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The Chartered Accountant Student

Your Monthly Guide to the CA News, Information & Events

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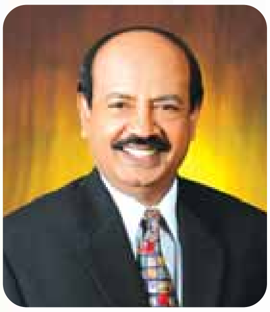

President's Communication

Dear Students,

The month of October marks the onset of festive season in India. From the start of October till the end of November, it is the time when the entire country is tinged in colors of celebrations, enthusiasm and devotion. It also reminds you that your examinations are round the corner and those of you who submitted the applications have to start preparations on a war footing. I am not asking you to skip the festivals but plan your timetable in such a way so that you can derive the benefit of both. With regard to the preparations for examination, I would like to inform you that the Board of Studies of the Institute has already published the Suggested Answers of May 2011 Examinations and the Revision Test Papers, RTPs of November 2011 Examinations and the same are available with the respective regional offices. The Revision Test Papers of November 2011 Examinations have also been hosted on the Institute's Website "www.icai.org".

In my opinion, it is the high time to sharpen your skills you need to plan, prepare and win the examinations. An effective approach to examination technique will enable you to enter the examination room with a clear idea of the skills you wish to demonstrate, with a realistic expectation of what the questions will be like, and with the intention of using the questions to demonstrate as much knowledge as possible. This active approach to examination technique will also help you to be in control of the situation. Some students approach examinations with a fatalistic attitude, rather like helpless victims facing torment. They respond passively to the questions and then hope for the best. The first approach is most likely to succeed.

Let me also tell you that here is no short cut to success; this is the first thing you should remember. For this reason, you have to study well first of all. However, the preparations are different for different types of examinations. You are giving a high profile professional examination and hence it requires long-term preparation. Some students study well but still may be much afraid of examinations. Due to this reason, they get distracted and unable to score good marks. So **leave all your fears and free your mind** before starting the study. You have to be confident and it is the most essential power you should have for attaining victory.

Before winding up this message, I, on behalf of the Institute, would like to pay rich tributes to the Father of the Nation, Mahatma Gandhi, on his 142nd birth anniversary on October 2, 2011. Mahatma Gandhi was a great soul who inspired the world with his faith in truth and justice for all Mankind. He was a great soul who loved even those who fought against his ideals to bring about peace with non-violence. His achievements were nothing less than miracles — his creed was to bring peace to not only those who suffered injustice and sorrow but to espouse a new way of life for Mankind, with peace and harmony. His life was a message — a message of peace over power, of finding ways to reconcile our differences, and of living in harmony with respect and love even for our enemy. **Dr. Martin Luther King, Jr. rightly said, *"If humanity is to progress, Gandhi is inescapable. He lived, thought, acted and inspired by the vision of humanity evolving toward a world of peace and harmony."***

Wishing you all the best for a wonderful time ahead.

Yours sincerely

CA. G. Ramaswamy,
President, ICAI, New Delhi

"Destiny is not a matter of chance; it is a matter of choice. It is not a thing to be waited for; it is a thing to be achieved."

Vice-President's Communication

My Dear Students,

Before penning down this communication to you, I would like to offer my rich tributes to the Father of the Nation, Mahatma Gandhi, on his 142nd birth anniversary on October 2, 2011. Mahatma Gandhi inspired the world with his faith in truth and justice for all Mankind. He was a great soul who loved even those who fought against his ideals to bring about peace with non-violence. He transformed the minds of millions to fight against injustice with peaceful means and non-violence. His message was as transparent to his enemy as it was to his followers. History attests to his power as he proved that we could bring about world peace by seeking and pursuing truth for the benefit of Mankind. We can resolve the greatest of our differences if we dare to have a constructive conversation with our enemy.

I take this opportunity to convey my best wishes to those preparing for the November 2011 Examinations. Since the exams are fast approaching, you all should intensify your preparations. The period just before the exams is really tough. ***"It's always darkest before dawn"***. However, you should not allow the pressures of studying, preparation and examinations to deter you. You must remain focused and motivated. There are many resources available to help you along the way and ensure the light at the end of the tunnel is burning brightly.

The Board of Studies of the Institute supplies a wide range of resources designed for your respective subjects including study materials, Practice Manual, Compilation of Suggested Answers and Revision Test Papers. In my opinion, if you constantly concentrate on the study materials, you can definitely have a good scoring in the examinations. All these tools are at your fingertips. You need not take stress or spend hours searching for them. You should keep a personal copy of all resources. In case you have not acquired a copy of the latest Revision Test Papers or Suggested Answers, you must get them at the earliest. For your convenience the same are already available at the various branches and regions.

In my opinion, the chartered accountancy course is not tough; rather it is so simple to sail through if you plan yourself and work effectively and efficiently for that. What is more important is your sincerity, commitment and your dedication. Now-a-days, what is haunting the students especially during examination time is anxiety and fear. This state of mind needs to be dealt with very carefully. I would like to suggest the following simple tips for tackling exams and getting good results.

Make a plan and stick to it: Allocate study time for each paper. Make sure you evenly distribute your time across all your subjects, as you will naturally want to spend time studying the subjects you enjoy rather than the ones you do not. Include a break in your schedule every hour to give your mind a rest.

Always arrive early well prepared: The stress of being late, on top of your exam stress can completely ruin your performance. Make sure you arrive sufficiently early to every exam and with all your required materials.

Practice positive thinking: Do not let negative thoughts get in the way of your exam preparation. Once the exam is over, avoid the 'post mortem'. Stay focused and continue with your studies without any gap.

Make time for relaxing: After each exam, give yourself a little bit of time to relax. Even if you have another exam the next day, take a short break. This could be something as simple as spending some time with your siblings or parents. This will help you feel refreshed to prepare for the next exam.

To help you in your efforts, the Board of Studies of the Institute is bringing out a Handbook on "How to Face CA Examinations". I firmly believe that the handbook will be an eye opener for the CA aspirants across the country. The handbook will help the students to understand how to plan for the CA course and how to become successful in their respective examinations.

Wish you all the best

Yours sincerely

CA. Jaydeep Narendra Shah,
Vice President, ICAI, New Delhi

Chairman's Communication

My Dear Students,

I have immense pleasure to communicate with you once again through this column. I thank all of you from the depths of my heart for the excellent, appreciative and heartwarming responses that have come pouring in from various parts of the country. As the festive season of Dussera, Saraswathi Pooja and Diwali draws near, I wish each and every one of you be blessed by both Goddess Saraswathi and Goddess Lakshmi in equal measure.

POINT TO PONDER

"Nothing great is ever achieved without enthusiasm." This famous quote is a truism uttered by Ralph Waldo Emerson. He also opined rightly that enthusiasm and success go hand in hand. An enthusiastic person radiates positive energy and this is reflected in his speech, talk and manners. A successful person is one who has harnessed a deep seated belief in himself so that whatever happens, he is sure that in the end he will win. The desire to succeed, achieve & excel and the motivation to reach the top must come from within. You must internalise the desire, empower yourself with a vision of success and equip yourself with the necessary knowledge. Never lose sight of your goals and dreams. Tom Clancy had said ***"Nothing is as real as a dream. The world can change around you, but your dream will not. Responsibilities need not erase it. Duties need not obscure it. Because the dream is within you, no one can take it away." Remember you are the captain of your ship and you are the master of your soul.*** Hence, BE YOURSELF. In this context, I read a wonderful little poem about life which I would like to share with you.

"Above all, be yourself BE, but don't just exist. There's more to life than being just another name on the list. Be active, alive and adventurous, boisterous, brave and bold. Be confident, cool and clear headed, daring, decisive and determined. Be eager, earnest and eloquent, free thinking, fresh and fun-loving BUT, above all BE YOU!"

BOARD OF STUDIES CARES FOR YOU

Dear Students, Board of Studies has initiated series of pro-active student friendly measures:

1) Exclusive extra time of 15 minutes to read the question paper alone to act as a tension reliever and stress buster.

2) Book titled "How to Face CA Examinations? – A matrix of Winning Strategies" for IPCC/PCC/Final Students has been published.

3) Ready reference book "Chartered Accountancy – Global Career Endless Opportunities" and a brochure on "Chartered Accountancy Course – Global career opportunities through a premier professional Institute," published as part of the C.A. Awareness Programme.

4) Special motivation seminars, 16 National Conventions for CA Students, youth festivals, Regional, Sub-Regional and Joint Programmes with Universities are being organised.

TIPS TO BECOME A DISPASSIONATE, PRACTICAL, DOWN TO EARTH AND MATURE PERSON

1. Live in the present without being shackled by the dead past or the unborn future.
2. Perform deeds which conform to your thoughts and words.
3. Try to change things which you can, but live in peace with things that you cannot change.
4. Keep persevering despite setbacks.
5. Have the humility to accept mistakes gracefully.
6. Face disappointments and adversity without becoming bitter.
7. Be willing to give up an instant advantage in favour of a long term gain.
8. Moderation in temper is always a virtue, but moderation in principles is always a vice.
9. Respond to the needs of others with compassion.
10. Remember nothing in life is to be feared; it is only to be understood.
11. Remember anger begins in folly and ends in repentance.
12. Little minds are tamed and subdued by misfortune, but great minds rise above them.
13. Understand that Life is too short to be wasted in intolerance, hatred, prejudice and revenge.

ART OF CULTIVATING TRUE FRIENDSHIP

For success in life cultivate good and true friendship. It is said "A true friend is not like rain which pours and goes away; a true friend is like air which is sometimes silent but always around you." People say "Find good people and leave the bad ones"; but to cultivate good friendship – find the good in people and ignore the bad in them. Always see good in everyone. Don't magnify the faults of others. It brings peace in your life. Things don't change. So just change the way you look at them. When true friends meet, sound becomes music, movement becomes dance, smile becomes laughter, mind becomes meditation and life becomes celebration.

WRAP UP POINT

A C.A.Student once asked God "What surprises you most about mankind?" God replied "They lose their health to make money and then they lose their money to restore their health. By thinking seriously about the future, they forget the present, such that, they live neither for the present nor for the future. They live, as if they will never die and they die, as if they have never lived. It is time mankind realizes the fact that those who live for others only can live even after their death." The analogy is loud and clear. ***When we live for others, we live in their hearts forever. To be happy, don't do whatever you like, but like whatever you do. Happiness comes not from having much to live on but having much to live for.*** Difficulties in your life do not come to destroy you but to help you to realize your hidden potential. Any unique distinction you want to achieve in life may be outside your ***'comfort zone'***, but it is always within your ***'effort zone'.*** Working towards success will make you a master, but working towards satisfaction will make you a legend.

With Warm Professional Regards,

Forever, yours in service,

(CA.V.MURALI)
CHAIRMAN, BOARD OF STUDIES, ICAI, NEW DELHI

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ARTICLE

Section 50C of the Income-tax Act - Some Tax Issues

CA P.N. Shah

1. Back Ground

The Finance Act, 2002, has inserted section 50C in the Income-tax Act, 1961 w.e.f. A.Y. 2003-04. Prior to this, there was no provision to disturb the amount shown in the document of sale of immovable property, unless there was evidence for receipt of the amount over and above the document price. In the case of ***K.P. Varghese v. ITO 131 ITR 597 (SC)*** and other later cases, it was held that no notional addition can be made while computing capital gains when there was no evidence of receipt of such amount. Contrary to this well settled principle of law, section 50C has been introduced to provide that the value adopted or assessed by any Stamp Valuation Authority (SVA) for stamp duty will be deemed to be the "full value of consideration" for computing short term or long term capital gain, if such value is more than the sale consideration shown in the document. In this article, some tax issues and hardships caused by the implementation of this new provision are discussed.

2. Section 50C - Special provision for determination of full value of consideration in certain cases

2.1 As stated earlier, the above section was inserted in the Income-tax Act, 1961, by the Finance Act, 2002, w.e.f. A.Y. 2003 – 04. The section has been amended only once by the Finance (No.2) Act, 2009, w.e.f. 1.10.2009. This provision was inserted as an anti–tax avoidance measure. Briefly stated, the section provides as under-

(i) In the case of transfer of a "capital asset", being an immovable property (land, building or both), if the consideration received or accruing is less than the value adopted or assessed by Stamp Valuation Authority (SVA) for the purpose of payment of Stamp duty, the value so adopted or assessed shall be deemed to be the full value of consideration for the computation of capital gains.

(ii) The above provision has been amended w.e.f. 1.10.2009 by providing that even if a document of transfer is not subjected for stamp duty valuation, the Assessing Officer will have power to estimate the value which the SVA would have adopted, if it was referred to such authority for the purpose of the payment of stamp duty.

(iii) If the value adopted, assessed or assessable by the SVA has not been challenged before any authority, Court or High Court and the assessee claims that the stamp duty valuation is more than the fair market value of the property, the Assessing Officer may refer the question of valuation to Department Valuation Officer (DVO).

(iv) If the valuation made by the DVO is less than the valuation made by SVA, the Assessing Officer will have to adopt the valuation made by the DVO(Section 50C (2)).

(v) If the valuation made by the DVO is more than the valuation made by the SVA, the Assessing Officer will have to adopt the valuation of SVA(Section 50C (3)).

(vi) If the valuation made by SVA is revised in any appeal or revision proceedings later on, section 155(15) provides for modification of the order of assessment within 4 years from the end of the previous year in which such revision order has been passed.

(vii) DVO will have to give reasonable opportunity to the assessee before submitting his report. The valuation made by him can be challenged in appeal before the appellate authorities. A view has been expressed that no appeal before the appellate authorities under the Income-tax Act, 1961, can be filed if the valuation adopted/assessed by SVA is adopted by the Assessing Officer if the valuation made by SVA has not been challenged before any authority or court. However, if no such valuation is made by SVA but the Assessing Officer has only estimated the value as stated in (ii) above, appeal can be filed against such estimate made by the Assessing Officer.

2.2 It may be noted that the provisions of Chapter XX-C (Sections 269U to 269UP) dealing with powers of the tax authorities to exercise power of purchase of immovable properties in certain cases have been deleted w.e.f. 1.7.2002. The provisions of section 50C have been introduced to prevent avoidance of tax by under valuation of properties, held as capital assets, in sale transactions. However, Chapter XX-C applied only in respect of high value transactions whereas section 50C applies even to small value transactions. The

(The author is the Past President of the ICAI)

section also applies to cases where agricultural land is sold. In actual practice, it has been noticed that this section has created lot of hardships in cases of small assessees and many other cases.

3. Some Tax Issues relating to Section 50C

3.1 In the case of ***K.R. Palanisamy v. UOI 306 ITR 61,*** the Madras High Court has held that the provisions of section 50C are constitutionally valid. The High Court has held that, the section has been incorporated to prevent large scale under valuation of the real value of the property in the sale deed so as to defraud the Government of the revenue it is legitimately entitled to. The objective is to prevent pumping in of black money in property transactions. Article 246 of the constitution of India gives exclusive power to Parliament to make laws in respect of the matters enumerated in List I of the Seventh Schedule. The legislative competence of Parliament to insert a provision for arresting leakage of income has been approved by the Supreme Court in a number of cases. The Bombay High Court has followed this view in ***Bhatia Nagar Premises CHS Ltd. v. UOI 234 CTR 175 (Bom).***

3.2 Prior to the amendment in section 50C w.e.f. 1.10.2009, as discussed in para 2.1 (ii) above, it has been held in the case of ***Navneet Kumar Thakkar v. ITO 110 ITD 525 (Jodh)*** that, if the property transferred has not been valued or assessed by SVA and the sale agreement is not registered, section 50C will not apply. The principle laid down by the ITAT will not apply after the amendment of section w.e.f. 1.10.2009.

3.3 In the case of ***CIT v. Thiruvengadam Investments Pvt. Ltd. 320 ITR 345*** the Madras High Court has held that, section 50C will not apply to sale of property held by the assessee as stock-in-trade. This section is applicable only to a property held by the assessee as a capital asset as section 50C explains what is the full value of the consideration for computing capital gains u/s 45 read with section 48. This view is also taken by ITA Tribunal in the case of ***Interlok Hotels Pvt. Ltd. v. ITO 34 SOT 419 (Mum) and ACIT v. Excellent Land Developers Pvt. Ltd. 1 ITR (Trib) 563 (Del).***

3.4 In the case of ***Ajmal Fragrances Fashions Pvt. Ltd. v. ACIT 34 SOT 57 (Mum)*** it has been held that, once the assessee objects to the valuation made by SVA and it has not been disputed before any other authority, the Assessing Officer has to refer the question of valuation to DVO u/s 50C (2). This view is also taken in the case of ***Kalpataru Industries v. ITO*** by Mumbai Tribunal in their order dated 24.8.2009. (41B–BCAJ32)

3.5 In the case of ***ACIT v. Roger Pereira Communications Pvt. Ltd. 34 SOT 64 (Mum)*** it has been held that, in the case of block of assets, depreciation is allowed on the WDV of the block remaining at the end of the year. Section 50C has no application if there is positive balance in the block after adjustment of sale price of any asset. When provisions of section 50 are not applicable, there is no scope of substituting the stamp duty valuation if the sale is of an immovable property from the block of assets relating to Buildings. In the case of ***Panchiram Nahata v. JCIT 127 TTJ (Kol) (UO) 128***, it is held that, in a case where sale is of assets on which depreciation is claimed, provisions of section 50 will apply and section 50C has no application. However, in the case of ***ITO v. United Marine Academy 130 ITD 113 (Mum) (SB)*** it is held that if, on sale of depreciable asset, the block of assets is extinguished, section 50C will apply for computing short term capital gain under section 50.

3.6 In the case of a ***N. Meenakshi v. ACIT 226 CTR 624 (Mad)*** it is held that, when the question of valuation has been referred to DVO at the instance of the assessee u/s 50C, the Assessing Officer cannot pass the order adopting the valuation as per SVA. He has to wait for the report of the DVO before passing the assessment order.

3.7 In the case of ***Ravikant v. ITO 110 TTJ 297 (Del)*** it is held that, u/s 50C when the stamp duty valuation of a property in higher than stated in the sale deed, only onus to prove fair market value is shifted to the assessee. As long as the assessee can reasonably discharge this onus, even under the scheme of section 50C, consideration stated in the sale deed cannot be disputed by the Assessing Officer The valuation by the SVA is based on the circle rates. These circle rates adopt uniform rate of land for an entire locality. This disregards the particular features of the concerned property. Even in a particular area, on account of location factors and possibilities of commercial use, there can be wide variations in the prices of land.

3.8 In the case of ***Rahul Constructions v. DCIT 38 DTR 19 (Pune)*** it is held that, if the difference between sale consideration (₹ 19 lacs) shown by the assessee and the valuation made by DVO u/s 50C (2) (₹ 20.55 lacs) is less than 10percent, the sale consideration shown by the assessee should be accepted. The ITA Tribunal has observed that valuation is always a matter of estimation where some degree of difference is bound to occur. Therefore, in such cases, value determined by DVO should not be substituted for the sale consideration u/s 50C. (344 (2010) 42-A BCAJ)

3.9 It may be noted that section 50C applies in respect of transfer of an immovable property for consideration. The section applies to such transfer to a relative also. If gift is to a non-relative person the same will be taxable u/s 56(2)(vii) in the hands of the recipient but if gift is to a relative it will not be taxable either in the hands of the transferor u/s 50C or u/s 56(2)(vii) in the hands of the transferee.

3.10 It may be noted that section 50C applies when an immovable property is transferred for consideration. No distinction is made between the property held for 3 years or less. Therefore, the section will apply for computing either long term capital gain or short term capital gain.

3.11 As stated earlier, section 50C applies to transfer of all immovable properties, including residential houses. Therefore, a question arises as to whether the provisions of section 50C will have any impact on the amount exempt u/s 54. Considering the wording of section 54, there will be some impact on the amount of exemption and the assessee will have to reinvest higher amount of capital gain as worked out after giving effect to section 50C.

3.12 The above proposition can be explained by the following illustration.

(i) Mr. A has purchased a residential house in 2002. This house is used for his residence and exemption u/s 23(2) is claimed. This house is sold in October, 2010. The relevant details are as under.

		(₹ in Lacs)
(a)	Indexed cost of House Property	50
(b)	Sale Consideration	150
(c)	Stamp Duty Valuation	220
(d)	Expenses relating to sales	10

(ii) Computation of Capital Gains

	As per Sale Deed	As per Stamp Duty Valuation
	(₹ in Lacs)	
Sale Consideration/SLV	150	220
Indexed Cost and Sale Expenses (50+10)	60	60
Capital Gain	90	160
Reinvestment required in New House u/s 54	90	160

It will be noticed that in this case, though the actual net consideration is ₹ 140 lacs the assessee will have to reinvest ₹ 160 lacs for claiming full exemption u/s 54.

3.13 Considering the wording of section 54F, there will be some impact of section 50C on the amount of exemption, if the original asset which is sold is an immovable property, other than a residential house. The assessee will be required to reinvest more than the actual consideration received on sale of the original asset. If the figures given in the illustration in para 3.12 are considered, the position will be as under.

	As per Sale Deed	As per Stamp Duty Valuation
	(₹ in Lacs)	
Sale consideration/SLV	150	220
Indexed Cost and Sales Expenses (50+10)	60	60
Capital Gain	90	160
Reinvestment required in new Residential House u/s 54F (Net consideration)	140	210

It will be noticed that in this case the assessee has received Net consideration of ₹ 140 lacs but he will be required to invest ₹ 210 lacs if he wants to claim full exemption u/s 54F. In the case of ***Gyan Chand Batra v. ITO 133 TTJ 482 (JP)*** a view has been expressed to say that only ₹ 140 lacs is required to be reinvested in such cases. Similar view is taken in the case of ***Mohd. Shoib v. DCIT 127 TTJ 459 (Lucknow).*** However, in the case of ***Gouli Mahadevappa v. 135 TTJ 489 (Bangalore)*** a contrary view is expressed to say that ₹ 210 lacs is required to be reinvested in such cases. The view of Bangalore Bench of Income tax Appellate Tribunal appears to be the correct view.

3.14 If an assessee makes a sale of business on a going concern basis under a "slump sale" arrangement, which includes land and building, and the long term capital gain on such sale is computed u/s 50B, the provisions of section 50C will not apply in such a case. The principle laid down in the case of ***CIT v. Max India Ltd. 319 ITR 68 (P& H)*** can be relied upon in support of this view.

3.15 Direct Taxes Code Bill, 2010 (DTC) also proposes to introduce provisions similar to section 50C of the Income-tax Act, 1961 (ITA). Briefly stated, the proposed provisions are as under.

(i) Clauses 46 to 55 deal with computation of income under the head, capital gains.

(ii) Clause 50(2)(h) provides that in the case of transfer of land or building the full value of consideration will be stamp duty value of the asset.

(iii) The term "Stamp Duty Value" is defined in clause 314(246) to mean the value adopted, assessed or assessable by the stamp duty valuation authority appointed by the Central or State Government. It may be noted that there is no provision for the assessee to object this valuation or to request the Assessing Officer to refer the question of valuation to DVO as in section 50C of Income- tax Act,1961.

(iv) There is also no provision to modify the figure of stamp duty valuation if the same is reduced subsequently by any authority or Court under the provisions of the Stamp Act.

(v) Clause 58(2)(i) provides that if any immovable property is received from a non-relative, other than certain specified persons, without consideration, the Stamp Duty Value of such property will be considered as the income of the recipient from Residuary Sources. This section is similar to section 56(2)(vii) of Income- tax Act,1961.

4. Some suggestions

4.1 From the above discussion, it is evident that the trend for making notional additions which has started from the beginning of the last decade will create lot of hardships to the assessees. Under DTC regime, this trend is extended to more areas and even some capital receipts will also form part of normal taxable income. This will mean that assessees will have to pay tax on income, which is not received.

4.2 If the present provisions of section 50C are considered, it will be noticed that they apply to small assessees also. Considering the hardships faced by small assessees, it is suggested that the provisions of section 50C should be modified in such a manner that immovable properties, where the sale consideration is less than the prescribed amount, depending on the areas where the property is situated, will not be covered by the provisions of section 50C. Further, it is also necessary to provide that section 50C should be applied to such high value transactions only if the difference between the sale consideration and the stamp duty valuation is more than, 15 percent. It may be noted that in the case of ***Rahul Construction v. DCIT 38 DTR 19 (Pune),*** referred to in para 3.8 above, the Tribunal has observed that if the difference between the sale consideration and the valuation made by DVO u/s 50C(2) is less than 10 percent, the provisions of section 50C should not be applied. The Tribunal has also observed that valuation is always a matter of estimation where some degree of difference is bound to occur and, therefore, if the difference between the two valuations is within the prescribed limits, the provisions of section 50C should not be applied.

4.3 The Madras and Bombay High Courts have upheld the constitutional validity of section 50C as discussed in para 3.1 above. The High Courts have observed that the section has been incorporated to prevent large scale under valuation in the real estate transactions with a view to defraud the Government of its legitimate revenue. If the above assumption under section 50C is correct, what is happening is that the Government is assuming that the purchaser has paid more consideration than what is declared in the sale deed. Therefore, it is the purchaser who is parting with his unaccounted money and, it would be logical that the normal rate of tax of tax (30 percent) should be charged to the purchaser who has utilized his unaccounted money while purchasing the immovable property. Moreover, in all real estate transactions, the purchaser pays stamp duty and at the same time he does not object the stamp duty valuation if he has made some payment from his undisclosed sources. The liability for payment of extra capital gains tax fixed u/s 50C is on the seller. Therefore, it appears that the provision which was made in section 56(2)(vii) by the Finance (No.2) Act, 2009, w.e.f. 1.10.2009 to tax the purchaser on the difference between the sale consideration shown in the sale deed and the stamp duty valuation should have been retained and the provisions of section 50C should have been deleted from the Act. This would mean that the purchaser will be taxed on this difference as income form other sources and the seller will not be liable to pay capital gains tax on this amount. This reform is required to be carried forward even under the provisions of DTC. It is true that section 56(2)(vii) applies to only an individual or HUF. However, similar provision can be made applicable to all assessees, excluding purchases from relatives and other specified persons stated in section 56(2)(vi). A provision of this type will also bring the transactions between a real estate dealer holding land or building as stock-in-trade and the purchaser which are outside the scope of section 50C. In any such provision, care will have to be taken to see that purchases below a particular amount are not covered. Further, the margin of 15 percent, as discussed in para 4.2 above should also be provided. Similar provision should also be suggested before DTC is enacted.

4.4 In this article an attempt is made to deal with some of the issues, which arise, in our practical life. There may be many more issues that assessees may be facing during the assessment proceedings. It is stated that DTC will simplify the taxation law and procedure. However, if we study the draft of DTC Bill, no simplification is suggested in the provisions relating to such notional additions.

Disclaimer: The views expressed in this article is that of the author and it has no bearing or influence on the Institute.

Some of the tribunal rulings cited in this article could not be verified

How to Clear CA Examination: Some Important Tips

CA Dhaneshchandra P. Revawala

Examinations are a stressful thing to study for, especially knowing that they can make or break your final mark. Being able to study in the proper manner will achieve the best results, so make use of these tips.

A. Preparing For Examinations

1. A student is required to prepare thoroughly for examinations well in advance and to devote at least two hours daily for studies while undergoing Articled Training.
2. During leave period at least 14 to 16 hours' hard work is required.
3. Avoid mobiles, internet and television as far as possible.
4. Students must study from study material and do practice from practice manual. Wherever a particular topic or point is not clear, a student may refer to a standard text/reference book.
5. Students should refer suggested answers of questions set in last five/six examinations and Revision Test Papers. It is strongly recommended to solve the questions first without referring to solutions and then comparing the answers with the solutions given. Such an approach would help in knowing point of mistake and presentation pattern of an answer.
6. In law papers, Section and its provision is to be given correctly. If a student is not sure about the Section number then he should not quote the same.

How to utilize time during leave period

Get up early in the morning at 4 AM. Be ready by 5 AM. Read theory portion up to 7 AM.

This period is called '***Brahma Murat'*** and studies done during this period cannot be forgotten i.e. they remain in memory for long.

- 7 AM. to 7.30 AM. – Breakfast Time
- 7.30 AM to 10.30 AM – Read theory – mind is always fresh in the morning.
- 10.30 AM to 11.00 AM – Relaxation Time
- 11.00 AM to 1 PM. – Do/solve practical problems.
- 1 PM to 2 PM – Lunch Time
- 2 PM to 3 PM – May take short sleep
- 3 PM to 5 PM – Do/solve practical problems.
- 5 PM to 5.30 PM – Have a break.
- 5.30 PM to 8 PM – Read theory.
- 8 PM to 9 PM – Dinner Time
- 9 PM to 10 PM – May go for outing – watch T.V.
- 10 PM to 12 PM – Do/solve practical problems
- 12 PM to 4 AM – Have sleep

B. Attempting the Question Paper

1. Our Institute has allowed extra time of fifteen minutes to students to enable them to read the question paper, understand the questions and to prepare proper strategy for answering the same. Students will have an added advantage. The questions, which a student finds easy to answer, he should attempt the same first.
2. Students should start every new question or sub parts of the same question from the next page
3. Students should try to attempt parts of a question continuously one after other and should avoid writing answers of parts of a question on different pages.

   However, if students attempt parts of a question on different pages, they must indicate cross-reference.
4. Unless asked in the question, no rounding off should be done particularly in practical subjects like Advanced Accounting, Strategic Financial Management, Cost and Management Accounting and Financial Reporting. Further, if the question requires rounding off, care should be taken while rounding off figures nearest to Crores, Lakhs etc. as there is a chance of making mistake as one or more zeros may be omitted inadvertently, leading to wrong answers.
5. Students should not forget to write units like, ₹, Dollars etc.
6. If a student gets confused in a particular question, he may leave that question and attempt other questions first, which he can solve with confidence. Once 60 percent to 80 percent questions are solved, he may then try to solve the questions where confusion had arisen in his mind.
7. For one mark, approximately 1.5 minute is available. Therefore, for a question of 8 marks, not more than twelve minutes are to be taken. A student must try to inculcate the habit of review at the end, which may require fifteen minutes. Review helps to ascertain that no important points are missed out and answer is properly presented.
8. After the examination of a particular paper is over, students should concentrate on next paper rather than discussing about the paper which they have already attempted.

   I hope and trust if a student follows above aspects, then there is no reason why he does not clear CA Exams easily.

(The author is a member of the Institute. Mem. No: A 010913)

Accounting

Creation of Reserve for Unexpired Risk (URR) by the Non-life Insurance Companies for Health Segment

Authority vide Circular No. IRDA/F&A/CIR/49/Mar-09 dated March 24, 2009 had relaxed the requirement of Section 64(1)(ii)(b) of the Act for computation of Reserve for Unexpired Risk for Health segment for the year 2008-09 and had permitted to compute Reserve for Unexpired Risk on 1/365 days method basis. The said relaxation was extended to the financial year 2009-10 vide Circular No. IRDA/F&I/CIR/F&A/081/12/2009 dated 17th December, 2009.

Taking into account the unique nature of the health segment and in order to promote the health insurance, Authority vide Circular No. IRDA/F&I/CIR/F&A/015/02/2011 dated 02-02-2011 extends the said relaxation to the non life insurers with respect to the health segment for a further period of three financial years starting from 2010-11 provided that the following conditions are complied with:-

a) Insurer must comply with the item 2, 3 & 4 of the Circular No. IRDA/F&A/CIR/49/Mar-09 dated March 24,2009.

b) Insurer must ensure to make adequate provision for incurred claims, outstanding claims and IBNR/IBNER (Incurred But Not Reported/Incurred But Not Enough Reported) in the books of accounts for the respective year itself.

c) The operating profit, net of tax, generated on account of the difference between the reserve created on the basis of 1/365 method and Reserve for Unexpired Risk as would have been created based on Section 64V(1)(ii)(b) of the Act shall be transferred to a "Contingency Reserve for Unexpired Risks" as stated in Para 3 of Circular No.IRDA/F&A/CIR/49/Mar-09 dated March 24, 2009. Such reserve may be transferred to General Reserve in the succeeding financial year provided that

   i) It will be shown separately as an addition to the General Reserve;

   ii) A disclosure to this effect will be made in the notes to the accounts.

d) In the Notes to the Accounts, the following disclosures shall be made:-

   "The Company has created the Reserve for Unexpired Risk as at the end of the Accounting period based on the 1/365 method in the health segment as per IRDA Circular No. IRDA/F&I/CIR/015/02/2011 dated February 02, 2011. The difference between the reserve on the basis of 1/365 method and URR as would have been created based on Section 64V(1)(ii)(b) of the Act has been transferred to "Contingency Reserve for Unexpired Risks" and the same will be transferred to the General Reserve in the succeeding year.

e) The relaxation given above will be applicable for the financial years 2010-11, 2011-12 and 2012-13 only.

(Source: www.irda.gov.in)

Waiver of approval of Central Government for payment of remuneration to professional managerial person by companies having no profits or inadequate profits

In order to promote the development of Indian Corporate sector and another step towards simplification of procedure under the Companies Act, 1956, the Ministry has decided to amend Schedule XIII to the Companies Act, 1956 w.e.f.14.7.2011 vide General Circular No. 46/2011 No 14/03/2011/CL.VII dated 14.07.2011.

Pursuant to this amendment, no approval of Central Government will be required by the listed companies and their subsidiary companies, which are not having profits or having inadequate profits for payment of remunerations exceeding ₹ 4 lakh p.m., if the managerial person:-

(a) is not having any direct or indirect interest in the capital of the company or its holding company or through any other statutory structures at any time during last two years before or on the date of appointment and

(b) is having a graduate level qualification with expert and specialized knowledge in the field of his profession.

The other general conditions specified in para (c) of Section II of Part II of Schedule XIII to the Act shall continue to be complied with.

(Source: www.mca.gov.in)

Securities and Exchange Board of India (Merchant Bankers) (Second Amendment) Regulations, 2011

In exercise of the powers conferred by section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board vide notification No. LAD-NRO/GN/2011-12/17/26149 dated 16th August, 2011 had made amendment to the Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992. These Regulations may be called as the Securities and Exchange Board of India (Merchant Bankers) (Second

Amendment) Regulations, 2011. The following amendments have been made in regulation 14, sub-regulation (1) of the SEBI (Merchant Bankers) Regulations, 1992:

(a) in clause (d), for the full stop, the figure " ; " shall be substituted;

(b) after clause (d), the following new clause shall be inserted, namely:-

"(e) Records and documents pertaining to due diligence exercised in pre-issue and post-issue activities of issue management and in case of takeover, buyback and delisting of securities."

(Source: www.sebi.gov.in)

Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) (Second Amendment) Regulations, 2011

In exercise of the powers conferred by section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board vide notification No. LAD-NRO/GN/2011-12/19/26273 dated 17th August, 2011 had made amendment to the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992. These Regulations may be called as the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) (Second Amendment) Regulations, 2011. The following amendments have been made:

(i) in regulation 17, in sub-regulation (1), clause (n) shall be substituted with the following, namely:-

"(n) Client account opening form in the format as may be specified by the Board."

(ii) in regulation 26, existing clause (xii), shall be substituted with the following, namely:-

"(xii) Failure to maintain client account opening form."

(iii) in Schedule II,

(a) under the head "Code of Conduct for Stock Brokers", clause D shall be omitted.

(b) under the head "Code of Conduct for Sub-Brokers", in clause C, sub-clause (4) shall be omitted.

(Source: www.sebi.gov.in)

Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 2011

In exercise of the powers conferred by section 30 of the Securities and Exchange Board of India Act, 1992

(15 of 1992), the Board vide notification No. LAD-NRO/GN/2011-12/27668 dated 30th August, 2011 had made amendment to the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996. These Regulations may be called as the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 2011. The SEBI (Mutual Funds) (Amendment) Regulations, 2011 can be downloaded from the link http://www.sebi.gov.in/cms/sebi_data/attachdocs/1315305030302.pdf

(Source: www.sebi.gov.in)

(Compiled by CA. Shilpa Agrawal, BoS)

Auditing

Standard on Assurance Engagements (SAE) 3402 "Assurance Reports on Controls at a Service Organisation"

Newly issued Standard on Assurance Engagements (SAE) 3402, "Assurance Reports on Controls at a Service Organization," under series of 3000 – 3399, deals with Assurance Engagements other than Audit or reviews of Historical Financial Information, is effective for service auditors' assurance reports covering periods ending on or after April 1, 2011.

This Standard on Assurance Engagements (SAE) deals with assurance engagements undertaken by a professional accountant in public practice to provide a report for use by user entities and their auditors on the controls at a service organization that provides a service to user entities that is likely to be relevant to user entities' internal control as it relates to financial reporting. It complements SA 402, in that reports prepared in accordance with this SAE are capable of providing appropriate evidence under SA 402. This SAE 3402, "Assurance Reports on Controls at a Service Organization," should be read in the context of the "Preface to the Standards on Quality Control, Auditing, Review, Other Assurance and Related Services

The "Framework for Assurance Engagements" states that an assurance engagement may be a "reasonable assurance" engagement or a "limited assurance" engagement; that an assurance engagement may be either an "assertion-based" engagement or a "direct reporting" engagement; and, that the assurance conclusion for an assertion-based engagement can be worded either in terms of the responsible party's assertion or directly in terms of the subject matter and the criteria. This SAE only deals with assertion-based engagements that convey reasonable assurance, with the assurance conclusion worded directly in terms of the subject matter and the criteria.

For details visit:

http://220.227.161.86/22053sae3402.pdf

(Compiled by CA. Karuna Bhansali, BoS)

Finance

Circular No. CIR/MIRSD/03/2011 dated 09-06-2011: Pre- funded instruments/Electronic fund transfers

This circular is issued in exercise of the powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market. It has now been decided to permit the stock brokers to accept Demand Drafts from their clients.

Guidelines regarding the Receipt of Funds through Pre-funded Instruments/Electronic Fund Transfers

1. While receiving funds from the clients through pre-funded instruments, such as, Pay Order, Demand Draft, Banker's cheque, etc., it is observed that the stock brokers are unable to maintain an audit trail of the funds so received. This may result in flow of third party funds/ unidentified money, which is not in accordance with the provisions of the aforesaid circular and also affects the integrity of the securities market.
2. With a view to address the aforesaid concerns, it has been decided as under:
   a. If the aggregate value of pre-funded instruments is ₹ 50,000/- or more, per day per client, the stock brokers may accept the instruments only if the same are accompanied by the name of the bank account holder and number of the bank account debited for the purpose, duly certified by the issuing bank. The mode of certification may include the following:
      i. Certificate from the issuing bank on its letterhead or on a plain paper with the seal of the issuing bank.
      ii. Certified copy of the requisition slip to issue the instrument.
      iii. Certified copy of the passbook/ bank statement for the account debited to issue the instrument.
      iv. Authentication of the bank account-number debited and name of the account holder by the issuing bank on the reverse of the instrument.

   b. Maintain an audit trail of the funds received through electronic fund transfers.
3. Stock Exchanges are advised to:
   a. issue necessary instructions to bring the provisions of this Circular to the notice of their constituents and also disseminate the same on their websites;
   b. make amendments to the relevant bye-laws, rules and regulations for the implementation of the above, as deemed necessary;
   c. communicate to SEBI, the status of the implementation of the provisions of this Circular by June 30, 2011; and
   d. develop the monitoring mechanism through internal audit and inspections.

The complete text of the above circular can be downloaded from:

http://www.sebi.gov.in/circulars/2011/cirmirsd032011.pdf

Circular No. CIR/IMD/DF/14/2011 dated 09-08-2011: Investment by Foreign Investors in Mutual Fund Schemes.

This circular is issued in exercise of the powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act 1992 read with the provisions of Regulation 77 of SEBI (Mutual Funds) Regulations, 1996. It has now been decided to permit SEBI registered Mutual Funds to accept subscriptions from foreign investors who meet the KYC requirements for equity schemes. This scheme is also subject to relevant and extant FEMA regulations and guidelines issued by the Reserve Bank of India under FEMA, 1999 from time to time.

Guidelines regarding the Investment by Foreign Investors in Mutual Fund Schemes

1. To liberalise the portfolio investment route, it has been decided to permit SEBI registered Mutual Funds to accept subscriptions from foreign investors who meet the KYC requirements for equity schemes.
2. Foreign investors (termed as Qualified Foreign Investors/QFIs) who meet KYC requirement may invest in equity and debt schemes of Mutual Funds (MF) through the following two routes:

2.1. Direct route - Holding MF units in demat account through a SEBI registered depository participant (DP).

2.2. Indirect route - Holding MF units via Unit Confirmation Receipt (UCR).

3. The investment is subject to the following conditions:

3.1. Definition of Qualified Foreign Investor (QFI): A person resident in a country that is compliant with Financial Action Task Force (FATF) standards and that is a signatory to International Organization of Securities Commission's (IOSCO's) Multilateral Memorandum of Understanding; Provided that such person is not resident in India and is not registered with SEBI as Foreign Institutional Investor or Sub-account.

3.2. MF to ensure that only QFIs who comply with para 3.1 are allowed to invest under these routes.

3.3. MF to ensure that QFIs meet the KYC requirements as per the FATF standards, Prevention of Money Laundering Act, 2002(PMLA) rules and regulations and SEBI circulars issued in this regard.

3.4. The aggregate investments by QFIs under both the routes to be subject to a total overall ceiling of US $10 billion for equity schemes.

3.5. The aggregate investments by QFIs under both the routes for debt schemes which invest in infrastructure debt of minimum residual maturity of 5 years, to be subject to a total overall ceiling of US $3 billion.

3.6. MF can accept subscriptions from QFIs till such time the investments by QFIs under both the routes reaches US $ 8 billion in equity schemes and US$ 2.5 billion in debt schemes and the remaining limit of US $ 2 billion in equity schemes and US$ 0.5 billion in debt schemes to be auctioned by SEBI through bidding process.

3.7. MF to file with SEBI a report about the total subscription and redemption by QFIs on a daily basis as per the format at annexure. MF should prepare such report on actual receipt and payment basis.

3.8. MF/DP to ensure that the units held by QFIs by way of UCR/demat holding are non- transferable and non-tradable.

3.9. MF/DP to capture the bank account details of the QFIs designated overseas bank account and to ensure that all subscriptions are received from that overseas account and redemption proceeds are also transferred into the same overseas account.

3.10. In case of subscription, MF to allot units based on the NAV of the day on which funds are realized in the MF's scheme bank account in India and in case of redemption, units to be redeemed on the day on which transaction slip/ instruction is received and time stamped by MF, as per the applicable cut off time.

3.11. MF to ensure that Systematic Investments/ transfer/withdrawals and switches are not available to the QFIs.

3.12. MF/DP to ensure that units/UCRs held by QFIs are free from all encumbrances.

3.13. MF to comply with all the requirements as per the PMLA, FATF standards and SEBI circulars issued in this regard on an ongoing basis.

3.14. MF to ensure that all the investor related documents/records of the QFIs are available with them.

3.15. MF to ensure compliance with laws (rules and regulations) of the jurisdictions where the QFIs are based and also ensure that the interest of existing unit holders of the MF schemes are not adversely affected due to the issuance of UCRs/ demat units to the QFIs.

3.16. Information in case of any penalty, pending litigations or proceedings, findings of Inspections or investigations against MF/AMC should be brought to the attention of SEBI and unit-holders of the concerned scheme.

3.17. MF to be responsible for the deduction of applicable tax at source.

3.18. MF/DP to require QFIs to submit necessary information for the purpose of obtaining PAN.

4. Other conditions for direct route (demat account)

4.1. There should be 3 parties under this route - QFIs, qualified DP and MF.

4.2. A QFIs can open only one demat account with any one of the qualified DPs.

4.3. To become a qualified DP, a SEBI registered DP to fulfill the following:

4.3.1. DP to have paid up capital of ₹ 50 Crore or more,

4.3.2. DP to be either a clearing bank or clearing member of any of the clearing corporations.

4.3.3. DP to have appropriate arrangements for receipt and remittance of money with a designated Authorised Dealer (AD) Category - I bank

4.3.4. DP to demonstrate that it has systems and procedures to comply with the FATF Standards, PMLA and SEBI circulars issued from time to time.

4.3.5. DP to obtain prior approval of SEBI before commencing the activities relating to accepting MF subscription from QFIs.

4.4. The qualified DP to open a demat account for the QFIs after ensuring all the requirements as per the PMLA, FATF standards and SEBI circulars issued in this regard.

4.5. For the purpose of account opening, MF can rely on the KYC done by DPs.

4.6. The qualified DP to open a separate single rupee pool bank account with a designated AD Category -I bank, exclusively for the purpose of investments by QFIs in India.

4.7. **Process flow**

Subscription

4.7.1. The QFIs to place a purchase/ subscription order mentioning the name of the scheme/MF with its DP and remit foreign inward remittances through normal banking channel in any permitted currency (freely convertible) directly to the single rupee pool bank account of the DP maintained with a designated AD category - I bank.

4.7.2. DP in turn to forward the purchase order to the concerned MF and remits the money to the MF's scheme account on the same day as the receipt of funds from QFIs.

4.7.3. If the DP is unable to remit the money then it should immediately return it to the designated overseas bank account of the QFIs.

4.7.4. MF to process the order and credit units into the demat account of the QFIs.

4.7.5. If for any reasons the units are not allotted, MF/ DP to ensure that the money is remitted back to the QFI's designated overseas bank account within 3 working days.

Redemption

4.7.6. QFIs can redeem, either through Delivery Instruction (physical/electronic) or any another mode prescribed by the Depositories.

4.7.7. The DP can make fresh purchase of units of equity and debt schemes of MF out of the redemption proceeds received provided that payment is made towards such purchase within two working days.

Dividend

4.7.8. In case of dividend payout, the MF to credit the single rupee pool bank account of the DP with the dividend amount.

5. Other conditions for Indirect route (Unit Confirmation Receipts)

5.1. There to be four parties involved - QFIs, UCR issuer (based overseas), SEBI registered Custodian (based in India) and MF.

5.2. QFIs can subscribe/redeem only through the UCR Issuer.

5.3. MF to appoint one or more UCR issuing agent overseas and one SEBI registered custodian in India.

5.4. UCR issuer appointed by MF to act as agent of the MF.

5.5. MF can appoint entities fulfilling the following conditions as UCR issuer:

5.5.1. The entity should have a proven track record, expertise and technology in the business of issuance of global depository receipts/global custody agency.

5.5.2. The entity is registered with an overseas securities market/banking regulator.

5.6. MF to seek no objection from SEBI before appointing any UCR issuer and furnish the details and information sought by SEBI about the UCR issuer.

5.7. MF to comply with all the requirements as per the PMLA, FATF standards and SEBI circulars issued in this regard on an ongoing basis.

5.8. Custodians appointed by the MF to comply with the SEBI (Custodian of Securities) Regulations, 1996, circulars and guidelines issued by SEBI.

5.9. The rupee denominated units of the MF would be held as underlying by the custodian in India in demat mode against which the UCR issuer would issue UCR to be held by QFIs.

5.10. MF to ensure that for every UCR issued by UCR issuer, Custodian in India to hold corresponding number of units against it i.e., there to be one unit of MF scheme for every unit of UCR.

5.11. MF to receive money from UCR issuer either in foreign country by opening bank account overseas or in Indian rupees in the respective MF scheme account held in India.

5.12. MF to mandate the UCR issuer regarding the requirements for KYC, Customer due diligence process and documents and information to be collected from the QFIs.

5.13. MF to obtain the relevant records of KYC/other documents from the UCR issuer in order to comply with FATF standards, PMLA and SEBI circulars issued in this regard.

5.14. Units purchased and redeemed through UCR issuer to be settled on gross basis and under no circumstances to be netted against other investors of UCR issuer

5.15. **Process flow:**

5.15.1. The QFIs places a purchase/subscription order through the UCR issuer.

In case of MF opening bank account overseas (in accordance with the relevant extant FEMA regulations)

5.15.2. UCR issuer to forward the order of QFIs to the MF/Custodian.

5.15.3. In case of redemption, UCR issuer to confirm receipt of redemption request to the MF and Custodian.

5.15.4. In case of dividend payout, the MF to transfer the dividend amounts to the MF overseas bank account for making payment to the designated overseas bank account of the QFIs.

In case MF receives money in India from UCR issuer.

5.15.5. UCR issuer to forward the purchase order to MF and Custodian, and remit the funds into MF scheme account (in rupee terms).

5.15.6. In case of redemption, UCR issuer to confirm receipt of redemption request to the MF & Custodian.

5.15.7. In case of dividend payout, the MF to remit the dividend amount proceeds to the UCR issuer which in turn to remit the dividend amount to the designated bank account of the QFIs.

The complete text of the above circular can be downloaded from:

http://www.sebi.gov.in/cms/sebi_data/attachdocs/1312859496065.pdf

(Compiled by Nidhi Singh, BoS)

Glimpses of Approach Paper on Twelfth Five-Year Plan

Recently the Planning Commission of India brought out the Approach Paper on Twelfth Five Year Plan. Here are a few glimpses of the Approach Paper:

Trends in Global GDP

The changes taking place in the world economy, with a shift in economic strength towards emerging markets and especially in Asia, are inherently favourable for India. Table 1 presents a projection of world economy over the next two and a half decades. Industrialised countries are likely to grow at about 3.5 percent per year in nominal US Dollar terms between 2010 and 2025, while developing and emerging economies are projected to grow at around 8 percent. Within this group, developing Asia is projected to grow, again in nominal US Dollar terms, at around 10 percent per year. These projections are, of course, subject to the usual qualifications that attend long term forecasts, but they are not out of line with the current perceptions. The advanced economies' share in global GDP is projected to fall from 65 per cent in 2011 to 51 percent by 2025, while the share of emerging economies is projected to increase from 35 percent to about 49 percent over the same period.

Table : 1

Structure of Global GDP (in current US $ Trillion)

	2000	2011	2016	2020	2025
World GDP	32.2	68.7	90.5	110.5	140.5
Advanced Economies	25.7 (79.7%)	44.4 (64.6%)	53.3 (58.9%)	61.1 (55.3%)	71.7 (51.1%)
Developing & Emerging of which	6.5 (20.3%)	24.3 (35.4%)	37.2 (41.1%)	49.4 (44.7%)	68.8 (48.9%)
Developing Asia	2.3 (7.3%)	10.5 (15.2%)	17.4 (19.3%)	26.6 (24.1%)	40.7 (28.9%)
of which India	0.5 (1.5%)	1.9 (2.8%)	3.6 (4.0%)	5.8 (5.2%)	10.0 (7.1%)
Sub-Saharan Africa	0.3 (1.0%)	1.2 (1.8%)	1.7 (1.9%)	2.5 (2.2%)	3.9 (2.8%)
West Asia & North Africa	0.8 (2.5%)	2.8 (4.0%)	3.8 (4.2%)	5.0 (4.5%)	7.1 (5.0%)
Latin America & Caribbean	2.1 (6.6%)	5.5 (8.0%)	7.4 (8.2%)	9.7 (8.8%)	13.3 (9.5%)

[Figures in parentheses denotes share of world GDP]

Source : The World Economic Outlook database of the International Monetary Fund. This data up to 2010 in most cases (up to 2009 and earlier in a few) is actual data. Thereafter the figures up to 2016 are projections by the IMF. The projections for India and other countries beyound 2016 gave have been made inernally in the DPPP Division of the planning commission.

Growth Target for the XII Plan

The Planning Commission has explored two alternative targets for economic growth in the Twelfth Plan. The first is a restatement of the Eleventh Plan target of 9 per cent growth, which has yet to be achieved. The second is an even higher target of 9.5 percent average growth for the Twelfth Five Year Plan. Several macro economic models have been used to examine the feasibility of these targets in terms of internal consistencies and inter sectoral balances.

The 9 percent target requires a significant acceleration in growth in agriculture; in electricity, gas and water supply; and also in manufacturing. As shown in Table 2, taking the growth rate to 9.5 percent would require much faster growth in the manufacturing, as well as in electricity, gas and water supply sectors. The feasibility of achieving such large acceleration in key sectoral performance needs to be considered carefully before the growth targets for the Twelfth Plan are fixed.

Table : 2

Sectoral Growth Rates Previous Plans and Target for Twelfth Plan

		IXth Plan	Xth Plan	XIth Plan	XIIth Plan	
					9% Target	**9.5% Target**
1.	Agriculture, forestry & fishing	2.5	2.3	3.2*	**4.0**	**4.2**
2.	Mining & Quarrying	4.0	5.0	4.7	**8.0**	**8.5**
3.	Manufacturing	3.3	9.3	7.7	**9.8**	**11.5**
4.	Elect. Gas & Water Supply	4.8	6.8	6.4	**8.5**	**9.0**
5.	Construction	7.1	11.8	7.8	**10.0**	**11.0**
6.	Trade, hotels & restaurant	7.5	9.6	7.0		
7.	Transport, Storage & Communication, Storage	8.9	13.8	12.5		
6-7.	Trade, Hotels etc.+Transport, Communication, storage	8.0	11.2	9.9	**11.0**	**11.2**
8.	Financing, insurance, real estate & business services	8.0	9.9	10.7	**10.0**	**10.5**
9.	Community, Social & personal service	7.7	5.3	9.4	**8.0**	**8.0**
	Total GDP	**5.5**	**7.8**	**8.2**	**9.0**	**9.5**
	Industry	4.3	9.4	7.4	**9.6**	**10.9**
	Services	7.9	9.3	10.0	**10.0**	**10.0**

Note : *It is likely that on revision of farm sector GDP growth rates for the previous year and an expected good harvest in 2011/12 the average for the Eleventh Plan may be higher at 3.3-3.5 percent.

Investment and Savings Requirements

A basic macro economic feasibility check is to establish whether the investment and savings rates and the current account deficit required for achieving these growth targets are broadly feasible. Unless this balance is achieved, there is a danger that higher growth will only be obtained at the expense of unacceptable inflation. The current situation of high inflation and tightening of monetary policy at the domestic level and uncertainty in the global financial markets require a careful appraisal of the saving investment prospects for the Twelfth Plan period. The relevant information is presented in Table 3.

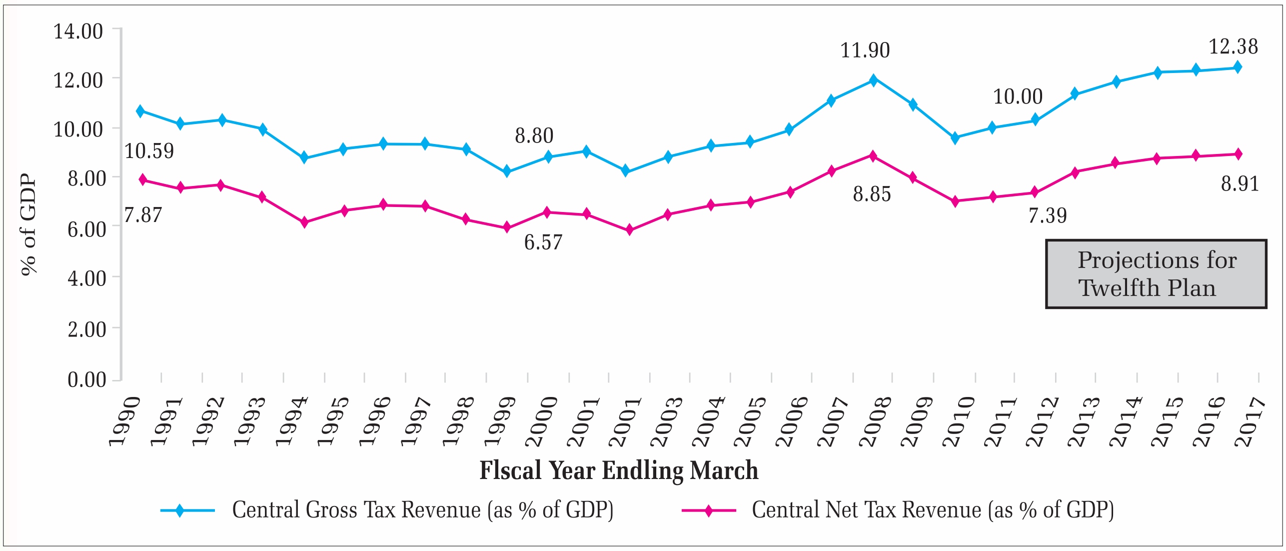
Broad Macro-Economic Parameters-Previous Plans and Targets fro Twelfth Plan

		IX^th Plan	X^th Plan	XI^th Plan	XII^th Plan	
					9	9.5
1.	Investment Rate (Gross Capital Formation adjusted for errors and omissions)	24.6	31.8	36.4	38.7	41.4
2.	Fixed Investment of Which	23.2	28.4	30.9	33.5	35.5
	Household Sector	9.9	11.7	11.6	12.0	12.0
	Private Corporate Sector	6.6	9.6	11.0	12.4	13.5
	Public Sector	6.6	7.1	8.3	9.1	10.0
3.	Savings Rate of which	23.7	31.7	34.0	36.2	38.9
	Household sector	20.5	23.2	23.2	24.0	24.5
	Private Corporation Sector	4.0	6.4	8.2	8.5	9.2
	Public Savings of which	-0.8	2.0	2.5	3.7	5.2
	Govt. Admin.	-4.9	-2.6	-1.3	-0.5	0.8
	Public Enterprises	4.0	4.6	3.8	4.0	4.5
4.	Current Account Balance	-0.6	0.0	-2.4	-2.5	-2.5
	of which					
	Trade Balance	-2.6	-2.5	-5.0	-4.5	-4.5
	Capital Account Balance	2.1	3.5	3.8	5.0	5.0
5.	WPI Inflation Rate	4.9	5.0	6.0	4.5-5.0	5.0-5.5

Centre's Resources for the XII Plan

Gross Tax Revenues of the Centre were 10.6 percent of GDP in 1990 91, but declined for several years as custom duties and income tax rates were reduced. However, they rose again after 2001-02, reaching a peak of 11.9 percent in 2007-08. The tax ratio declined thereafter, because of the tax reduction introduced as part of the stimulus to reach 9.5 percent of GDP in 2009-10. However, the trend has reversed again, and the gross tax GDP ratio at the Centre was 10.0 percent in 2010-11, further projected to be 10.36 percent of GDP in 2011-12. This positive trend is expected to continue over the Twelfth Plan period. The projections therefore involve going above the previous peak of 11.9 percent in 2007-08, but only moderately so. If we want a larger plan size, we could perhaps aim at a tax rate of 13.0 percent of GDP. This could be achieved if critical tax reforms in the pipeline become a reality in the coming years. The Goods and Services Tax, in particular, could also make the economy more competitive and help accelerate growth to the levels being targeted in the Twelfth Plan.

Trends in Tax Revenues at the Centre (1990 to 2017, including projections)



The projections in Table 4 envisage Gross Budgetary Support for the Plan increasing from 4.92 percent of GDP in 2011-12 to 5.75 percent of GDP by the end of XIIth Plan period. The increase in the GBS as a percentage of GDP over a five-year period is only 0.83 per cent of GDP. There are several sectors where Plan allocations must increase as a percentage of GDP, notably health, education and infrastructure. Preliminary work shows that allocations for these sectors should ideally increase by around 1.5 percentage points of GDP. Given the limited increase projected in the Central GBS, this implies strict prioritization will have to be enforced, which implies resources for other sectors will expand more slowly than GDP.

Table : 4

Projection of Centre's Resources for the Twelfth Five Year Plan (as percent of GDP)*

Sl. No.	Description	2011-12 (BE)	2012-13	2013-14	2014-15	2015-16	2016-17	XIIth Plan Average
1.	Tax Revenue Net to Centre	7.40	8.14	8.53	8.72	8.83	8.91	8.68
2.	Non-Tax Revenue	1.40	1.10	1.00	1.09	0.98	0.88	1.01
3.	Non-Debt Capital Receipts	0.60	0.54	0.46	0.41	0.36	0.32	0.41
4.	Flscal Deficit	4.60	4.10	3.50	3.00	3.00	3.00	3.25
5.	Aggregate Resources (1+2+3+4)	14.00	13.88	13.59	13.21	13.18	13.11	13.34
6.	Non-Plan Expenditure	9.09	8.96	8.63	8.23	7.83	7.36	8.09
7.	Gross Budgetary Support for Plan	4.92	4.92	4.95	4.98	5.35	5.75	5.25
7a	Central Assistance to States/UTs	1.18	1.18	1.19	1.20	1.25	1.30	1.23
7b	Central Plan	3.74	3.74	3.76	3.78	4.10	4.45	4.02
8.	IEBR	2.86	2.86	2.85	2.84	2.84	2.83	2.84
9.	Plan Resources for the Centre	6.60	6.59	6.61	6.63	6.94	7.28	6.86

* The projections here assume 9 percent real GDP growth and 5 per cent GDP inflation.

Source: http://planningcommission.nic.in/

(Compiled by Prem J Bhutani, BoS)

Significant Legal Decisions

Indirect Tax Laws

CUSTOMS

1. Can separate penalty under section 112 of the Customs Act be imposed on the partners when same has already been imposed on partnership firm?

CCE & C, Surat-II v. Mohammed Farookh Mohammed Ghani 2010 (259) E.L.T. 179 (Guj.)

The High Court observed that once penalty was levied on the firm for contravention of any provision of the Act or the Rules framed thereunder, it amounted to levy of penalty on the partners. Hence, there was no question of penalizing the partners separately for the same contravention, unless the intention of the legislature to treat the firm and partners as distinct entities was borne out from the statute itself, i.e., expressly provided in the statute. For instance, Explanation to section 140 of the Customs Act equated partnership firm with company (which stands as separate entity distinct from its shareholders) in respect of commission of offences.

However, there was no such corresponding provision in relation to imposition of penalty under section 112. In the light of the above discussion, the High Court pronounced that separate penalty could not be imposed on the partners in addition to the penalty on the partnership firm.

2. Whether Chartered Accountant's certificate alone is sufficient evidence to rule out the unjust enrichment under customs?

CCus., Chennai v. BPL Ltd. 2010 (259) E.L.T. 526 (Mad.)

The High Court noted that section 27 of the Customs Act mandates on the importer to produce such documents or other evidence, while seeking refund, to establish that the amount of duty in relation to which such refund is claimed, has not been passed on by him to any other person.

However, in the given case, the respondent had not produced any document other than the certificate issued by the Chartered Accountant to substantiate its refund claim. The certificate issued by the Chartered Accountant was merely a piece of evidence acknowledging certain facts. It would not automatically entitle a person to refund in the absence of any other evidence. Hence, the respondent could not be granted refund merely on the basis of the said certificate.

Thus, the High Court, overruling the Tribunal's decision, answered the question of law in favour of revenue.

3. Whether the benefit of exemption meant for imported goods can also be given to the smuggled goods?

CCus. (Prev.), Mumbai v. M. Ambalal & Co. 2010 (260) E.L.T. 487 (SC)

The question which arose before the Apex Court for consideration was whether goods that were smuggled into the country could be considered as 'imported goods' for the purpose of granting the benefit of the exemption notification.

The Apex Court held that the smuggled goods could not be considered as 'imported goods' for the purpose of benefit of the exemption notification. It opined that if the smuggled goods and imported goods were to be treated as the same, then there would have been no need for two different definitions under the Customs Act, 1962.

The Court observed that one of the principal functions of the Customs Act was to curb the ills of smuggling on the economy. Hence, it held that it would be contrary to the purpose of exemption notifications to give the benefit meant for imported goods to smuggled goods.

EXCISE

4. Does a product with short shelf-life satisfy the test of marketability?

Nicholas Piramal India Ltd. v. CCEx., Mumbai 2010 (260) E.L.T. 338 (S.C.)

Facts of the case:

In the instant case, the product had a shelf-life of 2 to 3 days. The appellant contended that since the product did not have shelf-life, it did not satisfy the test of marketability.

Decision of the case:

The Supreme Court ruled that short shelf-life could not be equated with no shelf-life and would not *ipso facto* mean that it could not be marketed. A shelf-life of 2 to 3 days was sufficiently long enough for a product to be commercially marketed. Shelf-life of a product would not be a relevant factor to test the marketability of a product unless it was shown that the product had absolutely no shelf-life or the shelf-life of the product was such that it was not capable of being brought or sold during that shelf-life.

Hence, product with the shelf life of 2 to 3 days was marketable and hence, excisable.

5. Are the physician samples excisable goods in view of the fact that they are statutorily prohibited from being sold?

Medley Pharmaceuticals Ltd. v. CCE & C., Daman 2011 (263) E.L.T. 641 (S.C.)

The question which arose for consideration was whether physician samples of patent and proprietary medicines intended for distribution to medical practitioner as free samples, satisfied the test of marketability. The appellant contended that since the sale of the physician samples was prohibited under the Drugs and Cosmetics Act, 1940 and the rules made thereunder, the same could not be considered to be marketable.

Supreme Court observed that merely because a product was statutorily prohibited from being sold, would not mean that the product was not capable of being sold. Physician sample was capable of being sold in open market.

Moreover, the Drugs and Cosmetics Act, 1940 (Drugs Act) and the Central Excise Act, 1944 operated in different fields. The restrictions imposed under Drugs Act could not lead to non-levy of excise duty under the Central Excise Act thereby causing revenue loss. Prohibition on sale of physician samples under the Drugs Act did not have any bearing or effect on levy of excise duty.

Therefore, the Court inferred that the physician samples were excisable goods and were liable to excise duty.

6. Whether assembling of the testing equipments for testing the final product in the factory amounts to manufacture?

Usha Rectifier Corpn. (I) Ltd. v. CCEx., New Delhi 2011 (263) E.L.T. 655 (S.C.)

Facts of the case:

The appellant was a manufacturer of electronic transformers, semi-conductor devices and other electrical and electronics equipments. During the course of such manufacture, the appellant also manufactured machinery in the nature of testing equipments to test their final products.

The appellant had stated in their balance sheet that the addition to the plant and machinery included testing equipments. The said position was further substantiated in the Director's report wherein it was mentioned that during the year, the company developed a large number of testing equipments on its own.

However, the assessee contended that such items were assembled in the factory for purely research and development purposes, but research being unsuccessful, same were dismantled. Hence, it would not amount to manufacture.

The appellant further submitted that the said project was undertaken only to avoid importing of such equipment from the developed countries with a view to save foreign exchange.

Decision of the case:

The Supreme Court observed that once the appellant had themselves made admission regarding the development of testing equipments in their own Balance Sheet, which was further substantiated in the Director's report, it could not make contrary submissions later on. Moreover, assessee's stand that testing equipments were developed in the factory to avoid importing of such equipments with a view to save foreign exchange, confirmed that such equipments were saleable and marketable. Hence, the Apex Court elucidated that duty was payable on the testing equipments.

7. Whether the interest on irregular credit under rule 14 of the CENVAT Credit Rules, 2004 arises from date of availing such credit or date of utilization of the credit?

UOI v. Ind-Swift Laboratories Ltd. 2011 (265) E.L.T. 3 (S.C.)

The Supreme Court elucidated that rule 14 is clear and unambiguous. It specifically provides for interest when CENVAT credit is taken or utilized wrongly or erroneously refunded. Thus, credit is recoverable with interest on happening of any of the three specified circumstances.

It held that High Court misinterpreted rule 14 to mean that interest is payable from date of utilization of irregular credit and not from the date of availing such credit.

8. Does the process of cutting and embossing aluminum foil for the purpose of packing of the cigarettes amount to manufacture?

CCE v. GTC Industries Ltd. 2011 (266) E.L.T. 160 (Bom.)

Facts of the case:

A roll of aluminum foil was cut horizontally to make separate pieces of the foil and word 'PULL' was embossed on it. Thereafter fixed number cigarettes were wrapped in it. An aluminium foil being a resistant to moisture was used as a protector for the cigarettes and to keep them dry.

Revenue's submitted that the process of cutting and embossing aluminum foil amounted to manufacture. Since the aluminum foil was used as a shell for cigarettes to protect from them moisture; the nature, form and purpose of foil were changed.

Decision of the case:

The High Court pronounced that cutting and embossing did not transform aluminum foil into distinct and identifiable commodity. It did not change the nature and substance of foil. The said process did not render any marketable value, only made it usable for packing. There were no records to suggest that cut to shape/embossed aluminum foils used for packing cigarettes were distinct marketable commodity. Since, foil was cut to size in a continuous process, process did not amount to manufacture as per section 2(f) of Central Excise Act, 1944. Only the process which produces distinct and identifiable commodity and renders marketable value can be called manufacture.

9. Whether time-limit under section 11A of the Central Excise Act, 1944 is applicable to recovery of dues under compounded levy scheme?

Hans Steel Rolling Mill v. CCEx., Chandigarh 2011 (265) E.L.T. 321 (S.C.)

The Apex Court elucidated that compounded levy scheme is a separate scheme from the normal scheme for collection of excise duty on goods manufactured. Rules under compounded levy scheme stipulate method, time and manner of payment of duty, interest and penalty. Since the compounded levy scheme is comprehensive scheme in itself, general provisions of the Central Excise Act and rules are excluded.

The Supreme Court affirmed that importing one scheme of tax administration to a different scheme is inappropriate and would disturb smooth functioning of such unique scheme. Hence, it held that the time limit under section 11A of the Central Excise Act, 1944 is not applicable to recovery of dues under compounded levy scheme.

(Compiled by CA. Shefali Jain, BoS)

Direct Tax Laws

1. Would refund of excise duty and grant of interest subsidy under the incentive scheme formulated by Central Government for public interest, namely, to accelerate industrial development, generate employment and create opportunities for self-employment in state of Jammu and Kashmir be treated as a revenue receipt or a capital receipt?

Shree Balaji Alloys v. CIT (2011) 333 ITR 335 (J&K)

In the present case, the Tribunal contended that excise duty refund and grant of interest subsidy received by the assessee in pursuance of the New Industrial Policy introduced in Jammu and Kashmir were revenue receipt and not capital receipt on the grounds that:-

(i) the aforesaid incentives were not given to establish industrial units because the industry was already established.

(ii) the incentives were available only on commencement of commercial production.

(iii) the incentives were recurring in nature.

(iv) the incentives were not given for acquisition of capital assets.

(v) the incentives were given for easy market accessibility and to run the business more profitably.

The High Court observed that the fact that incentives would become available to industrial units entitled thereto from the date of commencement of commercial production and the fact that these were not granted for creation of new assets were not the sole criterian for determining the nature of subsidy. The fact that such incentives were provided to achieve a public purpose should also be considered to determine the nature of subsidy and hence, such subsidy could not be construed as a production or operational incentive for the benefit of the assessee. Hence, the aforesaid incentives are capital receipts not liable to taxation.

2. Can an assessee engaged in letting out of rooms in a lodging house also treat the income from renting of a building to bank on long term lease as business income?

Joseph George and Co. v. ITO (2010) 328 ITR 161 (Kerala)

On the above issue, it was decided that while lodging is a business, however, letting out of building to the bank on long-term lease could not be treated as business. Therefore, the rental income from bank has to be assessed as income from house property.

3. Would the phrase "used for purpose of business" in respect of discarded machine include use of such asset in the earlier years for claim of depreciation under section 32?

CIT v. Yamaha Motor India Pvt. Ltd. (2010) 328 ITR 297 (Delhi)

The issue under consideration in this case is whether depreciation is allowable on the written down value of the entire block, even though the block includes some machinery which has already been discarded, and hence, cannot be put to use during the relevant previous year.

On the above issue, it was observed that the expression "used for the purposes of the business" in section 32 when used with respect to discarded machinery would mean the use in the business, not in the relevant financial year/previous year, but in the earlier financial years. The discarded machinery may not be actually used in the relevant previous year but depreciation can be claimed as long as it was used for the purposes of business in the earlier years provided the block continues to exist in the relevant previous year. So, the condition for claiming depreciation in respect of the discarded machine would be satisfied if it is used in the earlier previous years for the business.

4. Is the assessee entitled to depreciation on value of goodwill considering it as "other business or commercial rights of similar nature" within the meaning of an intangible asset?

B. Raveendran Pillai v. CIT (2011) 332 ITR 531 (Kerala)

Under section 32(1)(ii), depreciation is allowable on intangible assets, being know-how, patents, copyrights, trade marks, license, franchise, or any other business or commercial rights of similar nature.

In this case, a hospital was run in the same building, in the same town, in the same name for several years prior to purchase by the assessee. By transferring the right to use the name of the hospital itself, the previous owner had transferred the goodwill to the assessee and the benefit derived by the assessee was retention of continued trust of the patients, who were patients of the previous owners. When goodwill paid was for ensuring retention and continued business in the hospital, it was for acquiring a business and commercial right and it was comparable with trade mark, franchise, copyright etc., referred to in the first part of clause (ii) of section 32(1) and so, goodwill was covered by the above provision of the Act entitling the assessee for depreciation.

5. Can EPABX and mobile phones be treated as computers to be entitled to higher depreciation at 60%?

Federal Bank Ltd. v. ACIT (2011) 332 ITR 319 (Kerala)

On this issue, the High Court held that the rate of depreciation of 60% is available to computers and there is no ground to treat the communication equipment as computers. Hence, EPABX and mobile phones are not computers and therefore, are not entitled to higher depreciation at 60%.

6. Would expenditure incurred on feasibility study conducted for examining proposals for technological advancement relating to the existing business be classified as a revenue expenditure, where the project was abandoned without creating a new asset?

CIT V. Priya Village Roadshows Ltd. (2011) 332 ITR 594 (Delhi)

In this case, the assessee, engaged in the business of running cinemas, incurred expenditure towards architect fee for examining the technical viability of the proposal for takeover of cinema theatre for conversion into a multiplex/four-screen cinema complexes. The project was, however, dropped due to lack of financial and technical viability. The issue under consideration is whether such expenses can be treated as revenue in nature, since no new asset has been created.

On this issue, the High Court observed that, in such cases, whether or not a new business/asset comes into existence would become a relevant factor. If there is no creation of a new asset, then the expenditure incurred would be of revenue nature. In this case, since the feasibility studies were conducted by the assessee for the existing business with a common administration and common fund and the studies were abandoned without creating a new asset, the expenses were of revenue nature.

7. Can expenditure incurred by a company on higher studies of the director's son abroad be claimed as business expenditure under section 37 on the contention that he was appointed as a trainee in the company under "apprentice training scheme", where there was no proof of existence of such scheme?

Echjay Forgings Ltd. v. ACIT (2010) 328 ITR 286 (Bom.)

On this issue, it was observed that there was no evidence on record to show that any other person at any point of time was appointed as trainee or sent abroad for higher education. Further, the appointment letter to the director's son, neither had any reference number nor was it backed by any previous application by him. The appointment letter referred to "apprentice training scheme" with the company in respect of which no details were produced. There was no evidence that he was recruited as trainee by some open competitive exam or regular selection process. Hence, there was no nexus between the education expenditure incurred abroad for the director's son and the business of the assessee company. Therefore, the aforesaid expenditure was not deductible.

8. Can the waiver of principal amount of loan taken for purchase of capital asset by the bank be treated as "benefit arising out of business" or "a remission of trading liability" for taxability as business income of the company?

Iskraemeco Regent Ltd. v. CIT (2011) 331 ITR 317 (Mad.)

The assessee company, engaged in the business of development, manufacturing and marketing of electro-mechanical and static energy meters, took a bank loan for purchase of capital assets. The grant of bank loan for purchase of a capital asset is a capital receipt and not a trading receipt. The provisions of section 41(1) are attracted only in case of remission of a trading liability. Since the loan was taken for purchase of capital assets, waiver of a portion of principal would not amount to remission of a trading liability to attract the provisions of section 41(1). Further, such waiver cannot be treated as a benefit arising out of business and consequently, section 28(iv) will not apply in respect of such loan transaction.

9. Would the special provisions for computing profits under section 44BB be applicable to a non-resident carrying on business of seismic data acquisition and processing under contract with Indian concerns?

Global Geophysical Services Ltd., In re (2011) 332 ITR 418 (AAR)

On an application made to the Authority of Advance Ruling by the non-resident on the above issue, the Authority observed that in an identical issue in *Geofizyka Torun SP. Z.O.O. (2010) 320 ITR 0268 (AAR),* it was observed that without seismic data acquisition and interpretation, it is impractical to carry out the activity of prospecting of mineral oil and gas which is a step in aid to its exploration. The seismic data (in processed form) is used to create highly accurate images of the earth's sub-surface which in turn are used by the exploration and production companies for locating potential oil and gas reserves based upon the geology observed.

Accordingly, in this case, the AAR ruled that the said activities and services of the applicant clearly fell within the description of section 44BB and the income derived by the applicant under the contracts with Indian concerns, namely ONGC and Cairn Energy, for seismic data acquisition and processing were to be computed under the provisions of section 44BB.

10. Can the Assessing Officer bring to tax the actual profits as per books of accounts, if the same is higher than 10% of receipts which are deemed to be the profits under section 44BBB in case of a foreign company engaged in turnkey projects?

DIT v. DSD Noell GmbH (2011) 333 ITR 304 (Delhi)

In the present case, the assessee is a German company providing engineering and technical services for various projects eligible for presumptive taxation scheme under section 44BBB. The assessee filed its return declaring a sum equal to 10% of the amount paid or payable to the assessee under the projects undertaken by it as deemed profits and gains chargeable to tax under the head "Profits and gains of business or profession" as per the provisions of section 44BBB. The Assessing Officer contended that on the basis of books of account maintained by the assessee, the profits could be more than 10% and therefore, the actual profits should be brought to tax by invoking sub-section (2) of section 44BBB.

On the above issue, the Delhi High Court held that if an assessee fulfills all the conditions mentioned in section 44BBB(1), the provisions of sections 28 to 44AA of the Act would not be applicable for computation of its business income, and a sum equal to 10% of the amount paid or payable to such foreign company would be deemed as its business income. Further, under section 44BBB(2), the assessee has the benefit of declaring before the Assessing Officer that the actual profits earned by it were less than 10% but the Revenue cannot take recourse of this sub-section to claim that the profits earned by the assessee were more than 10%.

11. Can exemption under section 54 be claimed in respect of more than one residential flat acquired

by the assessee under a joint development agreement with a builder, wherein the property owned by the assessee was developed by the builder who constructed eight residential flats in the said property, four of which were given to the assessee?

CIT v. Smt. K. G. Rukminiamma (2011) 331 ITR 211 (Kar.)

The assessee, being the owner of a property, entered into a joint development agreement with a builder to develop the property. Under the agreement, the builder constructed eight residential flats and handed over four residential flats to the assessee. The entire cost of construction and other expenses were borne by the builder.

The issue under consideration is whether capital gains exemption under section 54 can be claimed in respect of the four residential flats treating them as "a residential house". In the present case, the Revenue contended that the benefit of deduction under section 54 could be availed only in respect of one residential flat and in respect of the remaining three residential flats, the assessee was not entitled to deduction under section 54.

The Karnataka High Court, applying the decision in *Anand Basappa (2009) 309 ITR 329 (Kar.)* to the present case, held that all the four flats are situated in the same residential building and hence, will constitute "a residential house" for the purpose of section 54. Therefore, the assessee would be entitled to deduction under section 54 in respect of all four flats.

12. What can be the tests to determine "substantial part of business" of lending company for the purpose of application of exclusion provision under section 2(22)?

CIT v. Parle Plastics Ltd. (2011) 332 ITR 63 (Bom.)

Under section 2(22), dividend does not include, *inter alia*, any advance or loan made to a shareholder by a company in the ordinary course of its business, where the lending of money is a substantial part of the business of the company. The expression used in the exclusion provision of section 2(22) is "substantial part of the business". The expression "substantial part" does not connote an idea of being the "major part" or the part that constitutes majority of the whole. Sometimes a portion which contributes a substantial part of the turnover, though it contributes a relatively small portion of the profit, would be termed as a substantial part of the business. Similarly, a portion which is relatively small as compared to the total turnover, but generates a large portion, say more than 50% of the total profit of the company would also be a substantial part of its business. Percentage of turnover in relation to the whole as also the percentage of the profit in relation to the whole and sometimes even percentage of manpower used for a particular part of the business in relation to the total manpower or work force of the company would be required to be taken into consideration for determining the substantial part of business. The capital employed for a specific division of a company in comparison to total capital employed would also be relevant to determine whether the part of the business constitutes a substantial part.

In this case, 42% of the total assets of the lending company were deployed by it by way of loans and advances. Further, if the income earned by way of interest is excluded, the other business had resulted in a net loss. These factors were considered by the Tribunal in concluding that lending of money was a substantial part of the business of the company. Since lending of money was a substantial part of the business of the lending company, the money given by it by way of advance or loan to the assessee could not be regarded as a dividend, as it had to be excluded from the definition of "dividend" by virtue of the specific exclusion in section 2(22).

13. Would the procurements of parts and assembling them to make windmill fall within the meaning of "manufacture" and "production" to be entitled for deduction under section 80-IB?

CIT V. Chiranjjeevi Wind Energy Ltd. (2011) 333 ITR 192 (Mad.)

The Supreme Court, in *India Cine Agencies v. CIT(2009) 308 ITR 98,* laid down that the test to determine whether a particular activity amounts to "manufacture" or not is whether new and different goods emerge having distinctive name, use and character. Further, the Supreme Court, in *CIT v. Sesa Goa Ltd. (2004) 271 ITR 331,* observed that the word "production" or "produce" when used in comparison with the word "manufacture" means bringing into existence new goods by a process, which may or may not amount to manufacture. It also takes in all the by-products, intermediate products and residual products, which emerge in the course of manufacture of goods.

In this case, Madras High Court, applying the above rulings of the Apex Court, observed that the different parts procured by the assessee could not be treated as a windmill individually. Those different parts had distinctive names and only when assembled together, they got transformed into an ultimate product which was commercially known as a "windmill". Thus, such an activity carried on by the assessee would amount to "manufacture" as well as "production" of a thing or article to qualify for deduction under section 80-IB.

Note : The definition of manufacture has been incorporated in section 2(29BA) by the Finance (No. 2) Act, 2009 w.e.f. from 01.04.2009, and it means, *inter alia,* a change in a non-living physical object or article or thing resulting in transformation of the object or article or thing in to a new and distinct object or article or thing having a different name, character and use. Assembling of windmill at factory and putting them at site of customer apparently satisfies this definition of manufacture also.

14. Can an assessee not claiming deduction under section 80-IB in the initial years claim the said deduction for the remaining years during the period of eligibility, if the conditions are satisfied?

Praveen Soni v. CIT (2011) 333 ITR 324 (Delhi)

On the above issue, the Delhi High Court held that the provisions of section 80-IB nowhere stipulated a condition that the claim for deduction under this section had to be made from the first year of qualification of deduction failing which the claim will not be allowed in the remaining years of eligibility. Therefore, the deduction under section 80-IB should be allowed to the assessee for the remaining years up to the period for which his entitlement would accrue, provided the conditions mentioned under section 80-IB are fulfilled.

15. Does income derived from sale of export incentive qualify for deduction under section 80-IB?

CIT v. Jaswand Sons (2010) 328 ITR 442 (P&H)

On this issue, the High Court held that income derived from sale of export incentive cannot be said to be income "derived from" the industrial undertaking and therefore, such income is not eligible for deduction under section 80-IB.

16. Would grant of transport subsidy, interest subsidy and refund of excise duty qualify for deduction under section 80-IB?

CIT v. Meghalaya Steels Ltd. (2011) 332 ITR 91 (Gauhati)

The Supreme Court, in *Liberty India v. CIT [2009] 317 ITR 218*, observed that section 80-IB provides for deduction in respect of profits and gains "derived from the business" of the assessee and accordingly, the Parliament intended to cover sources of profits and gains not beyond the first degree. There should be a direct nexus between the generation of profits and gains and the source of profits and gains, the latter being directly relatable to the business of the assessee. Any other source, not falling within the first degree, can only be considered as ancillary to the business of the assessee.

In this case, the High Court observed that the transport and interest subsidies were revenue receipts which were granted after setting up of the new industries and after commencement of production. The transport subsidy would have the effect of reducing the inward and outward transport costs for the purposes of determining the cost of production as well as for sales. However, the subsidy had no direct nexus with the profits or gains derived by the assessee from its industrial activity and the benefit to the assessee was only ancillary to its industrial activity. The subsidies were not directly relatable to the industrial activity of the assessee, and hence they did not fall within the first degree contemplated by the Act. Therefore, the subsidies could not be taken into account for purposes of deduction under section 80-IB.

However, the payment of Central excise duty had a direct nexus with the manufacturing activity and similarly, the refund of the Central excise duty also had a direct nexus with the manufacturing activity, being a profit-linked incentive, since payment of the Central excise duty would not arise in the absence of any industrial activity. Therefore, the refund of excise duty had to be taken into account for purposes of section 80-IB.

Note: Similar ruling was pronounced by the Himachal Pradesh High Court in *CIT* v. *Gheria Oil Gramudyog Workers Welfare Association (2011) 330 ITR 117,* wherein it was held that interest subsidy received from the State Government cannot be treated as "profit derived from industrial undertaking" and hence was not eligible for deduction under section 80-IB.

17. Can interest under sections 234B and 234C be levied where a company is assessed on the basis of book profits under section 115JB?

Joint CIT v. Rolta India Ltd. (2011) 330 ITR 470 (SC)

On this issue, the Supreme Court observed that there is a specific provision in section 115JB(5) providing that all other provisions of the Income-tax Act, 1961 shall apply to every assessee, being a company, mentioned in that section. Section 115JB is a self-contained code pertaining to MAT, and by virtue of sub-section (5) thereof, the liability for payment of advance tax would be attracted. Therefore, if a company defaults in payment of advance tax in respect of tax payable under section 115JB, it would be liable to pay interest under sections 234B and 234C. Therefore, interest under sections 234B and 234C shall be payable on failure to pay advance tax in respect of tax payable under section 115JB.

Note – *According to section 207, tax shall be payable in advance during any financial year, in accordance with the provisions of sections 208 to 219 (both inclusive), in respect of the total income of the assessee which would be chargeable to tax for the assessment year immediately following that financial year. Under section 115JB(1), where the tax payable on total income is less than 18% of "book profit" of a company, the "book profit" would be deemed to be the total income and tax would be payable at the rate of 18%. Since in such cases, the book profit is deemed to be the total income, therefore, as per the provisions of section 207, tax shall be payable in advance in respect of such book profit (which is deemed to be the total income) also.*

18. Would the interest earned on surplus funds of a club deposited with institutional members satisfy the principle of mutuality to escape taxability?

Madras Gymkhana Club v. DCIT (2010) 328 ITR 348 (Mad.)

The assessee, club providing facilities like gym, library, etc, to its members earned interest from fixed deposits which it had made by investment of its surplus funds with its corporate members.

The High Court held that interest earned from investment of surplus funds in the form of fixed deposits with institutional members does not satisfy the principle of mutuality and hence cannot be claimed as exempt on this ground. The interest earned is, therefore, taxable.

19. Can difference between commercial price and the published price be treated as additional special commission in the hands of the agents of an airline company to attract TDS provisions under section 194H?

CIT v. Qatar Airways (2011) 332 ITR 253 (Bom.)

In this case, the airline company sold tickets to the agents at a fixed minimum commercial price. The agents were permitted to sell the tickets at a higher price, however, up to the maximum of published price. Commission at the rate of 9% of published price was payable to the agents of the airline company, on which tax was deducted under section 194H. The issue under consideration is whether the difference between the published price and the minimum fixed commercial price amounts to additional special commission in the hands of the agents to attract the provisions of section 194H.

On this issue, the Bombay High Court observed that the airline company would have no information about the exact rate at which the tickets were ultimately sold by its agents. It would be impracticable and unreasonable to expect the assessee to get a feed back from its numerous agents in respect of each ticket sold. Thus, tax at source was not deductible on the difference between the fixed minimum commercial price and the published price, even though the amount earned by the agent over and above fixed minimum commercial price would be taxable as income in his hands.

20. Can discount given on sale of SIM cards and recharge coupons by a telecom company to its distributors under a prepaid scheme be treated as commission to attract the TDS provisions under section 194H?

Vodafone Essar Cellular Ltd. v. ACIT (TDS) (2011) 332 ITR 255 (Kerala)

On this issue, the Kerala High Court observed that it was the SIM card which linked the mobile subscriber to the assessee's network. Therefore, supply of SIM card by the assessee-telecom company was only for the purpose of rendering continued services to the subscriber of the mobile phone. The position was the same so far as recharge coupons or e-topups were concerned which were only air time charges collected from the subscribers in advance under a prepaid scheme.

There was no sale of any goods involved as claimed by the assessee and the entire charges collected by the assessee from the distributors at the time of delivery of SIM cards or recharge coupons were only for rendering services to ultimate subscribers. The assessee was accountable to the subscribers for failure to render prompt services pursuant to connections given by the distributor. Therefore, the distributor only acted as a middleman on behalf of the assessee for procuring and retaining customers and therefore, the discount given to him was within the meaning of commission under section 194H on which tax was deductible.

21. Is disallowance under section 40(a)(i) for non deduction of tax at source attracted in respect of payment for purchase of software from a non-resident, by treating the same as royalty in case where the purchase is for subsequent resale in the Indian market?

CIT Vs. Dynamic Vertical Software India P. Ltd. (2011) 332 ITR 0222 (Delhi)

In this case, the Delhi High Court held that since the assessee had purchased the software from Microsoft and subsequently sold the same in the Indian market, he had acted as a dealer and therefore the payment to the non-resident, Microsoft, can not be termed as royalty. Therefore, section 40(a)(i) would have no application in this case and the payment made to the non-resident cannot be disallowed under section 40(a)(i) on the ground that no tax was deducted at source.

22. Can penalty under section 271(1)(c) for concealment of income be imposed in a case where the assessee has raised a debatable issue?

CIT v. Indersons Leather P. Ltd. (2010) 328 ITR 167 (P&H)

The assessee company, after discontinuing its manufacturing business, leased out its shed along with fittings and disclosed the income as income from business, whereas the Revenue contended that the same be assessed as "Income from house property. The issue under consideration is whether penalty under section 271(1)(c) can be imposed in such a case.

On this issue, the High Court observed that, mere raising of a debatable issue would not amount to concealment of income or furnishing inaccurate particulars and therefore, penalty under section 271(1)(c) cannot be imposed.

23. In a case where there is a transfer of shares in a non-resident company from one non-resident to another non-resident, is it possible to infer that the transaction has significant nexus with India to attract the taxability provisions, if it ultimately resulted in transfer of controlling interest in an Indian company?

Vodafone International Holdings B.V. v. UOI (2010) 329 ITR 126 (Bom.)

Hutchison Essar Limited (HEL) is an Indian company carrying on the business of providing telecommunication services in India. Hutchison Telecommunication International Limited (HTIL) is a foreign company, registered in Hong

Kong. Vodafone International Holdings B.V. (VIH BV), is a Netherlands company controlled by the Vodafone group.

A sale/purchase agreement was entered in to between VIH BV and HTIL, under which HTIL agreed to procure and transfer to VIH BV, the entire issued share capital of CGP (a foreign company registered in Cayman Islands, Mauritius) free from all encumbrances together with all rights attaching and accruing and together with assignment of loan interest.

VIH BV contended that the transaction represented a transfer of a capital asset, i.e., the share of CGP, and that any gain arising to the transferor or to any other person out of this transfer was not taxable in India because the asset was not situated in India as CGP is a foreign company and also the consideration was paid and received outside India, and hence, there was no sum chargeable to tax in India and the obligation to deduct tax at source by VIH BV under section 195 did not arise.

On the above issue, the Bombay High Court held that, that HTIL had an aggregate of 67% (approx.) of controlling interest in HEL by way of indirect equity shareholding, option agreements, finance agreements, shareholders agreements, etc., through CGP. The transaction between HTIL and VIH BV was structured so as to achieve the object of discontinuing the operations of HTIL in relation to the Indian mobile telecommunication operations by transferring the rights and entitlements of HTIL in HEL to VIH BV. The rights and entitlements included transfer of control premium, use and rights to the Hutch brand in India, a non-compete agreement with the Hutch group, the value of non-voting non-convertible preference shares, various loan obligations and the entitlement representing indirect interest in HEL.

The rights and entitlements of HTIL in HEL constituted capital assets within the meaning of section 2(14) to be covered in the phrase "property of any kind held by an assessee". The consideration that was paid to HTIL by VIH BV included consideration for acquisition of diversified rights and entitlements. Therefore, the transaction had a significant nexus with India. The essence of the transaction was a change of controlling interest in HEL, which represented a source of income in India.

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

On Line Articles Placement Portal for selection of Articled Assistants by CA Firms

The Board of Studies of the ICAI has been providing Optional Campus Placement Scheme for selection of Articled Assistants by CA Firms through its Articles Placement Portal. It provides a platform to the firms of Chartered Accountants having vacancies for Articled Assistants to shortlist eligible students for selection of articled assistants, and call them for Interview at their offices, as per date and time convenient to them. The eligible candidates who have either (a) Passed Group-I or both Groups of the IPCC examination, or (b) Passed either of the Groups or both groups of PE-II examination and are willing to join articled training can register themselves on the portal. The candidates shortlisted by CA Firms would be automatically informed by e-mail through the Portal, to appear for interview at their respective Offices, at the designated date and time.

The services of Online Placement Portal are active for facilitating the placement of Articles in CA Firms on pan India basis. Both eligible CA firms and candidates who are willing to avail of this facility shall have to register themselves online through the Articles Placement Portal at http://bosapp.icai.org. The services on the Portal would be available for two months from the date of registration by the firms as well as students.

Please refer the detailed guidelines available at the institutes' website www.icai.org and on the Portal.

In case of any clarification, please contact the Board of Studies, ICAI Bhawan, A-29, Sector-62, Noida-201309, Tel. No. 0120-3045930/931; eMail: bosapp@icai.org.

Director, Board of Studies

Applicability of taxable services for May 2012 and November 2012 examinations

Professional Competence Examination

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.

Integrated Professional Competence Examination

It is clarified that in Part–II : Service tax and VAT of Paper 4 : Taxation, students will be examined only in respect of the following taxable services:

1. Practising Chartered Accountant's services
2. Mandap keeper's services
3. Commercial training or coaching services
4. Information technology software services
5. Consulting engineer's services
6. Business exhibition services
7. Scientific and technical consultancy services
8. Technical testing and analysis services

Final Examinations

Paper 8 : Indirect Tax Laws

It is clarified that in respect of taxable services covered in the syllabus of 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 agent's services
11. Cargo handling services
12. Custom house agent's services
13. Storage and warehousing services
14. Transport of goods through pipeline or other conduit
15. Transport of goods by rail services

- **Professional Services**

16. Practising Chartered Accountant's services
17. Management or business consultant's services
18. Technical testing and analysis services
19. Market research agency's services
20. Legal consultancy services
21. Public relations services

- **Real estate & infrastructure services**

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

- **Business services**

29. Business auxiliary services
30. Business support services
31. Manpower recruitment agent's services
32. Management, maintenance or repair services

Strategic Management

Integrated Professional Competence Examination [Paper 7 - Section B] and Professional Competence Examination [Paper 6 - Section B]

The students of Integrated Professional Competence Course [Paper 7 - Section B – Strategic Management] and Professional Competence Course [Paper 6 - Section B – Strategic Management] may note that there will be no Case Study (carrying 15 marks) in the examinations.

Instead of the Case Study a compulsory question containing five sub-divisions carrying three marks each would be included to cover maximum possible topics from the syllabus.

The new pattern of the question paper shall be applicable from November, 2011 examinations.

Director, Board of Studies

AARAMBH – THE SAGA BEGINS!!!!

Yes! That's the name decided by the 6th Batch of COE for themselves. After all, was not the **Centre of Excellence** the beginning of many things…? A new city (for most of us traveled from across the Nation), new campus, new experiences, new friends and moreover, a new direction of Life!

It all started on 3rd July, 2011, a day before the course actually began. The 55 people thronged the campus were totally unaware of what those 40 days had in store for them. Hi's and Hello's in different tones and accents echoed through the Centre of Excellence. And in no time, chattering and blabbering was heard from every nook and corner. We were put to the task from the very first day… the task of remembering the names and hometowns of our fellow batch mates. And the series of tasks continued since then. But each task that we performed, each presentation that we gave helped us shape our personalities and kill the stage fear. Group Discussions and Mock Interviews, acting as fillers, helped us gain self-confidence.

The faculty members, including the guest faculties chipped and polished us with their technical and non-technical sessions to help us shine like diamonds in the outside world.

The classrooms were not the only place in COE, which gave us the learning lessons. Infact, we learnt most of the things outside the classrooms. The most practical lessons! Lessons of making new friends and building a strong bond of friendship in absolutely no time! To add to it, lessons of emotional intelligence. These 40 days offered us all sorts of incidents, some which made us laugh till we rolled down on the lawn, while some which made us cry till we got exhausted.

The days were filled with moments like the TT tournaments, Practice sessions of Devil's Advocate, waiting time for our interview turns and even the daily meals when we literally brought the campus down. Then there was the day of results. All 55 of us were sailing in the same boat. A cloud of anxiety covered the entire COE. Fortunately, the results were announced before the tension reached the peak. Students were seen crying, dancing, and shouting all over the campus. Though not all could clear, majority of the crowd could. A good balance of emotions was felt as students who had cleared consoled and cheered up who had not, and those who had not, put up a brave face and joined the celebrations of those who had cleared. It was the **AARAMBH of ONE FAMILY**!

The Family ties grew stronger with every weekend outings to nearby markets or just walks around the financial district. Tours of Hyderabad city and outskirts were like icing on the cake. The evenings were full of dancing, singing, reading or extempore sessions as people gave a glimpse of their talents to others.

Before we could realize, it was the last day. It began with convocation ceremony and sailed through what seemed like never-ending photo sessions. By evening, as some students started leaving for their hometowns, even the campus must have wept in sorrow. The rest of us did not sleep the entire night for we wanted stock up as many memories as possible.

The next day, as we bid the campus a final adieu, One resolution was made: This will always be worshipped just like any Temple, Mosque and Church. And that we, The **AARAMBHIANS**, together will definitely comeback someday to pay our due respects.

(Contributed jointly by the participants of the 6th Batch)

CA G. Ramaswamy, President, ICAI inaugurating the Convocation-2011, Kolkata. in the presence of Chief Guest Hon'ble Bratya Basu, Minister for Higher Education, West Bengal, CA Jaydeep Narendra Shah, Vice President, ICAI and CA.V. Murali, Chairman, Board of Studies, ICAI.

A photograph taken on the occasion of Convocation-2011, Kolkata. CA G. Ramaswamy, President, ICAI, CA Jaydeep Narendra Shah, Vice President, ICAI and CA.V.Murali, Chairman, Board of Studies, ICAI and other dignitaries are seen in picture.

CA G. Ramaswamy, President, ICAI conferring the certificate of membership to a newly qualified Chartered Accountant in Kolkata.

CA G. Ramaswamy, President, ICAI, Chief Guest Hon'ble Bratya Basu, Minister for Higher Education, West Bengal, CA Jaydeep Narendra Shah, Vice President, ICAI and CA. V. Murali, Chairman, Board of Studies, ICAI with a newly qualified Chartered Accountant.

A photograph of the inaugural ceremony of National Convention for CA Students, Kolkata. CA Jaydeep Narendra Shah, Vice President, ICAI, CA. V. Murali, Chairman, Board of Studies, ICAI and other dignitaries are seen in picture.

A view of the Dais at the National Convention of CA Students, Lucknow. CA Jaydeep Narendra Shah, Vice President, ICAI, CA. V. Murali, Chairman, Board of Studies, ICAI and other dignitaries are seen.

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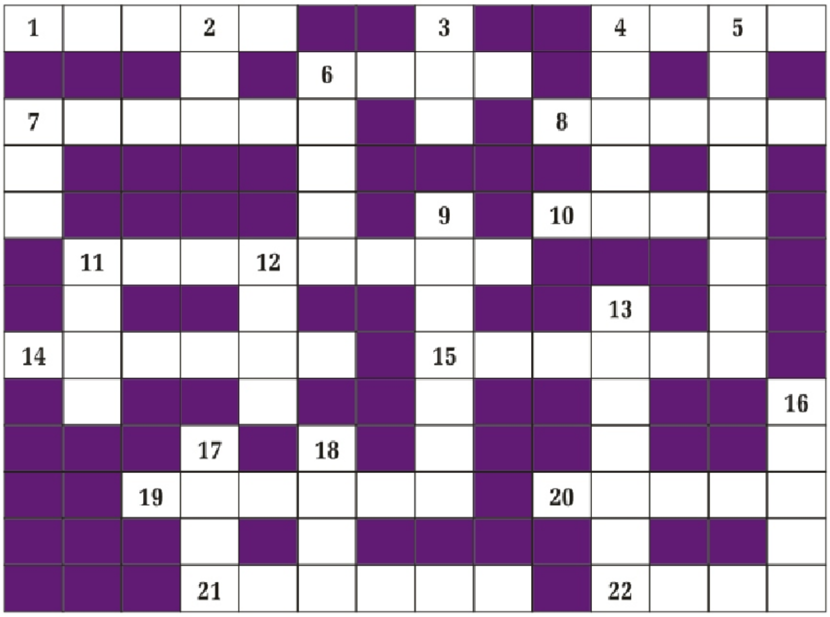

Across

1. An SSI is allowed to take the CENVAT credit of ______ of the duty paid on the capital goods in the same financial year.
4. _______ series forecasting is the use of a model to forecast future events based on known past events.
6. An amount owed to a person for funds borrowed.
7. A person who is ordered to pay the amount of bill of exchange.
8. The general direction of stock market.
10. Compensation paid by a tenant to the property owner for use or occupancy of a property.
11. Another name for interest rate guarantee_____.
14. The Thirteenth Finance Commission advocated ________ up approach for transition of government accounting from cash basis to accrual basis.
15. Under Excise, Advance Ruling Authority must pronounce its advance ruling within ______ days of the receipt of application.
19. One who purchases an option.
20. The device used for converting analog signal into digital representation.
21. Charge must be registered with the Registrar of Companies within _____ days.
22. ________money is the money used or needed to set up a new business or enterprise

Down

2. Most mainstream economists favour a ______, steady rate of inflation.
3. The Central Bank of India.
4. Brief and pithy as language.
5. Ind AS 21 permits an option to recognise exchange differences arising on translation of certain long-term _______ items from foreign currency to functional currency directly in equity.
6. _____ balance of profit and loss account shall be shown as a negative figure under the head "surplus" as per revised schedule VI.
7. A person responsible for the design, implementation, maintenance and repair of an organization's database.
9. The currency pair in a foreign exchange transaction consists of a base currency and a ____ currency.
11. Under the composition scheme for works contract service, the assessee has the option to pay _______percent of gross amount charged for the works contract as service tax.
12. When too much money chases too few goods, demand _______ inflation results.
13. In the revised Schedule VI, reconciliation of number of shares issued at the beginning and at the end of reporting ________is required.
16. Ridiculed by imitation.
17. Ind AS 40 Investment Property permits only the _______ model.
18. _______ is categorised as one of the "Other Public Sector banks".

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