

The Artcled....

Because u r Altitude is determined by u r Attitude

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The Institute of Chattered Accountants of India (ICAI) has planned to make residential classes for Chartered Accountancy (CA) studies compulsory in the coming days.

The world's second-largest accounting body is in a process of setting up network centres that will be utilized for special training programmes for its members. The Institute will make arrangements for students where they can opt for residential facilities at the proposed centres and attend classes for a certain period instead of just studying through the distant learning mode.

"The classes would be made compulsory once there is adequate infrastructure in place," said Chairman of Board of Studies at ICAI, Mr. Jaydeep Shah. Mr. Shah was speaking at the 4th National Convention of CA students jointly organised by ICAI and Western India CA Students Association held at Vadodara. He further added that students at the initial stage would be given the freedom to familiarize with this concept before making it compulsory.

ICAI will setup a network of "Centres of Excellence" at an investment of about Rs.150 crore within the next 2-3 years. It is worth noting that presently there is no such provision for CA students to attend any classes. They receive study materials from ICAI and prepare accordingly. However, there are facilities in some major cities for attending regular classes. In cities like Chennai, Kolkata, Delhi, Mumbai and Ahmedabad students are offered 100 hour mandatory training classes. The ICAI had also started offering study material in digital format and conducting virtual classes through an e-learning platform and these residential facilities are and added step in this regard. It will offer a campus-study atmosphere to its students on the same lines as that of modern B-schools across the country.



Editorial:

"Expectations and Goals are two Virtual aspects of Life. And achieving the goals is an External vision of an Optimist."

When we started this article, little did we realize the quest that we had embarked upon would receive such a good response. Here we can't help but draw comparisons to the triumphant Indian Team who when started had the least expectations riding on their backs. But the young guns grew in strength from match to match as the entire nation watched in sheer pride and awe and only rested when they finally bagged the ultimate "Cup of Joy".

Our DNS team too aims to conquer similar peaks of success through sheer hardwork and determination and these editions are little steps in this endeavor. Chak De !!!!

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FRAUD: CHANGING PERSPECTIVE OF AUDIT

THE LOVE OF MONEY IS THE ROOT OF ALL EVIL - BIBLE

Enron named as “America’s Most Innovative Company” by Fortune Magazine was an energy company based in Houston, Texas that dealt with the energy trade on an International and domestic basis. In just 15 years, Enron grew from nowhere to be America's seventh largest company, employing 21,000 staff in more than 40 countries and had offices that were, in hindsight, stunning in their opulence. But the firm's success fell down as speedily as the Twin towers—the reason—??



A well-designed scam.

Enron misstated its profits and stood accused of a range of shady dealings, including concealing debts from shareholders through partnerships with other companies, fraudulent accounting, and illegal loans. As the scandal was revealed, Enron shares dropped from over US\$90.00 to just pennies. Enron's plunge occurred after it was revealed that much of its profits and revenue were the result of deals with special purpose entities formed for this purpose (limited partnerships which it controlled). Listed below are a few of the partnerships that allowed Enron to hide debt:

? **RADR** – A group of entities secretly funded by Enron that purchased electricity-generating windmills from Enron, then later sold them back with some of the profits going to key Enron officials and their families.

? **LJM** - A partnership firm partly owned and operated by CFO Andy Fastow did nothing but buy, sell & hedge assets with Enron, thereby masked hundreds of millions of dollars of losses on Enron Investments.

Enron executives, propelled by greed, were not satisfied with immense salaries: they set up all sorts of spin-off partnerships to enrich themselves at the expense of stockholders and the corporation's bottom line.

The result was that many of Enron's debts and the losses that it suffered were not reported in its financial statements. The whistle blower* Sherron Watkins quoted “it’s a bit like robbing the bank in one year and trying to pay it back 2 years later,”

In addition, the scandal caused the dissolution of Arthur Andersen, which at the time was one of the world's top five accounting firms.

Five years ago, President Bush signed an Enron-inspired law U.S. Sarbanes-Oxley Act (SOX), 2002 that gave whistle-blowers* at public companies the right to sue for anything that could affect shareholders. This law provides stronger penalties for fraud and, among other things, requires public companies to avoid making loans to management, to report more information to the public, to maintain stronger independence from their auditors, and

most controversially, to report on and have audited, their financial internal control procedures.

It was high time and the world along with the Americans got up from the hibernation. Our country also realized the importance of such laws in India and that gave way to the provisions like 292A of the Companies Act, 1956 dealing with Audit committee, clause 49 of the listing agreement and Accounting standard 18 relating to disclosures of related party transactions. Let us now analyse the contributions made by the Indian government in regard to this:

1) Audit Committee u/s 292A of Companies Act:

Every Public Company having a Paid up capital of not less than Rs. Five Crores shall constitute a committee of the Board known as “Audit Committee” which shall consist of not less than 3 Directors and such number of other Directors as the Board may determine of which 2/3rd of the total number of members shall be Directors, other than Managing or Whole time Directors. This committee should have discussions with the Auditors specifically about Internal Control systems, scope of Audit including the observations of the Auditors and preview the half yearly and annual financial statement before submission to the Board and also ensure compliance of Internal Control system and the recommendation given by the committee shall be binding on the Board. If the Board does not accept such recommendation, it shall record the reasons therefore and communicate such reasons to the shareholders.

2) Clause 49 of Listing Agreement:

Tough regulations such as Clause 49 are the outcome of a series of scams that have hit the corporate world. These rules aim to shine a light on operations management and ensure that top management is held accountable when things go wrong. The term ‘Clause 49’ refers to clause number 49 of the Listing Agreement between a company and the stock exchanges on which it is listed (the Listing Agreement is identical for all Indian stock exchanges, including the NSE and BSE). Clause 49 has suitably pushed forward the original intent of protecting the interests of investors through enhanced governance practices and disclosures. The quality and quantity of disclosures have improved. The roles and responsibilities of the audit committee in all matters relating to internal controls and financial reporting have been consolidated, and the accountability of top management—specifically the CEO and CFO—has been enhanced

3) Accounting Standard – 18:

The objective of this Statement is to establish requirements for disclosure of:
(a) Related party relationships; and
(b) Transactions between a reporting enterprise and its related parties.

Scope:

This Standard is mandatory in nature in respect of accounting periods commencing on or after 1-4- 2004 for the enterprises which fall in Level I enterprise:

Parties are considered to be related if at any time during the reporting period one party has the ability to control the other party or exercise significant influence over the other party in making financial and/or operating decisions. The various terms associated with this standard have been enumerated below:

✂ Related party transaction - a transfer of resources or obligations between related parties, regardless of whether or not a price is charged.

✂ Control:-

- (a) ownership, directly or indirectly, of more than one half of the voting power of an enterprise, or
- (b) control of the composition of the board of directors in the case of a company or of the composition of the corresponding governing body in case of any other enterprise, or
- (c) a substantial interest in voting power and the power to direct, by statute or agreement, the financial and/or operating policies of the enterprise.

✂ Significant influence - participation in the financial and/or operating policy decisions of an enterprise, but not control of those policies.

Related party relationships are a normal feature of commerce and business. For example, enterprises frequently carry on separate parts of their activities through subsidiaries or associates and acquire interests in other enterprises - for investment purposes or for trading reasons - that are of sufficient proportions for the investing enterprise to be able to control or exercise significant influence on the financial and/or operating decisions of its investee.

Without related party disclosures, there is a general presumption that transactions reflected in financial statements are consummated on an arm's length basis between independent parties. However, that presumption may not be valid when related party relationships exist because related parties may enter into transactions, which unrelated parties, would not enter into. Also, transactions between related parties may not be effected at the same terms and conditions as between unrelated parties. Sometimes, no price is charged in related party transactions, for example, free provision of management services and the extension of free credit on a debt. In view of the aforesaid, the resulting accounting measures may not

represent what they usually would be expected to represent. Thus, a related party relationship could have an effect on the financial position and operating results of the reporting enterprise.

DISCLOSURE

The name of the related party and nature of the related party relationship where control exists should be disclosed irrespective of whether or not there have been transactions between the related parties.

If there have been transactions between related parties, during the existence of a related party relationship, the reporting enterprise should disclose the following:

- ✂ The name of the transacting related party;
- ✂ A description of the relationship between the parties;
- ✂ A description of the nature of transactions;
- ✂ Volume of the transactions either as an amount or as an appropriate proportion;
- ✂ Any other elements of the related party transactions necessary for an understanding of the financial statements;
- ✂ The amounts or appropriate proportions of outstanding items

It is not possible for the auditor to be 100% certain that he/she has obtained all evidence regarding all significant related party transactions, especially if management is trying to conceal something. However, the auditor should look closely at any relevant data that may lead him to discover related party transaction. Aside from making inquiries to managers, the auditor could question the company's attorneys, review board minutes, read local press for possible publications, but most importantly know the customer.

It also requires an auditor to adopt reasonable procedures to retain such documentations long enough "to meet the needs of his or her practice and to satisfy any applicable legal or regulatory requirements for records retention."

Due to the high-tech environment the gap between audit & fraud examination is going to narrow down and merge leading to Frauds becoming the order of the day. Therefore the age old saying "**An auditor is a watchdog, not a blood hound**" needs to be revised.

*Whistle Blower - **Employee** who publicly reports illegal activities going on inside his/her **company**.

-Udaya, Shilpa, Pavithra, Vinay

Congratulations:

The award for Crossword-4 is jointly shared by Miss Priyaranjani M.P & Miss Monica.

The Lateral Thinking-4 Award is bagged by Mr Mukesh Jain

Whereas the Logo Quest-1 Award is won jointly by Mr Gopal PL & Mr. Mukesh Jain

We congratulate all the winners.

Shares Under Mats... A Boon to Capital Market

The 21st century changed the manner in which the Indian capital market functioned; enabling it to keep pace with practices adhered to, by international capital markets. One such practice was the dematerialization of securities.

The Companies Act, 1956 on 13th December 2000, introduced the concept of "Compulsory De-mat Mode" u/s 68B, stated that, "every listed public company, making initial public offer of any security of sum 10 Crores or more shall issue the same only in dematerialized form".

But a decade before, it was a different view towards the system that a company followed for dealing in shares. Shares were issued only in "physical form" (paper form) to their respective holders. Corruption playing its role in every part didn't require much time to enact in the share market. People started manipulating the certificates, forging signatures, duplicating shares etc...

The concept of "de-mat mode" made the difference....

"Dematerialization" is a process by which physical certificates are converted into electronic form.

The greatest benefit of dematerialization is that the cumbersome processes that were carried out by investors, companies & intermediaries have stopped; and the transaction of securities in their electronic format is done easily. Delays in the processing of purchase and transfer of securities have been eliminated. In addition, it has also eliminated the fraudulent practices. The system is ideal for modern man's fast-paced lifestyle.

The de-mat system does away with the time-consuming task of obtaining copies of share certificates that are mutilated, lost in transit or misplaced. Also, the costs of preparing an indemnity bond or of issuing a newspaper advertisement do not have to be incurred.

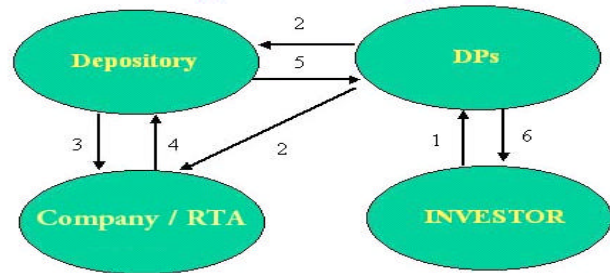
Moreover, when shares are held in their de-mat format, brokerage charges on transactions are lower; and a person who borrows against de-matted securities is charged a lower rate of interest. A shareholder may hold the physical certificate of a security for as long as he desires, but when he wishes to sell, it is mandatory to de-mat the security.

A simple process is followed for de-materialization of shares:

Opening a De-mat Account with the Depository Participant (DP)

- ✚ Fill the De-mat Request Form (DRF) and submit the same with physical certificate to the DP
- ✚ DP defaces the same and sends the certificate to the Issuer/Registrar.
- ✚ The Issuer/Registrar credits the equivalent number of securities in the De-mat account.

A de-mat account with Depository Participant (DP), helps shareholders to enter the share market and



Flow Chart of Dematerialisation Process

serves as a link between the investor and the company. A person may open a single de-mat account or multiple de-mat accounts, depending on the type of his shareholding. Brief explanation of the terms used, to understand the concept of dematerialization better:

Depository: Depository is responsible for keeping stocks of investors in electronics form. There are two depositories in India, NSDL (National Securities Depository Ltd) and CDSL (Central Depository Services Ltd).

Participant: Participant acts as the agent of a Depository under the Act and cannot act unless registered with SEBI. A Participant may belong to one of the following categories:

- ? A public financial institution as defined in Section 4A of the Companies Act 1956.
- ? A bank as per schedule II of RBI Act, 1934
- ? A Foreign Bank operating in India
- ? A State Financial Corporation
- ? An institution promoted by any of the institutions mentioned above
- ? A custodian of securities recognized by SEBI
- ? A Clearing Corporation or Clearing house of a Stock Exchange.
- ? A Stock Broker registered with SEBI having Net Worth as prescribed
- ? A Non-banking company as specified
- ? A Registrar or share transfer agent as specified

Issuer: The issuer is the company, which issues the security. In terms of clause 2.1.5. of SEBI DIP (Disclosure & Investor Protection) Guidelines 2000, before a company makes a right issue of a value exceeding Rs. 50 lakhs or a public issue, it shall enter into an agreement with a Depository for Dematerializing its shares or other security.

Beneficial Owner: A Beneficial Owner is a person who is known as the member of a company holding shares and share certificates in the physical mode. By the legalistic fiction, the Depositories Act makes the concerned Depository as the registered owner and the persons to whom the shares are allotted as the Beneficial Owners. The Beneficial owner is also subject to same liabilities as a member in the physical mode.

ISIN Number: Each instrument will be identified separately in NSDL system through a unique code called ISIN number. Description of each instrument will be communicated to all the Depository Participants (DPs) and Issuers on activation of ISIN in NSDL system. The ISIN of the security should be mentioned in the De-mat Request Form (DRF) to ensure that the correct security is dematerialized.

Securities and Exchange Board of India: - SEBI protects the interests of investors in securities and promotes the development of the securities market through appropriate regulation.

A bit more about De-mat:

- ✚ No need to fill in transfer deed for dematerializing the physical certificates
- ✚ Individuals can nominate either singly/ jointly with one or more persons
- ✚ Trusts, Societies, Body Corporate, and Partnership firms, Karta's of HUF, POA holder cannot be

appointed as a nominee for dematerializing of shares.

- ✚ An investor is compelled to adopt the depository that the company chooses. A Company may have an account with NSDL only, while an investor has an account with CDSL. In such a scenario, the investor is compelled to open an account with NSDL as well.

The impact of *de-materialization* has driven Indian economy to new heights. Technology playing a major role has set high standards for investors across the world to reroute their funds in India. Indian economy has been facing a stiff competition globally & is standing steady with the "BRIC" nations. Such a format of dematerialization has been highly supportive & needful to uplift the capital market of India.

Though the term 'dematerialization' may sound complicated and the process may seem to be unfamiliar, it has been proved to be 'boon to capital markets' worldwide.

-Abhishek, Swapna, Tanuja, Puneeth, Sneha

IT'S TAX AUDIT TIME IT'S TAX AUDIT TIME

--Concept, emergence and prolongation of tax audit.

The year 2007 marks the completion of 22 years of Tax Audit

“It’s not enough that we do our best; sometimes we have to do what’s required”, a quote by Sir Winston Churchill aptly suits the tax audit system in which a chartered accountant while discharging his tax audit attest functions has to focus on accomplishing the objective of the emergence and prolongation of tax audit regime. Equally the business establishments have displayed ardent-stance to imbibe transactions transparency to sail strong in this era of India’s opening to the globe. There are companies, managements and audit committees that have gone back and re-looked at what they’re doing and scrutinizing to make sure that their houses are in order and clean. The amended tax audit report that has incorporated changes in the report form to include FBT, TDS, Conversion of capital assets into stock trade, Section 40A(3), 43B etc intends to scrutinize a business from a more closer perspective.



Act, audit of the accounts of certain assesseees is required if the total sales, turnover or gross receipts for the previous year exceeds the prescribed limits. In common parlance, section 44AB audit is popularly known as 'tax audit'.

(A) Objectives of Tax Audit: The objectives of tax audit are:

- ✚ To ensure that the books of account and other records of the assessee are properly maintained.
- ✚ To ensure that the records faithfully reflect the correct income of the tax-payer and claims for deduction are correctly made.
- ✚ To facilitate administration by proper presentation of accounts before the tax authorities and to save Assessing Officer's time in carrying out routine verification.
- ✚ To ensure that the revenue authorities are provided with audited financial statements along with the relevant data and information for assessment.

Let's now get into the intricacies of tax audit -

Section 44AB of the Income-tax Act, 1961 was introduced by section 11 of the Finance Act, 1984 with effect from 1st April, 1985. Under section 44AB of the Income-tax

(B) Applicability of Tax Audit: Section 44AB of the Income-tax Act provides for compulsory audit of accounts of certain persons carrying on business or profession.

Cases	Applicability
In the case of a business	Every assessee whose total sales, turnover or gross receipts for the previous year exceeds Rs. 40 lakhs has to get his accounts audited.
In the case of a profession	Every assessee whose gross receipts for the previous year exceed Rs.10 lakhs has to get his accounts audited.

An assessee covered by presumptive sections 44AD, 44AE, 44AF, 44BB or 44BBB would also have to get an audit conducted, if the assessee claims that the income is lower than the presumptive income deemed under the respective sections. A non-resident assessee is also required to get the accounts of the Indian operations audited, if the global business sales/receipts exceed the specified limits.

(C) Non-Applicability of Tax Audit: Tax Audit shall not apply to the person who derives income of the nature referred to in section 44B or section 44BBA, on or from the 1st day of April, 1985 or, as the case may be, the date on which the relevant section came into force, whichever is later. Moreover a person who is wholly outside the purview of Income-tax Act need not get his accounts audited u/s 44AB even though his total sales exceed Rs. 40 lakh. Eg: An agriculturist.

(D) Compliance of conditions before acceptance of Tax Audit assignment: A person defined as a chartered accountant within the meaning of Chartered Accountant Act, 1949 and who hold a Certificate of Practice can perform tax audit u/s 44AB. An auditor is required to comply with the following conditions before acceptance of tax audit:

- ✍ At the time of appointment a letter evidencing appointment shall be obtained by the auditor from
 - ? An individual himself in case of audit of an individual.
 - ? A partner in case of audit of a firm.
 - ? A director, preferably with reference to a board resolution in case of audit of a company.
 - ? A member of AOP in case of audit of AOP.
- ✍ In the interest of both client and auditor, the auditor should send an engagement letter,

preferably before the commencement of the engagement, to help avoid any misunderstandings with respect to the engagement. This letter should state that the auditor shall have the right to access to the books of accounts and other documents and shall also have the right to seek information and explanations. **This is necessary since section 44AB does not specify the rights of the auditor.** It has become mandatory from 2003-04.

✍ In case where the previous year's audit is conducted by any other auditor, then "No Objection Certificate (NOC)" to be obtained from the previous auditor before the acceptance of the tax audit assignment.

(E) Ceiling on tax audit assignments: The specified number of tax audit assignments that an auditor, as an individual or as a partner of a firm, can accept is 45 numbers. The ceiling limit was increased from 30 to 45 numbers in the year 2007. ICAI has notified that a chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he accepts in a financial year, more than the specified number of tax audit assignments u/s 44AB.

(F) Furnishing of reports: For the purpose of section 44AB, an audit report is to be given in Form No. 3CA if the person carrying on business or profession is required to get his accounts audited under any other law.

In all other cases, an audit report is to be given in Form No. 3CB. The report in Form No. 3CA or 3CB is to be accompanied with Form No. 3CD.

In the audit report, the tax auditor has to express his opinion as to

- ✍ Whether or not the financial statements give a true and fair view of the profit or loss and the state of affairs (the auditor is required to state this where the accounts of the assessee have not been audited under any other law); and
- ✍ Whether or not the prescribed particulars contained in the statement annexed to the audit report are true and correct.

(G) Form 3CD: Form 3CD is a statement of particulars annexed to the audit report in Form 3CA / 3CB containing the entire information of significance for the assessment of taxable income. Notification No.208/2006 dated 10th August 2006 has made significant amendments in Form No.3CD. In sequel, the supplementary guidance note giving guidance on the above amendments was also released by ICAI.

(H) Annexure II and new clauses to tax audit report

✍ **Fringe Benefit Tax:** Annexure II for the computation of the value of fringe benefits in terms of Section 115WC read with Section 115WB has been inserted. Accordingly, the tax auditor is responsible for the determination of the value of fringe benefit tax. The report provides for reporting FBT expenditure as debited to profit & loss account, accounted for in the balance sheet, reimbursement and any others. The auditor shall verify whether the auditee has followed proper accounting procedure in identifying and disclosure of expenses covered under FBT.

✍ **Conversion of Capital Asset Into Stock In Trade:** Clause 12A was inserted in the report in 2006. For furnishing the particulars under the provisions of section 2(47), 45(2), 47(iv) and (v) and 47A have to be kept in mind. The auditor is required to report the details of capital asset converted into stock in trade in the following manner:

- ? Description of capital asset,
- ? Date of acquisition of asset and cost of its acquisition.
- ? The amount at which the asset is converted into stock-in-trade and if the conversion value is at the book value of asset, he has to report the fact under this clause.

✍ **Inadmissible Expenditure u/s 14A:** Clause 17(i) was inserted requiring the auditor to report on “amount of deduction inadmissible u/s 14A in respect of the expenditure incurred in relation to income which does not form part of Total Income”.

✍ **Inadmissible Expenditure under proviso to Section 36(1)(ii):** Clause 17(m) was inserted in Form 3CD, which requires auditor to report “amount inadmissible u/s 36(1)(ii) by verifying the correctness of the particulars furnished along with the documentary evidence”. As per proviso to Section 36(1)(ii) read with Explanation 8 to Section 43(1) of the Act, interest on funds borrowed for the purpose of acquiring an asset need to be capitalized along with the cost the asset up to the date of capitalization and treated as revenue expenditure after the date of capitalization which is in accordance with the As-16 on “Borrowing Costs”.

✍ **Taking or accepting of loan or deposit and repayment through account payee cheque:** As per new clause 24(c), the auditor has to report on whether a certificate has been obtained from the

taxpayer regarding taking or accepting loan or deposit, or repayment of the same through an account payee cheque or an account payee bank draft. The reporting is not required in the case of a repayment of any loan or deposit taken or accepted from Government, Government Company, banking company or a Corporation established by the Central, State or Provincial Act.

✍ **Changes in Shareholding in case of Carried forward of losses u/s 79:** As per new clause 25(b) of Form 3CD requires auditor to report whether losses of a company can be carried forward in terms of Section 79. As per Section 79 of the Act, losses incurred by a company cannot be carried forward unless at least 51% of the shareholding of the company continues to be held by the same shareholders in the year of loss.

✍ **Tax Deduction at Source:** The newly inserted clause 27 requires reporting on the compliance with the provisions of Chapter XVII-B regarding deduction of tax at source and payment thereof to the credit of Central Government. Thus the scope of reporting under the new clause is much wider. In the case where the assessee has not complied with Chapter XVII-B, then the auditor has to provide the following details:

- ? TDS deductible and not deducted at all,
- ? Shortfall in deduction,
- ? Tax deducted late and,
- ? Tax deducted but not paid to Central Government.

(I) Due Date: The due date of furnishing audit report to the authorities by an assessee is October 31 of the assessment year.

(J) Penalty: U/s 271B, if a person fails to get his accounts audited as required under section 44AB or to furnish the report of such audit, a sum equal to 0.5% of the total sales, turnover or gross receipts, as the case may be, or a sum of Rs. 1, 00,000, whichever is less, can be levied as penalty.

With recent amendments Tax Audit Report is now considered a ‘mega report’. It is an undenying fact that the auditor has onerous responsibility in discharging his attest functions. In the making of this so called ‘mega report’, the duty of the auditor commences with various tasks like proper understanding of the nature of the business of the assessee, compilation of baggy data as required under form 3CD, receipt and verification of various certificates and documents from the assessee.

-Komal, Deepti, Naresh, Deepak, Nikhil 7



“You & I in this beautiful world”

Vodafone Essar & Taxman tussle

Hutch's punch line “*where ever you go, our network follows*” delighted the viewers and the Ad-world. It appears that the Indian Income Tax Authorities have applied the same on the Hutchison deal with a slightly modified version, “*wherever you earn, our tax-net follows*”.

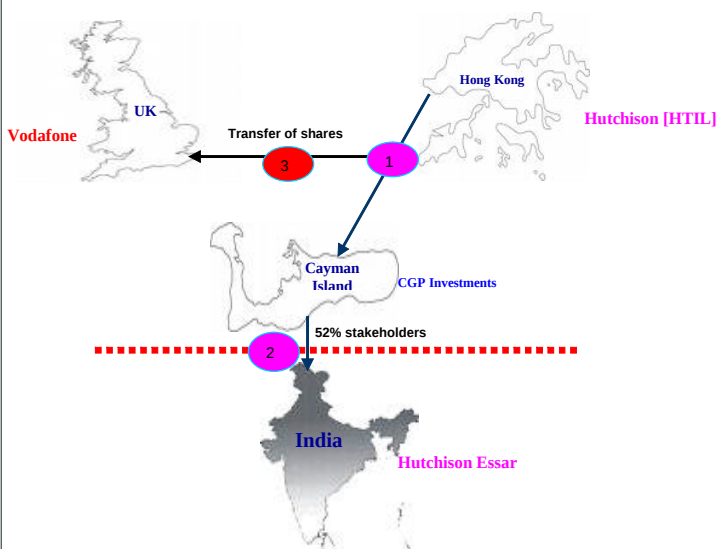
The I.T. authorities seem to be equally impressed by the Vodafone's new punch line “*make the most of now*” and have issued a show-cause notice to make the most from the Hutch-Vodafone deal. The I.T. authority claims that the Hutch-Vodafone deal falls under the capital gains tax ambit in India and has claimed \$2 billion as capital gains tax. However, Vodafone has contested the notice in the Bombay High Court.

Whatever outcome churns out of this tussle will be the precedence in all-future deals of similar nature. As such, many MNC's are eagerly awaiting the outcome of this tussle as it may have an impact on their deals.

Let us get into knowing more about the deal and its tussle that is in the spotlight now.

What is the deal and how it happened?

Pictorial representation of the deal



Brief explanation of the above:

- ✍ Hutchison Telecommunication International Limited [HTIL] is a company formed and registered in Hong Kong.
- ✍ CGP Investments (Holdings) Ltd. is a Special Purpose Vehicle (SPV) formed and registered by HTIL in Cayman Island.

- ✍ Hutchison-Essar is a company formed and registered in India.
- ✍ 52% stakes of Hutchison-Essar were held by CGP Investments (Holdings) Ltd.
- ✍ In the Hutchison-Vodafone deal, Vodafone – UK based company acquired CGP Investments (SPV).
- ✍ Consequently Hutchison-Essar became Vodafone-Essar.

Why did the deal attract I.T. Authorities?

This deal attracted the attention of I.T. authorities to bring the transaction under capital gain tax ambit. The I.T. authorities brought out the following **grounds to levy tax of \$2 billions** on the gains made by HTIL:

- ✍ Considering Vodafone Essar as an agent of HTIL in line with the provisions of Sec. 163.
- ✍ Considering transfer of beneficial interest of any asset in the country is liable to tax, as per provisions of Sec. 9(1) (i).
- ✍ Consequently, I.T. Authorities required Vodafone to deduct TDS u/s 195 on the payments made to HTIL.

The I.T. authorities **justify the levy as below:**

- ✍ Section 163 defines agent to include a person who has a business connection with the non-resident.
- ✍ Sections 160 & 161 impose liability on an agent to be assessed in respect of the income of the principal. The liability is in respect of the income of the non-resident principals and secondly it is in respect of income falling within Section 9(1) and not any other income.
- ✍ Under Section 9(1) income is deemed to accrue in India if it accrues, directly or indirectly
 - ? through or from any business connection in India;
 - ? through or from any property in India;
 - ? through or from any asset or source of income in India;
 - ? through the transfer of capital asset situated in India.
- ✍ Further the I.T. Authorities have taken the precedence of the FIPB approval granted for the deal on the basis of the location of underlying asset in India.
- ✍ So, the I.T. Authority considers that Vodafone-Essar is liable to withhold taxes payable by HTIL.

What is Vodafone-Essar's stand on this?

Vodafone-Essar on the other hand is of the opinion that it has no obligation to pay tax on its deal to buy stake in Hutchison-Essar and hence it has filed a writ petition in the Bombay High Court contesting the show-cause notice issued by I.T. Authorities.

What are the views of tax experts?

Experts from the taxation fraternity are of the view that:

- ✍ The transaction is between two non-residents outside the geographical territories of India.
- ✍ The transfer is of shares of Investment Company situated outside India and as such should not be liable to tax in India.
- ✍ The I.T Act specifies the scope of taxable income of a non-resident. As per Section 5(2) of the Act, the taxable income of a non-resident includes income "received or deemed to be received in India" and income that "accrues or arises or

deemed to accrue or arise in India". It does not include income that accrues or arises or is deemed to accrue or arise outside India.

- ✍ It is a common practice among multinational corporations (MNC) to establish an investment company in tax-efficient countries such as Mauritius or Cayman Islands for holding their stake in an Indian company. Generally, it has been well accepted that any transfer of shares of such an investment company established outside India by the MNC is not taxable in India, as the transfer pertains to shares of a foreign company by a non-resident.

- ✍ Also, the experts are of the view that the I.T Authorities have garnered support from the FIPB approval giving them the opportunity to lift the corporate veil, an extreme measure generally taken in case of legal violations.

It is clear that resolution of the above issues may entail a long drawn litigation and several MNC's would keenly await the final view adopted by the Indian tax administration in this respect.

Now, the ball is in the court of law

-Berulal, Amarnath, Chetan, Mitesh

Opinion Poll:

The News letter "The Articled" is a very good initiative from your side. I can say that this a better news letter than the Institute news letter because the language used is simple without complex sentences and phrases. The articles on Accounting standards and Taxation are well explained with examples. "The Articled" is very useful to the student community.

Thanks for your initiative for bringing out a newsletter which is useful both for the students and the professionals.



Yashasvi
Audit Asst, KPMG



"The Articled" is a great source of information not only for the CA aspirants but also for the laymen who want to update themselves with the latest happenings in the financial world. It could be made more vibrant which would enhance the outlook of the newsletter which would make it more appealing to the onlookers. The Crossword & the Logo Quest gives a new zeal and enriches the newsletter.

Ankit Lalwani
Northern Trust, US Tax Analyst

Hearty congratulations to the entire Editorial team for coming out with "The Articled". The E-Newsletter is one of its kind, as it helps in the easy updation of information in today's world. Along with the technical aspects, the Lateral thinking & Tid bits make it a reader friendly newsletter. The article on company law & accounts has made legal aspects more clear. Eagerly awaiting the next Issue.



Rahul Bajaj
Analyst



A definite credit needs to be given to the entire team of "The Articled" for its effective presentation. It is one of the very few newsletters which has successfully kept up the interest among the readers. The newsletter is growing with every issue & more importantly it's amazing to know that this is entirely done by the Articles who are of our age. Hats off to the entire team. Hope the great work continues!!!

Praveen DK
Deutsche Bank, Process Executive

COMPROMISE UNDER VAT LAW

The word “composition” denotes mixture of more than one character. In general sense “composition” is an agreement between the parties where one party agrees to pay less than what has agreed in full satisfaction of the whole of the claim. Therefore one can say it is a beneficial agreement.

Background

It is an agreement between ‘Government’ and ‘Dealer’, where it is agreed to pay lesser rate of tax compared to what has actually stated in the provision upon certain terms and conditions.

Before the introduction of ‘Value Added Tax’ in India the sales tax laws of the respective states had the provisions for dealers in the form of composition scheme. The Value Added Tax following the lines of the earlier sales tax laws included the composition scheme while introducing the VAT. It extends the benefit to the dealers like works contractor, hoteliers etc without any restriction on turnover.

Who is eligible to opt under KVAT Act, 2003?

Any dealer other than the one who does inter-state trade is eligible to opt (except in the case of works contractor). Basically there are two types of dealers who can opt for the scheme:

- 1) Dealers without turnover limit
- 2) Dealers with turnover limit

Dealers without turnover limit

The dealers running the following business can opt for the composition scheme, irrespective of their turnover:

- (1) Execution of Works Contract
- (2) Hotel
- (3) Restaurant
- (4) Catering
- (5) Sweet Meat Stall or Ice Cream Parlor
- (6) Bakery
- (7) Mechanized crushing unit producing granite or other metals

Dealers with turnover limit

Any dealer other than the above mentioned dealers who desire to opt for composition scheme, the total turnover shall not exceed 15 lakhs per annum.

Registration

An application in VAT Form-1 to be submitted to the jurisdictional Registering Authority whose taxable turnover exceeds Rs.2 Lakhs per annum or taxable turnover exceeds Rs.15,000/- during any month.

Rate of Tax

The rate of tax specified under KVAT Act, 2003 is 4% on total turnover for dealers without turnover limit except dealer running crushing unit and producing granite or other metals and 1% for dealers with turnover limit.

For dealer running mechanised crushing unit producing granite metals

- i) 16,500/- pm for each mechanized crushing machine of size exceeding 16” x 9”
- ii) 8,250/- pm for each mechanized crushing machine of size exceeding 12” x 9” but not exceeding 16” x 9”
- iii) 4,000/- pm for each mechanized crushing machine of size upto 12” x 9”

For dealer running mechanized crushing unit other than producing granite metals

- i) 10,000/- pm for each mechanized crushing machine of size exceeding 16” x 9”
- ii) 5,000/- pm for each mechanized crushing machine of size exceeding 12” x 9” but not exceeding 16” x 9”
- iii) 3,000/- pm for each mechanized crushing machine of size upto 12” x 9”

Benefits

The composition scheme of tax is introduced to relieve the dealers from the maintenance of detailed books of accounts especially the small dealers and works contractors, hotels etc., where it is a very tedious task. This saves a lot of labour and efforts involved in keeping the books of accounts. There are no complex procedures to be followed by the composite dealers.

Works Contractors:

- ✗ A works contractor has to bi-furcate his turnover into turnover pertaining to local purchases and turnover pertaining to interstate purchases to arrive at the eligible turnover for composition.
- ✗ Regular rate of tax on turnover pertaining to interstate purchases.
- ✗ A works contractor is entitled for deduction on the amount paid to sub contractor provided sub contractor is a registered dealer.
- ✗ Work contractor is liable to pay at normal rate of duty for any sale other than by way of works contract. Here is not eligible to take any deduction of input tax on purchase made by him.
- ✗ A works contract dealer purchasing goods from un-registered dealers is required to discharge

tax on such purchases under Section 3(2) at schedule rate of tax. The value of such goods can be deducted from the total works contract turnover to arrive at the eligible turnover on which composition tax can be paid.

Filing of returns

The composition dealers are required to file the monthly/quarterly return as in Form VAT 120. Even COT dealers can file the revised return within six months from the end of the relevant tax period if there is an omission or incorrect statement

The turnover under composition scheme is on receipts basis and under regular scheme the turnover is based on the receipts or total turnover whichever is higher.

Liability to pay tax

- ✍ If a Composition tax dealer purchase goods from unregistered dealer then the composition tax dealer is liable to pay tax on such purchases.
- ✍ If a composition tax dealer purchases goods from a registered dealer (either COT or VAT), then the seller (registered dealer) is liable to pay the tax.

Basic difference between the VAT regular scheme and the Composition Scheme: -

VAT System	COT System
1) Eligible to collect tax	1) Eligible to collect tax except hotelier, Restaurateur, caterer,

	dealer running Sweetmeat stall or ice cream parlor or Bakery
2) Eligible for input tax credit subject to Restrictions	2) Not eligible for input tax credit
3) Tax rates applicable as per schedules (i.e., 1% or 4% or 12.5% or 20%)	3) Tax rates not as per schedules (i.e., 1% or 4%)
4) Issue of tax invoice	4) Issue of bills of sale
5) Eligible for deduction towards labour & other like charges	5) No deduction towards labour & other like charges
6) Tax on transfer of property alone	6) Tax on total turnover including labour & other like charges

State has power to levy tax on transfer of property in goods under Article 246 of the Constitution of India (entry 54 List II of Seventh Schedule). On the other hand state has no jurisdiction to levy tax on labour & other like charges. Composition scheme is contrary to the regular system of VAT; where tax shall be levied on total turnover including labour & other like charges at reduced rate.

-Priya, Harish, Vinay AG

Important Deadlines to be met!!

✍ **Company Law**

October 31st: Last date for filing Balance Sheet & compliance certificate if the AGM is held on 30th September, 2006.

✍ **Income Tax**

October 15th: Last date for payment of For Filing of E-TDS returns for the Quarter ended July - September

October 31st: - Last date for filing of income tax returns for corporate and other assesseees who are liable to get their books audited under the Income Tax Act. Also includes working partners of the firm liable for audit under the Act.
-Last date for filing of returns of Fringe Benefit for corporate and other assesseees who are liable to get their books

audited under the Income Tax Act. Also includes working partners of the firm liable for audit under the Act.

✍ **Indirect Taxes**

October 5th*: Last date for payment of service tax for Individuals & Firms for the quarter July – September.

5th October* & 5th November* Last date for filing of monthly Service Tax(excluding Individuals & Firms).

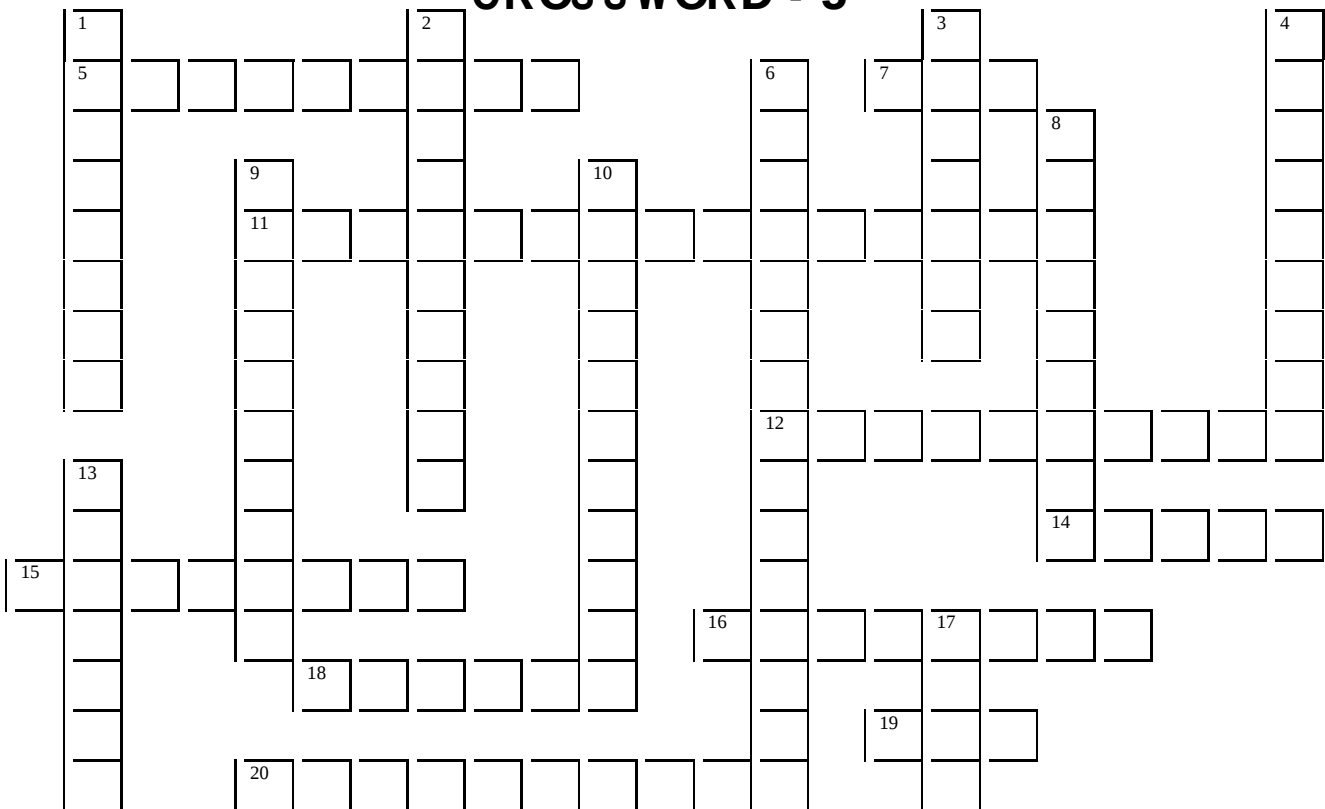
20th October* & 20th November* Last date for filing of monthly returns for Professional Tax, Entry Tax & VAT

25th October Last date for filing of Half Yearly returns for all Service Providers under the service Tax Act

*It is 6th November if the payment is made through internal banking.

-Pavitra 11

CROSSWORD - 5



ACROSS

- 5 A situation which arises when a market is dominated by a few firms.(9)
 7 A mistake in the design of a programmer in a computer system.(3)
 11 A process of production where in large amounts of labour is required.(6,9)
 12 Cost of issuing new stock.(10)
 14 The annual income from a SECURITY, expressed as a percentage of the current market PRICE of the security.(5)
 15 "To lessen work for women" -is a part of the mission of which company.(8)
 16 An inherent capacity which an organisation can use to gain strategic advantage over its competitors.(8)
 18 Maintenance of bin cards is done by which department.(6)
 19 Securities offered by non US companies for the purpose of getting listed on any of the US exchange.(3)
 20 Relating overheads directly to the various departments.(10)

DOWN

- 1 The company that introduced six sigma.(8)
 2 The other term for interest rate.(6,4)
 3 Selling something for less than the cost of producing it.(7)
 4 Total tax paid in a period as a proportion of total income in that period.(3,6)
 6 Marketing of new products in new markets.(15)
 8 The nature of damage awarded for the reputation lost by the customer due to wrongful dishonour of cheques.(9)
 9 Acts done beyond the legal powers of the doers.(10)
 10 A good for which demand increases as its price rises. But such goods may not exist in the real world.(6,5)
 13 Periodic cashflows of equal amount.(7)
 17 Any single computer connected to a network.(4)

Shilpa & Pavithra

Answers: Crossword – 4

Across: 4- Up selling, 5- ONGC Videsh, 6- OBC, 7- Service, 9- Econometrics, 10- Fabrication, 11- Demerger, 12- Positive accounting, 16- Going Concern, 17- LTU, 18- Functional, 19- Lapping, 20- Excise.

Down: 1- R Shivabhogam, 2- IOC, 3- Firm commitment, 8- Paye, 13- Taxation, 14- Europe, 15- Zero Base.

The Information Hotpan

Who is the Highest paid Sports person??

Tiger Woods retains his position as highest earning sportsman with annual earnings of \$100 million far ahead of his compatriot boxer Oscar De La Hoya who might have lost his May fight (by a decision) with Floyd Mayweather, but he won the battle, banking a record \$43 million for 36 minutes of ring time. The German speedster Michael Schumacher still holds on to his position as one of the highest earning sportsperson after his illustrious career at Ferrari. David Beckham was able to reclaim his position as richest footballer from Ronaldinho after signing a lucrative deal with Los Angeles Galaxy. Kobe Bryant took over as the highest earning NBA player from the legendary Michael Jordan and Shaq O'Neal with a total earning of \$33 million.



with their sporting feats, from the “capital city” New Delhi to the “Gold City” Johannesburg. It was a busy month for all those who are passionate about their sport. The “unstoppable city of Mumbai came to a standstill” when Dhoni and his team arrived after being crowned as champions in T20 world cup and the same enthusiasm and euphoria was also seen at the Ambedkar Stadium where the Indian soccer team out classed the Syrians with an outstanding performance and wait.....! There is more to cheer and celebrate, our Indian hockey team drove the city of Chennai crazy with its goal-fest.



Adding another feather to the cap our grand master “Vishy” matched the record of two time champion Kramnik to win the world championship at Mexico City and the Bangalore boy, Pankaj Advani put the icing on the cake by winning the world billiards championship at Singapore.

Rank	Name	Earnings (US \$ in Million)	Sport
1	Tiger Woods (USA)	100	Golf
2	Oscar De La Hoya (USA)	43	Boxing
3	Phil Mickelson (USA)	42	Golf
4	Kimi Raikkonen (FIN)	40	Formula 1
5	Michael Schumacher (GER)	36	Formula 1
6	David Beckham (ENG)	33	Soccer
7	Kobe Bryant (USA)	33	Basket Ball
8	Shaquille O'Neal (USA)	32	Basket Ball
9	Ronaldinho (BRAZIL)	31	Soccer
10	Michael Jordan (USA)	31	Basket Ball

Mukesh Ambani becomes world's richest Indian

Reliance Industries chairman Mukesh Ambani has overtaken NRI steel tycoon Lakshmi Mittal to become the richest Indian in the world, thanks to the unprecedented boom in the domestic stock market.



Ambani's **net worth** has soared past \$50 billion, making him the first Indian and only the fourth person in the world to have a wealth higher than this amount. The RIL chief is now believed to be next only to software czar Bill Gates of the US, Mexican business baron Carlos Slim Helu and Warren Buffett, regarded as the world's greatest investor.

Based on the closing share prices of various group companies such as RIL, Reliance Petroleum, IPCL and Reliance Industrial Infrastructure, Mukesh Ambani is estimated to hold shares worth \$50.1 billion (about Rs 2,00,000 crore) through promoter holdings in these companies.

The four companies together have a market value of Rs 4,09,325 crore (\$103 billion).

On the other hand, Mittal owns shares worth about \$48.4 billion in ArcelorMittal, the world's biggest steelmaker in terms of revenue, assets and market value.

CHAK DE INDIA CHAK DIYA

In a political fanatic country where sporting feats hardly make any headlines in our news dailies except cricket, saw a revolutionary change in the recent past. The Men in Blue conquered the world



DNS Family (The Lighter Side)

**“Vakratunda Mahaakaya; Suryakotee Sama Prabha
Nirvighnam kuru mey Deva; Sarva kaaryeshu
Sarvadaa”**

**“O Lord Ganesha of Large body, curved trunk, with the
brilliance of a million suns, please make all my work free
of obstacles, always.”**

The festival of “**Lord Ganesha – the God of Knowledge**” was celebrated with immense devotion and zeal. DNS family started this tradition in the year 1999. From then, year-after-year, the festival is being celebrated with great religious fervor, wherein, every member of the family comes together for the “Prathakal” & “Sandyakal” pooja to seek the blessings of the Supreme Deity.

This year the celebrations commenced on the 15th of September 2007. The premise was all set to welcome “**Lord Ganesh**” into an ambience filled with holiness and spirituality. The five-day long festive created a temple-like environment in the office wherein prayers were offered with great divinity and sacredness.

The celebrations came to an end on the 20th of September 2007 with the immersion of the idol. Every member, with the chorus, “Ganapati Bappa Moriya” walked ahead to Sankey Tank to immerse the Lord and bid adieu.

It was an effort of the Admin. Department that made this festival a memorable one. All thanks to every member of the department who took up the responsibility of balancing the work together with the celebrations.



Pick N Speak

“You can have brilliant ideas, but if you can’t get them across, your ideas won’t get you anywhere” is well quoted by former CEO of Ford, Lee Lococca.

Communication skills play a pivotal role in the advancement of every individual. With the objective of creating a platform for improvising communication skills, on Saturday, the 29th of September 2007, the DNS technical team came up with the concept of “Pick &

Speak”, wherein every member was to select a topic and speak on the spot for 3 minutes.

The topics chosen by the technical department were general in nature without academic relevance to judge the speaker’s ability to think, link, verbalize their thoughts and expressions. The topics included “Child labour”, “MNC culture”, “Men and household work”, “Kashmir” etc.

Ms. Priyaranjani [CPT] bagged the best speaker award while **Ms. Monica [CPT]** bagged the best emerging speaker award. The technical team objective yielded immediate results, when **Prakash [II PUC]** of Admin Department, bagged the most courageous speaker award, who though hesitated to start off concluded giving a

brilliant speech.

The session concluded with the judges advising on the corrections to be made in the presentation stressing on the overall skills required to develop good speaking abilities.

Learning Saturday’s A new way of Learning

“Learning Saturday Session” advanced and went a step higher in its objective. The technical committee provided the DNS family an opportunity to comprehend in depth about “CARO” and “AS 22 – Taxes

on Income” from expert speakers CA Naveen Khariwal & CA Ravi Prasad respectively.

CA Naveen Khariwal of M/s H.C. Khincha & Co. together with the articles Ms. Manisha & Mr. Pankaj took us word-by-word into the clauses of CARO on the 8th of September 2007. The discussion surfaced several practical issues that were well addressed by the team.

CA Ravi Prasad, Partner – MSSV & Co., on the 22nd of September 2007, elaborated on the details of AS 22 with several illustrations to simplify the complexity of the subject and its practical applicability. He addressed the audience in a simple and lucid language that made the comprehension of the subject easier.

These sessions imparted knowledge that will help us in resolving practical difficulties on the work front.

OBITUARY



We deeply mourn the sad demise of Shri. Krishnamurthy Father In Law of Mr. Sreenivas Babu, Director, DNS Consulting Pvt Ltd.

Our Heart felt condolences to the mourning family
DNS Consulting Pvt Ltd

Blog Spot!!!!

A **blog** is your easy-to-use web site, where you can freely post your thoughts; interact with people, and more. An exclusive blog, <http://www.thearticled.blogspot.com> has been created by Mr. Rayan Sequeira, Chief Editor and the team of “The Articled”, for this very own purpose. It gives an excellent opportunity for its readers to comment, rate and give their views. Herein we heartily welcome all your comments and views about the newsletter. Your opinions will help us in improving the quality of our write-ups. The main reason behind creating a blogspot is to understand our reader’s views and opinions about “The Articled”. It will help us in making it a more enriching experience for our readers and be a source of continuous appraisal.

We are Thankful to **Mr. Bhanukiran**, Director, Aradhya Group of Companies for his invaluable suggestion that a Blog, completely dedicated to the newsletter is created.

PRIVATE EQUITY FUNDS

– AN ALTERNATIVE FUND TO FUND BUSINESS.

The concept of “business finance” has been refined to the form it stands today from the bygone “Baniyas’ System”, where investment needs of business were funded through pledge of personal properties. With the increase in the enterprising attitude of the business fraternity this old system was slowly transformed into a group initiative that saw the beginning of the banking system. The banking system that evolved in the form of co-operative societies limited to minority interests are today diversified into nationalized corporations opening up to almost every need of business in every corner of the nation.

We have witnessed revolutionary makeover in the financing of business enterprises in this century with the naissance of financial instruments and solutions like the equities, debentures, bonds, venture capital, mutual funds, GDR’s, FII’s, FDI’s and many more.

One among the means to finance business enterprises is the “**Private Equity**” [P E Fund] that has gained enormous prominence of late. Private equity involves the issue of shares by a company for the investment made by selected investors into the company’s business. “Private equity” refers to any type of non-public ownership equity securities that are not listed on a public exchange.

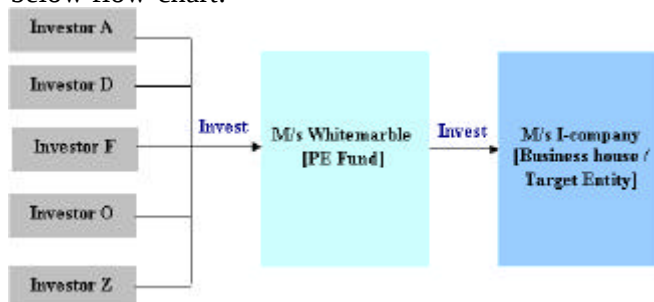
To comprehend this concept, let us begin with understanding why and how this need of fund came into origin.

Need of private equity: Business requires huge funds for pursuing its objects. The purposes may be numerous and multiple like the improvements of current business processes to achieve higher operational gains or the expansion of business either in terms of capacity or foray into newer markets or globalization or business consolidation or business diversification or restructuring etc. The accomplishment of these objects involves huge capital outlay. The capital required may be a risk capital, involving the element of risk of varying degrees. In this scenario, the money can be funded only by high risk seeking institutions or funds. Banking institutions have a cap on the risk that can be taken due to the regulations and the involvement of public money. In order to bridge the gap of funds requirement and availability, private equities emerged.

Who will provide the private equity?: Business organization requires funds for either of the objectives mentioned above. For the purpose, they require investors. Who will then provide the high-risk funds? Who are the investors? The answer - the investors are the private equity firms.

Next immediate question will be – What are private equity firms and how they function? Private equity firms are the investing firms that pool funds from other interested investors. The private equity firms can therefore be understood to be private equity raising firms in the sense they first raise the funds and then invest into businesses. Private equity firms are commonly referred to as “Private Equity Funds or PE funds”. Typically interested investors will invest in a specific private equity fund, becoming a limited partner in the firm, rather than an investor in the firm itself. The investors are risk seeking with high return expectation.

The functioning of PE fund is elucidated through the below flow-chart:



Interested investors having surplus and intent to invest in risk capitals put their money into PE funds. The PE funds pool the money from multiple investors and fund the businesses [referred to as “Target Entity”]. The businesses utilize these funds to accomplish the general or specific objectives. The other large investors in the private equity fund are the fund-of-funds, which means, a private equity fund investing in another private equity fund with the object to mitigate the risk of the investors.

How will PE funds ensure high returns?: Investors invest in risk capitals with the objective of earning high returns. How will PE fund ensure the achievement of this objective of the investors? The PE funds do not invest and watch for the returns to rise. They participate in the target entity. This is the unique feature of PE funds. One of the reasons why target entity prefers PE fund is not only for money but also for the expertise and assistance the PE funds provide in enhancing the capabilities of the target entity.

The features of PE funds are

- ✍ PE funds participate and will have a representation on the board of the target company. In other words, PE fund will have their nominees on the board of the target company.
- ✍ PE funds assists in accomplishing objectives and maximizing gains. PE funds a composition of business analyst and experts, assists Target Company by providing risk management tools.
- ✍ PE funds ensures high standard of corporate governance.

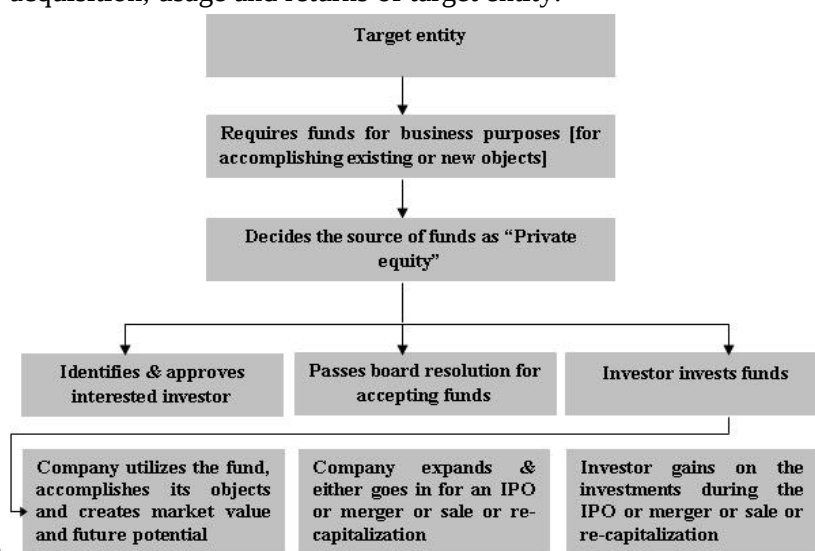
PE funds help the target entity in achieving operational performance and good results leading to good returns. The representative of PE fund also provides strategic vision for the growth of the target entity.

In what sort of target entities will the PE funds invest?: The returns to a greater extent are also influenced by the kind of the entity in which the PE funds invest. So, what kind entities do the PE funds invest in? The target entity should have:

- ✍ Good management with sound managerial knowledge, abilities, skills and expertise.
- ✍ Sound business ethics.
- ✍ Transparency in the conduct of business and process.
- ✍ High standard of corporate governance.
- ✍ Active board participation.
- ✍ Ability to achieve higher pace of growth and global competitiveness.

All these features of target entity together with the PE fund participation in the board of the target entity ensure high returns.

The below flow chart elucidates the PE fund acquisition, usage and returns of target entity.



Benefits garnered by a target entity through the exercise of this PE fund option includes:

- ✍ Enables issue for small amount of funds;
- ✍ Economical in terms of funds raising costs;
- ✍ Minimum statutory procedural impediments;
- ✍ Time saving and swift proceedings;
- ✍ Leverage the expertise of the private equity to drive operational performance.

What are the benefits garnered by PE funds and modes of returns?: Benefits garnered by an PE funds includes:

- ✍ Wealth creation;
- ✍ Comparatively good returns;

The modes of return of PE funds includes:

- ✍ IPO of target entity; [PE funded target entities enjoy higher PE multiple at listing than other non-PE funded companies]
- ✍ Merger / sale of target entity;
- ✍ Re-capitalization.

All said and done, the benefits of the investors are subject to the performance by the company in the long run.

What are the disadvantages and risks associated with PE funds?: PE funds require huge funds for investment in target companies. Consequently, most private equity funds are offered only to institutional investors and individuals of substantial network. Private equities are generally illiquid and thought of as a long-term investment.

The greatest disadvantage of the PE funds is the longer lock-in-period. The lock-in-period may range from minimum 3 years to a maximum of 10-12 years or even more.

The PE funds carry the risk of loss of significant capital in case the target entity fails to perform as per the required yardstick.

If all the above is about PE funds then what is mutual fund or hedge fund or venture capital funds?: A confusion is sure to arise if all the above is PE fund then what is mutual fund or hedge fund or venture capital fund and why are they in the market?

At the most fundamental level - PE funds, hedge funds and venture capital funds are like mutual funds. All the funds, be it PE, hedge, mutual or venture, gather cash from investors, pool it and invest the money in business expected to become valuable over time. But they have very different objectives and target different opportunities. **(16)**

- ✍ Hedge funds operate under radar of regulators.
- ✍ They invest in anything and everything. Be it stock, commodity or foreign currency.
- ✍ Hedge fund manager are traders more than investors.
- ✍ They do not participate in management.

- ✍ Venture capital invests in new start-ups.
- ✍ Launching a semiconductor or biotechnology firm can be expensive affair for an entrepreneur. This is where the VC walks in.
- ✍ Comparatively risk of failure is more in VC than other funds if the new start up does not succeed.

- ✍ Mutual fund invests in stock, bonds, money market and other securities.
- ✍ Portfolio manager trades the fund underlying securities, realizing capital gains or losses and collects dividends or interest income.
- ✍ These proceeds are then passed on to individual investors.

Trading of Private equity?: Due to the inherent feature of private equity, there is no listed public market for trading. In sequel, the investor wishing to dispose or sell private equity securities must find a buyer. However, the private equity secondary market (also often referred to as private equity secondaries) is in the budding stage to provide a buy-sell platform for private equity.

A glance at the PE fund market?: In 2006, private equity investment rose by over 230% to \$7.46 billion compared to \$2.26 bn invested in 2005. The first quarter of 2007 has already witnessed an investment of \$2.5 billion from private equity firms up from \$1.27 billion during the same period, according to data released by Venture Intelligence. Some of the major private equity funds includes the HDFC, UTI Bank, IDFC etc. The industry has seen some private equity funds pumping in huge investments for a stake in infrastructure and construction companies. Blackstone Group, had picked up 14.5% stake in NCC for Rs 615 Crore. Nagarjuna Construction intends to use the money for additional investments in public-private infrastructure projects and to expand its capital base, which would help it bid for larger projects and strengthen its position in the market. In the year 2006, IL&FS entered into a partnership with private equity fund Trikona Capital Group, to deploy around \$1billion for development of infrastructure projects in the country over the next four-five years.

Private equity has been gaining visibility in the spotlight over the past few years due to its increasing impact on the general economy. Private equity can act as an alternative source of fund raising for small and medium enterprises. The full potential of private equity investment in India has not been unleashed yet. Overall, there is a broader consensus among private equity players that India is a suitable destination offering great opportunities for the growth of private equity investment. It is only a matter of time, say experts, when the huge potential in this industry will be realized.

- CA Rajini Shinde

Tid Bits

1. The Earth weighs 6,500 million million million tons.
2. If you trace your family tree back 25 generations, you will have 33,554,432 direct ancestors – assuming no incest was involved.
3. The average human will eat 8 spiders while asleep in their lifetime.
4. In a study by the University of Chicago in 1907, it was concluded that the easiest colour to spot is yellow. This is why John Hertz, who is the founder of the Yellow Cab Company picked cabs to be yellow.
5. Business.com is currently the most expensive domain name sold: for \$7.5 million.
6. It is not possible to tickle yourself. The cerebellum, a part of the brain, warns the rest of the brain that you are about to tickle yourself. Since your brain knows this, it ignores the resulting sensation
7. The best time for a person to buy shoes is in the afternoon. This is because the foot tends to swell a bit around this time.
8. It takes about 63,000 trees to make the newsprint for the average Sunday edition of The New York Times.
9. If we could shrink the earth's population to a village of precisely 100 people, with all the existing human ratios remaining the same, there would be 57 Asians, 21 Europeans, 14 from the Americas and 8 Africans. Only 1 would own a computer.

Tête à tête with Shri. CA Padam Chand Khincha

Udaya: *Was it a conscious effort or was it incidental to take up CA as a Profession?*

Mr. Khincha: It was not a conscious effort; it was not even incidental!!! My dad was a Chartered Accountant. The elders in the family told me to take up Chartered Accountancy, so I took it up as my career. It was not a conscious effort. The decision happened in 10th standard, where I had to take commerce or science. At that point of time one is not matured enough to say what should he do. The elders in the family advised me to do CA, I landed up taking it.



The Editorial Board with Shri Padam Chand Khincha

Udaya: *What according to you is the USP of the CA Profession?*

Mr. Khincha: What attracts youth today largely is economic opportunity. If they are asked to become a doctor because doctors do a noble service to the World, not many would be keen to do so. The primary driving force for a person to take up this profession is economic opportunity and that is abundantly available. There is no CA who is unemployed. That is the driving force today. In the CA profession, there is great job satisfaction also. From a cost benefit ratio (ie cost to complete the profession and the benefits from it) the chartered accountancy profession is a winner.

Shilpa: *You are an inspiration to all youngsters who have a dream to pursue this profession. What would your advice to them be, to help them plan their lives in order to achieve their goals?*

Mr. Khincha: To me the basic objective, and the underlying motto whenever a person is doing any sort of work, should be "I shall shine in my Work". He should have a philosophy "whatever type of work, I do, people should recognize and appreciate my work". Quality should be the hallmark in every facet of one's work whatever one is doing – be it a low level work, a high level work, a recurring work or technical work.

Shilpa: *Do you think the tax structure in India helps the Indian Economy or is it a hindrance in its growth?*

Mr. Khincha: Tax structure is today moving towards helping the industry. Laws are not anymore "extortionist". The compulsions of the business world are so hard and serious that the Government cannot afford to be a hindrance. It is therefore trying to be a facilitator. In the current economic mood, whether the Government likes it or not, it has no option but to be a facilitator. The industry is powerful enough to force the Government to be more proactive. However, there is today a problem in compliance because there are too many legislations and too many compliance requirements. The ground level compliance problems which we are facing will possibly get over by a period of time, and with the knowledge gained through experience.

Rayan: *Today's youngsters are more towards making money rather than earning a name or knowledge. So what is your advice for today's youngsters? Are they right in their pursuit?*

Mr. Khincha: If money were the only criteria, then one would hold the underworld dons in the highest esteem. They have a lot of money. The reality is otherwise. There is something beyond money or wealth that gets a name for an individual. What do you do with all the money? would you be guaranteed of happiness if you have a billion dollars with you? What do you want for yourself? Ask yourself this question. Money has some role. It is not the be all and all end. It has limitations. Beyond a point it becomes useless. So according to me, money should be secondary.

The earlier generation did not have enough economic opportunity. When we did Bcom not many offered us a job. We didn't have opportunities. One was considered lucky to get a bank job. Today banks & government jobs have become secondary. The youth today can get a job anywhere. This is because, you have your economic opportunities available. Therefore money is not scarce for the youth today. When money is not scarce, it should not become the dominant aspect of one's livelihood, or existence.

Rayan: *In your journey through this profession, was there any such incident, which became a stepping-stone in your life?*

Mr. Khincha: A lot of learning process goes on in throughout, one's life. Each moment is a stepping stone. When you see people, when you observe them, when you meet people who are extremely well qualified and high achievers, you feel that there is a lot to be achieved. I have been fortunate to have known and been associated with many such persons. This has been a process without a break. There have been innumerable persons who have been a step above. It is to reach those heights, that I have been aspiring for. Consistent learning is the key. There is a lot to be achieved! Significant amount further to be achieved.

Chetan: *What do you think should be the ethics and values of the generation next?*

Mr. Khincha: Values are changing, ethics are changing. People today don't want to cut corners. The new generation is clear. Though their focus is towards money, they are also into a cleaner way of doing things. That's a good thing. The younger generation is smarter also. But priorities have changed. The youth is becoming self centered. It is inward looking and not outward looking. They have to remember that there is more joy in giving and sharing than merely accumulating – be it wealth or knowledge.

Chetan: *What according to you would be the main reasons why people don't achieve excellence?*

Mr. Khincha: People have desire to excel but do not back it up by efforts. Everybody wants to excel. But 'desire' by itself does not suffice? One has to back it by performance, backing it up by efforts. Devotion and dedication are important. That does not happen. That's why people fall short of their potential.

Chetan: *Where do you think the scope for CA students will be in the next decade, Industry or Practice?*

Mr. Khincha: The opportunity is wonderful!! The tilt presently is towards industry. The tilt towards industry will automatically and eventually create job for the practicing professionals also. This is because, if industry is growing somebody has to support that. The tilt towards industry, will propel the demand for the practicing professionals. The another question whether industry or practice is better is therefore situational. The scales are ever changing. Either way, to me, the profession is in for wonderful and exciting times.

Answers to Lateral Thinking - 4

1. At the time she went into labour, the mother of the twins was travelling by boat. The older twin, Anthony, was born early on March 1st. The boat then crossed the International Date line and Kelly, the younger twin, was born on February the 28th. In a leap year the younger twin celebrates her birthday two days before her older brother.
2. A baseball game is going on. The base-runner sees the catcher waiting at home plate with the ball, and so decides to stay at third base to avoid being tagged out...
3. It's daytime...
4. White. The only place you could walk one mile due South, one mile due East and one mile due North and ends up exactly where you started is at the North Pole...
5. Her husband is a knife-thrower in a circus act, and she is the "target" in the act. She sees him leaving an optometry clinic, and decides that if he's having trouble with his eyes she doesn't want him throwing knives at her...
6. He is in a hotel, and is unable to sleep because the man in the adjacent room is snoring. He calls the room next door, where the snorer wakes up and answers the phone. The first man hangs up without saying anything and goes to sleep before the snorer can get back to sleep and start snoring again...
7. He is a mail courier who delivers packages to the different foreign embassies in India. The land of an embassy belongs to the country of the embassy, not to India...

POWER OF "WILL-POWER"

The degree of success varies from person to person in battle of life. A person's success or failures is directly proportional to the degree of efforts he puts in. The efforts are only because of the strong desire and will-power of a person. Now what is will-power? Will is a compound of self and mind. So, it's the power of oneself both physically and mentally in a positive true spirit. All the achievements of man are manifestation of the will of the man. The will-power in man can bring a transformation from being negative to positive. This is achieved only with a positive attitude and a strong determination. How many of us have a Daily Planner or a Weekly Planner? Do we really implement it? The answer may be in affirmative. But how effective? The effectiveness is reached only with a strong desire and will-power to complete the set target. Without introspecting ourselves, it's very hard to follow as to what's happening with us. The man who suffocates himself with worries can never find a way to be an optimist. He is rather going towards zero and gradually to negative aspects of life. Instead, the positive attitude would take him to great heights and new facets of life. A person should stop living in past and start thinking the present and future. Now, what is that we need to work out for a better future? Firstly, we should have a simple routine planner for a day.

The planner should concentrate on aspects so as to overcome our negatives and should improvise on our positives. No matter how difficult it is to achieve, but at the end of the day, the target should be reached. This exercise would definitely contribute to get a firm grip on our mind. That means our senses will have to obey to our positive actions and decisions. This is the best way to gain the power of 'will-power'. The failures, worries of a man should be taken seriously to get away from it. The positive forces in mind would help a man to drive out his negatives. Now the question is how do negative thoughts come after all? Is it just a passing thought? Or is it a passing thought becoming strong and brooding in one's mind? How do we overcome this? These negative thoughts may be just a passing thought or otherwise. But when stressed on it, would rather become stronger and make the positive thoughts weaker. The remedy for this is to control the thought process in a systematic and processed way, which is known as meditation. But again the excellence of gaining a stillness of mind is a strong will-power of oneself, which would contribute to overall personality of a person.



- Tanuja

Learn Your Country's Law

Right to Emergency Care:

Date Of Judgment: 23/02/2007.

Case No.: Appeal (civil) 919 of 2007.

The Supreme Court has ruled that all injured persons especially in the case of road traffic accidents, assaults, etc., when brought to a hospital / medical centre, have to be offered first aid, stabilized and shifted to a higher centre / government centre if required. It is only after this that the hospital can demand payment or complete police formalities. In case you are a bystander and wish to help someone in an accident, please go ahead and do so. Your responsibility ends as soon as you leave the person at the hospital.

The hospital bears the responsibility of informing the police, first aid, etc.

Answers to Logo Quest -1

- | | |
|-------------------------|--------------------|
| 1) Bentley | 9) Abbey National |
| 2) Wella | 10) Guinness |
| 3) HMV | 11) Buena Vista |
| 4) The National Lottery | 12) Interflora |
| 5) Prudential | 13) Texaco |
| 6) lloyds tsb | 14) Barclays |
| 7) Stella Artois | 15) United Nations |
| 8) Daewoo | |

Logo Quest

- Rayan Sequeira

1.



2.



3.



4.



5.



6.



7.



8.



9.



10.



11.



12.



13.



14.



15.



Figure out the above "Logos" and Mail it across to us at newsletter@dnsconsulting.net

The Last date for the submission of your Answers is 15th October.

Answers will be published in the next edition of "The Articled"

Article Appraisal for the September issue of "The Articled"

Enrooting to alternatives

Company Law



3.75

AS-5, Crux of financial statements

Accounts



4.00

Eliminating the audit

Audit



3.50

expectation Gap- Reality or myth

Brass tacks of Excise

Indirect Taxes



3.25

****This Appraisal is for the internal review and improvement of the teams related to the newsletter and has been performed by distinctively independent personnel. This is in no way a comparison between the articles and is not based on any of our existing opinion polls.**

(21)

Lateral Thinking - 5

- Rayan Sequeira
Are you open minded, flexible and creative in your questioning and able to put lots of different clues and pieces of information together. This is lateral thinking.

So lets see if you can find solutions to the following puzzles.

1. Mr Murphy wanted a new house built for him. He wanted to see the sun shine into every room, so he told the contractor to build his house so that all the walls face north. The ingenious builder actually managed to do this. How?

2. Romeo is looking down on Juliet's dead body. She died of suffocation. What has happened? Clues: Neither Romeo nor Juliet are human. Romeo looks VERY pleased...

3. Jason is lying dead. He has an iron bar across his back, and some food in front of him. How did he die? Clues: Jason is very small, and is not human...

4. A policeman is walking past a house. He hears someone scream out, "Don't shoot me, John! Don't shoot!", followed by a gunshot. The policeman enters

the house and sees a lawyer, a priest, and an engineer, all gathered around a dead body. The priest was immediately arrested. How did the policeman know? Clues: Which one is John? And what are you assuming?

5. A man walked into a bar, and before he could say a word, he was knocked unconscious. Why? Clues: What are you assuming?

6. Two men were drinking in a pub. Two women walked in. The first man said, "I have to go, my wife and daughter are here." The second man turned around and said, "I have to go too, my wife and daughter just arrived as well." How is this possible? Clues: No-one else has walked in apart from these two women. The men are not married to the same woman...

Answer the above questions and Mail it across to newsletter@dnsconsulting.net

Hurry, Last date for the submission of your Answers is 15th October.

Answers will be published in the newsletters November edition.

General Insights IN A NUTSHELL

MARKET STATS

Figures Courtesy The Economic Times

Company	CMP	Returns (%)
HDFC	2503.20	1747.40
Reliance Inds	2318.30	1070.90
SBI	1880.70	901.70
ITC	185.50	583.60
Ambuja Cements	144.60	499.00
Tata Power	841.90	459.30
Reliance Energy	1117.20	419.60
Bajaj Auto	2535.70	391.50
ACC	1188.60	377.90
Grasim Industries	3439.00	339.50
Ranbaxy Labs	420.30	304.30
Tata Steel	795.00	274.90
Hindustan Unilever	218.90	224.40
IPCL	461.60	155.40
Hindalco Inds	164.30	131.90
Tata Motors	751.30	120.80

Markets:

Sensex	17328.62
Nifty	5068.95
Dow	13915.14
FTSE	6476.00
Nasdaq	2706.71
Nikkei	16845.96

Rates:

Rs/Dollar	39.84
Rs/Pound	81.25
Rs/Euro	56.65

Crude:

Brent	\$79.34
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Bullion:

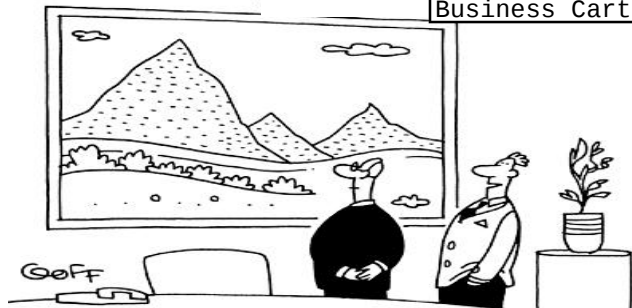
99.9 Purity Gold:	Rs. 9605
Silver (Kg):	Rs. 18400

Closings on 1st October 2007

Write to The Editor

"Continuous learning process" is the essence of our profession. To keep ourselves in pace with the emerging concepts is what we have endeavor through this "The Articled". We also intend to build this into a common knowledge-sharing platform and welcome any contributions to strengthen this common pool. Your views will help us fortify the forthcoming issues. You can mail us at newsletter@dnsconsulting.net or write to: rayan@dnsconsulting.net The Editor, #10, South Park Road, Nehru Nagar, Sheshadripuram, Bangalore - 20.

Business Cartoon



"If you look closely, you can see they're really mountains of paperwork."

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