

The Articled...

U'r Altitude is determined by U'r Attitutde



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"It's good to enjoy yourself. This is my work, this is my job.
There is no point in doing your work if you don't enjoy it"

--Usain Bolt :- Jamaican Sprinter



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Seven Rules to be a Good and a Successful Manager

By his Holiness Acharya Shri Mahapragyaji

The Non-violent Jain tradition attaches utmost importance to an individual's emotional competence as the key to success in his life. It does not ignore the intellectual side too and pleads for a balanced development of both the right and the left parts of the human brain. In order to enhance a manager's emotional competence as well as intellect one should consider the following seven principles vitally significant. They will ensure that both the right and the left parts of a manager's brain get equal attention for their development and thus enable him to be both a good and successful manager:

1. Non-absolutist Attitude (*anekant dristi*)

The truth derived from an absolutist view makes a problem more complicated and it cannot solve it. The manager who looks at a problem from a relative standpoint can make progress in the process of development. The manager who looks at it from a biased angle cannot succeed in his work. A biased person does not see what is rational but is inclined towards that which is irrational. In activities relating to industry and business several persons work together. They do not have the same views. On account of their divergent views an environment of opposition crops up. In a situation like this what is imperative for a manager is concord and conciliation. One angle of the philosophy of non-absolutism (*anekant*) is that the opposite views can be reconciled and an environment of peaceful co-existence can be created.

2. Good Behaviour

How does a businessman behave with another businessman? One can assess the success or failure of a person merely on the basis of his amiable or temperamental disposition. Courteous, sincere and compassionate behaviour attracts the heart of another person who becomes instrumental in a manager's progress.

3. Alertness or Vigilance

It has three dimensions i.e.

- Review of the past -- introspection of the mistakes made in the past,
- Self-criticism of the present. For example:
- Pledge of the future – one should pledge oneself so that one may not make a mistake in the future. There are three elements which weaken a person's resolution:
 - Fickleness of mind,
 - Intolerance,
 - Unrestrained sensual desires. One should remain on one's guard against them.

4. Control Over Impulsive Acts

The manager who is not able to control his impulsive behaviour will not be able to get the work done by his subordinates. He will also make mutual and human relationships bitter.

5. Self-restraint

Addiction to sensual pleasures and fickleness of mind create obstacles in one's professional competence. It is imperative for a manager to restrain his sensual desires and mind. The manager who doesn't practise how to restrain his senses and mind cannot fulfill his responsibilities properly and for him even the door to corruption opens.

6. Human Solidarity

' *I am a social creature. I am not alone* ' – this trend of thinking awakens one's consciousness. "Just as my rights are dear to me, similarly others also like to uphold their rights, hence I shouldn't be an impediment in the way of the right of others' livelihood. "

7. Freeing Oneself from Tension

The person who doesn't know how to live in the present invites tension knowingly or unknowingly. Memory is good but inessential memory causes tension, hence it is imperative to restrain one's memory too. Imagination is essential but unnecessary imagination creates tension hence it is imperative for a manager to restrain his imagination too.

The greatest cause of tension today is the reactive violence. Many times it happens that a subordinate official murders his superior officer. Its cause lies in reactive violence. He who doesn't react angrily to a situation and doesn't give his subordinates a chance to react angrily becomes highly successful.



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"There is an appearance that you are hiding something."

- Were the words used by David Fleischer, an analyst at Goldman Sachs when Enron's accounts showed irregularities.



It is often thought that only small businesses suffer from fraud because the opportunities for fraud are greater in small businesses. This is absolutely not the case - it is just that large business frauds are more difficult to detect and when detected are less likely to be made public.

For example, the Enron scandal. As the scandal was revealed, Enron shares dropped from US\$ 90 to mere pennies.

The company was able to contort financial statements to give an illusion of profits running into billions of dollars while it was actually losing money. Enron had created offshore special entities, units which were used to avoid taxation and raise profitability. These entities provided full anonymity that could hide the losses made by the company. As was later discovered, many of Enron's recorded assets and profits were inflated, or even wholly fraudulent and nonexistent.

Enron would transfer an asset (often of dubious value) and its associated debt to the subsidiary. The parent company would receive a note payable in return, which would show up as an "investment" in Enron's balance sheet.

Why do companies frame Accounts?

1. To obtain external financing;
2. To lure prospective investors;
3. Short term share price manipulation;
4. Hide losses in the hope that losses can be set off against future profits;
5. Cover thefts, accounting irregularities, avoid penalties, working around corporate laws or taxes;
6. To hide profits for future lean years; &
7. Hide transactions taken on unfavorable terms to the company.

How accounts may be framed to increase profit ?

Earnings are the obvious numbers to cook, since market pays attention to profits in short term. A company can falsely increase its earnings. For eg

1. Not booking expenses as the companies incurs them, management can hold expenses and wait to book them until future periods: suppose an expense is incurred on 31st March, a company may account such in the next financial year thus increasing current years profit.
2. Management can capitalize the expense instead of immediately accounting them in profit and loss account.
3. Company can reduce expenses by failing to report sales discount, returns and allowances.
4. Special purpose corporations, not quiet wholly-owned by the company as used by Enron. Start with one investing company, which holds four other holding companies, which in turn hold controlling shares in other companies and ultimately there can be more than 240 utility companies.



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The investor company can use this to inflate profits, manipulate share prices, and as in all pyramid schemes, bring thousands of investors crashing down along with it, while a few people in the management profit from their losses.

5. Finally, profit can be inflated by :

- Overstating revenues: By booking sales twice, by falsely increasing sundry income, by booking dummy sales. ;
- Understating expenses: By falsely disguising expenses as contingent liabilities and showing them as a footnote in the balance sheet, not recording/disclosing expenses;
- Overstating the value of assets & under reporting existence of liabilities;&
- Excessive write offs and inaccurate disclosure of Sundry Debtors & Creditors.

term loans from financial institutions. This means increased risk to shareholders as the liability of the company increases. Using leverages it must be arrived that earnings are greater than cost of debt. If not the intention of debt should be justified;

- Recurring write offs;
- Unusual expenses;
- Fluctuating quarterly returns: if a company has varying earnings in different quarters, and there are no reasons to justify fall in earnings then it is likely that accounts are manipulated.

Investors should analyze sales, one time expenses, bad debts and compare quarterly statements to determine reasons for such fluctuations.

- Forensic accounting can be used in simple analysis of evidences and as a special practice area of accounting that describes engagements, which results from real or anticipated litigations.
- In final analysis, one must analyze in-depth the flow of funds through the balance sheet. Cash flow and fund flow statements are also useful to determine liquidity of the company.

If the cash flow is constantly negative but the company shows positive earnings it is very likely that the accounts may be framed.

- Also scrutinize footnote: when something is wrong, it is usually tucked away in the footnote.
- Is it possible to detect such frauds? Effective fraud detection is the responsibility of the management. It must enforce stringent fraud prevention measures to prevent such manipulations.

Through adequate analysis and intense scrutiny, an investor can deduce if there is financial peril within the company. Lesser Fiction, More Facts is what is required of companies.



What to Analyze as an Investor?

If a company has:

- Increasing debt ratio: It means the company has borrowed more funds from outsiders through issue of debentures or through long

-- **Rahul Kocher & Kunal Shah**



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Loss Vs Expenditure

The rat race of world is best depicted in the fascinating deals of business where no matter how small or large the organizations maybe, the ultimate driving force are profits.

It is this pursuit that drives all business to optimize resources, minimize expenses and at the same time have a clear tax planning or simply save taxes - "Have the cake and eat it too".

This draws our attention to the key determining factors of profits – Business expenditure and business loss and it takes many a smart brain to do a balancing act between these two. For example, In case you find Rs.100 on the road and lose it, do you call it as loss? It is actually not a loss as you have not spent anything or risked anything to earn or get it. But in case you have earned your salary and lose it then it can be said that it is a loss as you have spent your time and energy on it.

Thus In our daily life we often interchange the word expenditure with loss and vice versa without legally understanding the terms. When we look into the context of legal provisions of the Income tax Act, the rules and exceptions which will be applicable while considering allowability of expenditure may not be applicable in case of consideration of business loss. Business loss can be considered as per normal principles of accounting and commerce.

The term "Expenditure" as per Advanced Tax Lexicon denotes it as 'Spending' or paying out or away.

It does not necessarily involve actual delivery or parting with money or property. If there are cross claims and as a result of the accounting the balance due is only paid, the amount which is debited against the settlement of accounts may appropriately be termed 'expenditure'.

"Expenditure is not necessarily confined to the money which has been actually paid off, it covers a liability which has accrued or which has been incurred although it may have to be discharged at a future date. However a contingent

liability which may have to be discharged in future cannot be considered as expenditure".

The term "Loss" as per Advanced Tax Lexicon denotes a disadvantage, forfeiture of money or goods or negative profit (the Amount by which the expense of a transaction or project exceeds income).

Thus the distinction between Expenditure and Loss is very important and has been considered by the Supreme Court in the case of Dr. Qureshi. Vs Commissioner of Income Tax –

Here, the appellant was carrying on his profession as a doctor and held Heroin (contraband article under Narcotic Drugs and Psychotropic Substances Act, 1985) as stock in trade. The appellant while transporting a huge quantity of such goods in his jeep was arrested by the CBI authorities as possession of such article was illegal under NDPS act. The CBI sleuths further conducted raid at his residence and seized several contraband drugs manufactured in his clandestine laboratory.

The assessee – appellant filed his return for the Assessment Year 1986-87. In this assessment the assessee claimed that since the heroin seized from him forms part of his stock-in-trade, the same has to be allowed as a deduction while computing his profits and gains from business/profession as it is a trading loss in the normal course of business. The Assessing Officer did not accept the contention of the assessee and disallowed the same to the extent of the assessed value of heroin seized and added the same as income from undisclosed source. The aggrieved assessee filed an appeal with CIT (Appeal) which was upheld in favour of the revenue.

Assessee then preferred an appeal with Tribunal against the order of CIT (Appeal), the Tribunal passed the order in favour of the assessee. The revenue aggrieved by the tribunal judgement filed an appeal with the high court.

The High Court accepted the reasoning of the Tribunal that loss of heroin held as stock-in-trade was a business loss.



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However, the High Court has relied on the explanation to Section 37 of the Income Tax Act which states:

"The assessee in this case was engaged in profession of doctor. He had nothing to do with the contraband article Heroin for carrying on his profession. It is an admitted fact that possession of Heroin is an offence under NDPS Act. In this view, the rigour of explanation to Section 37 was fully satisfied and hence the question claiming any deduction for the value of seized article did not arise nor was an assessee entitled to claim any such deduction who was found indulging in such heinous and illegal business unconnected with his pious professional activity. Indeed, it was disgrace for a doctor community where one doctor was found indulging in doing such kind of activities against the humanity".

"S.37 Explanation - For the removal of doubts, it is hereby declared that any expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure".

The appellant aggrieved by the order of High court filed an appeal with the Supreme Court. The learned counsel of appellant, contended that Section 37 of the Act has no application in this case since Section 37 relates to business expenditure, and in this case we are not concerned with business expenditure but with business loss. The Supreme Court agreed with this contention.

Supreme Court was of the view that the High Court had adopted an emotional and moral approach rather than a legal approach.

Though it fully agreed with the High Court that the assessee was committing a highly immoral act in illegally manufacturing and selling heroin, it was of the opinion that cases are to be decided Court on legal principles and not on one's own moral views.

"Law is different from morality", as the positivist jurists Bentham and Austin pointed out.

Once it is found that the heroin seized

formed part of the stock-in-trade of the assessee, it follows that the seizure and confiscation of such stock-in-trade has to be allowed as a business loss. Loss of stock-in-trade has to be considered as a trading loss.

The Apex Court for the reasons given above said, the impugned judgment of the High Court cannot be sustained and it was set aside and the order of the Tribunal stood restored and the appeal was allowed.

The explanation to Section 37 has really nothing to do with the present case as it is not a case of business expenditure, but of business loss. Business losses are allowable on ordinary commercial principles in computing profits. The Supreme Court held that such Explanation applies to expenditure incurred for any purpose which is an offence or which is prohibited by law.

The said Explanation does not cover loss arising from any illegal business activity. Thus the claim of the assessee was upheld by the Supreme Court.

The above decision of Supreme Court clearly draws a distinction between the two terms Expenditure and Loss. It is not necessary that any income should have been earned as a result of expenditure but any expenditure is expended wholly and exclusively for the purpose of earning income. Loss is nothing but negative income which arises when there is excess of expenditure over income.

In the above case the assessee incurs a loss as a result of seizure of goods (not because of expenditure) hence the decision taken by the Supreme Court stands good.

But the authors are of the opinion that any business loss to incur there should primarily be expenditure (However it is not necessary that all expenditure will lead to loss) so the same should have been disallowed and some consideration should have also been given on the grounds of humanity and other existing laws in force.

The above apex court decision is like holding Lord Krishna responsible for the MAHABHARATA war without actually sighting his intention.

-- Udaya Raman & Haris Parmar



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FEMA - Facilitator of Foreign Transactions

India has become a preferred destination for investments from across the globe. Bygone are those days where investors considered United States, Japan and European Countries as potential investment regions. Investor interests are now being switched to developing countries like India, China, Brazil etc.

The repealed Foreign Exchange Regulation Act, 1973 [FERA] of India that was most commonly referred to as "Draconian Law", prohibited foreign exchange transactions with a view to conserve and effectively utilize the available resources. FERA contained many restrictive clauses that hindered foreign trade and contained provisions to penalize violations by way of imprisonment/levy of huge penalties.

With the globe being transformed into a single business community and increased flow of foreign investments, it became inevitable for India to embark on a user friendly law/regulation that would promote the interest of foreign investment and foreign trade. This was when Foreign Exchange Management Act, 1999 [FEMA] was introduced. FEMA came into force on the 1st day of June 2000.

FEMA extends to the whole of India. It shall also apply to all branches, offices and agencies outside India owned or controlled by a person resident in India and also to any contravention there under committed outside India by any person to whom this Act applies.

An effort is made through this article to address some basic concepts under the Foreign Exchange Management Act. Let us understand the basic concept of **residential status** of a **person**. A person is defined u/s 2(u) of FEMA to ***include an individual; a hindu undivided family; a company; a firm; an association of person or a body of individuals, whether incorporated or not; every artificial juridical person, not falling within any of the preceding sub-clauses; and any agency, office or branch owned or controlled by such person.***

Asked a definition of a person, we would always recall "person" as defined under the Income Tax Act, 1961. Let us take a step forward, compare and understand difference between these two definitions:

Sec 2(31) of Income Tax Act, 1961	Sec 2(u) of FEMA, 1999
Includes: a local authority in the definition.	Excludes: a local authority as contained u/s 2(31) of I T Act.
Excludes: any agency, office or branch owned or controlled by such person as contained u/s 2 (u) of FEMA.	Includes: any agency, office or branch owned or controlled by such person.

Another definition which is the essence of FEMA is "residential status". Thorough understanding of this term is essential as this forms the significant basis for determining the applicability of FEMA.

FEMA defines "person resident in India" u/s 2(v) which means –

- (i) ***a person residing in India for more than 182 days during the course of the preceding financial year but does not include –***
 - (A) ***a person who has gone out of India or who stays outside India, in either case-***
 - (a) for or on taking up employment outside India, or
 - (b) for carrying on outside India a business or vocation outside India, or
 - (c) for any other purpose, in such circumstances as would indicate his intention to stay outside India for an uncertain period;



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(B) a person who has come to or stays in India, in either case, otherwise than-

- (a) for or on taking up employment in India, or**
- (b) for carrying on in India a business or vocation in India, or**
- (c) for any other purpose, in such circumstances as would indicate his intention to stay in India for an uncertain period;**

(ii) any person or body corporate registered or incorporated in India,

(iii) an office, branch or agency in India owned or controlled by a person resident outside India,

(iv) an office, branch or agency outside India owned or controlled by a person resident in India.

FEMA defines "person resident outside India" u/s 2(w) which means **a person who is not resident in India.**

Residence in India is also comprehensively dealt in by I T Act u/s 6. The residential status of an individual is basically determined by the number of days of stay in India. Hence, physical presence is an important criterion for ascertaining his/her residence under the I T Act.

The determination of residential status under FEMA is substantially different when compared to I T Act. FEMA determines the residential status based on different set of parameters. Let us explore into some examples to comprehend the residential status of an individual.

Eg. 1. Mr. A completed his MBA degree in India. All the time he was an Indian Resident. He gets an offer to work as a financial analyst in Dubai. He leaves for Dubai on 15th January 2008. What is his residential status under FEMA & I T Act?

- For the purposes of FEMA, Mr. A becomes a **non-resident** from the day he leaves India for employment purposes irrespective of the fact that he stayed in India for more than 182 days during the preceding financial year [2007-08] as he is covered under exception to the definition.
- For the purposes of I T Act, Mr. A is still a **resident** because he satisfies the basic condition of his stay in India during the previous year for a period of 182 days or more. Hence, his global income will be chargeable to tax in India.

Eg. 2. Ms. F comes to India to set up a partnership firm in January 2008. What is her residential status under FEMA & I T Act?

- For the purposes of FEMA, Ms. F becomes a resident from the day she comes to India for

setting up a business as she is covered under exception to the definition.

- For the purposes of I T Act, Ms. F is a non-resident because she does not fulfill the condition of number of day of stay in India as per I T Act.

Eg. 3. Ms. Z staying in Africa for more than 15 years comes to India for an open heart surgery on 1st July 2007. She plans to leave India after the surgery and post surgery treatment. Doctors have advised her to stay in India upto 15th June 2008. What will be the residential status under FEMA & I T Act?

- For the purposes of FEMA, Ms. Z is not covered by the exceptions under clause (B) as her intention to stay in India is for a specific period. She is a non-resident for FY 2007-08 as she comes to India for the first time. Irrespective of her stay of more than 182 days in FY 2008-09, she would be a non-resident as she is certain to leave India within a specified period.
- For the purposes of I T Act, Ms. Z will be an Resident & Not Ordinary Resident for A.Y. 2008-09 and Non-Resident for AY 2009-10.

As mentioned elsewhere, the determination of residential status becomes crucial to enforce FEMA regulations. Hence, as apparent from the above examples, the residential status of an individual has to be determined giving due weightage to intention and period of stay in India.

Unlike FERA, the definition of "Residential Status" under FEMA has gone through considerable change. It has now been made on the lines of Income Tax Act in terms of number of days of stay in India. Most of the other amendments in FEMA have been made to facilitate foreign transactions. This makes FEMA more a facilitator than a regulator.

-- Abhishek Kothari & Deepthi Jain



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Maze of Complexities surrounding JDA's

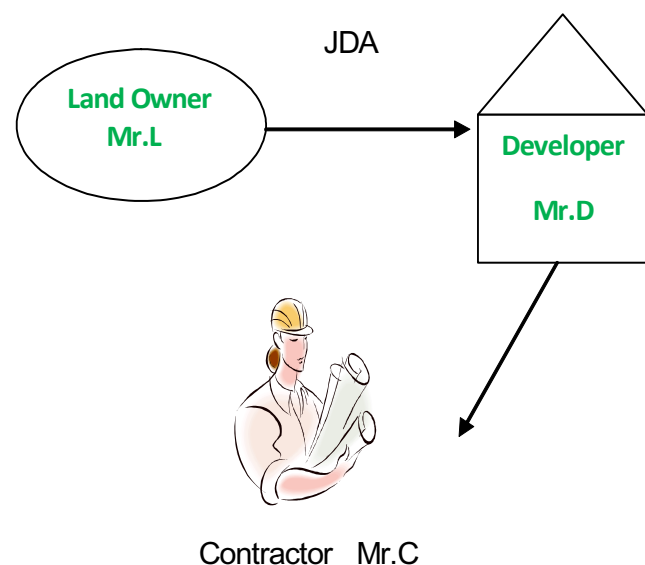
With the Joint Development Agreements (JDA) becoming a 'rage' today in the construction industry we can witness a large number of Land Owners preferring JDA's with developers to an outright sale of land.

The various kinds of arrangements between the land owners, developers and contractors have given rise to VAT and Service Tax complexities.

We have made an attempt in this article to understand this maze of complexities particularly in the light of service tax law.

Let us consider the following illustration as enumerated below

Case 1:



In the above case, Mr. L and Mr. D enter into a JDA, wherein Mr. D undertakes to develop the Land belonging to Mr L into Residential /Commercial units for sale. Mr L and Mr D agree on apportioning the constructed units amongst them as consideration for the land or effort.

Further Mr. D enters into contract with Mr. C for construction of building. Mr. L and Mr. D may enter into agreements with prospective buyers to sell the apartments.

Who is liable to VAT and/or Service Tax?

Situation I:

Building constructed is, either a residential building consisting of more than twelve units or, is a commercial building.

Apartment is sold to purchaser after the building is completed. Mr. L and Mr. D are selling the flats/units as a completed unit.

As the same amounts to sale of immoveable property no liability on account of either VAT or Service tax can arise.

However Mr. C who undertakes to construct for Mr.D is liable to both VAT as well as Service Tax.

Situation II:

Building constructed is, either a residential building consisting of more than twelve units or, is a commercial building. Flat/ unit are sold to purchasers during the construction of building.

In this situation going by the rationale laid down in the case of K RAHEJA DEVELOPMENT CORPORATION V/s STATE OF KARNATAKA (2005) STT 178, the Land owner, Developer as well as the Contractor are liable to sales tax.

As per Circular No96/2007 dated 23.08.07 where a contract for construction of the building is given to a single contractor by the developer, only the contractor would be liable to service tax.

Case 2:



Mr.C1

Mr.C2

Mr C3

The Facts of Case 2 are similar to that of Case 1 except that Mr. D enters into contract with Mr.C1, Mr.C2 and Mr.C3 for construction of building.



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Who is liable to VAT and/or Service Tax?

In this case regard may be had to a recent judgment of CESTAT in the matter of **M/s ROHAN BUILDERS LTD v/s CCE ST/439/07**, Bangalore where it was held that if a developer enters into contract with more than one contractor, he, the developer is liable to Service Tax. The judgment has failed to take into consideration the fact that sale of immovable property is outside the ambit of service tax and VAT. Again it has failed to consider that the said service could be taxed under the taxable head "works contract".

Hence this area is highly litigated both in the arena of VAT as well as Service tax.

When is Developer liable to tax?

As per **K RAHEJA DEVELOPMENT CORPORATION V/s STATE OF KARNATAKA (2005) STT 178** – Estate developer taking possession of land from owner thereof under development agreement and constructing thereon residential and commercial apartments for direct sale to intended purchasers under agreement for sale. The Transaction amounts to works contract and developer is liable to pay tax on his turnover of works contract. Even the owner of property can be said to be carrying on works contract if he enters into agreement to construct flats for sale. However, if agreement for sale of flats is entered into after Completion of flats, there would be no works contract

When is Developer not liable to tax?

In the case of **ASSOTECH REALTY PVT LTD 2007-TIOL-297-HC-ALL-CT** it was held that in the case of Raheja the construction was for and on behalf of the person who had agreed to purchase the flats. But in this case the petitioner is constructing the flats/apartments not for and on behalf of the prospective allottees but otherwise. The right, title and interest in the construction continue to remain with the petitioner. It cannot be said that the constructions were undertaken for and on behalf of the prospective allottees.

What is the appropriate head under which Service tax is to be levied?

Under the Service Tax the construction activity was taxed under the head "Residential

Complexes". However, a new entry "works contract" was brought into the levy in the Finance Act of 2007. The extract of the budget speech of the honorable Finance Minister is produced herein:

"154. State Governments levy a tax on the transfer of property in goods involved in the execution of works contract. The value of services in a works contract should attract service tax. Hence, I propose to levy service tax involved in the execution of works contract. However, I also propose an optional composition scheme under which service tax will be levied at only 2% of the total value of the works contract".



A reference can be made to the budget speech to understand the intention of the legislators. Having regard to the above it can be contended that the tax on developer/ contractor will be under the head Works Contract from 01.06.2007.

In the judgment relating to Rohan Builders a passing reference has been made to **Rolls Royce Indus. Power V/s CCE 2006 3 STR 292 Delhi CESTAT**. In the said case it has been held that prior to 01.06.2007 service tax on "works contract" cannot be levied.

Whether Service provider- recipient relationship exists between Developer and Land Owner?

In **FAQIR CHAND GULATI Vs. UPPAL AGENCIES PVT LTD 2008-TIOL-147 SC-MISC** it has been held that where a Land owner is entering into an agreement with a builder for construction of an Apartment Building and for sharing of the constructed area, the question raised was whether the builder is a service provider to the Land owner. The apex court held under the Consumer Protection Act, that builder is a service provider and the Land owner is a consumer. One must keep in mind that this judgment is passed under a Non fiscal statute.

The authorities may apply the rationale of this judgment to levy service tax in respect of the built up area given in exchange of land. This could have far reaching effects.



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Two views are prevalent in this kind of transaction.

View I:

One view among the Service tax fraternity is that such a transaction should be liable to service tax.

The argument is that since there is exchange of land for share in constructed area what Mr. L gets in consideration of undivided interest in land is constructed flats and hence service tax is applicable.

Again the value of service is to be determined having regard to Section 68 of Service Tax Law read with Service Tax- Determination of Value Rules.

View II:

Another faction of the service tax fraternity is of the view that no service tax can be levied on such a transaction.

This is because the Construction of the building is under a joint development arrangement and in such a arrangement the parties to the JDA

cannot tax the other for an activity which is jointly undertaken.

Again this might amount to levy of service tax on transfer of right in immovable property. This is because the land owner is interpreted under the Consumer Protection Act to be a consumer who against the consideration of undivided interest in land gets a share of constructed flats/ units.

The consideration which the Service Provider gets is undivided interest inland and hence what would get taxed is land. Land is outside the ambit of service tax.

In the light of the above we can conclude that the law surrounding Construction activities needs to be simplified so as to resolve the existing complexities.

The amendment in legislature which introduced the service tax head "works contract" was intended to simplify the law relating levy of service tax in relation to construction industry has resulted in a further confusion.

-- **Zupriya Vaz & Mithila Bai**

A few Super Superstitions

- By making the sign of the Christian faith with our fingers, evil spirits would be prevented from destroying our chances of good fortune.
- It is bad luck to walk under a ladder.
- Greeks believe that Money attracts money, so never leave your pockets, purses or wallets completely empty and never completely empty your bank account. Always leave at least a coin or two. It was also considered good luck to give a gift of a wallet or a purse with a coin or two in it.
- To break a mirror means 7 years bad luck.
- It is unlucky to see your face in a mirror by candlelight.
- A mirror should be covered during a thunderstorm because it attracts lightning.
- If a mirror in the house falls and breaks by itself, someone in the house will die soon.
- If your nose itches.....
 - ❖ You will soon be kissed by a fool.
 - ❖ You will get in a fight.
 - ❖ You will get money soon.
- If 3 people are photographed together, the one in the middle will die first.
- If you bite your tounge, someone is talking badly about you. Bite your sleeve to make them stop.
- Biting your tongue means you are going to kiss a fool. So ...



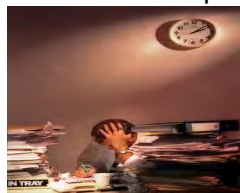
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CARO, 2003 - Fixed Assets

Reporting is an integral part of any audit through which an Auditor expresses his opinion.

In case of Companies, the auditor of the company is required to report on the 21 clauses as given in the Companies (Auditor's Report) Order (CARO), 2003 issued by Central Government u/s227 (4A) of the Companies Act, 1956.



In this article an effort has been made to discuss some of the issues relating to the paragraph 4(i) of the Order. Under this Clause the Auditor is required to report on maintenance of proper records, physical verification, and substantial disposal of Fixed Assets.

Under the **First part** of the above clause an Auditor is required to report/comment on whether the company is maintaining *proper records* showing full particulars, including quantitative details and situation of fixed assets.

Now the question arises as to what are proper records? Neither The Companies Act nor the Order prescribes as to what are “proper records” in this regard. However in general terms, proper records should make available the following information namely,

- Sufficient description of the asset for identification purposes.
- Categorization, Situation/Location.
- Purchase Details.
- Depreciation Details.
- Revaluation /Impairment details.
- Details relating to sale, discarding, destruction etc.

Even though the above list seems to be illustrative in nature, it need not in particular be subjected on the auditor, who is at his discretion as to ascertain the nature of proper records based on his Professional judgment, after considering the complexity and nature of the business.

Under the **Second part** of the above clause an Auditor is required to report/comment whether these fixed assets have been physically verified by the management at *reasonable intervals*; whether any material discrepancies were noticed on such

verification and if so whether the same have been properly dealt within the books of account.

The physical verification has to be made by the management and not by the auditor. The auditor should satisfy himself that such verification was done and the method of verification was reasonable in the circumstances of each asset. He should satisfy that there is adequate evidence on the basis of which he can arrive at such conclusion.

Now the question arises, what can be construed as a reasonable interval? Reasonable interval has not been defined either in the Companies Act or under the Order. This again varies from company to company as well as the nature of the underlining asset like number of assets, difficulty in verification, situation and spread of the asset.

Reasonable Interval again revolves around the Professional judgment of the auditor taking into account the strength of Internal Controls and the complexity of the Industry.

Under the **Third part** of the said clause the Auditor is required to state whether the Going concern has been affected due to a *substantial disposal* of fixed assets during the year

As per AS -1, “The enterprise is normally viewed as a going concern, that is, as continuing in operation for the foreseeable future. It is assumed that the enterprise has neither the intention nor the necessity of liquidation or of curtailing materially the scale of the operations”.

It is not mentioned in the order as to what constitutes a substantial part. It again depends upon the facts and circumstances of each case. The auditor based on his professional judgment and experience has to decide and report whether the disposal of fixed asset is substantial as to affect the going concern.

In our opinion, the CARO does not offer a clear cut explanation as to what the proper records or what are the reasonable intervals or which consist of the substantial part, it is upon the auditor to apply his professional judgment and experience in addressing to the clauses as stated in the CARO, 2003. While the order on the other hand, increases the standard of Reporting and places a statutory responsibility on the Auditor



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We Congratulate the Efforts of Mr. Vinod Kumar from DNS to have Portrayed his Artistic Skills in the form of this Pencil Sketch Work of Michael Phelps (American Swimmer) with his Gold Medal at the recent Olympics.



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DNS Family

SERVE WITH SMILE



One of the most loved member of DNS family, Lalitha. The day kicks start with the refreshment she serves which stimulates everyone's brains. We are glad to publish her views and thoughts of her life in DNS.

Editorial: How did you feel initially when you joined DNS and what do you feel now?

Lalitha: Initially when I joined in April 2003, I was a little afraid as to how would I be in an office environment, but now, when it's more than four years it feels a pleasure to be working here. I am glad that I have overcome that fear.

Editorial: What is the thing you like the most in DNS?

Lalitha: Our office has a very friendly atmosphere, more like being in a family. Everyone here treats me as one among them, makes me feel at home.

Editorial: What would you like to do, other than the routine work in office?

Lalitha: I would like to learn typing on computers and taking photocopies. I also like to prepare appeal paper sets, numbering them or tagging them.

Editorial: How do you manage to cater to the needs of everyone in a timely manner?

Lalitha: I have never said anyone to wait or in negative for anything, no matter how hectic the work is at that moment. I somehow tend to manage it.

Editorial: What are your interests or hobbies?

Lalitha: During leisure hours at home, I practice rangoli, stitching, decorating home. I also help my friends with their work like courier packing.

Editorial: Do you wish to stay anything else?

Lalitha: I would like to thank everyone for the support given to me. They have to maintain a little more cleanliness like they do at their homes. It would make me more happier. Once again I would like to thank everyone for all the support.

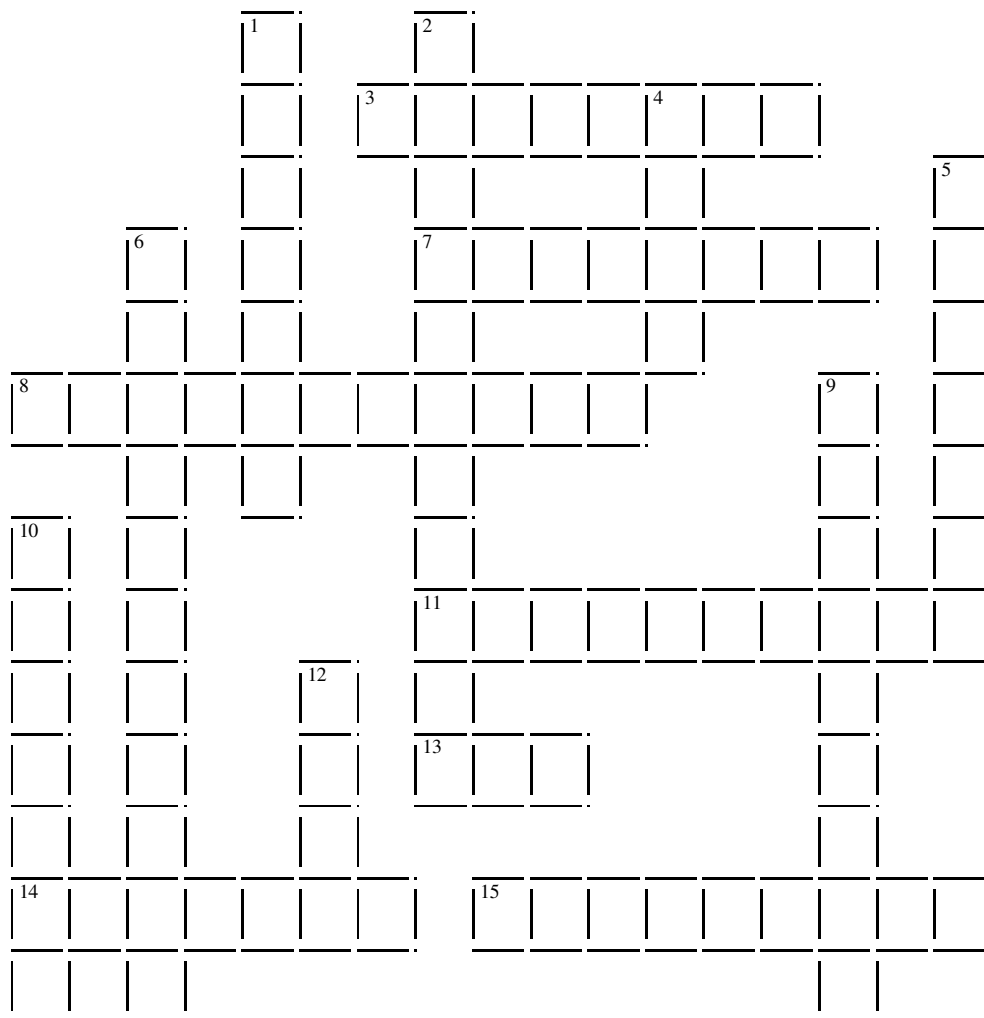
"Greatness after all, in spite of its name, appears to be not so much a certain size as a certain quality in human lives. It may be present in lives whose range is very small."



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Crossword = 16



ACROSS

- 3 An Agreement under seal between two or more person(8)
- 7 A set of guidelines that help in governing on the internet and communications over it(8)
- 8 The method of practicing and using another person's philosophy of business(11)
- 11 A real or virtual document representing a legal agreement(10)
- 13 Intermediate cash flow when presumed to be reinvested at cut off rate(3)
- 14 Upon one's own initiative(7)
- 15 The Cheetah of Olympics 2008(9)

DOWN

- 1 In India Service Tax is Levied under _____ Act(7)
- 2 A Scheme under the VAT system where dealer is given option to pay tax at concessional rate(11)
- 4 A UK based company taken over by Infosys(4)
- 5 The area where a particular species lives(7)
- 6 A situation of inflation in the face of stagnation of the economy(11)
- 9 Risk that an auditors substantive procedures will not detect a misstatement that could be material(9)
- 10 A permanent diplomatic mission(7)
- 12 Authority empowered to enhance Time Limit for filing the return of income under Indian Income Tax Act, 1961(4)



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Logo Quest 2

1.



2.



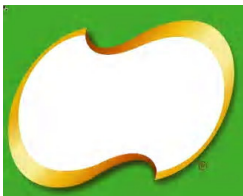
3.



4.



5.



6.



7.



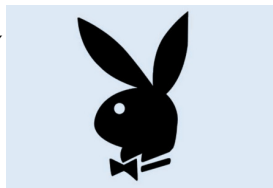
8.



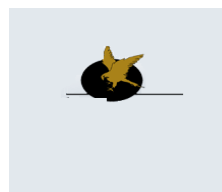
9.



10.



11.



12.



Solution to Crossword 15

Across

- 2. Moore
- 6. Zambia
- 10. Netting
- 11. Futures
- 13. Transcanada
- 15. Harsha Bhogle

Down

- 1. Holiday
- 3. H E Bates
- 4. Bridge
- 5. Damascus
- 7. Penetration
- 8. Union
- 9. Cuba
- 12. CashCow
- 14. Floor

We Congratulate the team of Ms. Sumana & Ms. Mithila Bai
to have cracked Crossword 15.



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Love Your Country



Recently India has completed its 61 years of Independence but how many of us are aware of the meaning and various rules of our national symbols.

Before starting the article, I would like to ask one small question to all my readers.

Our National Anthem “Jana Gana Mana” is sung throughout the country but how many of us know its meaning? Similarly how many of us know the true meaning of tricolour in our national Flag? Try answering these questions to yourself and ask your friends also about it. It’s only then we all will realize where are we and what kind of awareness we have.

Just think about it...

To begin with, in this issue immediately after our Independence I would like to share a few things about our National Anthem.

The song “Jana Gana Mana” was composed originally in Bengali by Rabindranath Tagore. Its Hindi version was adopted by the Constituent Assembly as the National Anthem of India on Jan 24, 1950. It was first sung on Dec 27, 1911 at the Calcutta session of the Indian National Congress. The complete song consists of five stanzas.

The first stanza consists of full version of the National Anthem. The playing time of the full version of the National Anthem is approximately 52 seconds. The playing time of the short version consisting of first and last lines of the stanza is approximately 20 seconds.

The song “Jana Gana Mana” was first published in January 1912, under the title “Bharat Vidhata” in the Tatva Bodhini Patrika edited by Tagore himself. The song was translated into English by Tagore in 1919, under the title “Morning Song of India”.

The National Anthem like National Flag is the sacred symbol of India as a free nation. It is a call to all our countrymen to be united and strong.

The following rules are observed with regard to the National Anthem:

- ◆ When National Anthem is sung or played, one must stand at attention and motionless. To move about or to talk is disrespectful.
- ◆ One should be able to sing correctly.
- ◆ One must show respect to the Anthem everywhere and on all occasions.
- ◆ On April 19, 2004 the Supreme Court held that the audience in a cinema hall need not stand when the National Anthem was sung as a part of a movie, a documentary or a running newsreel.

It’s just a small step taken to spread the message. Try sharing these kinds of messages to make sure that even the upcoming generation is aware of its nation and its culture and we do not end up losing our respect for our country and its national symbols.

Jai Hind!!

-- Komal Jindal

“It is not for him to pride himself who loveth his own country,
but rather for him who loveth the whole world. The earth is
but one country and mankind its citizens”



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Tedious U/s 195

Tedious????? ah!!!! its Tax Deducted at Source indeed it is tedious!!!! Section 195 of the Income Tax Act, 1961 deals with payments made to Non Residents.

The objective of this section is to ensure that the tax due from non resident persons is held at the earliest point of time, so as to ensure that there are no difficulties in collection of taxes at a later point of time.

Failure to deduct tax at source may result in loss of revenue to the department; also there may be no assets located in India to recover such taxes.

Extract of section 195 (1) of the Income Tax Act, 1961 is reproduced below for our discussion

- *"Any **person** responsible for paying to a non-resident, not being a company, or to a foreign company, any interest or any other sum chargeable under the provisions of this Act (not being income chargeable under the head Salaries) shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force"*
- Any **person** as defined under the Income Tax Act, 1961 **"includes"** an individual, a HUF, a company, a firm, an association of persons or body of individuals whether incorporated or not, a local authority and every artificial juridical person".

The word "Includes" has always played on my mind and its use in statutes has always kept the doors open to bring into the ambit of any particular meaning.

The word "includes" is in no way restrictive of its meaning, it is not exhaustive in its meaning.

- Going by the above definitions, for eg. a company incorporated outside India i.e. a foreign company shall fall under the definition of a "Person" and shall be liable for any Income tax in India on any income that is "accrued arises, or is received or

even if the same is deemed to arise, accrue or received in India.

- It is interesting to note the language used "any interest or **any other sum chargeable under the provisions of this Act**" the word **"chargeable under the act"** could mean only the income component in a gross payment or the profit element in the gross payment???

Now, what is chargeable under the Income tax Act, 1961 is "Income", "Total Income" as stated in Section 5, in relation to a person who is not a resident, income shall **include** all income from whatever source derived which-

- ✓ is received or is deemed to be received in India in such year by or on behalf of such persons; or
- ✓ accrues or arises or is deemed to accrue or arise to him in India during such year.

Based on the above understanding certain principles that are laid down for any person to deduct tax at source U/s 195 can be summarized below:

1. Payment should be made to a Non Resident.
2. Such payment should form a part of the "Total Income" of the recipient i.e. such recipient is liable to Income Tax in India.
3. Payment made by Non resident too would attract TDS.
4. Such amount paid should be the **Income of the recipient**, this is a matter of debate as there are quite a few judicial pronouncements wherein reimbursement of expense along with technical/professional fees paid have been held as liable for TDS i.e. including reimbursements.

Let us consider a few issues that need to be addressed for the better understanding of the provisions:

1. "X" a foreign company is in the process of setting up a unit in India, for which it deputed a professional "Y" to India for survey, understanding the business viability, & other related issues. "Y" resides in India for a period of ninety days.



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To assist "Y" company "X" makes remittance of professional charges to the deputed person in India, i.e. the same is remitted to the personnel's bank account in India. IN this case is TDS to be deducted U/s 195 of the act???

Analysis of the above transaction:

- Payment made by company "X" falls under the definition of "Person" even though the company is not resident in India.
- The payment made is to "Y" an NRI who has resided in India only for a period of 90 days.
- The remittance is made to the NRI to his bank account in India; therefore the same shall be taxable as income in India as the same is received in India.

In the above instance it is clear that the transactions falls within the purview of section 195 of the Income Tax Act, therefore the company is liable to deduct TDS.

Assuming, Company "X" does not deduct TDS in the above example, in that case what are the consequences???

2. "X" an Indian Company appoints a professional "Y" i.e. an NRI residing in a foreign country for certain professional services. These services are rendered by "Y" in India, i.e. "Y" has travelled to India to execute the contract.

The professional charges that are paid to "Y" is remitted to a Bank account in the foreign country i.e. place of residence of "Y".

Professional charges remitted to "Y" amounts to \$1, 00,000 along with which \$25,000 are remitted on account reimbursements.

Analysis of the above transactions

- The above transaction is attracted by section 195, as the service is provided in India by "Y".
- "X" is liable to deduct TDS on the payments made.
- The question that should be raised is, whether TDS is to be deducted on the entire payment of \$1, 25,000 or only \$1, 00,000 which is the professional charges paid to "Y".

Referring to the language used in section 195(1), it states "any interest or other sum chargeable to tax under this act, **Income** which is credited to the account, TDS shall be deducted at the rates in force.

Income as mentioned earlier is the taxable component under the Income tax act, reimbursements paid on account of travel or any other expenses does not constitute as income in the hands of the recipient i.e. "Y".

The word "Re imbursements" is not defined under the Act. In general parlance the word is understood to be restoring or compensating what is spent/given, making good for what is spent, reimbursement does not involve any benefit in the hands of the recipient.

Let us understand the term "Compensation" it refers to payments made for any services rendered by the recipient, compensation involves element of benefit, which can be called as income/profit. In the above case the payment involves two components, i.e. compensation (Technical charges) & reimbursement of expenses (reimbursement).

5. Where section 195 states that TDS shall be deducted on the **income** which is credited to the account of NRI, in the above instance the income component is only the technical fee & not reimbursement, therefore TDS shall be deducted only on the Technical fees of \$1, 00,000.

Section 195 takes within its sweep any sums paid to a non-resident which does not wholly represent income or profit chargeable under the Act but only a portion of which so represents.

In view thereof, a provision is also made for the determination in advance of the actual amount representing income out of the total sum payable to a non resident. For this purpose an advance determination from assessing officer is required to be obtained by the payer. Non-resident recipient of income can also approach the assessing officer and obtain certificate that



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no deduction be made while paying amount to the non-resident.

Delhi High Court has held that reimbursement of expenses does not constitute income and therefore the same is not taxable. In this case, the assessee had an agreement with the foreign company to render certain services for a minimum fee of Rs. 1.2 lakhs per year.

The agreement also provided that certain costs or expenses could be reimbursed. The court found that no excess amount over and above expenses incurred was received.

It held that the reimbursement of expenses could not be regarded as revenue receipts.

Following the above decision, reimbursement of actual expenses were held not to be 'income' in case of *Clifford Chance, United Kingdom (82 ITD 106) (Mumbai ITAT)*. In another case, **Bombay Tribunal in the case of Arthur Anderson (unreported)** held that where the reimbursement is of actual expenses supported by bill no tax should be deducted.

In the case of *SRK Consulting Engineers & Scientists vs. CIT (230 ITR 206)*, the Authority for Advance Ruling held that consideration paid for daily allowance and travelling expenses of the technicians of the foreign entity formed part of consolidated

remuneration under the agreement for royalty and fees for technical services. Hence the payments were held to be "Fees for Technical Services".

It may be pertinent to note that the CBDT has clarified that in its circular regarding TDS, that payments made u/s 194 C, shall attract TDS on the entire sum paid that is including reimbursements, but it is also important to note the language used under these two sections is not the same, section 194 C states "any sum paid" & section 195 states "any sum which is taxable in under this act, income which is credited to the account", of course the circular is in respect of section 194C & not 195, but in my personal opinion it can be understood from the intent of the revenue that TDS u/s 195 needs to be deducted on Income only and not on reimbursements, but the same should be decided on the merit of the case.

Thus, it would be fair to conclude that if it is a case of pure reimbursements of incidental expenses duly supported by bills and the contract is unambiguous that the resident shall bear such expenses in addition to the fees, section 195 would not apply.

The above issues discussed is a drop of water in the ocean, there are many more issues & cases that fall within the grey area and need a detailed study to conclude or at least have a fair view on the applicability of TDS U/s 195.

-- **Abhishek Kothari**

The Income Tax Department

A local restaurant was so sure its Gigantic Looking chef was the strongest man around, they had a standing Rs.100,000 offer that the chef would squeeze a lemon until all the juice ran into a glass and then hand the lemon to a patron. Anyone who could squeeze just one more drop of juice out of the lemon would walk away with the money. Many people had tried, including weight lifters and body builders, but nobody could do it.

One day a scrawny little man wearing thick glasses and a polyester suit came in and said in a tiny squeaky voice, "I'd like to try it". After the laughter had died down the chef said, "OK". He grabbed a lemon and squeezed away. Then he handed the wrinkled remains of the rind to the little man. The crowd's laughter turned to total silence as the man clenched his fist around the lemon and one by one 6 drops fell into the glass.

As the crowd erupted into cheering, the chef paid the Rs. 100,000 and asked, "What do you do for a living? Are you a lumberjack, a builder's labourer or what?"

He adjusted his glasses on his nose and said, "I work for the INCOME TAX DEPARTMENT".



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The Micro, Small and Medium Enterprises Development Act, 2006

Agriculture is considered to be one of the main sector of the Indian economy. Simultaneously there are other sectors which contribute for Indian economy like industry and service sector. Due to globalization and growing needs in the competitive world the emphasis has shifted from industry to 'Enterprises'.

The Central Government has enacted an act, called The Micro, Small and Medium enterprises, Development Act, 2006 on 16th June 2006 which came into force on 02.10.2006. The Act aims at development and promotion of micro, small and medium enterprises.

The objective of the act is to define and classify the 'enterprise'. Establishment of board, a high-level forum. Providing guidelines and instructions for development of 'enterprise'. Timely and smooth flow of credit. Overall it is for the development and strengthening the small,

micro and medium enterprises to compete with big enterprises.

The word 'Enterprises' is vide enough to include all kinds of establishments, organizations engaged in manufacture or production of goods or providing services. 'Enterprise' has been defined and classified under the act, as under;

'Enterprises' means an industrial undertaking or a business concern or any other establishment, by whatever name called, engaged the manufacture or production of goods, in any manner, pertaining to any industry specified in the First Schedule to the industries (Development and Regulation) Act, 1951 or engaged in providing or rendering of any service or services.

The classification of the 'Enterprise' as to micro, small and medium is determined from the following criteria's.

Enterprise	Engaged in the manufacture or production of goods pertaining to any industry specified in the First Schedule to the Industries (Development and Regulation) Act, 1951	Engaged in providing or rendering of services
Micro	Investment in plant and machinery does not exceed twenty-five lakh rupees	Investment in equipment does not exceed ten lakh rupees
Small	Investment in plant and machinery is more than twenty-five lakh rupees but does not exceed five crore rupees	Investment in equipment is more than ten lakh rupees but does not exceed two crore rupees
Medium	Investment in plant and machinery is more than five crore rupees but does not exceed ten crore rupees	Investment in equipment is more than two crore rupees but does not exceed five crore rupees

Note: Cost of pollution control, research and development, industrial safety devices and such other items as may be notified shall be excluded in calculating the investment in plant and machinery. Thus the word 'Enterprise' has been defined in such a manner that, it is vide enough to

include all kinds organizations or establishments engaged in any activity like systematic, continuous, purposeful, commercial in nature with a view to earning an income.

It includes every trade occupation, profession.



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Important Definitions

‘Buyer’ means whoever buys any goods or receives any services from a supplier for consideration

‘Goods’ means every kind of movable property other than actionable claims and money.

‘Supplier’ means a micro or small enterprises, which have filed a memorandum with the authority as notified by the State or Central Government.

Comment

‘Service’ has not been defined under the Act.

Who can avail the benefits under this act?

Any person who intends to establish and such enterprises falls under the category of micro, small and medium enterprises as defined under the act, at his discretion can file a memorandum before the specified authority.

If the enterprise already exists before the commencement of this act, shall within 120 days from the date of commencement of this act, shall file memorandum. [commencement of act, 02.10.2006]

Facilities and Advantages Available under the Act

1. Assistance and guidelines from Central Government in the following:

- Development of skill in the employees
- Technology upgradation
- Marketing assistance
- Infrastructure facility

2. Financing:

To ensure timely and smooth flow of credit provides credit facilities through RBI guidelines or instructions. An enterprise can also avail finance by way of grants created by funds under this Act.

Comment

The provision does not provide any opportunity to plead reason for non-furnishing of information.

Note: The jurisdiction shall be the place of the supplier located in India.

*1 Provision relating to interest

1	Period of Interest commences	From period of agreement or 45 days from the ‘day of acceptance’ whichever is earlier.
	‘Day of Acceptance’	Either the day of actual delivery of goods or the rendering of services; or where any objection is made by the buyer in writing within 15 days from the day of delivery of goods or rendering of services, the day on which such objection is removed by the suppliers.
	‘Day of Deemed Acceptance’	If there is no objection is made by the buyer within 15 days from the day of delivery of goods or rendering of services, the day of the actual delivery of goods or the rendering of services.

3. Policy for procurement of goods and services:

Formulating policies for procurement of goods and services produced and provided by micro and small enterprises.

4. Measures for delayed payments

It is duty and obligation of the buyer of micro and small enterprises to make payments against receipt of goods or services availed within the agreed period. However the Act imposes 45 days time for making payment within ‘the day of acceptance’ of the goods or services. In case any default in making payment

- a) aggrieved ‘supplier’ can make a reference before the ‘Micro and Small Enterprises Facilitation Council’ for recovery of amount due along with interest*¹ at three times the bank rate [*at present the bank rate is 13% per annum*].
- b) Interest paid by the buyer to the micro and small enterprise supplier shall **not a deductible expenditure under the Income Tax Act, 1956**.
- c) Further it is mandatory of the buyer to specify and furnish the information about amount due along with interest in the annual statement of accounts.
- d) Any buyer who fails to furnish the details of unpaid amount and interest thereon shall be punishable with a fine which shall not be less than rupees ten thousand. This penalty may extend to more than rupees ten thousand



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5. Disposal of Cases

Every reference made under this act, shall be decided within a period of 190 days from the date of making reference.

The dispute shall be disposed in a manner by conducting conciliation or seeking assistance from any institution or referring cases to centre or conducting conciliation as per provisions of section 65 to 81 of the Arbitration and Conciliation Act. 1996.

6. Further Appeal

The aggrieved person [either the supplier or the buyer] can make appeal to the court. In case where the appellant is buyer appeal shall be entertained unless the buyer deposits 75% of the amount of decree or award as the case may be as mentioned in the order.

Repeal of Act: By enacting this law 'The Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Act, 1993 has been repealed.

-- **Vasanth Kumar**

Olympics The Sports War...!!

The Olympics is the greatest sporting event which is held once in four years. The Olympics started in the year 1896 in Athens, Greece and has a rich history of providing great sporting legends.



The Olympics Rings

The 5 rings represent the major regions of the world i.e. The Africa, The Americas, The Asia, The Europe and The Oceania. Every national flag in the world includes at least one of the 5 colours included in the Olympic ring which is Blue, Yellow, Black, Green and Red.

The First Indian Gold Medal

For Indians the actual Olympic saga started in the year 1928 when it secured the first ever medal in the form of gold, the event was our national game hockey.

Beijing Olympics –The Sports War, 2008



For the first time the China were hosting the biggest sporting extravaganza in the world. And they did not disappoint anyone as they placed an immaculate opening ceremony which left everyone astonished and flattered.

The 'Birds Nest' (National Stadium) was glowed up with colourful firework. and the opening ceremony performance summarizing the culture and tradition of Chinese was just breathtaking.

This grand beginning of Olympic gave a right kick start to all the 10,000 odd participating athletes.





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Heroes of the Olympiad 2008

Michael Phelps (Aqua Gladiator, USA):

He has left the Chinese furious with his feats. Not because he had denied Chinese any gold medals but for the reason that the Beijing Olympics would better be remembered as Michael Phelps Olympics.

This Aqua gladiator from US (but God knows from which planet) went on to clinch one gold after the other. Every time he entered pool it looked his opponents had surrendered to him. And the gladiator looked certain of claiming gold.

This domination in the pool made him the greatest Olympian of all time as he has surpassed the legendary compatriot swimmer Mark Spitz record of 7 gold medals by claiming his 8th gold medal in 4X100M medley. He now has an astonishing 14 gold and 2 bronze in Olympics to his name.

To end we just have to say one thing that we all have been fortunate to watch one of the greatest sports personalities of all time at his best.

Usain Bolt (Thunder Bolt, Jamaica):

What can you say about this Jamaican? One who clinched 3 gold medals at Beijing one who broke all the records in the events he participated or just the fastest man on the earth. Expressing his achievement in words is a daunting task as you cannot feel the emotion which he has undergone claiming the 3 medals at the Beijing. He set the athletics fraternity and especially the Americans fuming by his ease of victory in 100M. It looked as if he was running in a race of cat and mouse (where the story told to us in school does not repeat).

The Jamaican after a start just passed his other opponents like a hurricane and slowed down at the end just to see on his left and right as to what is the extent of destruction he has done before completing the race in a record time of 9.69 seconds. In his second race he had a tough task of breaking the world record of the legendary sprinter Miachel Johnson but was confident enough of claiming the gold. Like in his 100 Metres he blazed through his opponents but unlike the earlier race he didn't stop to look at his challengers but just blazed through to claim the gold within the world record time in just 19.30 seconds.

And then in his final race 4X100M relay the Jamaican tore his opponents and gave the Jamaican team a huge lead before passing on the baton to his team mate Asafa Powell who gave the Jamaican team the gold medal in record time of 37.10 seconds.

Indian Heroes of the Beijing Olympics

Abhinav Bindra (Shooting star):

His achievement left us stunned. August 11th 2008 around 10.15 A.M. had everyone glued to their TV sets. This man came up with nerves of steel to shoot India to its first ever individual Gold medal at the Olympics.

For the first time in our life we felt proud for the Indian group at Olympics as they played the National Anthem (the authors were not born last time it was played in 1980). This moment we shall cherish through out our life and thank this amazing talent from bottom of our hearts.



Sushil Kumar & Vijender Kumar:



The gold medal of Abhinav Bindra should not take shine away from Sushil Kumar & Vijender Kumar who won 2 bronze medals for India. They played their heart out and made the Olympics the most memorable and successful for the Indians.



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First it was the wrestler Sushil kumar (66kg), it seemed that his campaign was nearly over when he lost his first round battle against eventual silver medallist Andriy Stadnik but repechage provided him a ray of hope and the Indian proved simply irresistible as he beat three grapplers on the trot to win the bronze.



Then the boxer from Haryana gave Indians another moment to cherish when he claimed his bronze after losing to the Cuban Leonid Spiridonov.

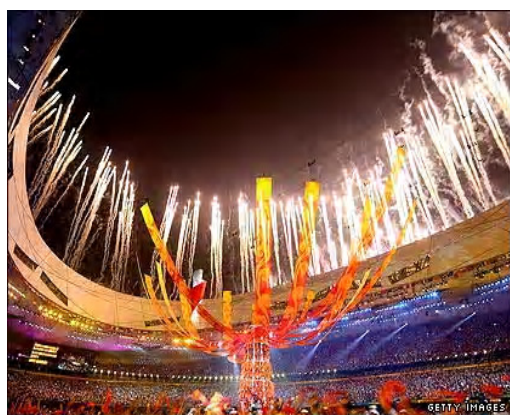
Medal Standings

Rank	Countries	Gold	Silver	Bronze	Total
1	China	51	21	28	100
2	USA	36	38	36	110
3	Russia	23	21	28	72
50	India	1	0	2	03

The Closing Spectacle:

On 24/08/2008, the memorable Olympics came to an end with a grand closing ceremony. In India, it had more viewers than the T20 World Cup finals.

The closing ceremony was a wonderful display of colors blended with the tradition of China.



China proved its authority over the rest of the world in sports, by winning the Gold medal tally by a distant margin of 15 medals over its next close rival USA.



Now, that the Beijing Olympics is over, the grand procession moves on to London, posing a challenge to better the recent BEIJING SPECTACLE, for the British!!!



-- Haris Parmar & Venugopal K Archak



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The Golden Hour: When Seconds Count

A heart attack can strike any adult, any time. But some of us, by virtue of our gender, age, family background, or other accompanying illnesses like hypertension, high cholesterol levels, and diabetes, and/or habits like smoking, are more at risk to a heart attack. But, no adult is absolutely free from the risk of developing a heart attack. Hence, being aware of the symptoms of heart attack would help one to suspect it early, and seek medical help as soon as possible. This could make a difference between life and death.

A heart attack occurs when a narrowing in the arteries and due to accumulation of cholesterol or a sudden blockage from a blood clot cuts off the nutrients and oxygen supply to the heart muscle. The majority of deaths from heart attacks occur suddenly and quickly. A third of patients never make it in time to the hospital for effective treatment. The patient's survival and further quality of life depends to a large extent on a window of opportunity called "**The Golden Hour**".

The golden hour is a critical time and **TIME IS MUSCLE**. This is because the heart muscle starts to die within 80-90 minutes after it stops getting blood, and within six hours, almost all the affected parts of the heart could be irreversibly damaged. So, the faster normal blood flow is reestablished, the lesser would be the damage to the heart.

To reduce the damage, it is important to get to the hospital as soon as possible. Other than the consequences of a damaged heart muscle, the most common killer in the early period is an abnormal heart rhythm called *ventricular tachycardia* and *ventricular fibrillation* where the heart muscles contract at a rapid rate, but no effective pumping of blood from the heart takes place. This is why once the person reaches a medical facility (ambulance or hospital), they are immediately put on an ECG monitor to assess the heart rhythm so they can be given prompt treatment in case of an abnormal rhythm.

Many times, a person may not realize that he or she is having a heart attack, and quite a few who harbor doubts to that affect, spend a considerable length of time in self denial. The warning signs are chest discomfort or discomfort in the arm, neck, or jaw, shortness of breath, cold sweat, nausea, or light headedness. If you think you have one or more of these symptoms, you need to call the emergency services of a nearby hospital, or get somebody to drive you to the hospital.

Once the patient reaches the hospital, the primary goal of treatment would be to dissolve the obstructing clot, and restore blood supply to the affected part of the heart. This is done most commonly by clot busting drugs. But of late, the preferred modality is mechanical dissolution of the clot by a procedure called as Primary Angioplasty. The only prerequisite is that it can be done only in hospitals where a cardiac catheterization laboratory and doctors well versed with this procedure are available.

Primary Angioplasty is a procedure that involves inserting a catheter through the blood vessels up to the heart, identifying the location of the clot, so that it could be dislodged with a balloon. The blood supply is then reestablished to that portion of the heart.

The earlier blood supply is reestablished, the lesser would be the damage to the heart, and so, lesser chance of death and of functional disability. The earlier the patient reaches the hospital, the better the response to clot dissolution therapy.. Thus, it is very important to get to an emergency department quickly, if one has reason to suspect that he/she is experiencing a heart attack. Saving time right at the beginning can help save one's life.

Dr. A. Gopi

Zr. Consultant – Interventional Cardiologist



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ಶ್ರೀ ಜಿ. ಪಿ. ರಾಜರತ್ನಂ ಸ್ಮಾರಕ ದತ್ತಿ ನಿಧಿ ಪ್ರಶಸ್ತಿ ಪಡೆದ ಕವನ
ಅಲೆಗಳ ಸುಳಿಯಲ್ಲಿ

-CA ಉಮಾವತಿ. ಬಿ.ಇ

ಬಯಸುವುದೊಂದು, ನಡೆಯುವುದೊಂದು
ಬಿರುಸು ರಭಸಗಳ ದಿಶೆಯಲ್ಲಿ....
ಹುಡುಕಾಟದ ಹಾದಿಯೇ ಅಷ್ಟು
ಮತ್ತಷ್ಟು ನಿಗೂಢತೇ ಅರ್ಥಗಳ ಸುಳಿಯಲ್ಲಿ..

ಮಂಜು ಪರದೆಯ ಹೊದಿಸಿ
ಬದುಕನ್ನು ಶೃಂಗರಿಸಿ, ಎತ್ತ ಸೆಳೆಯುವುದೊ
ರಂಗುರಂಗಿನ ಅಂಗಿ
ಕಪ್ಪು ಬಿಳುಪನು ನುಂಗಿ, ಏಕೆ ಕಣಕುವುದೊ

ಒಪ್ಪುತಪ್ಪೆಲ್ಲ ಗಂಟಲ್ಲಿ
ಬಿಚ್ಚಿ ಕಣ್ಣು ಹಾಯಿಸೋಣ ಬಾರಾ
ಎದೆ ಅಂಚುವುದೇಕಾ
ಕಳೆವ ಸಮಯ ಹಿಂದಾಗದಾ ನೋಡಾ

ಕಣ್ಣಿದ್ದರು ಕುರುಡುತನ
ಅದೇಕೋ ಈ ಜಗಕೆ,
ಮುಖವಾಡ ಧರಿಸಿರುವೆ
ಅದೇಕೋ ನಿನ್ನ ಮೊಗಕೆ



ಮನ ತುಂಬಿ ಬರೆಯುವಾಸೆ
ಸಿಲುಕಬಾರದೆ ನನ್ನ ಪುಟ್ಟ ಮೆದುಳಿಗೆ
ಹಾಗೆಯೇ ಇರಬೇಕು ಜೀವನವೂ
ಕೈಗೆಟುಕದ ಚಂದಮಾಮಾ

ಕ್ಷಣದ ಹಿಂದೊಮ್ಮೆ ಕಿಲಕಿಲನೆ ನಕ್ಕವರು
ಈಗಾಗಲೆ ಮುಗಿಸಿಬಿಟ್ಟರು ತಮ್ಮ ಪಯಣ
ಹಾಗಾದರೆ ಹುಟ್ಟಲ್ಲಿ ಸಾಧನೆ ಏನು?
ಏನಿರಬಹುದ ಸಾವಿನ ಸುಳಿಯಲ್ಲಿ.....

ರಂಗಭೂಮಿಯ ಪರದೆ ಸರಿದದ್ದಾಗಿದೆ
ಚಿಮ್ಮಿಹೊಮ್ಮುತ್ತಿವೆ ಆಟಕೆಗಳು
ನನನ್ನು ನೂಕಿಬಿಟ್ಟರು ಈ ಆಳಕ್ಕೆ
ಹಿಂದೂಮುಂದೂ ಗೊತ್ತಿಲ್ಲದ ಪೆದ್ದು ನಾನು.

ಕಪ್ಪು ಕಾಣದಷ್ಟು ಕತ್ತಲೆ
ಅದರಲ್ಲೊಂದು ಆಸರೆಯ ಭರವಸೆ
ಸಿಕ್ಕಿತೆನ್ನುವಷ್ಟರಲ್ಲಿ.... ಸಿಗಲಿಲ್ಲ
ಏರಿಳಿತಗಳ ಜೋಕಾಲೆ.

ದೇವರಿಗೆ ಹಣ್ಣು, ಹಂಪಲು,ಕಾಯಿ
ಬಡತನ ಬಿಟ್ಟು ಕುಳಿತಿರುವುದು ಕಣ್ಣು-ಬಾಯಿ
ಸ್ವಾರ್ಥ ಕೂಟದ ಜನದ ಸಂಘಟನೆ
ಮುಗ್ದರ ಬಲಿಗಳಿಗಾಗಿ ಹುಟ್ಟಿದೆ ಸೆರೆಮನೆ

ತಳಮಳ ಸಹಿಸದ ಹುಚ್ಚು ಮನಸಿದು
ಅಂತರಂಗ ಬಹಿರಂಗಗಳ ಸೆಣಸಾಟ
ಬಾಳ ಬೆಳದಿಂಗಳ ಕನಸಿದು
ಹಗಲು ರಾತ್ರಿಗಳಿಗೆ ಜೂಟಾಟ.



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ಅಧುನಿಕ ಸ್ಪಷ್ಟದ ಬದುಕು ನಿಮ್ಮದು
ನೀರಸವಾಗಿ ಜಾರುತ್ತಿದೆ
ಮೂಲೆಯಲೊಮ್ಮೆ ಜೋಡಿಸಿಟ್ಟು ಪುಸ್ತಕಗಳಂತೆ
ಮೊಗ್ಗಲ್ಲಿಯೇ ಮುದುಡುತ್ತಿದೆ.

ಜಡ ಮನಸಿನ ಮೌನದಲಿ
ಬಿಡಿಸಲಾಗದ ಗಂಟು
ನೆನಪು ನೂರು ಎದೆಯಲಿ
ಹೇಳಲಾಗದ ನಂಟು

ಕನಸ ಸೆರಗನು ಹಿಡಿಯಲೆತ್ನಿಸಲೆ?
ಇಷ್ಟೆಲ್ಲ ತರ್ಕಗಳ ಮಧ್ಯೆ ಸಿಲುಕಿರುವಾಗ
ಇವೆಲ್ಲ ನನಗಲ್ಲವೆಂದು ದೂರ ಸರಿಯಲೆ?
ಸ್ಪಂದಿಸಲಾಗದ ಹೇಡಿ ನಾನಾಗಿರುವಾಗ

ಇಂತಹದ್ದೇ ನೂರಾರು ಪ್ರಶ್ನೆಗಳ
ಮನವ ಹಿಂಸಿಸಿ ಹಿಂಡಿ ಎಸೆದಿದೆ
ನನ್ನಲ್ಲಿಯೇ ಏಕೆ ಈ ಮನದಾಳದ ಅಲೆಗಳು
ಸುಳಿಗೆ ಬಿದ್ದು ಒದ್ದಾಡಿದೆ.

This poem speaks about the mystery of life. Expectations, Reality, Search for the Truth, Materialistic desires, Blind beliefs, Life and Death, Cruelty of World, Dreams and many more aspects of life which makes us think about its deepest innermost divinity. These thoughts move as waves through the mind of the poetess.

This poem has won the "Sri G.P.Rajaratnam Memorial Cash award". We are proud that the poetess, a Chartered Accountant is a part of DNS Family.

Spiritual Side of DNS

The existence of the Almighty is in every person's mind and soul. The auspicious time of devoting ourselves to God is the **Paryushan Maha Parv**, the "Festival of Forgiveness" for the Jains. The literal meaning of Paryushan is "abiding" or "coming together".

It is a festival of eight days where you find people engrossed into "Jaap, Tap aur Vrat". Many a members of DNS family also showed their devotion to the Almighty in their own ways and conduct. We would like to extend a special appreciation towards two such members **Mr. Haris Parmar** and **Ms Mikita Jain** for their strong will power to have resisted themselves against odds to fast continuously for all Eight days Only on Boiled Water.

णमो अरिहंताणं I bow to the Arahants, the perfected human beings.

णमो सिद्धाणं I bow to the Siddhas, liberated bodiless souls.

णमो आचार्याणं I bow to the Acharyas, the masters and heads of congregations.

णमो उपज्झायाणं I bow to the Upadhyayas, the spiritual teachers.

णमो लोए सव्वसाहुणं I bow to the spiritual practitioners in the universe; Sadhus.

एसो पंच णमोकारो This fivefold obeisance mantra,

सव्व पावपणासणो Destroys all sins and obstacles,

मंगलाणं च सव्वेसिम And of all auspicious repetitions,

पढमं हवई मंगलं Is the first and foremost.



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The Editorial

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Co-Editors : DEEPAK GULECHA
UDAYA RAMAN.

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CA SRIKANTH, CA KANTHA,
CA MUKESH, MR. VASANTH,
CA RAJANI, CA ANNAPURNA.

Guest Articles :

DR. A GOPI,

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/
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