

"None of us, including me, ever do great things. But we can all do small things, with great love, and together we can do something wonderful."

- Mother Teresa

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The Chartered Accountant Student

STUDENTS' NEWSLETTER OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

YOUR MONTHLY GUIDE TO THE CA NEWS, INFORMATION AND EVENTS.

PRESIDENT'S COMMUNICATION



Dear Students,

As I had mentioned in my last communication, my focus this year is going to be on you. I want to ensure that by the end of my term I have been able to introduce many facilities for your benefit and addressed most of your problems. In return I expect that you give

your best performance in examinations, towards discharging your work and participating in various activities.

Many of you must be receiving my wishes on your birthday on your mobiles. This is just one of the ways I wish to inculcate a sense of oneness amongst the members and students of the CA Pariwar.

Vote you must

Time has come for us to discharge our most onerous responsibility to our nation. Time has come to rise above petty politics and public apathy and cast our vote – not in favour of any party – but in favour of the most deserving candidates.

It is very disheartening to note that in our country qualified and learned people abstain from voting in large measure. Not this year. I want that this year each and every CA student exercises his franchise. Let us not lose that opportunity to change the destiny of our Nation. Let the Nation wake up to the collective influence our CA Pariwar can exert on Society. I also want that each of you influence as many people as you can to exercise his/her vote. This would be your immense contribution to Nation Building.

New Examination Centres

I have noticed that many of you face undue hardship travelling to faraway places to give examinations as there are no examination centres nearby. I would like to open more examination centres so that you can appear for examinations closer to your vicinity. In order to make it more convenient for our students who are staying in remote areas, we are opening new Examination Centres for June, 2009 at Sri Ganga Nagar, Beawer and Latur for the Examinations of Professional Education-II, Professional Competence Course (PCE) and Final (Old & New Course). Presently, our nearest Examination Centre is located more than 200 kilometers away from Ganga Nagar. I would welcome more feedback from all of you so as to enable us to identify more locations where examination centres can be opened for the convenience of our students.

IT Directorate

India is regarded as an I.T. Nation and it is only right that we create the best I.T. infrastructure within the Institute so that we are able to provide the best services and facilities to you. You will be happy to note that a decision has been taken to create a full-fledged Information Technology (IT) Directorate to bring all IT activities under one umbrella to enable co-ordination and optimum use of resources for the developmental activities relating to members and students. The IT directorate shall synchronise, standardise, optimise and expedite the processes to bring a unified approach towards all IT initiatives such as VIP (Institute's ERP), Online Exam and Results Processing, websites and portals, e-Learning, IT education and training to members and students including Post Qualification Courses and Information Technology Training. The IT Directorate shall come into operation from April 2009. You would soon be able to access all relevant information online, take advantage of e-rooms and e-learning, thereby saving considerable time.

(Continued on Page 4...)

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INVITATION TO WRITE ARTICLES

Members, academicians, students and others may send their original articles for inclusion in this newsletter. Typically the length of articles should be between 2000 to 4000 words. Articles written by the students are encouraged. Every year the best articles that are written by students are awarded cash prize and a certificate at the annual function of the Institute.

All correspondence in this regard should be had with the Board of Studies, ICAI, A-94/4, Sector - 58, Noida 201301. Please write your complete name, complete address and the membership / registration number in your correspondence. Also send a copy of recent passport size photograph.

MESSAGE FROM THE PRESIDENT

(Continued from page 1)



Study Material

Education is constantly evolving and you will be pleased to know that we have decided to constitute study groups covering similar subjects for different examinations to review and recommend the improvement of the study material of CPT, IPCC and Final in order to enhance and improve the contents and quality of the study materials.

Dress Code

You must have often heard 'a book is judged by its cover' or 'first impression is the last impression'. Therefore, you will agree that it is very important that you are attired and groomed properly in order to emit the personality of a true professional. A proper dress code for CA students is necessary in this regard and it has been decided that all of you should be properly attired while coming to the Institute or while attending classes, seminars, conferences, GMCS classes, IT training, etc. Accordingly, male students should be dressed in full sleeves and trousers. Similarly female students should be dressed in sarees, salwar kurta, suits. Further, professors and other faculty members who are coming to the ICAI for teaching the students should also be dressed in a decent manner. This will go in a long way of not only building your own personality but also building the image of Brand CA.

Computer Labs

In a very short span of time we have been able to establish 127 computer labs with another 7 to be opened very soon. 3341 computers have been installed in these computer labs and a total number of 57,398 students have been trained. We will also deploy officers in the ratio of one officer for 10 IT labs in various regions to monitor, guide, ensure quality education and coordinate important matters related to IT labs.

It has been decided that in addition to two IT labs which may be existing in the branches one more IT lab may be established.

In order to provide security of the IT labs, expenses like insurance of the computers and other equipment may also be incurred for the proper maintenance of the computer labs.

The security of the computer labs would also be enhanced to include closed circuit television, smoke detector, fire extinguisher, central locking system, switch box, comprehensive insurance, etc.

Distribution of study material and other publications

To ensure better distribution of study material and publications to students, we have directed Branches to create additional storage place for maintaining stock of the same and authorised them to issue the study material to students and receive students' registration forms. Branches would also be directed to open extension counters in a CPE chapter so that they can render better service to the students.

Increase in Grants

In order to bring about qualitative change in student related programmes and activities, we have substantially raised grants to Branches for organising one-day seminars, Elocution Contests, Quiz Contests, Joint Seminars with Universities and other student activities.

National Convention

This year it has been decided that three national conventions of CA students will be organised per region so as to provide for greater participation of students in this high profile events.

National Level Debate Competition

We have also decided that in respect of the Regional level debate competition and National level debate competition, one parent of the student would be permitted to accompany the students with entitlement of traveling, DA, TA, etc. as is entitled to the student.

Examination in June/December

As stated in my last communication to you, the issue whether Examinations could be conducted in June/December will be forwarded to the Examination Committee for its consideration.

Motivating meritorious rank holding students from Universities

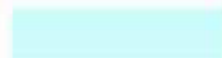
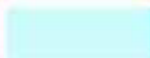
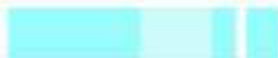
Many of our students are awarded Gold medals by the Universities for their excellent performance in the B.Com/M.Com degree examinations. This year I would like that such students are invited to the convocations being organised by the ICAI and appropriately honoured.

I sincerely hope that with the above measures, we will be able to bring about substantial improvements in the services and the facilities provided to all of you. You can also contribute to this change by offering your suggestions for improving the functioning and service of the Institute through e-mail or other modern communication tools. I sincerely hope to see more active participation from my entire CA Pariwar.

This year since your examinations will be held in June, many of you will get an opportunity to learn and work in areas such as Bank Branch Audit, Advance Tax, audit of PSUs and year ending related work which was earlier not possible due to examination leave. I advise you all to make the most of this opportunity as it will add more dimension to your practical training.

With warm wishes,

CA. UTTAM PRAKASH AGARWAL
President



CA. Uttam Prakash Agarwal, President
and
Members of the Central Council of
The Institute of Chartered Accountants of India
Cordially invite you with family and friends at All India Diamond Jubilee T-20 Cricket Match

Team ICAI

V's

Team IRS (Income Tax)

on Saturday, 4th April, 2009 at 2.00 p.m.
at Ferozeshah Kotla Cricket Stadium, Bahadur Shah Zafar Marg, New Delhi - 110002.

Hon'ble Shri Arun Jaitley - President, DDCA & Member of Parliament
has been invited to be the Chief Guest on the occasion.



RSVP

ICAI | 09350594067, 09958893461
DDCA | (011) 23752667 / 23319323

Notes:

- Please carry this Invitation Card for Entry
- Refreshments will be served during the match

Programme:

- 2.00 p.m.*** : • Presidential Address by CA. Uttam Prakash Agarwal, President, ICAI
• Address by Chief Guest Hon'ble Shri Arun Jaitley - President, DDCA & Member of Parliament
• Vote of Thanks by CA. Amarjit Chopra, Vice President, ICAI
- 2.30 p.m.*** : Toss & Start of Cricket Match
- Chief** : CA. Anuj Goyal, Central Council Member, ICAI
- Coordinator** : Mobile No. 09810041371, 09312258364
- Coordinators** : CA. B. D. Gupta, Chairman, NIRC of ICAI | Mobile No. 09811152662
CA. K. J. Bansal, Pune | Mobile No. 09371010904 / 09923810904

*For more details, please visit <http://www.icai.org>

Announcement for June 2009 examinations

Professional Competence Examinations

It is clarified that in Part -II : Service tax and VAT of Paper 5 Taxation, students will not be tested on specific questions covering individual taxable services

Final Examinations (Both Existing and New)

Paper 8 : Indirect taxes/ Paper 8 : Indirect Tax Laws

It is clarified that in respect of taxable services covered in the syllabus of Paper 8 : Indirect taxes/ Paper 8 : Indirect Tax Laws, students will be examined only in respect of the following taxable services:

• Intellectual Property Services

1. Franchise services
2. Intellectual property services

• Financial services

3. Banking & other financial services
4. Credit rating agency's services
5. Stock broking services

• Transport of goods services

6. Goods transport agency's services
7. Courier services
8. Mailing list compilation and mailing services
9. Transport of goods by air services
10. Clearing and forwarding services
11. Cargo handling services
12. Customs house agent's services
13. Storage and warehousing services
14. Transport of goods through pipeline or other conduit

15. Transport of goods in containers by rail by any person, other than government railway

• Professional Services

16. Practising chartered accountant's services
17. Management or business consultancy services
18. Consulting engineer's services
19. Scientific and technical consultancy services
20. Technical testing and analysis services
21. Market research services
22. Opinion poll services
23. Public relations services

• Real estate & infrastructure services

24. Construction services in respect of commercial or industrial buildings or civil structures
25. Construction services in respect of residential complexes
26. Architect's services
27. Real estate agent's services
28. Site preparation and clearance, excavation, earthmoving and demolition services
29. Interior decorator's services

• Business services

30. Business auxiliary services
31. Business support services
32. Manpower recruitment or supply agency's services



All India T20 Cricket match

Guidelines for Invitees



- Students may enter from Gate number 9, 10, 11, 12 of the stadium.
- Please come 15 minutes in advance to the venue and occupy seats.
- Please carry this invitation along with you positively to get entry into the stadium.
- Please do not carry mobile phones, camera, other electronic devices and hand bags for security reasons.
- Vehicles can be parked at General Public Parking at Asaf Ali Road Parking located opposite to Lok Nayak Jai Prakash (LNJP) Hospital (Also known as Irwin Hospital).

For more details, please visit <http://www.icaai.org>

Announcement

Master* in Business Finance Certificate Course (MBFCC)

(*Indicates level of knowledge & capability and does not denote a Postgraduate degree)

With a view to sharpen the skills of Financial Management and Management Accounting tools and techniques, the Institute of Chartered Accountant of India has launched Master in Business Finance Certificate Course. The purpose of the course is to empower the members with the technical skills as well as analytical and decision-making discretion in the Management of Finances. Crafting a world class Finance professional out of a Chartered Accountant with global outlook and ability to command, control and create best practices to the best advantage of stakeholders, the society and the nation is the ultimate goal.

The ICAI has formulated a very wide and comprehensive course curriculum which includes topics of contemporary relevance in the Financial Management and Management Accounting arena.

The prospectus and other details have been hosted on the website www.icaai.org. The main features of the course are as follows:

The course is open for the members of the Institute and for the students who have cleared their final examination. Maximum 100 participants per batch will be admitted on first come first served basis. Presently, the course is proposed to be conducted at New Delhi, Mumbai, Kolkata and Chennai.

The registration for first batch is presently going on for the session commencing on April 1, 2009 to March 31, 2010. The last date for receipt of applications is April 15, 2009.

Dates: Classes will be conducted on alternative Saturdays/Sundays as per schedule to be notified.

Participants registered for the course have to pursue the classes. They are required to devote time for the self-study and case study given to them. Candidates, who successfully complete the classes, will be eligible to appear at the evaluation test. The participants must complete the Self-study hours and case study for appearing at the Evaluation Test which will be conducted every six months in May and November.

Course Fee:

Rs.20,000/- (Rupees Twenty Thousands only) in lump sum or Rs.5,500/- per quarter. The first installment is payable at the time of Registration and the remaining installments on 1st July, 1st October, 1st January. The fee is inclusive of first evaluation fee payable at the time of Registration. Course fee once paid is non-refundable under any circumstances and it is on no frill basis. The course fee may be paid on line or through the demand draft favouring, The Secretary, ICAI, payable at New Delhi.

Certificate on completion of the course:

On successful completion of the Course, a certificate will be awarded to the participants.

Contact Details

For enquiries you may contact:

1. **CA. Vinod Jain, National Course Director**
vinodjain@innacsindia.com; vinodjainca@gmail.com
Mobile No. 9811040004
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KNOW YOUR CUSTOMER THE BUZZ WORD OF BANKING INDUSTRY

Piyush V. Luthra



A question that the Big B may not ask on KBC is: "What does KYC stand for; a) Kaun Yaar Crorepati; b) Kentucky Yummy Chicken; c) Know Your Customer; d) Kieler Yacht Club?" No prize for the right answer. But penalty is huge if you don't know your customer, especially in the world of finance.

Know Your Customer (KYC) is the due diligence and bank regulation that financial

institutions and other regulated companies must perform to identify their clients and ascertain relevant information pertinent to doing financial business with them. Typically, KYC is a policy implemented to conform to a customer identification program mandated under the Bank Secrecy Act and USA PATRIOT Act. Know your customer policies have become increasingly important globally to prevent identity theft fraud, money laundering and terrorist financing. In a simple form these rules may equate to answering twelve questions, but this is the tip of the iceberg and regulators now expect much more. KYC should not be thought of as a format to be filled - it is a process to be undergone from the start of a customer relationship to the end.

NORMS AND CASH TRANSACTIONS

As part of 'Know Your Customer' (KYC) principle, RBI has issued several guidelines relating to identification of depositors and advised the banks to put in place systems and procedures to help control financial frauds, identify money laundering and suspicious activities, and for scrutiny/monitoring of large value cash transaction. Instruction have also been issued by the RBI from time to time advising banks to be vigilant while opening accounts for new customers to prevent misuse of banking systems for perpetration of frauds. Taking into account recent developments, both domestic and international, it has been decided to reiterate and consolidate the extant instructions on KYC norms cash transactions.

"Know Your Customer" (KYC) procedure should be the principle for identification of an individual/corporate opening an account. The customer identification should entail verification through an introductory reference from an existing accounts holder/a person known to the bank or on the basis of documents provided by customer.

The Board of Directors of the banks should have in place adequate policies that establish procedures to verify the bonafide identification of individual/corporate opening an account. The Board should also have in place policies that establish processes and procedures to monitor transaction of suspicious nature in accounts and have system of conducting due diligence and reporting of such transaction.

The objectives of KYC framework should be two fold, (i) to ensure appropriate customer identification and (ii) to monitor transaction of a suspicious nature. Banks should obtain all information necessary to establish the identity/legal existence of each new customer, based preferably on disclosure by customer themselves. Typically easy means of establishing identity would be documents such as passport, driving license etc. However where such documents are not available, verification by existing account holders or introduction by a person known to the bank may suffice. It should be ensured that the procedure adopted, does not lead to denial of access to the general public for banking services.

'Know Your Customer' Standards

The objective of KYC guidelines is to prevent banks from being used, intentionally or unintentionally, by criminal elements for money laundering activities. KYC procedures also enable banks to know/understand their customers and their financial dealings better which in turn help them manage their risks prudently. Banks should frame their KYC policies incorporating the following four key elements:

- (i) Customer Acceptance Policy;
- (ii) Customer Identification Procedures;
- (iii) Monitoring of Transactions; and
- (iv) Risk management.

For the purpose of KYC policy, a 'Customer' may be defined as:

- a person or entity that maintains an account and/or has a business relationship with the bank;
- one on whose behalf the account is maintained (i.e. the beneficial owner);
- beneficiaries of transactions conducted by professional intermediaries, such as Stock Brokers, Chartered Accountants, Solicitors etc. as permitted under the law, and
- any person or entity connected with a financial transaction which can pose significant reputation or

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other risks to the bank, say, a wire transfer or issue of a high value demand draft as a single transaction.

1. Customer Acceptance Policy (CAP)

Banks should develop a clear Customer Acceptance Policy laying down explicit criteria (or acceptance of customers. The Customer Acceptance Policy must ensure that explicit guidelines are in place on the following aspects of customer relationship in the bank.

- (i) No account is opened in anonymous or fictitious/benami name(s);
- (ii) Parameters of risk perception are clearly defined in terms of the nature of business activity, location of customer and his clients, mode of payments, volume of turnover,



social and financial status etc. to enable categorization of customers into low, medium and high risk (banks may choose any suitable

nomenclature viz. level I, level II and level III customers requiring very high level of monitoring, e.g. Politically Exposed Persons.

- (iii) Documentation requirements and other information to be collected in respect of different categories of customers depending on perceived risk and keeping in mind the requirements of PML Act, 2002 and guidelines issued by Reserve Bank from time to time;
- (iv) Not to open an account or close an existing account where the bank is unable to apply appropriate customer due diligence measures i.e. bank is unable to verify the identity and/or obtain documents required as per the risk categorization due to non-cooperation of the customer or non-reliability of the data/information furnished to the bank. It may, however, be necessary to have suitable built-in safeguards to avoid harassment of the customer. For example, decision to close an account may be taken at a reasonably high level after giving due notice to the customer explaining the reasons for such a decision;
- (v) Circumstances, in which a customer is permitted to act on behalf of another person/entity, should be clearly spelt out in conformity with the established law and practice of banking as there could be occasions when an account is operated by a mandate holder or where an account may be opened by an intermediary in the fiduciary capacity and
- (vi) Necessary checks before opening a new account so as to ensure that the identity of the customer does not match with any person with known criminal background or with banned entities such as individual terrorists or terrorist organizations etc.

Banks may prepare a profile for each new customer based on risk categorization. The customer profile may contain information relating to customer's identity, social/financial status, nature of business activity, information about his clients' business and their location etc. The nature and extent of due diligence will depend on the risk perceived by the bank. However, while preparing customer profile banks should take care to seek only such information from the customer which is relevant to the risk category and is not intrusive. The customer profile will be a confidential document and details contained therein shall not be divulged for cross-selling or any other purposes.

For the purpose of risk categorization, individuals (other than High Net Worth) and entities whose identities and sources of wealth can be easily identified and transactions in whose accounts by and large conform to the known profile, may be categorized as low risk. Illustrative examples of low risk customers could be salaried employees whose salary structures are well defined, people belonging to lower economic strata of the society whose accounts show small balances and low turnover, Government departments & Government owned companies, regulators and statutory bodies etc. In such cases, the policy may require that only the basic requirements of verifying the identity and location of the customer are to be met. Customers that are likely to pose a higher than average risk to the bank may be categorized as medium or high risk depending on customer's background, nature and location of activity, country of origin, sources of funds and his client profile etc. Banks may apply enhanced due diligence measures based on the risk assessment, thereby requiring intensive 'due diligence' for higher risk customers, especially those for whom the sources of funds are not clear. Examples of customers requiring higher due diligence may include

- (a) non-resident customers,
- (b) high net worth individuals,
- (c) trusts, charities, NGOs and organizations receiving donations,
- (d) companies having close family shareholding or beneficial ownership,
- (e) firms with 'sleeping partners',
- (f) politically exposed persons (PEPs) of foreign origin,
- (g) non-face to face customers, and
- (h) those with dubious reputation as per public information available, etc.

It is important to bear in mind that the adoption of customer acceptance policy and its implementation should not become too restrictive and must not result in denial of banking services to general public, especially to those, who are financially or socially disadvantaged.

2. Customer Identification Procedure (CIP)

The policy approved by the Board of banks should clearly spell out the Customer Identification Procedure to be carried



out a financial transaction or when the bank has a doubt about the authenticity / veracity or the adequacy of the previously obtained customer identification data. Customer identification means identifying the customer and verifying his/ her identity by using reliable, independent source documents, data or information. Banks need to obtain sufficient information necessary to establish, to their satisfaction, the identity of each new customer, whether regular or occasional, and the purpose of the intended nature of banking relationship. Being satisfied means that the bank must be able to satisfy the competent authorities that due diligence was observed based on the risk profile of the customer in compliance with the extant guidelines in place. Such risk based approach is considered necessary to avoid disproportionate cost to banks and a burdensome regime for the customers. Besides risk perception, the nature of information/documents required would also depend on the type of customer (individual, corporate etc). For customers that are natural persons, the banks should obtain sufficient identification data to verify the identity of the customer, his address/location, and also his recent photograph. For customers that are legal persons or entities, the bank should (i) verify the legal status of the legal person/ entity through proper and relevant documents (ii) verify that any person purporting to act on behalf of the legal person/entity is so authorized and identify and verify the identity of that person, (iii) understand the ownership and control structure of the customer and determine who are the natural persons who ultimately control the legal person. Banks may, however, frame their own internal guidelines based on their experience of dealing with such persons/entities, normal bankers' prudence and the legal requirements as per established practices. If the bank decides to accept such accounts in terms of the Customer Acceptance Policy, the bank should take reasonable measures to identify the beneficial owner(s) and verify his/her/their identity in a manner so that it is satisfied that it knows who the beneficial owner(s) is/are.

3. Monitoring of Transactions

Ongoing monitoring is an essential element of effective KYC procedures. Banks can effectively control and reduce their risk only if they have an understanding of the normal and reasonable activity of the customer so that they have the means of identifying transactions that fall outside the regular pattern of activity. However, the extent of monitoring will depend on the risk sensitivity of the account. Banks should pay special attention to all complex, unusually large

transactions and all unusual patterns which have no apparent economic or visible lawful purpose. The bank may prescribe threshold limits for a particular category of accounts and pay particular attention to the transactions which exceed these limits. Transactions that involve large amounts of cash inconsistent with the normal and expected activity of the customer should particularly attract the attention of the bank. Very high account turnover inconsistent with the size of the balance maintained may indicate that funds are being 'washed' through the account. High-risk accounts have to be subjected to intensified monitoring. Every bank should set key indicators for such accounts, taking note of the background of the customer, such as the country of origin, sources of funds, the type of transactions involved and other risk factors. Banks should put in place a system of periodical review of risk categorization of accounts and the need for applying enhanced due diligence measures. Banks should ensure that a record of transactions in the accounts is preserved and maintained as required in terms of section 12 of the PML Act, 2002. It may also be ensured that transactions of suspicious nature and/ or any other type of transaction notified under section 12 of the PML Act, 2002, is reported to the appropriate law enforcement authority.

Banks should ensure that its branches continue to maintain proper record of all cash transactions (deposits and withdrawals) of RS.10 lacs and above. The internal monitoring system should have an inbuilt procedure for reporting of such transactions and those of suspicious nature to controlling/ head office on a fortnightly basis.

4. Risk Management

The Board of Directors of the bank should ensure that an effective KYC programme is put in place by establishing appropriate procedures and ensuring their effective implementation. It should cover proper management oversight, systems and controls, segregation of duties, training and other related matters. Responsibility should be explicitly allocated within the bank for ensuring



that the bank's policies and procedures are implemented effectively. Banks may, in consultation with their boards, devise procedures for creating Risk Profiles of their existing and new customers and apply various Anti Money Laundering measures keeping in view the risks involved in a transaction, account or banking/business relationship.

Banks' internal audit and compliance functions have an important role in evaluating and ensuring adherence to the KYC policies and procedures. As a general rule, the compliance function should provide an independent evaluation of the bank's own policies and procedures, including legal and regulatory requirements. Banks should ensure that their audit machinery is staffed adequately with individuals who are well-versed in such policies and procedures. Concurrent Internal Auditors should specifically check and verify the application of KYC procedures at the branches and comment on the lapses observed in this regard. The compliance in this regard may be put up before the Audit Committee of the Board on quarterly intervals.

Banks must have an ongoing employee training programme so that the members of the staff are adequately trained in KYC procedures. Training requirements should have different focuses for frontline staff, compliance staff and staff dealing with new customers. It is crucial that all those concerned fully understand the rationale behind the KYC policies and implement them consistently.

5. Customer Education

Implementation of KYC procedures requires banks to demand certain information from customers which may be of personal nature or which has hitherto never been called for. This can sometimes lead to a lot of questioning by the customer as to the motive and purpose of collecting such information. There is, therefore, a need for banks to prepare specific literature/ pamphlets etc. so as to educate the customer of the objectives of the KYC programme. The front desk staff needs to be specially trained to handle such situations while dealing with customers.

6. Introduction of New Technologies - Credit cards/debit cards/smart cards/gift cards

Banks should pay special attention to any money laundering threats that may arise from new or developing technologies

including internet banking that might favour anonymity, and take measures, if needed, to prevent their use in money laundering schemes.

Many banks are engaged in the business of issuing a variety of Electronic Cards that are used by customers for buying goods and services, drawing cash from ATMs, and can be used for electronic transfer of funds. Further, marketing of these cards is generally done through the services of agents. Banks should ensure that appropriate KYC procedures are duly applied before issuing the cards to the customers. It is also desirable that agents are also subjected to KYC measures.

Complying with KYC norms is not just an inconvenience for customers; it also comes with a huge cost for banks.

Announcement for students of existing final course regarding study materials of Direct Taxes and Indirect Taxes relevant for June 2009 and November 2009 examinations

The study materials for Paper 7: Direct Tax Laws and Paper 8: Indirect Tax Laws for the **new final course** have been published. The study materials on Direct Tax Laws [A.Y.2009-10] and Indirect Tax Laws contain the amendments made by the Finance Act, 2008 which are relevant for June 2009 and November 2009 examination.

The above study materials will also be relevant for the students of the existing final course for June 2009 and November 2009 examinations for Paper 7: Direct Taxes and Paper 8: Indirect Taxes with the exception of-

I. Direct Taxes	1. Chapter 12 on Inter-relationship between Accounting and Taxation and
	2. The portion relating to Ethics in Taxation (14.4) in Chapter 14.
II. Indirect Taxes	1. Chapter 16 of Section C on Inter-relationship of accounting with excise, customs and service tax.
	2. Chapters 6 to 12 of Section B relating to VAT.

In the alternative, if the students already have the earlier edition of study material on Paper 7: Direct Tax Laws [i.e. based on the provisions applicable for A.Y.2008-09] and Paper 8: Indirect Tax Laws [i.e. as amended by the Finance Act, 2007], then, they can purchase the Supplementary Study Paper - 2008 for the final course, which contains the amendments made by the Finance Act, 2008 (relevant for A.Y. 2009-10) and significant notifications/circulars/other legislative amendments made between 1.5.2007 and 30.4.2008.

Gyandarshan Live Lectures

The third series of live lectures of CA-CPT on Gyandarshan channel will commence from 15th April 2009.

Students can ask their queries during studio timing at toll free no **1800-11-2345** or can e-mail us at hosgyandarshan@icai.org. Students can view the LIVE TELECAST also on www.ignou.ac.in (First load VLC from www.videolan.org & click as per instructions, open www.ignou.ac.in & click Education Broadcast & then click Broadcast channel & then select gyandarshan II/ edusat & click to view.

The schedule will be hosted on website.



CONCURRENT BANK AUDIT

G. Kumar Babu



Many large banks in India are now appointing concurrent auditors along with their Statutory auditors and internal inspectors for auditing their large and medium sized branches. It has become an important aspect of audit in banks in detecting errors, frauds and malpractices occurring in the branches.

The background task in introducing concurrent audit of banks is : the governor of RBI, constituted a high level committee under the Chairmanship of Sri A Ghosh, the then Dy Governor of the RBI. The committee submitted its report in June, 1992. Then the concurrent audit was introduced in banks as per the directives of the RBI based of the above committee report.

Definition of the concurrent audit:-

Concurrent audit is an examination which should go contemporaneous with the occurrence of transactions or is carried out as near thereto as possible.

Objectives of concurrent audit:-

It attempts to shorten the interval between the transaction and its examination with a view to detecting the errors and frauds, so that they can be rectified before it is too late. The objectives of concurrent audit coincide with the responsibilities of the concurrent auditor, which are as given below:

1. to keep the routine work of the branch under constant scrutiny and to ensure a good internal control system at the branch.
2. to bring to the notice of branch officials, the irregularities then and there so that the same can be rectified immediately.

3. to bring to the notice of the management, the violation of rules/regulations and procedures for timely corrective steps so that recurrence of these are avoided.

The concurrent auditors should make themselves thorough with various aspects of branch functioning by studying manual of instructions, circulars on various aspects and other instructions issued by the RBI and the Head office.

Reporting:

- (i) Concurrent auditors should submit their reports every month to those who are mentioned in their appointment letters. For instance, they may be requested to submit their reports to Head office, Regional office and Zonal office.
- (ii) The auditors may also be requested to submit quarterly, half- yearly and yearly reports along with regular monthly reports.
- (iii) Generally, the format of the concurrent audit report is prescribed by the bank only.

Scope of concurrent audit:

The concurrent auditors should cover every type of transaction and decision relating to the branch. Types of the activities to be covered by the concurrent auditor are enumerated below:

- (i) Cash verification :
 - (a) Verify daily cash transactions with particular reference to any abnormal receipts and payments.
 - (b) Verify accounting inward and outward cash remittances.
 - (c) Verify accounting of currency chest transactions.
 - (d) Physical verification of cash should be undertaken by concurrent auditor at least once in a month. Besides that, he has to look after whether the manager is recording physical verification of cash over and above the routine checking, on the face of cash memo periodically.
- (ii) Deposits Verification
 - (a) Verify whether deposit accounts are opened as per "Know Your Customer (KYC)" norms and "Anti-money laundering (AML) measures. As per these norms and measures, the account opening forms should be accompanied by address and identity proofs of the customer.

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- (b) Transactions in inoperative SB and CD accounts should be verified. Maintenance of the register of inoperative accounts should also be checked.
- (c) Repayment of Term Deposits exceeding Rs.20000/- in cash should be reported.
- (d) Verify whether NRE,NRO,FCNA (B) accounts are opened and transactions are allowed as per norms laid down by RBI/HO.
- (e) Verify the accounts closed during the month.



(iii) Advances Verification :

- a. Concurrent auditor has to look after whether loans and advances are sanctioned properly i.e. sanctions should be within the delegated authority.
- b. Concurrent auditor has to verify documentation relating to loans and advances. Documentation

includes property valuation reports, legal scrutiny reports, Encumbrance certificates (ECS) Tax paid reports, security documents, Registration of charges etc.

- c. Verify the utilization of loans and advances disbursed.
- d. Verify whether installments/interest charged is paid promptly.
- e. Concurrent auditor has to verify creation of security and execution of documents.
- f. The auditor has to look after periodical submission of stock statements, renewal of credit limits, insurance policies etc.
- g. In case of fund based advances, the auditor has to report about overdue/out of order accounts. Examples of fund based advances are term loans, cash credits, overdrafts etc.
In case of non fund based advances like letter of credit, bank guarantee etc, auditors have to report about LC bills pending and not met by the customer on due date/presentation, BGs expired but not reversed etc.
- h. Mainly, the auditor has to report about non performing assets.

(iv) Other matters :

- (a) The auditor has to verify whether maintenance of ledgers, registers is proper or not.
- (b) The auditor has to verify the maintenance of suspense a/c, and clearing adjustment a/c in the branch.
- (c) The auditor has to verify whether foreign exchange transactions are conducted as per rules and regulations, if the branch is eligible to carry out foreign exchange transactions.

(d) Revenue audit:

Since the revenue audit is not separately conducted in those branches where concurrent auditors are appointed, concurrent auditors should cover revenue audit aspect also. Revenue audit comprises checking of : correct application of interest rates both on deposits and loans, collection of processing fee, documentation, inspection charges on loans and advances, commission, service charges etc.

The list of details enumerated in the scope is only indicative but not exhaustive.

Period

The period of appointment will be mentioned in the appointment letter by the head office.

Concurrent audit should be carried out at least twenty days in every month. The qualified personnel have to attend at least 10 days to the audit every month.

ANNOUNCEMENT

The Executive Committee has noted with concern that the Articled Assistants have been taking admission to other academic / professional course(s) alongwith articleship and not taking necessary permission of the Council, as envisaged under Regulation 65, by filing Form 112. Such a fact is either brought up by the students while applying for membership of the Institute or is noticed by the office while scrutinizing the membership application thereby leading to delay in grant of membership/ denial of membership. Thereafter, the requests for condonation of lapse are being received which the Committee has observed as a totally undesirable / unacceptable position. The Executive Committee expressed its anguish that the delay in not seeking prior permission of the Council for pursuing any other course alongwith articleship has even been to the extent of 12 years. The Committee, having regard to the sanctity of the Regulations and instill a sense of adhering to the Regulations / guidelines of the Institute amongst the students decided not to condone such delays on the part of the students for violating the provisions of Regulations 65.

The Committee directed the office to bring to the notice of all students by way of an announcement in the Students Newsletter that articled assistants are permitted to pursue only one course alongwith articleship even that be a Graduation course for which they need to seek prior permission of the Council by way of filing Form 112 to the Institute. An articled assistant can join another course during the period of articleship only after the first course [even that be a Graduation Course] has been completed in its entirety.

The articled assistants are accordingly advised to comply with the requirements of Regulation 65 by way of filing of Form 112 for pursuing any other course alongwith articleship, well in time so as to avoid unpleasant situations later on.

[T. Karthikeyan] Secretary
23rd March, 2009

FRAUDS : A CHALLENGE BEFORE C. A.

Ashish Prabhakar Harkare



"There is enough in this world for every man's need, but not for every man's greed"
– Mahatma Gandhi



Corruption is present all over the world and India is no exception. Frauds and white collar crimes have increased the level of corruption in the world. Corporate world has to survive in such an environment and therefore cannot remain insulated.

Now-a-days white collar crime has increased rapidly. After scams like "Satyam", everybody including government has woken up. The information technology revolution has provided the multiplier effect to make white-collar crime an ominous threat. This threat may affect not only operating results but also the long term survival of business entities. Chartered Accountants, naturally, are a part of this business environment. As skilled accountants they have the expertise to understand and tackle frauds.

TYPES OF FRAUDS

Kautilya in Arthashastra identifies about 40 different ways in which embezzlement can take place.

However, frauds can be categorized in the following four major types:-

• Trojan Horse frauds

Where systems laid down are reasonably good and well defined. The fraudster is not certain whether an act of fraud would be safe for him. In such a situation, the fraud is done in two phases.

During the first phase, the flexibility and strength of a control is tested by the potential fraudster. If the act is noticed/questioned, the fraudster offers an explanation of feigned ignorance or a simple lapse on his part. At that time, fraud usually does not enter the second phase. However, if the act is not noticed/questioned, the fraudster will attempt to commit the fraud. Second phase is activated when the actual act of damage is undertaken and fraudster is satisfied that critical period is over and he can go ahead with minimum risk.

The Chartered Accountant **Student**

The most effective preventive steps that could be taken are

- Identify key controls in every system and
- To constantly test the key controls

• Disaster fraud

These are the frauds, which thrive on situations of disaster, chaos, anarchy and disorder. The fraudster operates under the shield of the confusion created in such situations. In the event of a calamity like fire, flood, earthquake, etc., it becomes impractical or impossible to comply with systems and procedures and information and evidence can be easily suppressed. Assets, valuables and information can be stolen, sold, damaged or destroyed for ulterior purpose.

These kinds of disaster frauds are relatively simple ones, but there can be more malicious ones also. However, the malicious frauds are those where a disaster is created as a shield to hide the fraud already committed. Such a disaster can affect an organization in much greater dimensions and take years to recover from.

The theory of inverse logic is one of the most effective ways to detect such frauds.

• Achilles Heel frauds

The fraudster applies the principle that no chain can ever be stronger than its weakest link. They can recognize the smallest weakness in a system and exploit it. Such frauds are appropriately referred to as the Achilles Heel fraud, named after legendary Achilles who was supreme but for his heel. It was his heel, which was the only weak part of his body, that eventually brought about his downfall.

To detect such fraud, each feature of the accounting systems must be comprehensively examined and understood before audit.

• Corporate Espionage

Today, information carries the highest value and frauds, which sell information about a company to its competitor, are on the rise and considerable time and money is being spent on this by large corporate houses. Such frauds are almost impossible to prevent and deter.

Firstly, information is intangible and cannot be missed such as pilfered asset or money. Secondly, facilities for transporting it through email, Internet, etc. are easily available. This makes it more impractical to monitor misuse or theft of information. Red herring method is the only thing that can be done to minimize damage. Keep sensitive

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information in two or three places, of which only one has the full correct information. This must be supplemented with constant patrolling of all priority systems to see that there is no security breached and violated.

• Technical frauds



These are the frauds, which can happen right in front of eyes of the management, and it may not even know that it has been defrauded. This is because technical aspects are beyond the comprehension

and frauds using these as a cover, are difficult, if not impossible, to detect.

Such frauds can happen in any kind of manufacturing activity, where the controlling authorities have little or no technical knowledge, or where there are not sufficient tools to check such frauds. Here too, such frauds are difficult to detect.

FAMILIARIZATION WITH RED FLAGS IN DETECTION OF FRAUDS

Buddhism refers to three kinds of poisons - anger, greed and ignorance. If not checked, they all eventually lead to wrong doing.

While detecting frauds you are required to familiarize yourself with red flags. Red flag is common word used in fraud detection jargon. Red flags are nothing but symptoms or indicators of situations of frauds. AAS-4 has provided a few but the list is endless. The following are some of the red flags:

1. Absence of rotation

Absence of surprise rotation of duties may cause a fraud. eg. nobody is assigned the same work forever in Banks. Their jobs are rotated frequently.

2. Close nexus with vendor, client, or external parties

If a senior level employee has a close relationship with a client or having any type of interest in supplier business may buy any material or take service at higher than market rate.

3. Sudden losses

A company doing quite well suddenly makes huge losses. While there could be genuine reasons, mismanagement of funds and resources are more likely. These losses are likely to have been there-by window dressing accounts.

4. Too good to be true syndromes

This indicates that lovely glossy report may be furnished whereas in real terms, there are gloomy conditions. eg. many companies evade taxes and duties by window dressing. When their manipulations are trapped by tax authorities, they accept it and are ready to pay the evaded tax to avoid further inquiry. In such case, the amount involved might be more.

5. Disaster situations

Accidents, where books have been lost, or damaged; disasters such as fire, earthquake, etc. are other places where fraudsters can feast.

6. Missing documentation

This is the surest sign of fraud and practically every situation of missing records either has been created to suppress a fraud or if such a situation happens to emerge, it is used to engineer a fraud.

7. Irrational behaviour

Behaviour which is not becoming of the employee's position and which does not keep in mind the decorum of an office often stems from deep rooted insecurity which could be symptomatic of fraudulent intentions.

STEPS IN CONDUCTING AN INVESTIGATION

There are no standardized series of steps nor is there any standardized sequence of applying tests and checks in procedures for fraud detection as one can have in audit. In fraud detection, each situation is unique and demands a customized approach.

Fraud detection attempts to seek out evidences to prove or disprove a financial assumption or a suspicion of wrongdoing. In such a situation, SA 240 (AAS-4) on "The Auditor's responsibility to consider Fraud and Error in an audit of financial statements" is obligatory. It requires an auditor to confirm his suspicions, if any or dispel them by using additional, extended or modified procedures. However AAS-4 does not provide specific method of conducting an investigation. Some guidelines are available in SA 500 (AAS-5) on "Audit Evidence".

The steps given below have been explained at an elementary level to tackle situation of fraud.

a. Defining the objectives

Generally, starting point could arise from an audit report issued under AAS-4 situation of a suspicion of a fraud, or allegations of fraud received, or any theft or pilferage of assets known or suspected or any other similar reason.

b. Crystallization of the terms of reference

It is vital to clarify and remove all doubts as to the real motive, purpose and utility of the assignment. While finalizing the terms, the following consideration could be borne in mind:

- Motive and utility
- Materiality Level
- Authority vested in the examiner
- Confidentiality and reporting obligations
- Spelling out constraints or reporting requirement based on the past experience

c. Evidence collected directly – Documentary tests and interviews

The actual work commences by searching for information or evidence through direct channel. Direct channels could be those, which are directly available in terms of records, documents, and information from the organization's internal

sources itself. Understand and appreciate the internal environment to ascertain whether there are factors, which reduce or enhance the possibilities for perpetration of fraud.

d. Evidence collected indirectly – field audit & physical checks

Every fraud detection exercise usually encapsulates certain field verifications. Field checks are carried out to ascertain or supplement information or evidence obtained from the direct sources. There can be an unimaginable variety of field checks peculiar to situation. Some of the examples are:

- Field audit of payroll disbursements to unearth dummy or ghost worker
- Field verification of vendor's offices to detect non-existent supplier at the place or addresses given in bills.
- Physical verification of cash, stock, fixed assets, investments as represented in the books of accounts.
- Third party balance confirmation.

e. Sting operations

It is a procedure of trapping a suspected perpetrator of any wrongdoing in the act. This provides direct evidence, difficult to prove false. This is also forms part of some fraud detection assignments because certain frauds are otherwise difficult to prove.

f. Evaluation of evidence

When examiner reaches a stage where he has exhausted all possible means of justification, substantiation or collection of information, it is essential for him to review all facts and

evidence in totality without losing focus on the objectives. Issuing an adverse report is likely to have serious impact on the future and career of a person or the organization. Therefore, micro-macro evaluation is vital. All clues must fit and all facts must be in harmony.

g. Reporting

The report may then be presented in a manner, which explains the conclusions reached pursuant to the objectives. The report must be fine-tuned to be lucid to the person addressed to and using it. The nature of wrongdoings and their impact on the organization are explained in a simple manner easy to understand even for a layman and should facilitate taking appropriate action.

CONCLUSION

Fraud exists and is going to exist. No amount of preventive control can eliminate it. Thus, detection and investigative methods and research are crucial. This area of work offers challenging but interesting, non-standardized but creative, new and thrilling features. The expertise in spotting accounting manipulations can be well used and above all, these assignments will earn a C.A. the respect he richly deserves.

"You must remember that all work is simple to bring out the power of mind which is already there to wake up the soul."

Swami Vivekananda



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

NOTIFICATION

4th MARCH, 2009

No: 13-CA (EXAM)/J/2009-II: In partial modification of the Institute's Notification Nos.: 13-CA (EXAM)/J/2009 dated 6th February, 2009 and 13-CA (EXAM)/CPT/June/2009 dated 12th February, 2009, it is notified for general information that Sri Ganganagar has been declared an Examination Centre for Chartered Accountants Examinations as well as Common Proficiency Test. The schedule of Examinations/Test will be as under:

S.No.	Examinations	Dates
1.	PE-II, PCE, FINAL/ FINAL (New Course), MAC, CMC, TMC, ITL & WTO, IRM (Timings between – 01:00 p.m. to 04:00 p.m.)	1st to 15th June, 2009
2.	Common Proficiency Test First Session: 10:30 a.m. to 12:30 p.m. Second Session: 02:00 p.m. to 04:00 p.m.	28th June, 2009

Sd/-
(G. Somasekhar)
Additional Secretary
(Exams)

GLOBALIZATION & BUSINESS COMMUNICATION: A PARADIGM SHIFT

Sunil Kumar Jha



In view of the integrated process of globalization, Business Communication has acquired an altogether new dimension. Globalization, Technology and Economic Liberalization have brought about a revolution in the business communication practices worldwide. These factors have tremendously altered the consumer behaviour, preferences, demands and expectations for products and services to as diverse fields as insurance, sanitation and legal systems. The consumer profiles change rapidly as they are exposed to newer trends. Technology innovates as well as re-innovates to set new trends. Business communication practices have to keep pace with the rapid technological changes in order to be effective and successful.

Nowadays, there are more *collaborative efforts* in doing businesses, which call for communication, co-ordination (through one-on-one, group meeting, business presentations, conferences and regional or world focused summits), problem solving, decision making and applied creativity to find creative solutions. The business and personal technology is going to change the communication between the customers, consumers and different layers of management. Their preferences and expectations will change fast because of the fast exposure to information and that also at global level. The communication styles and message focus among employees at different layers of management and top leaders will undergo tremendous change due to being well-informed about the changing ways of doing things at business; expected to have different relationship with the customers and services because of changing products and services.

Globalization Creates Convergence

Globalization is a process that *creates connectivity and convergence*. It is understood from four contexts viz. Cultural convergence; second is Political context, which is concerned about free flow of information; third is Economic context focusing on capitalism, consumerism, transnational and globalization of Western economic values and fourth is

Media context focusing on media contribution to all the above-mentioned three contexts. The third globalization cycle in 2000 onwards is being driven by three factors: high speed data connectivity pipes between geographies; the proliferation of Personal Computers in those geographies and the convergence of software that uses this infrastructure to create a genuine global work platform.

As the pace of globalization accelerates, companies and competitors in the market will have to re-assess and restructure their organizations to match the skills of the world's best players. New technologies assist this process, allowing for the integration of production processes and swifter exchange of information. International capital shifts must be seen as of fundamental importance. In reality, the process of global economic integration – of which offshore outsourcing is a highly visible component – diffuses the best business ideas and management tools, intensifies competition, and sparks innovation.

Models of Globalization

Three models of Globalism, Glocalization and Outsourcing in the context of Globalization may profile business communication practices differently. Globalism discourse is based on three levels: values, knowledge and interests. The focus is on global understanding and consciousness. It is the awareness that local events have global consequences and understanding of global impact. Globalism suggests a global culture of standardization of food, clothes, music, TV programs, films, business practices etc. Glocalization is merging local and global trends i.e. adapting and fitting global trends to local ways such as fitting global business practices to local business cultures and local trends are changed into global trends. Globalism has helped India's exposure to global business communication practices in the context of offshore outsourcing. It modeled these outsourcing business services on glocalization model by employing the local capabilities and human talents. It further enhanced the capability and appropriate communication skills of the personnel by utilizing local training professional services.

India's outsourcing model focused on three areas namely, Customer care through call centres, BPOs for back office professional services and applications and development of Information Technology services. India has the advantage of graduate English speaking huge manpower of youngsters, who are ready to join call centres after being trained by the

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The Chartered
Accountant **Student**

local professional trainers. There is a huge pool of appropriate professionals such as Chartered Accountants, Medical Technicians, Radiographers etc. for BPO services. India has well trained IT professionals for outsourcing services in IT areas. India is delivering efficient services in these areas to the global partners and creating potential for getting more outsourcing. Such business communication practices have created higher employment, higher wages, core competencies and business processes. People have been the main focus and through this process they have gained economically, in competencies, and better life styles promoted through more purchasing power and consumerism with high spend. Interestingly, these growing businesses practices are communicating different lifestyles, economic and social values to young growing generation – the iGen.

Indian Context

The competencies of Indian people at all levels, has made India a global player in many businesses and has boosted the business image as well as economy of India. Major contribution is in business communication for people oriented change through multiple choices to work, to grow and to consume the products and services; and changing technology and development of people's capabilities through enhanced skill as communication enablers. Technology development communicates about the business practices to deliver these to the people for their benefit. Business technology, whether indigenous, imported or adapted have contributed to economic gains and communicated feelings of wellbeing and progress to the people.

Moreover, communication about business practices-new or best practices-to people are through business schools and other communication skills programme and through exposure to global business practices. Such business communication practices have developed better cadre of business leaders and functionaries, who have even global demand. Modern trends are evident in India in new business communication practices; changing trends in business education, business culture/s are pushing business enterprises and employees to achieve. Achievement motivation is very high.

People in business work place have also gained; the work place of today is better than yesterday because of technology innovations. There are improved ways of doing work. Over and above, there is concern and effort for human development as an asset to the business, better employee-management relationships and respect for the human potentiality to grow – where it fits the best. People from small towns and rural areas are being given opportunities for new communication skills training to fit in the emerging job markets. There is increased concern for their physical and psychological health. Such an approach has boosted the business productivity and therefore economic gains.

People are always at the core of all economic activity. They gain through employment, enhanced purchasing power,

better and multiple consumer choices, new products and services due to global competition and competitive prices. Due to global competition people learn, develop and upgrade both their local as well as global skills. People also call for business social responsibility at global level whether to combat diseases, natural disasters or use of computer and Internet for development. These are positive fallouts of the advanced business communication practices.

Intercultural Communication



Another important area that the process of globalization has impacted is communication in intercultural perspective. Today's governments, organizations and companies are dealing more and more in a global scenario. We are no longer

constrained by borders or distance and as a result globalization has meant a fundamental change in who, where and why we do business. The people that make these organizations tick, from the workers to bosses to suppliers, are increasingly based in remote locations in foreign countries or drawn from a rich mix of cultural backgrounds. The need for effective and clear intercultural communication is becoming vital in securing success in today's globalized workplace.

What is intercultural communication? In short, it has many definitions but fundamentally it looks at how people, from different cultural/national backgrounds, endeavour to communicate or work together. It draws on areas within academia such as cultural anthropology, sociology and business studies to provide it with a basic framework. At its foundation, intercultural communication's objectives are to establish and understand how people from different cultures behave, think or do. Once this is appreciated, it is then possible to help people overcome intercultural differences and make for a better (working) environment.

Within the context of the globalized business or organization, intercultural communication looks at how people communicate (verbally and non-verbally), manage, work together, approach deadlines, negotiate, meet, greet, build relationships, etc. These topics are becoming much more relevant now on two fronts, viz. 1) for businesses with a mix of cultures working together and 2) for businesses wanting to trade successfully abroad. In both situations, if individuals are unaware of how best to get along and get business done, it can and does lead to poor performance and lost deals. Greater understanding of intercultural communication differences, manners, etiquette, protocol and communication styles certainly leads to a much higher probability of achieving business goals.

Ultimately, intercultural communication today means getting a competitive edge. Why? We all know that business today is highly competitive and fast changing. People need to get it right, and get it right the first time. Whether someone is looking for a new supplier, giving a presentation, or negotiating a contract - intercultural communication can, does and will play an important role. It impacts our ability to communicate effectively within a culture as well as how we are perceived.

Working in the globalized world economy is proving to have a positive effect on individuals and companies. As people are forced to think outside the box, they develop greater interpersonal skills, flex their creative muscle and learn new ways of doing things. The need for intercultural communication skill is obvious - we are all working in an interconnected global economy and it is important to build good relationships with people from other cultures. This leads to better business.

Observation/Trends

The four areas that can easily be identified, where International Business Communication learners need to be able to cope with are viz.



Language input, Active listening, Conflict Management and Uncertainty recognition. Besides, it is important to explore the language practices of large international companies from a critical socio-linguistic point of view. Research findings suggest that although good English is

seen to be necessary for presentation, the same level of language is not deemed necessary for internal communication. The study also shows how corporate identities are constructed, maintained and interpreted in business discourse; also how corporate communicative practices support identity constructions.

It is an observation that different emerging markets have their business strengths and weaknesses according to their specific models of business communication practices. Some of these are emerging as booming markets as interplay of the above-mentioned factors. Two emerging markets of China and India in the context of changing business communication practices deserve a special mention. They have become breeding grounds for new management processes and practices that help companies to maintain or even improve the quality of their products and services. To meet the challenge, established businesses must learn new skills and ability to orchestrate complex networks of specialized enterprises. Particularly in Asia, managers must hone their managerial and marketing skills to be in forefront.

Conclusion

In short, Business Communication is important in the above scenario at various levels. Globalization suggests communication with international businesses through exposure to business styles, practices, products and services of these businesses. Such exposure is through media channels, interpersonal channels and travels and other supporting technologies. Such information and knowledge expand new businesses, innovate others, and create new demands for products and services and promote global partnerships. The two premises of intercultural communication: cultural sensitivity of business culture and intercultural communication competence figure prominently.

Public relation as a communicative medium is also important to create visibility, credibility and image building of businesses and their products and services among global partners, foreign countries and their governments and international media. Public relation promotes businesses, partnerships and foreign direct investments. We can not underplay the role of fast growing Information Communication Technologies that create instant connectivity, global availability and accessibility of business innovations and solutions. Thus, focus is shifting and making a meaningful impact in the changed scenario.

References/Suggested Readings

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Announcement

Requirements of 100 Hours Information Technology Training for June, 2009 Examination

Students, who intend to appear in the Professional Competence Examination to be held in June, 2009 should undergo 100 hours Information Technology Training Programme latest by 31st May, 2009. They should have appeared for the online examination and should have successfully completed the Training Programme prior to that date to be eligible to appear in the examinations.

TIPS FOR GOOD WRITING

Hemraj S Joshi



Having good writing skills is always useful, at all times. Some may naturally have good writing skills, while some may not. However, everyone can gain quality writing skills if they try. Here are some useful tips to improve one's writing skills-

- 1) **Write** - Write something daily. If you don't practice, you won't gain anything. Wondering what to write? You can write about an incident that happened to you or about anything interesting that caught your eye while walking on the street.
- 2) **Target Your Writing** - It is essential to have a clear idea who your readers are and their expectations. This will help you to decide the focus of the article. Content, structure, style and presentation deserve a special mention.
- 3) **Outline** - Now you are ready to prepare an outline. This is all about organizing the information in an article into a coherent structure. If you start writing without an outline, you are in danger of producing a disorganized script that may confuse your reader and fail to make the desired impact.
- 4) **Write Section Wise** - Once you have prepared your outline, it is time to start writing. Once you have finished a section, review it. As you review it, check that what you have written meets the aim you set and gives the reader the information they want.
- 5) **Use Short Sentences** - People prefer information to be presented in short sentences with little or no jargon. Do not use long words and complex sentences as this shows that you are not able to communicate ideas clearly. If you need to use technical language that may not be understood, better include a glossary.
- 6) **Persuasion Writing** - Certain types of writing involve doing your most to persuade the reader to accept your recommendations. The following process can be very effective in such situations-
 - a) A clear statement of the reader's problem.
 - b) A clear statement of the consequences for the reader of not solving the problem.
 - c) A clear statement of your proposed solution to the problem.
 - d) A clear statement of the benefits to the reader of solving the problem.
 - e) A clear request for a specific action.
- 6) **Use new fonts** - Use new fonts while typing your report. 'Georgia' and 'Verdana' fonts in Microsoft Word appear easier to read than older fonts like 'Times' and 'Arial'.

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CASE LAWS

CA. Shefali Jain

Section 104 of the Customs Act, 1962

1. Can the Court grant anticipatory bail for an arrest under section 104 of Customs Act, 1962?

Union of India v. Padam Narain Aggarwal 2008 (231) ELT 397 (SC)

The respondent - Padam Narain Aggarwal filed an anticipatory bail in the sessions court which dismissed it but he later moved to the High Court which granted him anticipatory bail with a direction to the authorities that he should not be arrested without giving a ten days' prior notice to him. Revenue contended that the order passed by the High Court was illegal and erroneous.

Supreme Court observed that power to arrest a person by a Custom Officer under section 104 of the Customs Act, 1962, is statutory in character and cannot be interfered with. Supreme Court further noted that the law, on one hand, allows a Custom Officer to exercise power to arrest a person who has committed certain offences, and on the other hand, takes due care to ensure individual freedom by laying down norms and providing safeguards so that the power of arrest is

not abused or misused by the authorities. 'Blanket' order of bail may amount to an invitation to commit an offence or a passport to carry on criminal activities.

Supreme Court pronounced that on the facts and in the circumstances of the present case, above directions could not be said to be legal or in consonance with law. Firstly, the order passed by the High Court was a blanket one and granted protection to respondents in respect of any non-bailable offence. Secondly, it illegally obstructed, interfered and curtailed the authority of Custom Officers from exercising statutory power of arresting a person said to have committed a non-bailable offence by imposing a condition of giving ten days prior notice, a condition not warranted by law. Hence, the order granting the anticipatory bail to the accused was set aside.

Section 35B(2) of the Central Excise Act, 1944

2. Whether the appeal filed by Commissioner himself and not by subordinate officer based on authorization under section 35B, is maintainable?

Commr. of C.Ex. & Cus. v. Shree Ganesh Dyeing & Ptnng. Works 2008 (232) ELT 775 (Guj.)

The contributor is Sr.Executive Officer, ICAI.

In the instant case, the assessee raised objection as to maintainability of the appeal on the ground that the appeal had been filed by Commissioner himself, instead of by the Central Excise Officer authorised by the Commissioner, as required by section 35B(2) of the Central Excise Act, 1944.

The Court, while analyzing section 35B(2) of the Central Excise Act, 1944, held that section 35B(2) of the Act is made up of two parts or two stages. The first stage is formation of an opinion by Commissioner that the order made by the appellate authority is not legal or proper. The second stage is filing of an appeal against order of appellate authority by directing any Central Excise Officer authorised by the Commissioner in this behalf to file an appeal on behalf of the Commissioner. Thus, the Commissioner is vested with a discretion, in the first instance to form an opinion as to whether appellate order is legal or proper and then exercise the discretion to decide whether an appeal should be preferred or not, having come to the conclusion that the order is not proper or legal.

The High Court further clarified that when a person is statutorily entitled to delegate powers to another person to file an appeal on behalf of the first named person, it goes without saying that the power which can be delegated is the power which the first named person would be entitled to exercise. Hence, until and unless the Commissioner himself is entitled to file an appeal, there is no question of the Commissioner authorising another officer to file appeal on his behalf. The language of the latter part of sub-section (2) of section 35B of the Act itself makes this more than abundantly clear when the provision uses the phrase 'to appeal on his behalf'.

Classification under Central Excise

3. When entries in Harmonised System of Nomenclature (HSN) and the Excise Tariff are not aligned, can reliance be placed upon HSN for the purpose of classification of goods?

Camlin Ltd. v. CCEs., Mumbai 2008 (230) E.L.T. 193 (SC)

The Supreme Court held that when the entries in the Harmonised System of Nomenclature (HSN) and the Excise Tariff are not aligned, reliance cannot be placed upon HSN for the purpose of classification of goods under the said Tariff. It further added that in the instant case, the Tribunal erred in relying upon the HSN for the purpose of classification of the impugned product. The Tribunal failed to appreciate that since the entries under the HSN and the entries under the said Tariff are completely different, the Tribunal could not base its decision on the entries in the HSN.

Section 254(2) of Income Tax Act, 1961

4. Discuss the interpretation of phrase "a mistake apparent from record"?

Asst Commr, IT, Rajkot v. Saurashtra Kutch Stock Exchange Ltd. 2008 (230) ELT 385 (SC)

Supreme Court, while interpreting the phrase "any mistake apparent from record" under section 254(2) of the Income Tax Act, 1961, stated that a patent, manifest and self-evident error which does not require elaborate discussion of evidence or argument to establish it, can be said to be an

error apparent on the face of the record and can be corrected while exercising certiorari jurisdiction. An error apparent on the face of the record means an error which strikes on mere looking and does not need long drawn-out process of reasoning on points where there may conceivably be two opinions. Such error should not require any extraneous matter to show its incorrectness.

Thus, an error cannot be said to be apparent on the face of the record if one has to travel beyond the records to see whether the judgment is correct or not. An error which has to be established by a long drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record.

To put it differently, it should be so manifest and clear that no Court would permit it to remain on record. If the view accepted by the Court in the original judgment is one of the possible views, the case cannot be said to be covered by an error apparent on the face of the record.

Note – The interpretation of phrase "mistake apparent from record" enunciated in above-mentioned case may be applied to section 35C(2) of the Central Excise Act, 1944 and section 129B(2) of Customs Act, 1962- sections corresponding to section 254(2) of Income Tax Act, 1961.

Section 127H of the Customs Act, 1962

5. Whether Settlement Commission is justified in denying the grant of immunity from interest covered in a contractual obligation?

Falcom Textiles Ltd. v. CCUs., Amritsar 2008 (230) E.L.T. 35 (P & H)

The petitioner contended that the Settlement Commission had not granted the immunity from payment of interest to the petitioner on the ground that it has no jurisdiction to grant immunity from interest covered under a contractual obligation. However, as per the provisions of section 127H of the Act, the Settlement Commission has jurisdiction/power to grant immunity from interest covered in a contractual obligation.

On the other hand, the respondent pleaded that under section 127H of the Customs Act, 1962, Settlement Commission has, no doubt, the jurisdiction/power to grant immunity either wholly or in part from the imposition of any penalty, fine and interest under the Act, with respect to the case covered by the settlement. However, discretion to grant immunity from interest lies with the Settlement Commission.

The High Court, in the present case, held that perusal of the impugned order shows that the Settlement Commission has not denied the immunity from interest on the ground of jurisdiction, but the same has been denied by the Settlement Commission while exercising its discretion. The judgment of the Madras High Court in *M/s SLS Exports Pvt. Ltd.*'s case provides that the Settlement Commission has power to waive interest even in the matter of contractual obligation, but it is bound to grant immunity from interest. It is a matter of discretion to be exercised by the Settlement Commission. Hence, Settlement Commission is justified in denying the grant of immunity from interest covered in a contractual obligation.

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