to be specified as additional modes of delivery of any decision or order or any summons or notices.
- Advance ruling may also be sought on the matters relating to credit of service tax paid or deemed to have been paid on input services.
- An offence involving evasion to be punishable with a term of imprisonment extending to seven years with fine in case the duty leviable exceeds ₹ 50 lakh instead of earlier ₹ 30 lakh.

BUDGET

- Offences relating to excisable goods, (where the duty liability exceeds ₹ 50 lakh) which are punishable for evasion of excise duty or contravention of any of the provisions relating to set off of credit of excise duty to be cognizable and non-bailable.
- Service of a statement containing details of duty not paid, short levied or erroneously refunded to be deemed to be service of a show cause notice.
- The officer-in-charge of police station/authorised Central Excise Officer to admit the arrested person to bail to appear before the Magistrate or in default of bail forward him in custody to such Magistrate only where the offence is non-cognizable. Further, the authorised Central Excise Officer to release an accused person on account of lack of sufficient evidence, only in respect of non-cognizable offences.

Amendments effective from March 1, 2013

- “Resident public limited companies” to be eligible for seeking advance ruling on central excise matters as is available under Customs.
- Recovery provisions provided under rule 14 of the CENVAT Credit Rules, 2004 to apply in case of failure to pay the amount on removal of inputs/capital goods as such, removal of capital goods after use and writing off the value of the inputs/capital goods.
- Interest on refund arising out of finalization of provisional assessment to be paid as per the provisions of section 11BB.
- MRP based valuation prescribed with 35% abatement for non-allopathic medicaments.
- Excise duty on following goods enhanced:-
 - Mobile phones of retail sale price exceeding ₹ 2,000/-.
 - Cigarettes
 - Marble tiles and slabs
- Full exemption from excise duty to be granted to ships and other vessels. Hence, there will be no CVD on import of the same.
- ‘Zero excise duty route’ restored in respect of branded readymade garments and made ups.
- For issuance of the show cause notice, it is proposed that the minimum amount demanded should be ₹ 100.
- Interest free period for payment of import duty to be reduced from five days to two days.
- Import manifest and export manifest to be filed electronically. However, Commissioner of Customs may, in cases where it is not feasible to electronically present the same, allow the same to be delivered in any other manner.
- CBEC to be empowered to permit the landing of vessels and aircrafts at any place other than customs port or customs airport.
- It is proposed to make the following specified offences as non-bailable:-
 - (a) evasion of duty exceeding ₹ 50 lakh;
 - (b) import or export of prohibited goods notified under section 11 which are also notified under section 135;
 - (c) import or export of any goods not declared in prescribed manner and the market price of which exceeds ₹ 1 crore;
 - (d) Fraudulent avilment of drawback or exemption, if the amount of drawback or exemption from duty exceeds ₹ 50 lakh.
- The period of storage of imported goods, pending clearance, in a public or private warehouse to be reduced to thirty days. However, Commissioner of Customs may extend the period of storage for further period not exceeding thirty days at a time.
- The threshold limit for punishment in an offence relating to evasion of duty or fraudulent avilment of drawback or exemption from duty in connection with export of goods, to be increased from ₹30 lakh to ₹50 lakh.
- It is proposed that any warehoused goods may be exported to a place outside India without payment of import duty if a shipping bill or a bill of export in prescribed form or label or declaration accompanying the goods as referred to in section 82 has been presented in respect of such goods.
- Importation or exportation of goods to be prohibited for protection of “designs and geographical indications” also.
- Provisions relating to duty deferment to be omitted.
- No duty liability on any sample of goods which is consumed or destroyed during the course of testing or examination.
- Scope of the liability of agents of the owner, importer or exporter of any goods to be expanded to cast equal responsibility on them in respect of all acts or omissions in relation to such goods.

III. Customs Duty

Amendments to be effective from the date of the enactment of the Finance Bill, 2013

- Customs house agents to be known as customs brokers.
- It is proposed that the minimum amount of refund of customs duty will be ₹ 100.

- Any offence committed by a person under the service tax law (Finance Act, 1994) to be treated as a disqualification for him to act as an authorised representative in custom matters.

Amendments effective from March 1, 2013

- Duty free allowance in respect of jewellery for an Indian passenger who has been residing abroad for over one year or a person who is transferring his residence to India raised from ₹ 10,000 to ₹ 50,000 in case of a gentleman passenger and from ₹ 20,000 to ₹ 1,00,000 in case of a lady passenger.
- Duty free allowance for crew member of vessel/ aircraft raised from ₹ 600 to ₹ 1,500.
- Basic customs duty enhanced on the following goods:-
 - Yachts and motor vehicles
 - Raw silk
 - Set top boxes
 - Luxury cars (duty enhanced from 75% to 100%)

Common Points between central excise duty and customs duty

- In cases where the delay in disposing of the appeal is not attributable to the appellant, the Tribunal may extend the period of stay by a period not exceeding 185 days subject to the condition that if the appeal is not disposed of within the total period of 365 days from the date of order, the stay order shall stand vacated.
- The producer or manufacturer allowed to seek advance ruling while starting a new line of business of production or manufacture. Similarly, the importer or exporter also would be allowed to seek advance ruling while starting a new line of business of import or export.
- Monetary limit of the Single Bench of the Tribunal to hear and dispose of appeals enhanced from ₹10 lakh to ₹ 50 lakh.
- Money due to the Government may now be recovered from any person other than from whom money is due after giving a proper notice, if that other person holds money for or on account of the first person.
- Provisional attachment of property may be ordered in case of non-payment of duty on account of fraud, suppression of facts etc. as well.

The above amendments will be effective from the date of the enactment of the Finance Bill, 2013.

(Compiled by CA. Priya Subramanian/CA. Smita Mishra, BoS)

Form IV (See Rule 8)

- Place of Publication : New Delhi
- Periodicity of the Publication : Monthly
- Printers Name : Vijay Kapur
whether citizen of India? : Yes
(If foreigner, state the country of origin)
Address : Director, Board of Studies
The Institute of Chartered Accountants of India,
Post Box No. 7100,
Indraprastha Marg,
New Delhi-110104
- Publisher's Name : Vijay Kapur
whether citizen of India? : Yes
(If foreigner, state the country of origin)
Address : Director, Board of Studies
The Institute of Chartered Accountants of India,
Post Box No. 7100,
Indraprastha Marg,
New Delhi-110104
- Editor's Name : CA. Vijay Kumar Garg
whether citizen of India? : Yes
(If foreigner, state the country of origin)
Address : Chairman, Board of Studies
The Institute of Chartered Accountants of India,
Post Box No. 7100,
Indraprastha Marg,
New Delhi-110104
- Names and Addresses of Individuals who own the newspapers and partners or the shareholders holding more than one percent of the total Capital : Council of the Institute of Chartered Accountants of India constituted under the Chartered Accounts Act. 1949 (Act xxxVIII of 1949) There is no share capital

I, Vijay Kapur, Hereby declare that the particulars given above are true to the best of my knowledge and belief.

Sd/-

Dated : March 26, 2013

Signature of Publisher

Amnesty Scheme in Service Tax

CA. Rohini Aggarawal

Tax amnesty is a limited-time opportunity for a specified group of taxpayers to pay a defined amount, in exchange for forgiveness of a tax liability (including interest and penalties) relating to a previous tax period or periods without fear of criminal prosecution. It typically expires when some authority begins a tax investigation of the past-due tax. In some cases, legislation extending amnesty also imposes harsher penalties on those who are eligible for amnesty but do not take it.

On the similar line, the Finance Bill, 2013 has offered an amnesty scheme to the defaulters of service tax in the name of 'Service Tax Voluntary Compliance Encouragement Scheme, 2013' (VCES). The Scheme is a one-time measure to encourage voluntary compliance by persons who may not have filed the returns or not paid the service tax dues for the period commencing from 1st October, 2007 and ending on 31st December, 2012. As per the scheme if such defaulters shall declare the tax dues and pay the same in accordance with the provisions of the Scheme, they will enjoy immunities from penalty, interest or any other proceeding under the service tax law. In this article, we will discuss the outlay of the said scheme, which will be effective from the date of enactment of the Finance Act, 2013.

The scheme can be availed of by non-filers or stop filers or persons who have not made truthful declarations in their return. For seeking benefit of this scheme, the defaulter has to make declaration of his tax dues for which he wants to settle service tax payment. However, **in the following cases, a person cannot seek benefit of this scheme –**

1. *In respect of the tax dues for which any notice has been issued under section 72 or section 73 or section 73A of the Finance Act, 1994 before the 1st day of March, 2013.*
2. *In respect of the tax dues for which any order of determination has been made under section 72 or section 73 or section 73A of the Finance Act, 1994 before the 1st day of March, 2013.*

(section 72 relates to Best Judgment Assessment, and sections 73 and 73A relates to recovery under which Show Cause Notices are issued)

3. *If a person has filed truthful return for any part of the period covered under the VCES, but has not paid the amount of service tax mentioned in the return or any part thereof, he shall not be eligible to seek benefit of the scheme for the period covered by the said return.*



For example, 'A' files a truthful return for the period from 01-10-2007 to 31-03-2008, but is not able to pay the service tax mentioned therein due to financial difficulty and later he does not file returns for subsequent periods at all. In such case, he cannot seek benefit under VCES for the period of return; however, he can seek benefit of the scheme for the period from 01-04-2008 to 31-12-2012.

This condition of the scheme requires reconsideration by the Government, as it will deprive the assessee who genuinely wanted to pay taxes.

4. *Where a notice or an order of determination has been issued to a person in respect of any period on any issue, the benefit of the VCES shall not be available for his tax dues on the same issue for any subsequent period.*

Further, as per section 96(2) of Chapter VI of the Finance Bill, 2013, **the following persons may not seek benefit of the VCES –**

A person against whom,–

- (a) an inquiry or investigation in respect of a service tax not levied or not paid or short-levied or short-paid has been initiated by way of –
 - (i) search of premises under section 82 of the Chapter; or
 - (ii) issuance of summons under section 14 of the Central Excise Act, 1944, as made applicable to the Chapter under section 83 thereof; or
 - (iii) requiring production of accounts, documents

(The author is a member of ICAI (Mem. No. 89990))

or other evidence under the Chapter or the rules made thereunder; or

- (b) an audit has been initiated, and such inquiry, investigation or audit is pending as on the 1st day of March, 2013, then, the designated authority shall, by an order, and for reasons to be recorded in writing, reject such declaration.

Thus, it is clearly provided that the above persons cannot seek benefit under this scheme, and in case they still apply for benefit by making declaration of their tax dues, the designated authority shall reject their claim.

The point of consideration here is that as long as these summons/letters etc. are issued as an inquiry or investigation, it sounds alright not to extend benefit of this scheme to such persons. However, in case of 'initiation of audit' which may be in regular course, the assessee should get benefit of this scheme, and again it may need clarification as to what would be considered as 'initiation' - would simply calling for information be considered as initiation of audit.

Following is the procedure in brief for seeking benefit under the VCES. This will be later supplemented by the rules issued under the Scheme.

Filing of Declaration – A person has to make a declaration of his tax dues which he wants to settle to the designated authority on or before the 31st day of December, 2013 in such form and in such manner as may be prescribed.

Acknowledgement by the designated authority – The designated authority shall acknowledge the declaration in such form and in such manner as may be prescribed.

Payment of 50% dues on or before 31-12-2013 and rest 50% dues on or before 30-06-2014 – The declarant shall, on or before the 31st day of December, 2013, pay not less than 50% of the tax dues so declared and remaining on or before the 30th day of June, 2014, and submit proof of such payment to the designated authority along with a copy of acknowledgement issued to him for declaration of tax dues.

Where the declarant fails to pay said tax dues or part thereof on or before the said date, he shall pay the same on or before the 31st day of December, 2014 along with interest thereon, at such rate as is fixed under section 75 or, as the case may be, section 73B of the Chapter for the period of delay starting from the 1st day of July, 2014.

Discharge by the designated authority – On furnishing the details of full payment of declared tax dues and the interest, if any, the designated authority shall issue an acknowledgement of discharge of such dues to the declarant in such form and in such manner as may be prescribed.

Tax dues declared but not paid – Where the declarant fails to pay the tax dues, either fully or in part, as declared by him, such dues alongwith interest thereon shall be recovered under the provisions of section 87 of the Chapter.

No refund of amount paid under the scheme – Any amount paid in pursuance of the VCES shall not be refundable under any circumstances.

Payment for tax dues from 01-01-2013 onwards to be made in regular course – Any service tax which becomes due or payable by the declarant for the month of January, 2013 and subsequent months shall be paid by him in accordance with the provisions of the Chapter and accordingly, interest for delay in payment thereof, shall also be payable under the Chapter.

In case a person seeks benefit of this scheme and follows the procedure mentioned above, he shall get immunity from penalty, interest or any other proceeding under the Chapter. However, where the Commissioner of Central Excise has reasons to believe that the declaration made by a declarant under this Scheme was substantially false, he may, for reasons to be recorded in writing, serve notice on the declarant in respect of such declaration requiring him to show cause why he should not pay the tax dues not paid or short-paid. This notice shall be treated as a show cause notice under section 73/73A. However, in case such notice is not issued within one year of date of declaration, the declaration of tax dues by the assessee shall become conclusive upon issuance of acknowledgement of discharge by the designated authority and no matter shall be reopened thereafter in any proceedings under the law before any authority or court relating to the period covered by such declaration.

The proposed VCES is a very good gesture on the part of the Government to enable the assesseees to get over with their backlog and start complying with the law with a new beginning. However, the Government needs to reconsider the coverage of the persons in the scheme so that maximum benefit could be derived out of the scheme, in terms of garnering revenue and reducing litigation. ■

Union Budget 2013-14: Towards Adoption of the Right Framework for Growth

CA. Shilpa Kohli

Higher growth leading to inclusive and sustainable development' is the Mool Mantra or the core theme of Budget 2013-14. The Union Budget, therefore, lays thrust on key areas like infrastructure, agriculture, power, establishment of major ports, development of roads (in certain sectors) and rural and urban housing development. Setting up of women banks, job creation by establishing e-skill institute are other measures to promote inclusive development. India, being a developing country, must have a tax system which reflects the best global practices. The Finance Minister, P.Chidambaram has proposed to set up a Tax Administration Reform Commission to review the application of tax policies and tax laws that can strengthen the capacity of our tax system.

In the last few years, the taxation proposals in the Union Budget have become front page new like this year, the Finance Minister, P.Chidambaram has announced a number of tax and non-tax incentives to stimulate foreign and domestic investment in a wide range of sectors.

Core theme: Stability in tax rates and Clarity in tax laws

One of the underlying themes of the Budget is **stability in tax rates**. The basic exemption limit and tax slabs have therefore not been tinkered with. The corporate tax rates will also continue to remain the same. Surcharge @ 10% is proposed on individuals with taxable income more than one crores rupees and for domestic companies with taxable income more than ten crores rupees. This is in line with the progressive system of taxation.

The second important underlying theme of this Budget is to bring **clarity in tax laws** by adding *Explanation* to various sections. One such example is the clarificatory *Explanation* to clause (10D) of section 10. Earlier, if the policy taken as Keyman Insurance Policy was assigned to a Keyman before its maturity and the Keyman paid the remaining premium on the policy, then, the sum received on the maturity was exempt on the ground that the policy was no longer a Keyman Insurance Policy. This loophole in law is now proposed to be rectified by amending the provisions of section 10(10D) to provide that even after assignment, such a policy would continue to be a Keyman Insurance Policy and hence the maturity proceeds will be taxable in the hands of the employee. Another clarificatory amendment by way of insertion of *Explanation* is in respect of provision for bad and doubtful debt for rural advances. The Supreme Court has held that if the actual write off of debt relates to urban advances, then, it should not be set off against provision for bad and doubtful debts made for rural advances. However, it is now clarified

by way of *Explanation* that amount of deduction in respect of bad debts actually written off shall be limited to the amount by which such bad debts exceeds the credit balance in the provision for bad and doubtful debts, without any distinction between rural advances and urban advances.

Clarificatory Explanations to reflect the true intent of law

With a view to overrule certain judgements that have interpreted the expression 'nature and complexity of the accounts' in a restrictive way, the Finance Bill, 2013 proposes to widen the scope of special audit by including 'nature and complexity of the accounts, volume of accounts, doubts about the correctness of the accounts, multiplicity of the transactions in the accounts or the specialized nature of business activity of the tax payers'. This gives wide and extensive powers to the Assessing Officer to order special audit of accounts of an assessee.

The amendment in the definition of "Capital Asset" which excludes agricultural land has also overcome *inter alia*, two judgements which are *CIT vs. Satinder Pal Singh(2010) 188 Taxmann 54* and *DCIT vs. Capital Local Area Bank Ltd(2009) 29 SOT 394*. As per *CIT vs. Satinder Pal Singh(2010) 188 Taxmann 54*, the specified distance 8 kms from the local limits of any municipality or cantonment board was to be measured from approach road. However, in the light of proposed amendment, the specified distance will be measured from the shortest aerial distance. As per the ruling in *DCIT vs. Capital Local Area Bank Ltd(2009) 29 SOT 394*, if a municipality is not notified by the Central Government then the agricultural land falling therein cannot be treated as capital asset by taking the distance from the limits of other municipality. As per the proposed amendment made in the definition of agricultural land, the population of any of the locality around the agricultural land will be taken even if not notified by the Central Government, provided other conditions are satisfied. The scope of the term 'Agricultural Land' is amended in relation to the distance from the local limits of the municipality/cantonment board vis-à-vis population as per the last preceding census. Three categories are proposed to be created as regards the second part of the definition.

Tax Incentives

The objective of bringing new funds into the market is also a big challenge in the current scenario. The Union Budget 2013-14 has attempted to improve the flow of

The views expressed by the author are on the tax proposals as contained in the Union Budget 2013-14 prior to passing of the Finance Bill, 2013 by the Parliament.

funds into the domestic market. The Government is trying to attract the investors by incentivizing retail participation in India and increasing equity culture in the Indian Capital Market. With a view to liberalize investments in the capital market, it has been proposed to amend the provisions of section 80CCG to provide that investment in listed units of an equity oriented fund shall also be eligible for deduction provided gross total income of a new retail investor, being an individual does not exceed ₹ 12,00,000. This benefit would be available for three consecutive assessment years. The Budget 2013-14 has defined the difference between Foreign Institutional Investors (FII) and Foreign Direct Investment (FDI) to provide greater clarity. From now on if any non resident investor has a stake of 10% or less of the ordinary shares or voting power in a private or public company, it will come under the category of FII. However, any stake in a company that is above 10% would be treated as FDI.

The other vital sector of the Indian economy that contributes significantly to the GDP is investment in Capital Goods. The Government is **trying to shift its focus from profit linked incentive to investment linked incentive to encourage investment and propel economic growth**. A new section 32AC is proposed to be inserted where an assessee, being a company engaged in the business of manufacturing of an article or things investing an amount exceeding ₹ 100 crores in new plant and machinery will be allowed a deduction of 15% of aggregate amount of actual cost of new plant and machinery acquired and installed during the financial year 2013-14 and 2014-15. This deduction of 15% is over and above normal and additional depreciation. While calculating written down value for providing depreciation, Investment Allowance will not be deducted. However, in case the assessee is not able to set off this investment allowance in the same year because of low income there is no provision to carry forward the unabsorbed investment allowance to be set-off against business income of subsequent years. The provision of the section 32AC can be understood with the help of the following cases-

Case 1:

Financial Year	Investment	New Plant and Machinery Acquired	Plant and Machinery Installed	Deduction u/s 32AC
2013-14	120 crores	Yes	No	No
2014-15	-	No	Yes	Yes

Case 2:

Financial Year	Investment	New Plant and Machinery Acquired	Plant and Machinery Installed	Deduction u/s 32AC
2013-14	80 crores	Yes	No	No
2014-15	120 crores	Yes	Yes	Yes, on ₹ 200 crores

Case 3:

Financial Year	Investment	New Plant and Machinery Acquired	Plant and Machinery Installed	Deduction u/s 32AC
2013-14	120 crores	Yes	Yes	Yes, on ₹ 120 crores
2014-15	80 crores	Yes	Yes	Yes, on ₹ 80 crores

Case 4:

Financial Year	Investment	New Plant and Machinery Acquired	Plant and Machinery Installed	Deduction u/s 32AC
2013-14	80 crores	Yes	Yes	No
2014-15	80 crores	Yes	Yes	Yes, on ₹ 160 crores

Even under the existing provisions of section 35AD of the Income-tax Act 1961, investment linked tax incentive is provided by way of allowing 100% deduction in respect of any expenditure of capital nature (other than land, goodwill and financial instrument), incurred wholly and exclusively for the purpose of the 'specified business'. The other important sector where Government is striving to attract funds for revival of the growth momentum is investment in Infrastructure Bonds. The existing provisions of section 194LC provide that if an Indian company borrows money in foreign currency from a source outside India by way of issue of long term infrastructure bonds, then the interest payment to the non resident person shall be subject to concessional rate of 5%. This year the Finance Bill, 2013 has proposed to extend such concession even when a non resident deposits foreign currency in a designated bank account and such money is converted in rupee which is utilized for subscription to a long term infrastructure bonds issued by the Indian company. This is an attempt to boost investment in infrastructure sector.

Measures to prevent Tax avoidance

Certain proposals in the Finance Bill, 2013 have a partial double taxation effect like taxation on buyback of unlisted shares in the hands of the company and immovable property received for inadequate consideration. Under the existing provisions of sections 46A, in the case of buyback of unlisted shares, consideration received by the shareholders on the buyback of shares by the companies under section 77A of the Companies Act 1956, is not treated as dividend income in the hands of the company but is taxable as capital gain in the hands of the shareholder. Consequently, the shareholders could claim exemption

under section 54F or 54EC by investing the net consideration or capital gains, as the case may be. In such a case, the entire amount of capital gain was exempt. In effect, neither the company nor the shareholder had to pay any tax on the buyback of shares. To plug this loophole, the Government has proposed an additional income tax at the rate of 22.66% which is to be paid by the domestic company for purchase of its own unlisted shares on consideration paid at the time of buyback as reduced by the amount received for subscription of shares. This tax is on the line of dividend distribution tax. For example-

Mr. A purchases 100 shares of Naraina Ltd for ₹ 100 each on 27.08.2012. He sells the shares to Mr. B at ₹ 120 per share on 31.01.2013. Later, Naraina Ltd bought back its shares @ 130 per share on 20.02.2013. The tax treatment as per the provisions of new section will be as follows:

In the hands of Mr A - Taxable under head “Capital gain”

Sale consideration	=	₹ 12,000
Less: Cost of shares	=	₹ 10,000
Short term capital gain	=	<u>₹ 2,000</u>

In the hands of the Company

Sales Price	=	₹ 13,000
Less: Cost of shares	=	₹ 10,000
		<u>₹ 3,000</u>

Additional Income-tax @ 22.66% is payable by the company on ₹ 3,000.

Hence, it can be seen from the above example that there is double taxation on the amount of ₹ 2,000. This amount is subject to capital gain tax in the hands of Mr. A and additional Income tax in the hands of the company.

The other section which has **partial double taxation effect is section 56(2)(vii)** which would now cover not only cases where no consideration is received but also where an individual or HUF receives any immovable property for inadequate consideration from any person. The Capital gain will be taxable in the hands of seller by adopting Stamp Duty Value under section 50C and the stamp duty value of the property as exceeds such consideration, shall be taxable in the hands of buyer, being an individual or HUF, as “ Income from other sources”. For example- Sandeep sell immovable property to Saloni for ₹ 10,00,000. The value assessed by the stamp valuation authority is ₹ 17,00,000.

As per existing provision:

In the hands of Seller - Taxable as Capital gain by adopting Stamp Duty Value under section 50C

In the hands of Buyer - Not taxable.

As per the proposed provision:

In the hands of Seller - Taxable as Capital gain by

adopting Stamp Duty Value under section 50C

In the hands of Buyer - The stamp duty value of the property as exceeds such consideration, is taxable as income from other sources.

Therefore, the amount of ₹ 7,00,000, representing the difference between the Stamp Duty Value and actual sale consideration would be subject to tax both in the hands of the buyer and the seller.

Selective Levy of CTT

A tax called Commodities Transaction Tax (CTT) is proposed to be levied on non agricultural commodities future contracts to augment financial resources. CTT is not a new concept, since the Finance Act 2008 had initially proposed a levy of CTT with effect from the date to be notified in Official Gazette by the Central Government. However, no such notification was published and subsequently, the Finance (No.2) Act 2009 removed this levy from the statute book. Consequently, the deduction provided for CTT in the Income-tax Act, 1961 was also removed. This tax is similar to securities transaction tax (STT) levied on the purchase and sale of equities in the stock market. CTT will be payable by the seller at the rate of 0.01% and the same will be allowed as deduction while computing the business income of the taxpayer. The CTT will no doubt be an additional burden on the traders because they already pay brokerage, deposit margin, stamp duty and transaction charges. According to the Finance Minister, CTT is expected to garner around ₹ 45 billion to the Government.

General Anti-Avoidance Rules (GAAR)

The Finance Bill, 2013 has proposed to amend the GAAR provisions, which will be effective from AY 2016-17. The Bill seeks to make the Approving Panel more independent. The Approving Panel will consist of a Chairperson who is or has been a Judge of a High Court, one member of the Indian Revenue Service not below the rank of Chief Commissioner of Income tax and one member who shall be an academic or scholar having specialized knowledge in matters such as direct taxes, business accounts and international trade practices. The directions of the Approving Panel shall be binding on the assessee as well as the income tax authorities.

To Conclude

As a part of global economy, India is affected by what happens in the rest of the world. Global economic growth has slowed from 3.9% in 2011 to 3.2% in 2012. At present, the Indian economy is constrained because of lower savings, lower investments, high fiscal deficit and excessive dependence on foreign inflows to finance the current account deficit. It is hoped that the proposals in the Union Budget 2013-14 will put India back on the path of high growth trajectory.

(The contributor is associated with the Board of Studies)

Legal Decisions – Income-tax

1. Can penalty under section 271(1)(c) be imposed if an assessee had wrongly claimed deduction of provision made for payment of gratuity in its return of income, though the same was shown as disallowed under section 40A(7) in the statement of particulars filed along with tax audit report under section 44AB?
2. Can unabsorbed depreciation of a business of an industrial undertaking eligible for deduction under section 80-IA be set off against income of another non-eligible business of the assessee?

Price Waterhouse Coopers Pvt. Ltd. v. CIT (2012) 348 ITR 306 (SC)

The assessee is engaged in multi disciplinary management consultancy services. It had claimed deduction of provision made for payment of gratuity, though the annexure to the tax audit report in Form No. 3CD indicated that the provision towards payment of gratuity was not allowable under section 40A(7).

The Assessing Officer issued a notice to the assessee under section 148 for reopening the assessment. Thereafter, upon request, he furnished the reasons for reopening the assessment. It was then that the assessee realised its mistake and informed the Assessing Officer, by way of a letter, that there was no willful suppression of facts but a genuine mistake had been committed. Accordingly, the assessee filed a revised return on the same day and paid the tax due with interest.

The Assessing Officer, thereafter, initiated penalty proceedings under section 271(1)(c) and levied penalty at 300% of the tax sought to be evaded by the assessee, contending that the assessee has furnished inaccurate particulars of its income. The Tribunal reduced the penalty to 100% and the High Court confirmed the order of the Tribunal.

Considering the above facts, the Supreme Court observed that the tax audit report was filed along with the return and it unequivocally stated that the provision for gratuity was not allowable under section 40A(7). This fact indicates that the assessee made a computation error in its return of income. The error was also not noticed by the Assessing Officer who framed the assessment order and before whom, the tax audit report was also placed. The contents of the tax audit report showed that there was no question of the assessee concealing the income or furnishing any inaccurate particulars. Therefore, the Apex Court held that the assessee had committed an inadvertent and bona fide error and had not intended to or attempted to either conceal its income or furnish inaccurate particulars.

Therefore, the Apex Court held that imposition of penalty on the assessee was not justified and it reversed the decision of the High Court.

CIT v. Swarnagiri Wire Insulations Pvt. Ltd. (2012) 349 ITR 245 (Kar.)

The assessee was in the business of manufacture of wires. It installed a windmill for power generation. The assessee claimed depreciation on windmill against income from power generation, which was eligible for deduction under section 80-IA. The balance depreciation was set off against the profits from manufacturing of wires, being a non-eligible business.

The Assessing Officer contended that depreciation relating to a business eligible for deduction under section 80-IA cannot be set off against non-eligible business income. Therefore, unabsorbed depreciation was to be carried forward to the subsequent year to be set off against the eligible business income of the assessee of that year.

The Tribunal observed that the balance depreciation of the eligible business is required to be carried forward for set-off against eligible business income of the next year while determining the profits eligible for deduction under section 80-IA in that year. However, the Tribunal noted that section 80-IA is a beneficial section permitting certain deduction in respect of certain income under Chapter VI-A. A provision granting tax incentive for economic growth should be construed liberally and any restriction placed should also be construed in a reasonable and purposive manner to advance the objects of the provision.

It is a generally accepted principle that deeming provision of a particular section cannot be breathed into another section. Therefore, the deeming provision contained in section 80-IA(5) cannot override the provisions of section 70(1). The assessee had incurred loss in eligible business after claiming depreciation. Hence, section 80-IA becomes insignificant, since there is no profit from which this deduction can be claimed. It is thereafter that section 70(1) comes into play, whereby the assessee is entitled to set off the losses from one source against income from another source under the same head of income. The Court, therefore, held that the assessee was entitled to the benefit of set off of loss of eligible business against the profits of non-eligible business. However, once set-off is allowed under section 70(1) against income from another source under the same head, a deduction to such extent is not possible in any

subsequent assessment year i.e., the loss (arising on account of balance depreciation of eligible business) so set-off under section 70(1) has to be first deducted while computing profits eligible for deduction under section 80-IA in the subsequent year.

Note – The crux of the above decision can be explained with a simple example. Let us consider a company, X Ltd., having two units, Unit A and Unit B. If Unit A engaged in eligible business (say, power generation) has a profit of ₹100 lacs in A.Y.2013-14, before claiming depreciation of ₹120 lacs and Unit B engaged in non-eligible business (say, manufacture of wires) has a profit of ₹70 lacs, then, as per the above decision, the loss of ₹20 lacs (representing balance depreciation not set-off) pertaining to Unit A can be set-off against profit of ₹70 lacs of Unit B carrying on non-eligible business. Therefore, the net profit of ₹50 lacs would be taxable in the A.Y.2013-14. If in the next year, i.e. A.Y.2014-15, the net profits of Unit A and Unit B are ₹200 lacs and ₹80 lacs, respectively, then the eligible deduction under section 80-IA for that year would be ₹180 lacs (i.e., ₹200 lacs minus ₹20 lacs, being loss (representing balance depreciation) set-off in the A.Y.2013-14 against other income).

3. **Can the amount collected by an assessee on ad-hoc basis as “contingent deposit” from its customers, to protect itself against disputed sales tax liability, not be treated as its income on the ground that the same bears the character of a refundable deposit?**

Sundaram Finance Ltd. v. ACIT (2012) 349 ITR 356 (SC)

The assessee, engaged in the business of hire purchase finance, equipment leasing etc., collected a certain amount as “contingent deposit” from its leasing/hire purchase customers on an adhoc basis in order to protect itself from sales tax liability which was disputed and may or may not arise at a later date. According to the assessee, the said sum collected was an imprest with a liability to refund and since it bears the character of “deposits”, it was not taxable in the year of receipt. The said sums were refundable, if the assessee succeeds in its challenge to the levy of the said sales tax. The assessee, therefore, did not offer such sum to tax as income.

On the above issue, the Supreme Court observed that the said amount was not kept in a separate interest bearing bank account but it formed part of the business turnover. The Apex Court further observed that in determining whether a receipt is liable to be taxed, the legal character of the transaction cannot be ignored. Therefore, by applying the “substance over form” test, the Apex Court held that the said sum, which was collected towards sales tax liability, would constitute the income of the assessee.

4. **Can an assessee file a revision petition under section 264, if the revised return to correct an inadvertent error apparent from record in the original return, is filed after the time limit specified under section 139(5) on account of the error coming to the notice of the assessee after the specified time limit?**

Sanchit Software and Solutions Pvt. Ltd. v. CIT (2012) 349 ITR 404 (Bom.)

The assessee-company had electronically filed its return of income. It committed a mistake by including dividend income [exempt under section 10(34)] and long term capital gains on sale of shares [exempt under section 10(38)] in its return of income, though the same was correctly disclosed in the Schedule containing details of exempt income. Consequently, on account of there being no profit, the assessee had paid tax on the basis of book profit under section 115JB. The return was processed under section 143(1) denying the exemptions under section 10(38) and 10(34) and therefore, intimation under section 143(1) was served on the assessee raising a demand of tax. The assessee, on receiving the intimation, noticed the error committed and filed a revised return rectifying the error. However, the revised return was not sustainable as the same was filed beyond the period of limitation as provided under section 139(5). Later, the assessee filed an application for rectification under section 154 and also a revision petition under section 264.

The Commissioner of income-tax, while considering the revision petition, contended that the intimation under section 143(1) was based on the return of the assessee, in which the claims under section 10(34) and under section 10(38) were not made by the assessee. Hence, it cannot be said that the intimation under section 143(1) was erroneous, since the same was squarely based on the return filed by the assessee. Secondly, the power of Commissioner under section 264 is only restricted to the record available before the Assessing Officer which can be examined by the Commissioner. In the circumstances, the other evidence sought to be brought on record to establish the mistake committed by the assessee cannot be considered by the Commissioner under section 264. The revision petition under section 264 was rejected by the Commissioner on the above grounds.

The High Court observed that the entire object of administration of tax is to secure the revenue for the development of the country and not to charge the assessee more tax than which is due and payable by the assessee. In this context, the High Court referred to the CBDT Circular issued as far back as 11th April, 1955 directing the Assessing Officer not to take advantage of the assessee’s mistake. The High Court opined that the said Circular should always be borne in mind by the officers of the Revenue while administering the Act.

The High Court observed that, in this case, the Commissioner of income-tax had committed a fundamental error in proceeding on the basis that no deduction on account of dividend income and long-term capital gains under section 10 was claimed from the total income, without considering that the assessee had specifically sought to exclude the same as is evident from the entries in the relevant Schedule. Therefore, this was an error on the face of the order and hence, the same was not sustainable. Accordingly, the High Court set aside the order of Commissioner and remanded the matter for fresh consideration.

The High Court further directed the Assessing Officer to consider the rectification application filed by the assessee under section 154 as a fresh application received on the date of service of this order and dispose of the rectification application on its own merits at the earliest, without awaiting the result of the revision proceedings before the Commissioner of Income-tax on remand.

5. Is the requirement to grant a reasonable opportunity of being heard, stipulated under section 127(1), mandatory in nature?

Sahara Hospitality Ltd. v. CIT (2012) 211 Taxman 15 (Bom.)

On this issue, the Bombay High Court observed that, the provisions of section 127(1) stipulate, *inter alia*, that the income tax authority mentioned therein **may** give an opportunity of being heard to the assessee, wherever it is possible to do so, and after recording his reasons for doing so, transfer any case from one or more Assessing Officers subordinate to him to any other Assessing Officer or officers subordinate to him.

The Bombay High Court held that the word “may” used in this section should be read as “shall” and such income-tax authority has to mandatorily give a reasonable opportunity of being heard to the assessee, wherever possible to do so, and thereafter, record the reasons for taking any action under the said section. “Reasonable opportunity” can only be dispensed with in a case where it is not possible to provide such opportunity. In such a case also, the authority should record its reasons for making the transfer, even though no opportunity was given to the assessee. The discretion of the authority is only to consider as to what is a reasonable opportunity in a given case and whether it is possible to give such an opportunity to the assessee or not. The authority cannot deny a reasonable opportunity of being heard to the assessee, wherever it is possible to do so.

6. Can service charges received along with rent in respect of a property, be brought to tax under the head ‘Income from house property’, if the service agreement is dependent upon the rental agreement?

CIT v. J.K. Investors (Bom.) Ltd. (2012) 211 Taxman 383 (Bom.)

On this issue, the Assessing Officer claimed that since the service charges were in respect of ancillary services, the same has to be assessed under the head ‘Income from other sources’ and not as ‘Income from house property’.

The Bombay High Court observed that the first step is to determine whether the service agreement could stand independently from the rental agreement. In the present case, the service agreement is dependent upon the rental agreement and in the absence of the rental agreement there could be no service agreement. The services being provided under the service agreement are in the nature of lift, common entrance, main road leading to the building through the compound, drainage facilities, air conditioning facility, open space in/around the building etc. which are not separately provided but go alongwith the occupation of the property.

Therefore, the amount received as service charges have to be considered as a part of the rent received and subjected to tax under the head “Income from house property”.

7. Would the provisions of section 271(1)(c) get attracted merely because the assessee treated a certain sum as business loss whereas revenue treated it as a capital loss in original proceedings, even if there is no independent finding by Assessing Officer that assessee concealed his income or furnished inaccurate particulars?

CIT v. Praveen B. Gada (HUF) (2011) 211 Taxman 166 (MP)

On this issue, the Tribunal observed that for imposing penalty under section 271(1)(c), there should be concealment of income or furnishing of inaccurate particulars of income, which are missing in this case. The Tribunal also observed that merely on the basis of a finding recorded in the original proceedings that the assessee had concealed certain facts, the provisions of section 271(1)(c) would not be attracted. The Tribunal further noticed that there was no deliberate mistake in the original return, nor was there concealment of particulars of income.

The High Court held that in the absence of any independent finding by the Assessing Officer that the assessee has either concealed his income or furnished inaccurate particulars of income, the provisions contained under section 271(1)(c) would not get attracted, merely because the assessee treated a certain amount as a business loss, whereas the Assessing Officer treated it as a capital loss. The High Court observed that the finding recorded by the Tribunal that the assessee did not conceal his income or furnish inaccurate particulars is fully justified.

(Contributed by CA. Priya Subramanian/CA. Vikas Yaduka, BoS)

Judicial rulings – Indirect Tax Laws

1. **Whether the manufacture and sale of specified goods, not physically bearing a brand name, from branded sale outlets would disentitle an assessee to avail benefit of small scale exemption?**

CCEx vs. Australian Foods India (P) Ltd 2013 (287) ELT 385 (SC)

Facts: The assessee was engaged in the manufacture and sale of cookies from branded retail outlets of “Cookie Man”. The assessee had acquired this brand name from M/s Cookie Man Pvt. Ltd, Australia (which, in turn, acquired it from M/s Auto- bake Pvt. Ltd., Australia). The assessee was selling some of these cookies in plastic pouches/containers on which the brand name described above was printed. No brand name was affixed or inscribed on the cookies. Excise duty was duly paid, on the cookies sold in the said pouches/containers. However, on the cookies sold loosely from the counter of the same retail outlet, with plain plates and tissue paper, duty was not paid.

The retail outlets did not receive any loose cookies nor did they manufacture them. They received all cookies in sealed pouches/containers. Those sold loosely were taken out of the containers and displayed for sale separately. The assessee contended that SSI exemption would be available on cookies sold loosely as they did not bear the brand name.

Observations of the Court: The Supreme Court made the following significant observations:

- (i) Physical manifestation of the brand name on goods is not a compulsory requirement as such an interpretation would lead to absurd results in case of goods, which are incapable of physically bearing brand names viz., liquids, soft drinks, milk, dairy products, powders etc. Such goods would continue to be branded good, as long as its environment conveys so viz., packaging/wrapping, accessories, uniform of vendors, invoices, menu cards, hoardings and display boards of outlet, furniture/props used, the specific outlet itself in its entirety and other such factors, all of which together

or individually or in parts, may convey that goods is a branded one.

- (ii) The test of whether the goods is branded or unbranded, must not be the physical presence of the brand name on the goods, but whether it is used in relation to such specified goods for the purpose of indicating a connection in the course of trade between such specified goods and some person using such name with or without any indication of the identity of the person. The Court opined that a brand/trade name must not be reduced to a label or sticker that is affixed on a goods.
- (iii) Once it is established that a specified goods is a branded goods, whether it is sold without any trade name on it, or by another manufacturer, it does not cease to be a branded goods of the first manufacturer. Therefore, soft drinks of a certain company do not cease to be manufactured branded goods of that company simply because they are served in plain glasses, without any indication of the company, in a private restaurant.

Decision: The Supreme Court held that it is not necessary for goods to be stamped with a trade or brand name to be considered as branded goods for the purpose of SSI exemption. A scrutiny of the surrounding circumstances is not only permissible, but necessary to decipher the same; the most important of these factors being the specific outlet from which the goods is sold. However, such factors would carry different hues in different scenarios. There can be no single formula to determine if a goods is branded or not; such determination would vary from case to case.

2. **Will two units of a manufacturer surrounded by a common boundary wall be considered as one factory for the purpose of CENVAT credit if they have separate central excise registrations?**

Sintex Industries Ltd. vs. CCEx 2013 (287) ELT 261 (Guj.)

Facts: The assessee, a company incorporated under the Companies Act, 1956, had two divisions

namely, textile division and plastic division situated adjacent to each other on a common ground and surrounded by a common boundary wall. Both the units had separate central excise registrations but the assessee, a single entity, had a common PAN under the Income-tax Act.

In order to receive continuous and uninterrupted supply of electricity, the assessee installed DG sets/ electricity generation plant to be used in the factory of the textile division and it used furnace oil as fuel in the generation of electricity. The assessee availed CENVAT credit on furnace oil used as fuel for the generation of electricity, which was used for captive consumption in their own factory. When the assessee's other unit required electricity, the assessee supplied part of the electricity so generated to its other unit.

The contention of the Revenue was that the assessee ought to reverse the credit taken on furnace oil used in the generation of electricity and supplied to the other unit. However, the assessee contended that since both the units were situated within a common boundary wall, the electricity supplied to the other unit could not be treated as being supplied to a different entity but within its own factory. The assessee further contended that separate registration of the plastic unit would not make it a different factory.

Observations of the Court: The High Court observed that though both the separately registered factories/divisions are situated within a common boundary wall, it could not be said that the other division is also within the factory of the assessee wherein the electricity is generated. The reason given by the High Court for such an observation was that the assessee itself had described the factory of its other division as a separate place of business by applying for separate central excise registration and had obtained such separate registration.

Decision: The High Court held that credit could be availed on eligible inputs utilized in the generation of electricity only to the extent the same were used to produce electricity within the factory registered for that purpose (textile division). However, credit on inputs utilized to produce electricity which was supplied to a factory registered as a different unit (plastic

division) would not be allowed. The High Court rejected the contention of the assessee that separate registration of two units situated within a common boundary wall would not make them two different factories.

3. Whether expenditure like travel, hotel stay, transportation and the like incurred by service provider in course of providing taxable service should be treated as consideration for taxable service and included in value for charging service tax?

Intercontinental Consultants & Technocrats Pvt. Ltd. v. Union of India 2013 (29) S.T.R. 9 (Del.)

Observations of the Court: The above question came up for consideration before the Delhi High Court. The High Court noted that as per Rule 5(1) of the Service Tax (Determination of Value) Rules, 2006 (hereinafter referred to as Rules), expenditure/costs, such as travel, hotel stay, transportation, etc. incurred by service provider in course of providing taxable service has to be treated as consideration for taxable service and included in value for charging service tax.

The High Court observed that since section 67(1) of the Finance Act, 1994 is subject to provisions of Chapter V - which includes section 66 (now section 66B) - the value of taxable services has to be in consonance with section 66 which levies tax only on **taxable service**. Thus, there is an inbuilt mechanism to ensure that only taxable service are evaluated under section 67 which provides that value of taxable service is the gross amount charged by service provider 'for such service'. The High Court, therefore, opined that it is only the consideration for the taxable service which is chargeable to tax under the relevant sections. However, rule 5(1) goes far beyond the charging provisions as it includes the expenditure and costs - which are incurred by the service provider "*in the course of providing taxable service*" - in the value of the taxable service.

The High Court elaborated that power to make rules could not exceed or go beyond the section which provides for charge or collection of service tax. The High Court clarified that even though section 94 prescribes to lay every rule framed by Central Government before each House of Parliament,

which have power to modify them; the same cannot add any greater force to the Rules than what they ordinarily have as species of subordinate legislation.

The High Court further observed that rule 5(1) may also result in double taxation, if expenses like air travel tickets, had already been subjected to service tax. The High Court was of the view that double taxation can be imposed only when it is clearly provided for and intended. It can never be enforced by implication.

Decision: The High Court, therefore, held that rule 5(1) of the Service Tax (determination of Value) Rules, 2006 runs counter and is repugnant to sections 66 and 67 of the Act and to that extent it is ultra vires the Finance Act, 1994.

Note: It may be noted that since the Delhi High Court didn't refer to other judgments in this regard, which sought to include reimbursements as part of taxable value, it may be challenged at the Supreme Court. Therefore, till such time the matter is decided by the Supreme Court, the issue may not settle down. Though the decision relates to a period pertaining to prior negative list regime, the ratio will hold good under the present law as well.

4. Can the deposit of 50% of tax amount be made a condition for condoning the delay in filing of an appeal?

Mihani Network v. CCus. & CEx. 2012 (285) ELT 182 (MP)

Facts: In the instant case, the assessee had filed an appeal along with an application for stay before the CESTAT. However, since there had been a delay in filing the appeal, the assessee also filed an application for condonation of delay. The CESTAT ordered that the delay would be treated as condoned, if the assessee deposits 50% of the amount of tax. By the same order, the CESTAT also finally disposed of the assessee's application for stay.

Observations of the Court: When the matter was brought before the High Court, the High Court observed that there is no legal provision which provides for condoning the delay in filing the appeal on a condition of depositing 50% of tax

amount. Delay in filing the appeal is condoned or refused depending upon the sufficiency of cause for delay. If the party is found to be prevented by a sufficient cause to the satisfaction of the appellate authority/Tribunal, the delay is condoned and if not found to be prevented by a sufficient cause, the delay is not condoned.

Decision: The High Court held that the condition of depositing 50% of tax amount for condoning the delay is illegal and that the CESTAT ought not to have mixed the issue with the separate application filed for stay.

5. Whether extended period of limitation for demand of customs duty can be invoked in a case where the assessee seeks a clarification about exemption from a wrong authority?

Uniworth Textiles Ltd. vs. CCE. 2013 (288) ELT 161 (SC)

Facts: Assessee, an EOU, purchased electricity generated by the captive power plant of its sister unit. The furnace oil required for running the captive power plant was imported by the sister unit and the same was exempt from payment of customs duty under a relevant exemption notification. Later, the sister unit informed the assessee that it could not supply the electricity to the assessee as it would run the captive power plant for its own use only. Consequently, as a temporary measure, for overcoming this difficulty, the assessee imported furnace oil and supplied the same to sister unit for generation of electricity, which it continued to receive as before. The assessee also claimed exemption on import of furnace oil under the same notification as was claimed by its sister unit.

As the assessee was procuring furnace oil for captive power plant of another unit, it sought a clarification from the Development Commissioner as to whether import of furnace oil and receipt of electricity would be liable to duty. The Development Commissioner replied in favour of the assessee quoting letter by Ministry of Commerce and thereafter, the assessee claimed the exemption. However, a show cause notice demanding duty was issued on the assessee **more than six months** after he had imported furnace oil on behalf of its sister unit. The contention of the Revenue was that the

entitlement of duty free import of fuel for its captive power plant lies with the owner of the captive power plant, and not the consumer of electricity generated from that power plant.

Observations of the Court: *The Apex Court observed that the primary issue under consideration in this case was the applicability of extended period of limitation for issuing a demand notice.* The Apex Court noted that section 28 of the Customs Act clearly contemplates two situations, viz. inadvertent non-payment and deliberate default. The former is canvassed in the main body of section 28 and is met with a limitation period of six months, whereas the latter, finds abode in the proviso to the section and faces a limitation period of five years. For the operation of the proviso, the intention to deliberately default is a mandatory prerequisite.

The Supreme Court observed that the assessee had shown *bona fide* conduct by seeking clarification from the Development Commissioner and in a sense had offered its activities to assessment. Only on receiving a satisfactory reply from the Development Commissioner did the assessee claim the exemption. The Apex Court elaborated that even if the Development Commissioner was not the most suitable repository of the answers sought by the assessee, it did not negate the *bona fide* conduct of the assessee. It still showed that assessee made efforts to adhere to the law rather than its breach.

Further, the Tribunal’s finding that the assessee had not brought anything on record to prove their claim of *bona fide* conduct did not find favor with the Apex Court. The Supreme Court reiterated that the burden of proving any form of *mala fide* lies on the shoulders of the one alleging it.

Decision: The Supreme Court held that mere non-payment of duties could not be equated with collusion or willful misstatement or suppression of facts as then there would be no form of non-payment which would amount to ordinary default. The Apex Court opined that something more must be shown to construe the acts of the assessee as fit for the applicability of the proviso.

Note: Section 28 of the Customs Act, 1962 as stated in the above case is based on the old provisions of law. As per the amended section 28, the time limit for issuing a demand notice in case of inadvertent non-payment of duty is one year from the relevant date and such provisions find place in sub-section (1) of section 28. Issue of demand notice by invoking the extended period of limitation (five years from the relevant date) in case of deliberate default is covered under sub-section (4) of section 28. However, it may be noted that the principle enunciated in the above case will hold good even after the amendment made in section 28.

(Contributed by CA. Smita Mishra, BoS)

CROSSWORD

March, 2013

Solution

¹ N	I	N	² E	T	Y			³ A	⁴ V	⁵ C	
O			C			⁶ D			⁷ G	O	⁸ A
⁹ I	N	¹⁰ V	O	I	¹¹ C	E		¹² C	A	S	H
D		O			¹³ I	F	C	I		¹⁴ T	O
¹⁵ A	T	S		¹⁶ E	F	T		R			Y
		¹⁷ T	¹⁸ T	T				¹⁹ C	²⁰ P	²¹ E	
²² A	²³ G	R	I	C	²⁴ U	L	²⁵ T	U	R	A	L
	²⁶ R	O	M		S		²⁷ I	S	L	M	
²⁸ G	O		²⁹ I	D	A		M				
	³⁰ S	³¹ I	N	E			³² E	³³ L	³⁴ B	A	
	³⁵ S	F	G		³⁶ R	D		I	A		³⁷ S
		A		³⁸ N	A		³⁹ T	B	L		I
⁴⁰ E	⁴¹ S	C	⁴² R	O	W		⁴³ R	O	L	E	X
	I		I	P		⁴⁴ Z	E	R	O		T
⁴⁵ G	R	A	P	E		O	E		N		Y

Accounting

Criteria for Classification of Entities and Applicability of Accounting Standards

For the purpose of compliance of the Accounting Standards, ICAI has already issued an announcement on 'Criteria for Classification of Entities and Applicability of Accounting Standards' for non-corporate entities. As per the announcement, entities were classified into three levels. Level II entities and Level III entities as per the said Announcement are considered to be the Small and Medium Entities (SMEs).

Due to recent changes in the enhancement of tax audit limit, the Council of the ICAI has recently decided to change the 1st criteria i.e. determination of SME on turnover basis for *Level II entities from ₹ 40 lakhs to ₹ 1 Crore* with effect from the accounting year commencing *on or after April 01, 2012*. Accordingly, from the accounting year commencing on or after April 1st, 2012, criteria for classification of Level II entities will be as follows:-

Level II Entities (SMEs)

Non-corporate entities which are not Level I entities but fall in any one or more of the following categories are classified as Level II entities:

- (i) All commercial, industrial and business reporting entities, whose turnover (excluding other income) exceeds rupees **one crore**¹ but does not exceed rupees fifty crore in the immediately preceding accounting year.
- (ii) All commercial, industrial and business reporting entities having borrowings (including public deposits) in excess of rupees one crore but not in excess of rupees ten crore at any time during the immediately preceding accounting year.
- (iii) Holding and subsidiary entities of any one of the above.

Clarification on Debenture Redemption Reserve

Ministry of Corporate Affairs has made the following clarification on adequacy of Debenture Redemption Reserve (DRR) vide Circular no. 04/2013 dated 11 February, 2013:-

- (i) No DRR is required for debentures issued by All India Financial Institutions (AIFIs) regulated by Reserve Bank of India and Banking Companies for both public as well as privately placed debentures. For other Financial Institutions (FIs) within the meaning of Section 4A of the Companies Act, 1956, DRR will be as applicable to NBFCs registered with RBI.
- (ii) For NBFCs registered with the RBI under Section 45-IA of the RBI (Amendment) Act, 1997, 'the adequacy' of DRR will be 25% of the value of debentures issued through public issue as per present SEBI (Issue and Listing of Debt Securities) Regulations, 2008, and no DRR is required in the case of privately placed debentures.
- (iii) For other companies including manufacturing and infrastructure companies, the adequacy of DRR will be 25% of the value of debentures issued through public issue as per present SEBI (Issue and Listing of Debt Securities), Regulations 2008 and also 25% DRR is required in the case of privately placed debentures by listed companies. For unlisted companies issuing debentures on private placement basis, the DRR will be 25% of the value of debentures.
- (iv) Every company required to create/maintain DRR shall before the 30th day of April of each year, deposit or invest, as the case may be, a sum which shall not be less than fifteen percent of the amount of its debentures maturing during the year ending on the 31st day of March next following in any one or more of the following methods, namely:
 - (a) in deposits with any scheduled bank, free from charge or lien;
 - (b) in unencumbered securities of the Central Government or of any State Government;
 - (c) in unencumbered securities mentioned in clauses (a) to (d) and (ee) of section 20 of the Indian Trusts Act, 1882;
 - (d) in unencumbered bonds issued by any other company which is notified under clause (f) of section 20 of the Indian Trusts Act, 1882;
- (v) The amount deposited or invested, as the case may be, above shall not be utilized for any purpose other than for the repayment of debentures maturing during the year referred to above, provided that the amount remaining deposited or invested, as the case may be, shall not at any time fall below 15 per cent of the amount of debentures maturing during the 31st day of March of that year.

(Compiled by CA. Seema Gupta, BoS)

¹ This amount was ₹ 40 lakhs earlier.



The Institute of Chartered Accountants of India

[Set up by an Act of Parliament]

Post Box No.7112, 'ICAI BHAWAN', Indraprastha Marg
New Delhi-110002

TO BE PUBLISHED IN PART III SECTION 4 OF THE GAZETTE OF INDIA

NOTIFICATION

20th March, 2013

No.13-CA (EXAM)/CPT/ June/2013/II: In partial modification of the Institute's Notification No.13-CA (EXAM)/CPT/ June/2013 dated 2nd January, 2013, it is notified for general information that the last date of receipt of duly filled Common Proficiency Test application forms, through online or otherwise, shall be 25th April, 2013, instead of 24th April 2013 (a gazetted holiday) as announced earlier.

(G. SOMASEKHAR)
ADDITIONAL SECRETARY (EXAMS)

CORRIGENDUM

CA Final Paper 5: 'Advanced Management Accounting' Study Material

CA Final students may note that in the January, 2013 edition of Vol. I of the CA Final Paper 5: Advanced Management Accounting Study Material”

- In pages 1.153 and 1.154 of Chapter 1: Development in the Business Environment “ Solution to the Illustration 2 part (a) has some printing errors. The errors have been rectified and updated solution of Illustration2 has been hosted on the website. Students may refer to the following link”

<http://220.227.161.86/29334rectified-solutions.pdf>

- In page 5.49 of Chapter 5: Standard Costing “ Solution to the Illustration 12 part (b) has some printing errors. The errors have been rectified and updated solution of part (b) has been hosted on the website. Students may refer to the following link”

<http://220.227.161.86/29334rectified-solutions.pdf>

- In pages 5.47 and 5.81 of Chapter 5: Standard Costing “ Solution to the Illustration 12 part (a) and Illustration 18 respectively in ‘Calculation of Variable Overhead Cost Variance and Variable Overhead Efficiency Variance” It is pertinent to use “Standard Variable Overheads for Production/Charged to Production” instead of ‘Absorbed Variable Overheads’ in formula.

ICAI Online e-Learning

For Intermediate (IPC) Course and Common Proficiency Course

<http://studentslms.icaai.org>

Introduction

The Board of Studies of the Institute has made available e-Learning facility for (a) Intermediate (IPC) Course and (b) Common Proficiency Course on the © Students Learning Management System (LMS).

Objective

Provide quality education for learning, re-learning and revising anytime and anywhere in an affordable manner through a self learning/ development facility.

Salient Features

- Anytime/ Anywhere Online Learning
- Foundation for understanding concepts and Self Study of Study Materials
- Examination Oriented
- Online Self-Assessment Quiz
- Quality Lectures by leading Faculty
- Uniform training across the country
- Multimedia Lectures
- Presentation & Podcast Download

Anytime/ Anywhere Learning

This e-Learning facility takes learning and development to the doorstep of students and they can now learn at their convenience from their homes/ offices/ cyber cafes even in smaller cities and mofusil towns.

How to Access?

Students of the Common Proficiency Course and Intermediate (IPC) Course of the Institute interested in pursuing the e-Learning can register themselves on the Students LMS using their Student Registration Number and start using the e-Learning facility.

Students with temporary Student Registration Numbers or belonging to earlier courses or those who are not able to register are required to contact their concerned Regional Offices.

Requirements

Multimedia Computer/ Laptop with Internet Connection and Adobe Flash Player, which is available for free download at www.adobe.com.



Board of Studies
The Institute of Chartered
Accountants of India
 (Set up by an Act of Parliament)

ICAI Bhawan
 Plot No - A-29, Sector-62
 Noida- 201309.

Tel.: 0120-3045930/ 31
Email: bos@icai.org

Announcement for Intermediate (Integrated Professional Course) applicable from May, 2013 Examination onwards

Paper 4: Taxation (Part II: Service Tax and VAT)

Service tax law, as contained in the Finance Act, 1994, as amended by the Finance Act, 2012 is relevant for May and November, 2013 examinations. The Finance Act, 2012 has introduced the concept of negative list in the service tax law whereby all services are liable to service tax except those covered under the negative list and the exempted services. In other words, under the present law, the services which would not be taxable have been specified as against the earlier law where the individual taxable services were specified. Consequently, the practice of notifying certain taxable services for Examination purposes (earlier eight taxable services were so notified) would no longer be relevant.

In view of these changes, Examination Committee at its 498th meeting held on September 23, 2012 has decided the sections of the Finance Act, 1994/rules to be covered under point no. 1 (Concepts and General principles) and point no. 2 (Charge of service tax and taxable services) of syllabus of Part II: Service tax & VAT in Paper 4: Taxation from May 2013 examination onwards (please refer to the announcement below).

APPLICABILITY/NON-APPLICABILITY OF NEGATIVE LIST AND RELATED TOPICS IN SYLLABUS OF PART II: SERVICE TAX AND VAT OF PAPER 4: TAXATION (IPCC) FROM MAY 2013 EXAMINATION ONWARDS

The Examination Committee at its 498th meeting held on September 23, 2012 has decided that the following sections of the Finance Act, 1994/rules will be covered under point no. 1 (Concepts and General principles) and point no. 2 (Charge of service tax and taxable services) of syllabus of Part II: Service tax & VAT in Paper 4: Taxation from May 2013 examination onwards:

- (i) Section 64 - Extent, commencement and application
- (ii) Sections 65B – Interpretations [only relevant ones which would be required to explain the concepts included]
- (iii) Section 66B – Charge of service tax on and after Finance Act, 2012
- (iv) Section 66D - Negative list of services
- (v) Section 66F – Principles of interpretation of specified descriptions of services or bundled services.
- (vi) Section 67A - Date of determination of rate of tax, value of taxable service and rate of exchange
- (vii) Point of Taxation Rules, 2011

It may be noted that the above-stated Sr. No.(i) - Section 64 and Sr. No.(vii) - Point of Taxation Rules, 2011 have already been covered in the existing syllabus so far. Thus, only Sr. Nos.(ii) to (vi) have been included as new topics in the syllabus under point no.1 (Concepts and General principles) and point no.2 (Charge of service tax and Taxable services).

The Committee further decided that the following topics pertaining to service tax law will not be included in the syllabus:

- (i) Section 66C - Determination of place of provision of service
- (ii) Section 66E – Declared services
- (iii) Place of Provision of Service Rules, 2012
- (iv) Section 68(2) and Reverse Charge notification
- (v) Export of Services vide rule 6A of the Service Tax Rules, 1994
- (vi) Mega exemption notification and other exemptions
- (vii) Abatement notification

In furtherance to the above-mentioned decision, it is clarified that other topics viz., valuation of taxable service, payment of service tax and filing of returns, topics related to VAT etc. as covered in the Study Material will continue to apply as they used to apply before.

In view of the far-reaching changes effected with the introduction of negative list approach of taxation in service tax, Study Material and Practice Manual of Part-II: Service tax & VAT of Paper 4: Taxation (contained in Volume III) [November edition] have been completely revamped. Students may note that the revised Study Material and Practice Manual have been prepared in accordance with the above-mentioned decision of the Examination Committee.

ANNOUNCEMENT

Conducting of Mock Tests for Intermediate (IPC) and Final Course students for May, 2013 Examinations

With a view to further encourage the students to evaluate their preparation for the examination; the Board of Studies has prepared Mock Test Papers for Intermediate (IPC) and Final Course students to assess their preparation for the main examination to be held in May, 2013. All our Regional Councils and Branches have been advised to conduct Mock Tests under examination conditions for the benefit of Intermediate (IPC) and Final Course students in the month of April 2013.

Students are advised to contact the respective Regional Councils/Branch(es) to ascertain the exact date(s) and venue for the Mock Tests and take advantage of the same which will help them to assess their preparation for the main examinations.

**Director
Board of Studies**

ANNOUNCEMENT

Final Examination- May 2013

After releasing the revised Study Materials/Practice Manuals of the various papers for the Final Course of CA curriculum in January 2013, we have been receiving innumerable queries through mail/telephone/e-Sahaayataa, as to whether there has been revision in the syllabus for May 2013 examination and whether only the revised materials are applicable for May, 2013 examination. In this regard, we once again reiterate that there is no change in the syllabus of Final Course. As regards revision of the Study Materials, it is a continuous process of the Board of Studies. The Study Materials are updated periodically to incorporate the latest changes in the concerned areas.

Please note that you may prepare for the examination on the basis of the earlier edition of the Study Materials and Practice Manuals, say, the January, 2012 edition. However, you must take due care to keep yourself updated with the subsequent developments in the subjects, which are reported in the monthly Students Journal "The Chartered Accountant Student". The latest developments are also compiled in the Revision Test Papers (RTPs) for May 2013 examination. The RTPs are prepared with the twin objective of keeping you updated on the latest developments which are relevant for your examination and helping you self-assess the level of your preparation by answering the questions contained therein and comparing the same with the answers given therein. The RTPs for May 2013 examination have been published and are available at the branches and regional offices of the Institute.

As regards Paper 7: Direct Tax Laws & Paper 8: Indirect Tax Laws, the October, 2012 and November 2012 editions of the Study Materials & Practice Manuals have been updated based on the provisions of law as amended by the Finance Act, 2012, and are hence relevant for May 2013 examination. Please note that the amendments made by the Finance Act, 2012 have also been explained separately in the Supplementary Study Paper-2012 for the benefit of those students who have the earlier edition of these Study Materials (i.e., as amended by the Finance Act, 2011).

**Director
Board of Studies**

Revised passing requirements for Common Proficiency Test (CPT) effective from June, 2013

20th February, 2013

In terms of the decision of the Council taken at its 317th meeting in pursuance of Notification No. 1-CA(7)/145/2012 dated 1st August, 2012, it is notified for general information that the passing requirements of CPT effective from June, 2013 shall be as under:-

“A candidate for the Common Proficiency Test shall ordinarily be declared to have passed the test if he obtains at one sitting a minimum of thirty per cent marks in each section and a minimum of fifty per cent marks in the aggregate of all the sections, subject to the principle of negative marking, in such manner as may be determined by the Council, from time to time.”

¼ (one fourth) mark shall continue to be deducted for each wrong answer and multiple darkened circles for a question will also be treated as wrong answer.

Accordingly, the minimum marks required in each section and in the aggregate in all sections of CPT as per the revised passing requirements will be as under:-

Section	Subject	Maximum Marks	Minimum Marks (Mandatorily to be secured after negative marking)
A	Fundamentals of Accounting	60	18
B	Mercantile Laws	40	12
C	General Economics	50	15
D	Quantitative Aptitude	50	15
Total		200	100*

* A candidate is required to secure a minimum of 30 per cent marks in each Section and a minimum of 50 per cent marks in aggregate in all the four Sections to pass the Common Proficiency Test.

In other words, it is clarified that if a candidate secures a minimum of 50 per cent marks in the aggregate but fails to secure the minimum marks required in any one or more of the sections A, B, C or D (as mentioned above), his result will be FAIL. Similarly, if a candidate secures a minimum of 30 per cent marks in each section but fails to secure 50 per cent marks in the aggregate of all sections, his result will be FAIL. The following table will further illustrate the revised passing requirements :-

Illustration	Candidate	MARKS SECURED #								Total		Result
		Section A		Section B		Section C		Section D				
		Fundamentals of Accounting		Mercantile Laws		General Economics		Quantitative Aptitude				
		Marks obtained	Maximum Marks	Marks obtained	Maximum Marks	Marks obtained	Maximum Marks	Marks obtained	Maximum Marks	Marks obtained	Maximum Marks	
1.	A	55	60	25	40	28	50	17	50	125	200	PASS
2.	B	36	60	20	40	15	50	29	50	100	200	PASS
3.	C	47	60	25	40	23	50	10	50	105	200	FAIL
4.	D	30	60	22	40	25	50	15	50	92	200	FAIL
5.	E	17	60	20	40	15	50	10	50	62	200	FAIL

Marks secured are after negative marking, if any, for wrong answers/multiple darkened answers for a question/s.

Complete text of the said Notification is hosted on www.icai.org under the link “Notifications” on home page.

EXAMINATION DEPARTMENT

ANNOUNCEMENT

General Management and Communication Skills

The General Management & Communication Skills (GMCS) Course, presently being organized for 15 days for the CA students shall be attended twice during the period of articulated training as under:

- (i) GMCS-I (15 days) - during 1st year of articulated training
- (ii) GMCS-II (15 days) - after completion of 18 months of training but before completion of articulated training

In view of the above, students, who have registered for Articled Training on or after 1st May, 2012 are required to undergo GMCS-I Course during the 1st year of articulated training.

GMCS Course has been designed to develop effective communication and conversational skills, to inculcate business acumen and improve public relations skills of the students. The inputs on Strategic Decision Making, Articulation Skills, Data Analysis and Research Methodology, Group Discussion and Preparation of Project Report etc. are essential to successfully face the challenges of the professional environment.

Therefore, the students, who have registered for articulated training on or after 1st May, 2012 are advised to enrol for the GMCS-I Course in the nearest Regional Council or Branch and complete the course without delay. Completion of GMCS-I & II is a mandatory requirement in accordance with the requirements of Regulations 51A/72A of the Chartered Accountants Regulations, 1988 and part of practical training.

**Director
Board of Studies**

ANNOUNCEMENT

Announcement for Final Examination applicable from May 2013 Examination onwards: Paper 8: Indirect tax laws

Service tax law, as contained in the Finance Act, 1994, as amended by the Finance Act, 2012 is relevant for May and November, 2013 examinations. The Finance Act, 2012 has introduced the concept of negative list in the service tax law whereby all services are liable to service tax except those covered under the negative list and the exempted services. In other words, under the present law, the services which would not be taxable have been specified as against the earlier law where the individual taxable services were specified. Consequently, the practice of notifying certain taxable services for Examination purposes (earlier thirty two taxable services were so notified) would no longer be relevant.

Students are advised to study Paper 8: Indirect tax laws from latest edition of the Study Material which is the relevant for May and November, 2013 examinations. Students having earlier editions of Study Material should refer to the Supplementary Study Paper-2012 (Final) for being updated with the amendments made vide the Finance Act, 2012.

ANNOUNCEMENT

Students Webcasts – May 2013 Examinations

The Board of Studies of the Institute is going to organise the following Webcasts for the benefit of Students appearing in the May 2013 Examinations:

Topic	Date	Time	Faculty
1. Income Tax – Final Course	Sat April 06, 2013	11.00 to 01.00 p.m.	CA. Girish Ahuja
2. How to Prepare for Exams	Wed April 10, 2013	06.00 to 08.00 p.m.	CA. T.N. Manoharan
3. Yes I can Qualify CA-Motivation	Mon April 15, 2013	06.00 to 08.00 p.m.	Mr. Gampa Rao

Further details on how to access the Webcasts would be hosted on the Institute website at www.icaai.org would be available latest by April 3, 2013.

Students are advised to make good use of this facility to succeed in their forthcoming examinations.

**Director
Board of Studies**



CA. Subodh Kumar Agrawal, President, ICAI inaugurating the CMII Campus Placement Orientation Programme at Mumbai in the presence of Central Council Members, CA. Srinivas Joshi, CA. Tarun Ghia, CA. Vijay Gupta, CA. Prafulla Chhajed and WIRC Chairman, CA. Mangesh Kinare.



CA. Subodh Kumar Agrawal, President, ICAI addressing the CMII Campus Placement Orientation Programme at Mumbai. Also seen in picture: Central Council Members, CA. Srinivas Joshi, CA. Tarun Ghia, CA. Vijay Gupta, CA. Prafulla Chhajed, WIRC Chairman, CA Mangesh Kinare and CA. Dilip Apte, Regional Council Member.



CA. Subodh Kumar Agrawal, President, ICAI inaugurating the Orientation Programme for Newly Qualified Chartered Accountants at Chennai organized by Committee for Members in Industry of ICAI in the presence of CA. K. Raghu, Vice-President, ICAI and Central Council Members, CA. Babu Abraham Kallivayalil, CA. G. Sekar, and CA. Vijay Kumar Gupta.



CA. K. Raghu, Vice President addressing the Students gathering at Lingraj College, Belgaum on February 23, 2013 along with CA. M. Devaraja Reddy, Central Council Member and CA. Nitin S Hiremath, Chairman, Belgaum Branch of SIRC.



CA. Mukesh Kushwah, Central Council Member, ICAI and CA. Pawan Mittal, Chimman, Sriganaganagar Branch of CIRC of ICAI along with CA. Nitish Aggarwal, CA Umesh Garg and CA. Pawan Garg at the State Level CA Students' Conference at Sriganaganagar.



CA. M. Devaraja Reddy, Central Council Member, ICAI and CA. PK. Agrawal, Consultant, CoE with the participants of Residential Programme on Professional Skills Development at Centre of Excellence, Hyderabad.

1	2	3		4	5	6	7		8	9		
10									11			12
13				14					15		16	
										17		
18	19	20	21		22		23	24	25			
26						27				28		29
30					31					32		
					33			34	35			
36		37				38	39					
	40						41	42				
	43					44						
				45								

◀ CROSSWORD

ACROSS

1. New Tax proposed to be introduced by the Finance Bill, 2013.
4. AS 10 does not apply to ___ assets.
10. A Latin term meaning "from the beginning".
11. A Latin phrase meaning "for example".
13. A simple tool used to identify a location and can identify locations uniquely where required.
14. A statistical tool, used in project management.
15. A key element of Taylor's scientific study was ___ and Motion study.
17. The Budget 2013-14 proposes higher taxes on luxury and ___ goods.
18. Standards designed as a common global language for business affairs.
23. A Public Sector Bank in India.
26. SA 230 is on Audit ___.
30. A self-employment program, launched by GOI in 1978, to raise the income-generation capacity of target groups among the poor.
31. The first Development Financial Institution in India to cater to the long-term finance needs of the industrial sector.
32. ___(s) are gross rating points delivered by a media vehicle to a specific target audience.
33. A document issued by a financial institution, or a similar party, assuring payment to a seller of goods and/or services.
34. The largest insurance group and investment company in India where GOI has 100% stake.
36. Domesticated
38. ___ and behold, an exclamation used especially to announce things that are considered startling or important.
40. A class of storage medium used in computers and other electronic devices.
41. The Supreme Court of India ruled in 1983 that the death penalty should be imposed only in "the ___ of rare cases.
43. The female of the deer, antelope, goat, rabbit, and certain other animals.
44. A unique alphanumeric combination issued to all juristic entities identifiable under the Indian Income Tax Act 1961.
45. Donations made to National..... Fund to qualify for 100% deduction under section 80G.

DOWN

1. Guardian of public purse.
2. ___ accounting dimensions are profit, planet and people.
3. An identification number used by the Internal Revenue Service (IRS) in the administration of tax laws.
4. ___ arising under construction contracts does not come under the scope of AS 2.
5. Past tense of eat.
6. A respectful term of address used to a man.
7. A small child.
9. An interactive and transparent portal to groundwater-related information and knowledge.
12. The rate of contribution of employer is ___ % to the EPF Scheme.
16. Person not completed 18 years of age.
18. An utterly foolish or senseless person.
19. ___ rate is used for determination of price of a future contract.
20. A department for computer based research.
21. Highest Court of Appeal in India.
22. Lifting the corporate ___ is a legal decision to treat the rights or duties of a corporation as the rights or liabilities of its shareholders.
23. Government owned company dealing mainly in bulk international trade.
24. Release of a person after taking a bond.
25. A student of ICAI who registers for articleship on or after 1st August 2012 is required to do the advanced ___ Training in the third year of practical training.
27. A leading manufacturer and supplier of plant nutrients in India.
28. A company with diversified presence in FMCG, Hotels, Tobacco, Specialty Papers, Packaging, Agri-Business, and Information Technology.
29. A corporation or an association that conducts business for the benefit of the general public without shareholders and without a profit motive.
35. ___ -4 is for individuals and HUFs having income from a proprietary business or profession.
37. A ___ point means a point which is open to debate.
39. A form of communication.
42. A form of conjunction
44. The value of ___ is generally taken to be 3.14.