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The Chartered Accountant Student

Your Monthly Guide to the CA News, Information & Events

STUDENTS' JOURNAL
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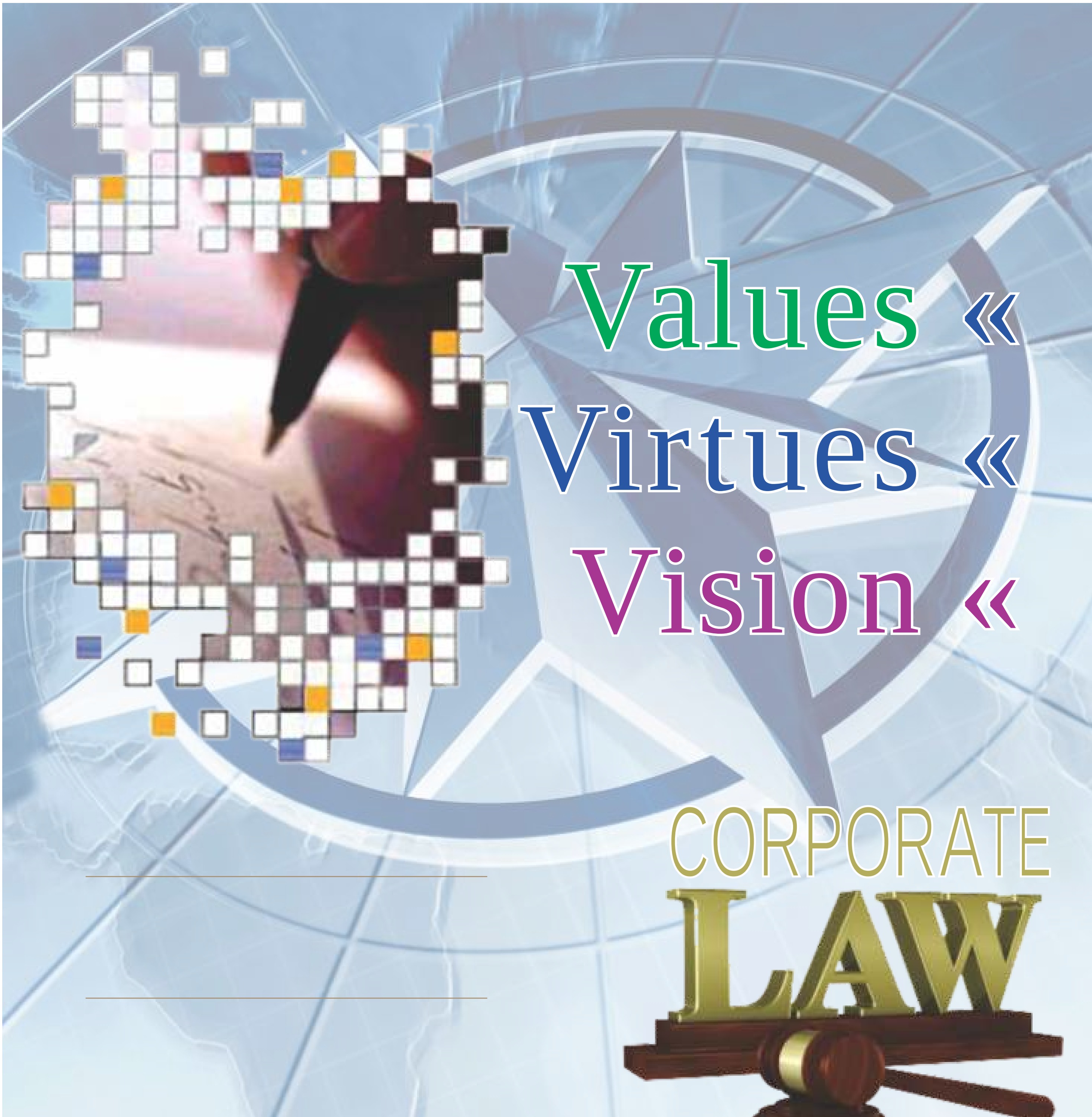


President's Communication

Dear Budding Professionals,

This Journal should reach you amidst your Chartered Accountancy examinations. My best wishes to all of you who will appear for the same. I understand the anxiety and pressure a student goes through during the examinations. Make peace with yourself. Find a schedule that fits you the best and make it work. It may involve burning midnight oil or becoming an early bird. Schedule the toughest work during your most productive hours. Attempt to tackle topics that require intense concentration when you have no interruptions. Avoid learning by rote and try to properly understand concepts. I strongly believe that determination, hard work and sincerity would help you achieve success with flying colours.

Recently, the Board of Studies organized *mock tests* across the country through the Regional Councils and their Branches. It is noteworthy that many of you participated in the same. I am sure that these tests will greatly benefit you for appearing in the May 2013 examinations. In addition, an updated booklet "How to face CA Examination" has also been distributed among the students as well as hosted on the Institute website to help the students in facing the examinations more confidently and fearlessly.

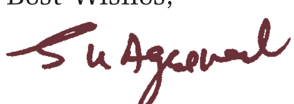
The Institute, committed to the cause of the students, has been developing consistent policies, programmes and coherent educational pathways in order to better serve them across the country and abroad. As a part of the Action Plan 2013-14, webcasts on educative literature have been planned and accordingly are being organised by Board of Studies. These webcasts basically aim to provide free coaching, provide a self learning and development facility, support students in small mofussil towns and cities with quality educational inputs, and taking learning and development to the doorsteps of students. I am happy to share with you that the Board of Studies has successfully conducted two webcasts namely, "How to Prepare for CA Examinations" and "Yes I can Qualify CA – Motivation", in the month of April. These live webcasts received a very encouraging response.

The Institute has also been leveraging technology to better serve the students, as this generation and future generations of students are increasingly comprised of digital natives. With the advent of Information Technology (IT), the geographical boundaries of the globe have actually become virtual. IT plays a crucial role at both the interfaces, i.e., in disseminating and receiving the latest information. I would advise you all to surf the Institute's website regularly for all the latest information pertaining to their studies. This would enable you to be abreast of the newest and contemporary amendments, notifications, announcements etc relevant to your respective examination attempts.

Today, students coming out of our educational system as Chartered Accountants are more confident in soft and managerial skills. They are undergoing a General Management and Communication Skills (GMCS) course that has been designed in a manner that helps them to acquire these skills. My advice to the students who are undergoing articled training to complete the GMCS as early as possible. The GMCS Course helps the students to acquire holistic skills that enable them to help organisations to increase and improve their strategic business in the global competitive environment.

I would like to quote Mr. Ralph Waldo Emerson, an American essayist and poet, "When it is darkest, men see the stars". A Chartered Accountant must be a mature, confident, and positive spirited human being. People who sense opportunities even in the darkest hours are able to rise up to the challenge and emerge as winners. Similarly, even if we lack in some areas of study or life, we have to polish our skill sets to the reach a level where the weaknesses becomes our strengths.

Best Wishes,



CA. Subodh K. Agrawal
President
The Institute of Chartered Accountants of India

Vice President's Communication

Dear Students,

With the May examinations knocking at the door, I am confident that you must be diligently busy with the preparations to reach the target and achieve the desired goal. This is a very important phase of your life so get engrossed with your studies and develop an integrated approach to resolve the practical problems. Self-study and Self-confidence are master keys to unfold the doors of success in any sort of examination. You need to identify your strengths and weaknesses and accordingly work on the areas which need improvement.

I will not advise you how to prepare for the examinations as this aspect has been dealt by me in my previous communication. But definitely my advice is to adopt a systematic and methodical approach towards the examinations. It is a known fact that while preparing for any examination one has to be persistent and hard working. But when we talk of professional examination, one has to prepare meticulously as the standards set are high and expectations from the candidates are equally on a higher plinth.

Let me point out that written examination is the most prevalent means of evaluating students learning. While writing the examinations, your aim should be to achieve excellence. You should try to communicate your answers effectively by giving proper explanations and quote relevant legal provisions and examples wherever necessary. Examiners while evaluating your answer sheets have pointed out that though the students knew answers to the questions but the way they presented, was not satisfactory. It implies that you should lay emphasis on enhancing your presentation and writing skills as this will enable you to communicate your answers clearly leaving no room for any doubt or confusion.

Pre-requisite for achieving success in today's business environment is the ability to create and communicate an engaging vision, innovation, deep understanding of major global drivers and ability to apply conceptual knowledge to find business solutions. Thus, to attain success as a professional, strong foundation need to be built as a student.

Friends, stress level before and during the examination are always on high side but time management can help you lower the stress and achieve success. Our brain is like a garden, we can plant and tend all sorts of beautiful thoughts in it, but some people let weeds sprout to such a degree that they literally crowd out the potential of their gardens. Success and accomplishment are not limited to those who are lucky. They are available to anyone who is disciplined, focused, committed, positive and enthusiastic. I hope that you might have started doing revision of your respective courses. Be regular, disciplined and resolute towards your set objectives. Do not develop the habit of procrastination, it can dwindle your professional growth. On this note, I would like to conclude and wish you best of luck for May 2013 examinations.

Yours sincerely

K. Raghu

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

Chairman's Communication

My Dear Students,

Your examinations would have started by the time this issue reaches you. I can imagine the stress which you would be going through at this point of time. All I can say is sincerely prepare for your examinations and keep a positive framework of mind. Keep away from all disturbing factors like mobile phones, television, internet, visitors etc. Have at least six hours sleep, eat healthy and nourishing food and daily do some breathing exercises to refresh your body and mind. On the day of examination, reach the examination venue well in time to avoid last minute anxiety. And, please do not discuss anything relating to your examination at the last moment, as this could make you all the more nervous. Take the exams with a calm mind as our mind functions best when it is calm. I am sure if you follow these simple tips and steadfastly move towards your goal of achieving success in exams, you will get it. **Remember, in the fight between wave and rock on seashore, wave always wins. Not through strength, but through persistence. Don't ever give up until you win.**

I am pleased to inform you that three **Webcasts on Income Tax, How to Prepare for Examinations and Yes I can Qualify CA** were organized by the BOS in April, 2013. These were conducted by subject experts in their respective fields. Quite a large number of students accessed the Webcasts and were benefitted. The BOS plans to organize more such Webcasts in future also. Do avail of this facility as this would help you in broadening your scope for success in your examinations.

The BOS is frantically working in designing a **new dedicated portal** for the Board of Studies. This portal would act as a **Single Window Reference** for all student related activities. This is going to save students a lot of time and energy as they could straight away refer this portal for all matters/ activities/ announcements relating to them.

I would like to remind the students who have registered for Practical Training on or after May 1, 2012, to complete the first course on General Management and Communication Skills **(GMCS I)** within one year of joining the practical training. The second GMCS will have to be completed during 18-36 months of their practical training.

The Institute understands that it is not sufficient just to train its students academically as once they become the members of the profession, they would have to deal with different officials in different capacities. This necessitates them to have a good, pleasing personality. For the benefit of its students, the BOS is organizing 3-5 days **Workshops on English Speaking, Writing Skills and Business Communications** in different parts of the country in coming months. I advise you to participate in these Workshops in great numbers and develop confidence to face the world.

Recently, a delegate of 7 students went to Sri Lanka under Students Exchange Programme of SAFA. These students had a very enriching experience as they had the chance of meeting and exchanging views with participants of other countries. I compliment these students and wish more and more students take part in such programmes.

I am also pleased to share with you that our **e-learning programme** has become quite a hit with the students. More than 20,000 students have registered for the programme and more than 2,00,000 visitors have visited the respective site. I urge you to fully utilize this free service of the BOS and get benefitted.

I am happy to inform you that the BOS is soon going to put the **Draft Practical Training Guide** on Institute's website for public comments. You may go through this Guide and send us your comments/suggestions which would be considered for incorporation in the Training Guide. Also, in order to strengthen the system of Practical Training, the Institute is soon going to make the requirement of maintaining **e-diary** mandatory. This would not only enhance the nature and quality of training imparted by its members, but would also help you in maintaining a record of practical experience in an organized manner.

Once the May examinations get over, the BOS plans to organize a number of activities viz. Conventions, Conferences, Seminars, Youth Festivals, and Sports Events etc. Do keep visiting the Institute's website and also see the Students' Journal for announcements relating to these activities and try participating in as many as you can. Believe me, you will feel the difference in yourself as these activities are bound to have a positive impact on you.

Wishing You All The Best For Your Examinations

Yours sincerely,

CA. Vijay Kumar Garg
Chairman, BOS

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Inside
May

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Convergence of Investor Protection Measures

CS. Megha Goel

The long awaited Companies bill, which will overhaul the country's corporate law to strengthen governance and increase transparency, was passed in the Lok Sabha on 18th December, 2012. The amendment bill was introduced way back in 2008 but due to the dissolution of the 14th Lok Sabha, it was referred to the Parliamentary Standing Committee in 2009. After incorporating several recommendations, it was decided to introduce the bill again as the Companies Bill, 2011. The Companies Bill 2011 was laid before the Parliament in December 2011 and was referred to Parliament Standing Committee on Finance. The Standing Committee submitted its report in June 2012 and based on Standing Committee's report, the Companies Bill 2011 was amended and was introduced as the new Companies Bill, 2012. That's how the government gave a facelift to 56-year-old Companies Act.

Through its around 470 Clauses, 29 Chapters and 7 Schedules, the new law proposes to maintain documents in electronic format, introduces the concept of one person company, asks big companies to set aside funds for corporate social activities, grants arrest power to SFIO, Class action suits and mandates rotation of auditors. The Bill provides for self-regulatory process and stringent compliance regime.

The bill gives more teeth to shareholders. Now, they can take legal action against fraud. The biggest boost for the small investor comes in the form of various Investor protection measures like Class Action Suits, Serious Fraud Investigation Office (SFIO), Prohibition of Insider Trading, Prohibition on Forward dealings by Directors and Key Managerial Personnel which can allow the group of investors a degree of protection and safeguard their rights and interests, an option not available under the current Law.

Here are some New Proposals for Investor Protection :

I Class Action Suits: For the first time, a provision has been made for class action suits. Class-action suits may be filed by member(s) or depositor(s) before the tribunal if they believe that the affairs of the company are being conducted in a manner detrimental to the interest of the company and its members or depositors. Enabling such class-action suits should, in the long-run, help improve the quality of financial reporting as well as the quality of corporate governance amongst the companies.

According to Clause 245 of the Companies Bill, 2012:

- Specified number of member(s), depositor(s) or any class of them, may, if they are of the opinion that the management or control of the affairs of the company are being conducted in a manner prejudicial to the interests of the company or its members or depositors, file an application before the Tribunal on behalf of the members or depositors for seeking all or any of the following orders, namely:–

  (a) restraining the company from committing an *ultra vires* act

  (b) restraining the company from committing breach of its memorandum or articles;

  (c) declaring a resolution void which alters the memorandum or articles and passed by suppression of material facts;

  (d) restraining the company and its directors from acting on such resolution;

  (e) restraining the company from doing an act which is contrary to the provisions of this Act;

  (f) restraining the company from taking action contrary to any resolution passed by shareholders

  (g) claiming damages or compensation or demanding any other suitable action from or against –

    (i) the company or its directors for any fraudulent, unlawful or wrongful act or omission or conduct or any likely act or omission or conduct on its or their part;

    (ii) the auditor including audit firm of the company for any improper or misleading statement of particulars made in his audit report or for any fraudulent, unlawful or wrongful act or conduct; or

    (iii) any expert or advisor or consultant or any other person for any incorrect or misleading statement made to the company or for any fraudulent, unlawful or wrongful act or conduct or any likely act or conduct on his part;

  (h) seeking any other remedy as the Tribunal may deem fit.

- The specified number of members who can apply to Tribunal as above shall be as per the table below:

(The contributor is Section Officer, ICAI)

Company	Members entitled to apply
In the case of a company having a share capital	• Not less than 100 members of the company or not less than such percentage of the total number of its members as may be prescribed, whichever is less, or • Any member or members holding not less than such percentage of the issued share capital of the company as may be prescribed Members as above are eligible subject to the condition that the applicant or applicants has or have paid all calls and other sums due on his or their shares
In the case of a company not having a share capital	Not less than 20% of the total number of its members.

- While considering an application, the Tribunal shall take into account, in particular –
  - (a) whether member(s) or depositor(s) acted in good faith
  - (b) whether involvement of any person other than directors or officer
  - (c) whether member or depositor could pursue in his own right rather than through an order
  - (d) views of the members or depositors who have no personal interest, direct or indirect, in the matter being proceeded
  - (e) where the cause of action is an act or omission that is yet to occur, whether the act or omission could be, and in the circumstances would be likely to be –
    - (i) authorised by the company before it occurs; or
    - (ii) ratified by the company after it occurs;
  - (f) where the cause of action is an act or omission that has already occurred, whether the act or omission could be, and in the circumstances would be likely to be, ratified by the company.
- Once the application filed is admitted then –
  - (a) public notice shall be served to all the members or depositors of the class in the prescribed manner;
  - (b) similar applications in any jurisdiction should be consolidated into a single application and the lead applicant would be selected among class members or depositors and if they are unable to come to a consensus then by the Tribunal.
  - (c) two class action applications for the same cause of action shall not be allowed;
  - (d) the related cost or expenses shall be defrayed by the company or any other person responsible for any oppressive act.
- Any order passed by the Tribunal shall be binding on the company and all its members, depositors and auditors including audit firm or expert or consultant or advisor or any other person associated with the company.

Who is Liable?	Penalty
Default by Company in complying with order passed by Tribunal	Fine not less than ₹ 5 Lakh but may extend to ₹ 25 Lakh
Default by Officer in complying with order passed by Tribunal	Imprisonment upto 3 years and fine not less than ₹ 25,000 but may extend to ₹ 1 Lakh
If application is found to be frivolous or vexatious	Rejection of application and applicant shall be liable to pay not exceeding ₹ 1 Lakh to the opposite party.

- All the above provisions shall not apply to a banking company.

II Serious Fraud Investigation Office (SFIO): The Companies Bill, 2012 has provisions to give SFIO suo moto powers to arm it with legal and statutory powers to probe corporate misdoings. Given that corporate frauds are becoming increasingly sophisticated with the improvement in technology, SFIO has been demanding more powers, in line with those enjoyed by Income Tax authorities, Customs Department, Enforcement Directorate etc.

- **Its Composition:** SFIO shall be headed by a Director and consist of such number of experts from the following fields to be appointed by the Central Government from amongst persons of ability, integrity and experience in, –
  - (i) banking;
  - (ii) corporate affairs;
  - (iii) taxation;
  - (iv) forensic audit;
  - (v) capital market;
  - (vi) information technology;
  - (vii) law; or
  - (viii) such other fields as may be prescribed.

The Central Government shall, by notification, appoint a Director in the SFIO, who shall be an officer not below the rank of a Joint Secretary to the Government of India having knowledge and experience in dealing with matters relating to corporate affairs. The Central Government may appoint such experts and other officers and employees in the SFIO as it considers necessary for the efficient discharge of its functions under this Act.

- **Investigation into affairs of the company by SFIO:** where the Central Government is of the opinion,

  (a) on receipt of a report of the Registrar or Inspector

  (b) on intimation of a special resolution passed by a company that its affairs are required to be investigated;

  (c) in the public interest; or

  (d) on request from any Department of the Central Government or a State Government,

  that it is necessary to investigate into the affairs of a company by the SFIO, the Central Government may, by order, assign the investigation to the SFIO. The Director, SFIO may designate some inspectors for carrying out investigation. After assignment of investigation, SFIO shall conduct the investigation and submit its report to the Central Government within such period as may be specified in the order. The company and its officers and employees shall be responsible to provide all information, explanation, documents and assistance to the Investigating Officer as he may require for conduct of the investigation.

  If any person has been found guilty of an offence he may be arrested and shall, as soon as may be, be informed the grounds for such arrest. Immediately after arrest of such person, a copy of the order shall be forwarded to SFIO in a sealed envelope. Every person arrested shall within twenty-four hours, be taken to a Judicial Magistrate or a Metropolitan Magistrate, as the case may be, having jurisdiction.

  On completion of the investigation, the SFIO shall submit the investigation report to the Central Government. The Central Government may, after examination of the report direct the SFIO to initiate prosecution against the company and its officers or employees, who are or have been in employment of the company or any other person directly or indirectly connected with the affairs of the company.

  The investigation report filed with the Special Court for framing of charges shall be deemed to be a report filed by a police officer.

III Prohibition on Forward dealings: Directors and the key managerial personnel (KMP) of a company are prohibited from forward dealings in securities of the company. According to clause 194:

No director of a company or any of its KMP shall buy in the company, or in its holding, subsidiary or associate company –

(a) a right to call for delivery or a right to make delivery at a specified price and within a specified time, of a specified number of relevant shares or a specified amount of relevant debentures; or

(b) a right, as he may elect, to call for delivery or to make delivery at a specified price and within a specified time, of a specified number of relevant shares or a specified amount of relevant debentures

Contravention by director or any KMP	(i) Imprisonment for a term up to two years or with fine not less than one lakh rupees but may extend to five lakh rupees, or with both. (ii) liable to surrender the acquired securities to the company

IV Prohibition of insider trading: A New clause has been introduced with respect to prohibition of insider trading of securities. The government proposes to tighten insider trading regulations, prescribing up to five years of jail for key company executives and directors found guilty. According to Clause 195:

- No person including any director or KMP of a company shall enter into insider trading.

Meaning of Insider Trading	(i) An act of subscribing, buying, selling, dealing or agreeing to subscribe, buy, sell or deal in any securities by any director or key managerial personnel or any other officer of a company either as principal or agent if such director or key managerial personnel or any other officer of the company is reasonably expected to have access to any non-public price sensitive information in respect of securities of company; or (ii) An act of counseling about procuring or communicating directly or indirectly any non-public price-sensitive information to any person;

Meaning of price-sensitive information	Any information which relates, directly or indirectly, to a company and which if published is likely to materially affect the price of securities of the company.
Penalty for contravention by any person	Imprisonment for a term upto five years or with fine not less than five lakh rupees but may extend to twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher, or with both.

V Power of Securities and Exchange Board (SEBI) to regulate issue and transfer of securities, etc: According to Clause 24, Issue and transfer of securities and non-payment of dividend by listed companies, shall be administered by SEBI by making regulations.

VI Punishment for fraudulently inducing persons to invest money: According to Clause 36, an act of fraudulent inducement of persons to invest money is punishable with imprisonment for a term which may extend to ten years and with fine which shall not be less than three times the amount involved in fraud

VII Action by affected person: According to Clause 37, a suit may be filed by a person who is affected by any misleading statement or the inclusion or omission of any matter in the Prospectus or who has invested money by fraudulent inducement.

VIII Fraud defined: The term "Fraud" has for the first time been defined in the Bill under Clause 447. Any person who is found to be guilty of fraud, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to ten years and shall also be liable to fine which shall not be less than the amount involved in the fraud, but which may extend to three times the amount involved in the fraud.

Where the fraud in question involves public interest, the term of imprisonment shall not be less than three years

Meaning of Fraud	Any act, omission, concealment of any fact or abuse of position committed by any person or any other person with the connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss

IX Other Penalties levied

Punishment for false statement (Clause 448)	Imprisonment for a term which shall not be less than six months but upto ten years and shall also be liable to fine which shall not be less than the amount involved in the fraud, but which may extend to three times the amount involved in the fraud.
Punishment for false evidence (Clause 449)	Imprisonment for a term which shall not be less than three years but upto seven years and with fine which may extend to ten lakh rupees.
Punishment where no specific penalty or punishment is provided. (Clause 450)	Fine not less than ten thousand rupees, and where the contravention is continuing one, with a further fine upto one thousand rupees for every day after the first during which the contravention continues.
Punishment in case of repeated default (Clause 451)	Fine of twice the amount for such offence in addition to any imprisonment provided for that offence
Punishment for wrongful withholding of property (Clause 452)	Fine not less than one lakh rupees but upto five lakh rupees.
Punishment for improper use of "Limited" or "Private Limited"	Fine not less than five hundred rupees but may extend to two thousand rupees for every day for which that name or title has been used.

The Bill has several unique features aimed at protection of minority shareholders and for corporate governance. The Bill is pending in the Upper House of Parliament-the Rajya Sabha. Once, the Bill receives assent from the Rajya Sabha and the President of India, the Central Government will notify a date/s for coming into force of the Act, and only from such date/s the provisions of the Act will come into force.

Reference:

http://www.mca.gov.in/Ministry/pdf/The_Companies_Bill_2012.pdf

Compromises, Arrangements and Amalgamations

CA. Shraddha

With the introduction of the Companies Bill, 2012 (herein after referred to as "Bill") which was passed by Lok Sabha on December 18, 2012, a lot of noteworthy changes are being brought up into the working and functioning of the companies as controlled by the present Companies Act, 1956 (herein after referred to as "Act"). One of the most interesting and captivating topics has been of Mergers and Acquisitions. With the growing economy and cross border corporate tie ups, the Act needed the requisite changes to deal with the changing demand of the times.

The provisions with respect to the mergers and acquisitions are presently covered under Chapter V (sections 390 to 396A) of the Act with the heading of "Arbitration, Compromises, Arrangements and Reconstructions". This chapter contains the provisions regarding the compromises and the arrangements to be followed with the creditors and members of the company to validly bring about the merger/acquisition.

The Bill replaces for Chapter V of the Act with its Chapter XV, with some modifications and new clauses, and reads as "Compromises, Arrangements and Amalgamations", comprising of Clauses 230 to 240.

Here, in this article we have brought about section wise broad study of the Act vis a vis the Bill.

Section 390 vis a vis Clause 230

- Section 390 reads as "Interpretation of sections 391 and 393" wherein it is stated:
  - (i) the expression company means a company liable to be wound up under the Act.
  - (ii) "Arrangement" includes reorganization of the share capital.
  - (iii) Unsecured creditors who may have filed suits or obtained decrees shall be treated of the same class as other unsecured creditors.
- ❖ Clause 230 reads as "Power to compromise or make arrangements with creditors and members"
- ❖ However, the Bill does not contain a corresponding clause for the same. It does contain an explanation to Clause 230, to state that "arrangement" includes reorganization of the share capital.

Section 391 vis a vis Clause 230

- Section 391 reads as "Power to compromise or make arrangements with creditors and members".

Both Section 391 as well as Clause 230 are the empowering sections for compromise and arrangements and talks about:

(i) scheme of compromise between a company and its creditors or any class of them;

(ii) scheme of arrangement between a company and its members or any class of them.

- According to the Act, an application for the scheme can be made by any creditor or any member or by the Company or by the liquidator in the case of a company which is being wound up.
- Approval for the scheme is required by majority in number representing 3/4th in value of the creditors or members or class thereof present and voting in person or by proxy.
- ❖ However, the Bill in addition, proposes approval by *postal ballot* also.
- As per the Act, an application for the scheme has to served to the High court having jurisdiction in the state in which the registered office of the company is situated.
- ❖ However, the Bill proposes National Company Law Tribunal (NCLT) as the sanctioning authority in case of compromise, arrangements and amalgamations, except in few specific cases wherein the sanctioning authority can be other than NCLT.
- The Act further requires that the order of the court will be effective only when a certified copy of the same is filed with the Registrar (ROC) and a copy of the order needs to be annexed to every copy of Memorandum of Association (MOA) issued after filing copy of the order with ROC.
- ❖ However, the Bill is silent on this issue except for that it proposes that a copy of the order to be filed with ROC within 30 days of receipt of order.

(The contributor is Executive Officer, ICAI)

Both the Act and Bill require the applicant to disclose all material facts relating to the company to the respective sanctioning authorities i.e. Court/NCLT. Clause 230 proposes to have an additional disclosure pertaining to “reduction of share capital, if any, included in the scheme”, apart from the regular disclosures of latest auditors’ report, latest financial position, investigation proceedings pending at the time of making the application.

Section 392 vis a vis Clause 231

- Section 392 reads as “Power of Court to enforce compromise and arrangement”.
- ❖ Clause 231 reads as “Power of Tribunal to enforce compromise or arrangement”.

Section 392 as well as clause 231 gives power to the Court/NCLT to enforce and supervise the implementation of the scheme.

Section 393 vis a vis Clause 230

- Section 393 reads as “Information as to compromises or arrangements with creditors and members”. It deals with the information required and the manner of furnishing that information in relation to the scheme of compromise and arrangement.
- ❖ However, there is no specific clause corresponding to section 393 in the Bill. Rather the provisions of section 393 have been consolidated in Clause 230 itself, thereby, making it more reader friendly and easy to understand.
- The Act requires that every notice for calling a meeting, sent to a creditor or a member, be accompanied with a statement containing the terms and effects of the compromise or arrangements and in specific stating the material interests (if any) of the directors, managing directors or manager to the extent of these interests are different from the effect on the like interests in other persons.
- The Act requires when the notice of the meeting is given by advertisement, it should contain the statement as mentioned in the previous point or otherwise the place and the manner in which creditors or members can obtain the copies of such statement.
- ❖ The Bill additionally proposes that the advertisement should also specify the time within which free copies may be obtained from the registered office of the company.
- The Act further states if the scheme affects the rights of debenture holders, the aforesaid statement should include information and explanation with respect to the trustees of any deed for securing the issue of the debentures as it is required to be given to directors.
- The Act stipulates a penalty in case the provisions of section 393 are not complied with.
- ❖ However, the Bill does not propose a specific provision for such a penalty.

Section 394 vis a vis Clause 232

- Section 394 reads as “Provisions for facilitating reconstruction and amalgamation of companies”.
- ❖ The corresponding clause in Bill is 232 which reads as “Merger and Amalgamation of companies”.
- ❖ The Bill proposes that where in any arrangement or compromise, two or more companies are getting merged or amalgamated then a copy of the draft scheme shall be filed with ROC.
- The Act prescribes that the Court sanctioning the scheme or subsequent order may provide for:
  - (i) the transfer of the whole or any part of the undertaking, property or liabilities of any transferor company
  - (ii) allotment or appropriation by the transferee company of any shares, debentures, policies, or other like interests, which under the scheme are to be allotted or appropriated by that company to or for any person.
  - (iii) the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company
  - (iv) the dissolution, without winding up, of any transferor company
  - (v) the provision to be made for such persons who dissent to the Scheme
  - (vi) any incidental, consequential and supplemental matters
- ❖ Under the Bill, NCLT can provide for additional matters to be circulated to any meeting of members or creditors, such as:
  - (i) draft of the scheme drawn and adopted by directors of merging companies
  - (ii) a confirmation regarding that draft scheme has been filed with ROC.

(iii) the report of the Expert with regard to valuation, if any

(iv) a supplementary accounting statement drawn up to a date not preceding the board meeting date (used for deliberation of scheme) by more than 6 months

- There is no specific provision in the Act for compromise/ arrangement between a listed transferor company and an unlisted transferee company.

❖ However, the Bill proposes that in case of a merger of a listed company and an unlisted company, NCLT can order that the unlisted transferee company shall remain unlisted till the time it becomes listed. The shareholders of the transferor company would be provided with exit options and the exit price as decided which cannot be less than the price under any SEBI Regulations. Thus, the Bill has plugged the loophole of automatic listing or the 'backdoor' listing of companies.

- As per the Act an auditors' certificate, that the accounting treatment is in conformity with accounting standards, was mandatory only for listed company.

❖ However, the Bill proposes to mandate the requirement of statutory auditor's certificate in case of both listed and non listed companies.

- The Act provides that a certified copy of order has to be filed with ROC for registration within 30 days of making of order.

❖ However, the Bill also proposes the same time frame of 30 days, with the difference that these 30 days shall be counted from the time of receipt of the certified copy of the order.

- The Act does not specifically prohibits or restricts the maintenance of Treasury stocks

❖ However, the Bill proposes to specifically restrict the creation of treasury stocks. Thus, now a transferee company shall not after the implementation of the scheme, hold any shares in its own name or in the name of any trust whether on its behalf or on behalf of its subsidiaries or Associate companies and requires any cross-held shares to be compulsorily cancelled.

Section 395 vis a vis Clause 235

- Section 395 reads as "Power and duty to acquire shares of shareholders dissenting from scheme or contract approved by majority"

❖ Clause 235 reads as "Power to acquire shares of shareholders dissenting from the scheme or contract approved by majority"

❖ The Bill additionally proposes that the payment to the dissenting shareholders be made within 60 days from the date on which the transfer of shares was registered in the name of the transferee company or its nominee.

Section 396 vis a vis Clause 237

- Section 396 reads as "Power of Central Government to provide for amalgamation of companies in national interest"

❖ Clause 237 reads as "Power of Central Government to provide for amalgamation of companies in public interest"

There is no apparent change in the reading of section 396 and clause 237.

Section 396A vis a vis Clause 239

Both section 396A and clause 239 read as "Preservation of books and papers of amalgamated company" and provide that the books and papers of the amalgamated company(ies) shall not be disposed off without the prior permission of the Central Government and the Central Government may appoint any person to inquire and investigate about the state of affairs of companies or any other discrepancies.

New provisions in the Companies Bill, 2012

- According to the Act, an objection to the scheme of compromise and arrangement can be made by any shareholder or creditor irrespective of their shareholding or outstanding debt.

❖ However, the Bill proposes that an objection against the scheme can be raised only by:

  ➢ Members holding more than 10% of the total shareholding, or

  ➢ Persons having more than 5% of the total outstanding debt as per the latest audited balance sheet.

- According to the Act, "takeover offer" was not included in the scheme of compromise and arrangement.

- However, the Bill proposes that a scheme of compromise or arrangement may include "takeover offer" in a prescribed manner. Such takeovers shall be as per the Securities Exchange Board of India (SEBI) Regulations, in case of listed companies.
- The Bill proposes to provide fast track provisions to smoothen the process of merger between two or more small companies or between holding companies and wholly owned subsidiary(ies) (WOS) or such class of companies as may be prescribed. Such mergers are not required to be approved by NCLT.

  Fast track mergers would require approvals of:
  - ROC
  - Official Liquidator
  - Members holding atleast 90% of total number of shares
  - Majority of creditors representing 9/10th in value.
- The Bill proposes for Cross Border Mergers and Amalgamations. Thus, mergers and amalgamations between Indian companies and companies incorporated in the jurisdictions of such countries as may be notified by the Central Government (CG) is allowed. The rules in this regard would be framed by CG in consultation with Reserve Bank of India (RBI).

  Hence, a foreign company may merge with an Indian company and vice a versa, with the prior approval of RBI. The RBI may *inter alia* provide for payment of consideration to the shareholders of the merging company in cash, or in Depository Receipts (DR), or partly in cash and partly in DR.
- The Bill proposes that the liability of any officer in default of the transferor company, who committed any offence prior to the merger or amalgamation, shall continue after such merger.
- The Bill proposes that the scheme of compromise or arrangement shall clearly indicate an appointed date from which it shall be effective and the scheme shall be deemed to be effective from such date and not at a date subsequent to the appointed date.
- A notice of the scheme has to be given to the following authorities to enable them to make representations:
  - CG
  - SEBI
  - Income Tax
  - Stock Exchanges
  - ROC
  - Official Liquidator
  - Other sectoral regulators and authorities
- The Bill has introduced Clause 236 which reads as "Purchase of minority shareholding". This clause specifically deals with purchase of minority shareholders by majority shareholders.
- The Act does not contain a specific provision for offer to sell shares by minority shareholders to majority shareholders.
- The Bill proposes that the minority shareholders of a company may also offer to sell their shares to the majority shareholders at a price determined in accordance with the rules as may be prescribed.
- The Act does not contain specific provisions for acquisition of minority shareholding by majority shareholders.
- However, the Bill proposes that an acquirer and/ or a person acting in concert (PAC) with such an acquirer, or person or group of persons holding 90% or more of the issued equity capital of the company by virtue of amalgamation, share exchange, conversion of securities or for any other reasons, can purchase the remaining equity shares of the company from minority shareholders at a price determined by registered valuer.
- The minority shareholders may also propose to sell their shares to the majority shareholders at a price as determined by registered valuer.

Conclusion

It is evident from the above discussion that the Bill has tried to simplify and speed up the process of mergers, amalgamations and demergers and to plug the loopholes in the existing Act. However, the viability of the provisions will be tested when the Bill finally receives the assent of the president and starts getting grinding on the practical realities of the situations of the mergers, acquisitions, amalgamations and demergers. The provisions need the backing of the Rules and clarity from the Courts to get a clear perspective of the provisions in entirety. ■

Procurement Challenges of Public Private Partnership

Angshukana Datta

Introduction

Public Private Partnership (PPP)'s are instruments for government bodies to deliver desired outcomes to the public sector, by making use of private sector capital to finance the necessary assets or infrastructure. The private sector partner is rewarded for its investment in the form of either service charges from the public body, revenues from the project, or a combination of the projects that might not otherwise have been feasible, because the public body was unwilling or unable to provide the requisite capital.

PPPs allow the private sector to play a greater role in planning, finance, design, operation and maintenance of public infrastructure and services than under traditional public procurement models. Moreover, where traditional procurement models begin with the question of what assets the public body has as its disposal and how these might be used to deliver required services, PPP arrangements place the emphasis on the desired service or outcome as identified by the public organization and how the private sector might help to make this happen.

Generally, all nations use a competitive procurement process for the selection of PPP contractors. The principal difference between the countries is the extent of negotiation that occurs during procurement.

The basic objective of the public procurement of public-private partnership is to obtain a fair, competitive, transparent and non-discriminatory procurement. Procurement usually involves a bidding process in which the bidders or sellers quote their prices and the buyer accepts the lowest possible bid. The most efficient and cost effective method of procuring goods or services is on the basis that quality of the goods meets the buyers' requirement.

Examples of Global Best Practices of PPP Procurement process

The Portuguese Procurement Process involves a two stage competitive procurement to select its preferred bidder. The bids are evaluated based on technical quality, government's contribution, risk allocation and management plan. They evaluate the bids and short-list two bidders. They negotiate and select the preferred bidder. A contract award is then made which is followed by financial closure.

The Spanish Procurement Process involves an open competition model for procurement. The criteria's

involved for bid evaluation are technical qualities and economic conditions for the proposal. They receive binding bids and select the winner. The competitive and efficient approach clearly states its expectations as well as the terms and conditions of the project. It attracts too many bidders and saves transaction costs.

The United Kingdom's Procurement Process involves negotiated procurement. Multi stage competitive process takes place. The various stages of the process includes prequalification, tender, negotiation and contract award. Then they negotiate and select the preferred bidder from the short listed ones.

The Australian Procurement Process involves multi-stage competitive procurement. The criteria involved are tolling structure, concession length, design features, etc. They negotiate and select preferred bidder from the short list. The State requests a conforming proposal along with non-conforming proposal. This allows private sector to bring new projects.

The Indian Procurement Process consists of the qualifying Expression Of Interest (EOI) process, covering the Request For Qualification (RFQ) and short listing takes place which includes the final drafting of the key bidding documents as well as the contents of the Request for Proposal (RFP). The requirements and process for the Readiness check and the application for Final Approval take place. The bidding process covers RFP and bid evaluation which is followed by contract finalization and awards.

Procurement Challenges of PPP in India

Strategies used in countries that have improved procurement efficiency costs are:

- Greater standardization of contracts, with contracts being rolled forward to subsequent projects without substantive amendment.
- Architectural design and design innovation were given less emphasis.
- The substantial contributions towards bid costs.
- Avoidance of further bid stages and rigorous adherence to the project timetables.

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- More reliance on the preferred bidder who is developing its proposal (both before and after commercial close) as well as on the protections within the project contract.

The source of value for money can be through less focus on third party income or development gains.

Findings

By and large, the procurement process in the countries covered under this discussion is transparent and auditable. It is streamlined but flexible in nature. However, in the case of India, model documents of RFQ, RFP and contract/bidding documents are used. This leads to an element of rigidity in procurement practice and, at times, detracts the private sector and delays the process.

The degree of commitment to the PPP procurement process and expertise of government project teams directly impacts decision-making efficiency and the overall time-frame taken to complete procurement processes.

Although process inefficiencies and bid costs are in themselves a barrier to competition, the key issue in PPP market is the irregular availability of information pertaining to project pipeline and the current inability of existing and potential new market participants to undertake an informed assessment of the likely opportunity in respect of PPP projects.

Way Forward

Barriers to Competition

To develop an effective PPP procurement process through providing opportunity to potential new market participants to undertake an informed assessment of the likely opportunity in respect of PPP projects, it is suggested that:

- early announcement of potential future PPP projects
- more consistent and rigorous application of the National PPP Guidelines on the criteria for determining whether PPP procurement is appropriate for a project
- continued commitment and leadership from politicians and senior bureaucrats and each of the various jurisdictions in support of the use of PPPs inappropriate circumstances
- where possible, continued focus on improving co-ordination of the release of projects to the market by greater liaison between jurisdictions, acknowledging the difficulties in achieving this.

Efficiency of the PPP Process and Reduced Bid Costs

Bid costs would become less of an issue with a stronger and more certain PPP project pipeline, but inefficient processes continue to impact the value for money outcomes achieved by governments, irrespective of the pipeline.

Accordingly, the following initiatives may be considered to improve efficiency and reduce bid costs (as well as government transaction costs) that remain a key priority:

- rationalizing information requested that is neither required to evaluate bids nor required for certainty at contractual close, particularly that relating to some aspects of design and to general corporate processes.
- recruitment, development and retention of high quality Government project team members, in particular the project director and key team members responsible for managing each of the various disciplines.
- ensuring governance structures empower the project team to deliver the project while enabling effective and efficient decision making so as to prevent unnecessarily protracted and uncertain timeframes.
- only using more than one bid stage where absolutely necessary, either because of changed market conditions or where no bidder has made an acceptable proposal.

Conclusion

PPP procurement and implementation can be lengthy and costly, making it unsuitable for some projects. The inefficiency in the procurement process negatively impacts value for money outcomes, as these costs are included within the overall tender price which continues to add to government's internal transaction costs. The average procurement timeline for infrastructure projects plays an important role for successful completion of PPP projects. An efficient procurement helps PPP construction projects to focus on their delivery at the expected time, price and quality.

References

Abadie Richard and Howcraft Adrian, "Developing PPP in New Europe", PricewaterhouseCoopers Report on PPP in Europe, 2004.

G. Gopala Krishna Murthy, "Text and Cases on Infrastructure Financing: Trends, Challenges and Experiences". Murthy Gopala Krishna published by ICFAI University Press, 2010.

Infrastructure Australia- PPP Procurement, KPMG Corporate Finance (Aust.) Pty. Ltd., May 2010.

Public Private Partnership (PPP) Handbook, Asian Development Bank, Sep 2008.

Opportunities and Challenges Faced By Chartered Accountants – An Analysis

Jagravi Shah

Introduction

Going concern is one of the fundamental assumptions of accounting and like the entities to whom a chartered accountant provides his services; this assumption squarely applies to the chartered accountancy profession as well. While the profession is evergreen, change is inevitable. This paper discusses some of the avenues that can be explored, the challenges that would be faced while doing so, and ways of overcoming the same. The idea is not only to adapt to the changing circumstances but also prepare oneself for any situation that may come. Before going into opportunities and challenges faced by chartered accountants, a SWOT Analysis would summarize the same –

Exploring Possibilities of Growth

This thriving profession is looking ahead at magnitudinal growth. There is tremendous scope for the accounting profession to grow, expand and excel. This growth would be in terms of new services as well as new markets. Chartered Accountants belonging to the South Asian countries need to measure up to the expectations of the service seekers both in the Asian context as well as in the international arena. In this connection, the Ansoff Product Market Growth Matrix[1] given as under would help in understanding the various possibilities –

On application of the model to the profession, the possibilities that come up are explained as under –

1. **Market Penetration**

   It refers to delving deeper into the existing markets. A chartered accountant providing audit and direct taxation services to his client can begin providing services pertaining to Indirect Taxes as and when required. The area of audit, hitherto circumscribed by conventional vouching and verification, now encompasses a potpourri of specialized areas such as energy audit, system audit, and environment audit and so on. International Taxation, Transfer Pricing, application of DTAAs are relatively less explored areas and an elaborate study of the same shall definitely help serve existing clients better.

2. **Service Development**

   Apart from the conventional practice areas of audit and taxation, the field of consultancy provides immense opportunities to budding as well as experienced chartered accountants. A chartered accountant can provide services of business plan advisory, finance and capital advisory, project appraisal, funding by way of equity or other means, valuation, restructuring of business, wealth management and so on.

3. **Market Development**

   When a client's business expands and crosses the confines of a single city or region, the chartered accountant has to follow the footsteps as well. He needs to develop abilities to execute work across any region or country. The key to this lies in networking. This situation demands that every firm should identify professionals/firms in different geographical locations and develop an understanding for mutual reference and sharing of resources. Eventually, associations can give way to formalized arrangements and collaborations.

4. **Diversification**

   While this policy is adopted by certain established firms, this can mean opportunities for budding chartered accountants as well. Every year, a number of fresh chartered accountants migrate to different countries and continents, and are absorbed in various established firms or industries, where they acquire new skills and explore new areas of service. Alternatively, firms based in one location outsource their services to numerous locations.

IFRS

"For global investor protection, we need a global accounting language."[2] The compliance of International Financial Reporting Standards helps the business houses and professionals alike. For business houses, the application of IFRS reinstates the faith of investors that has dwindled as a consequence of the global economic crisis. Convergence with transparent comparable and credible standards of reporting would

*[Paper Presented by Ms. Jagravi D. Shah, **Reg.No. WRO0384880** a student from the delegation of ICAI participated in the 27th National CA Students' Conference held at Colombo, Sri Lanka]*

serve beneficial when it comes to restoring and retaining stability and reliance. For Chartered Accountants, it definitely opens up a new window as it requires new skills to adapt. Our English speaking workforce are prime candidates to become IFRS experts who can go on to offer IFRS-related services all around the world.

Vetting Of Documents

In this fast moving world where synergies and joint ventures are formed and dissolved day in and day out, the very agreement institutionalizing such synergies should be handled with precision and acumen. Most of the times, such documents are subjected to legal vetting by lawyers but the role chartered accountants comes into play only afterwards for accounting and taxation matters. While legal relationships are studied in depth, aspects like accounting and taxability with severe impact are considered only after the agreement has been entered into.

Certain firms are undoubtedly involved into such vetting of documents but if this service area is explored by members at large, it would soon find its way as a new area of practice, and can be incorporated not only when it comes to major synergies and joint ventures but also agreements pertaining to sale or purchase of movable or immovable properties, trademarks, IPRs and so on.

This would be possible only if the Chartered Accountant is conversant with allied laws relating to contracts, transfer of property – movable as well as immovable, estate planning and so on, and works continuously and consciously in the direction of updating his knowledge and skill, and embraces the aptitude of adaptability.

Challenges for a budding chartered accountant

The foremost challenge faced by a fresh Chartered Accountant is to choose between practice and job. A lot of opportunities come his way and at this point of time, he has to make a very careful well thought decision as to what opportunity he would be able to capitalize the best. Some may call it the Problem of Plenty, while others may refer to it as a Plethora of Plausibility.

Whatever opportunities present themselves, one has to look for several factors namely – job satisfaction, professional growth, and remuneration.

This profession is based on faith and competence. Both of these skills, more or less, have a time value attached to them which is why a budding CA takes some time to settle. What a budding CA must have is the patience to endure those initial days, and in the process he must acquire skills that would help throughout his professional life.

Competition

The major difference between traditional areas of practice like audit and taxation and consultancy lies in the fact that the competitive environment in the former is restricted to members since it is the exclusive domain of the chartered accountancy profession whereas as soon as we step out of the conventional boundaries, we face inevitable competition from management professionals and consultants.

Unemployment or Unemployability?

What is perceived as the threat of unemployment or underemployment is a misconception. The problem is often inherent and not a threat but a weakness that can be termed as unemployability. There lies a major difference between unemployment and unemployability. With the qualification of a chartered accountant, getting work is not a challenge. It may require honing certain skills and stepping out of one's comfort zone but with the right amount of efforts and a reasonable degree of patience, work is bound to follow.

There is no doubt about a chartered accountant's knowledge. The rigorous study module ensures that he is competent and has a vast knowledge bank. The problem area lies in soft skills. It is important to note that soft skills go beyond negotiation and communication skills and include linguistic skills as well. With the world going flat, and businesses entering into locations like Mexico and Brazil, along with the likes of London and New York, it is imperative to train ourselves to be able to grasp their languages as well. Easy and quick communication with the client's staff and management can go a long way in ensuring smooth functioning of work and in building the foundation for a sustainable relationship with them. Adapting to a new language may seem cumbersome at the outset but we must remember that it is the skill that bills.

Conclusion

It shall be noted that the opportunities and challenges listed above are not exhaustive. The chartered accountancy profession demands incessant reading, learning, and updating one's knowledge and for someone who believes in the same, sky is the limit. Broadening his vision would help a chartered accountant 'observe' what others can only 'see' and when you can see the invisible, you can do the impossible. A chartered accountant is a synecdoche to his profession and staying ahead of the times would help him prove his mettle as well the worth of the profession. Not only does a chartered accountant bring *credit* to the professional fraternity but also he is an asset, standing tall on the *debit* side of the balance sheet of the chartered accountancy profession.

Bibliography

1 www.valuebasedmanagement.net accessed on March 17, 2013

2 Kalvacherta, Prabhakar, Paper on 'Role of Accountancy Profession in Global Economic Recovery' published in The Chartered Accountant; July 2012 issue. Accessed from www.icai.org on March 17, 2013

References

Paper Book on Accountancy Profession: Enablers of Economic Growth, ICAI International Conference, Mumbai 23-25 January 2013

India's Yawning Current Account Deficits

Prem J Bhutani

India has faced massive Current Account Deficits (CAD) for most of the period of planning. The problem has reached alarming proportions, during the recent years because of a number of factors operating on the domestic and international fronts.

What is Current Account Balance?

Broadly speaking, Current Account Balance is the difference between a country's total exports and imports. It includes, apart from the balance of trade (which is the difference between a country's merchandise exports and imports), balance of services and balance of unilateral transfers. Balance of services records the difference between the monetary value of all the services exported/rendered and imported/ availed by a country in a year. These services could relate to transportation, banking, finance, insurance, tourism etc. Balance of unrequited transfers includes balance on account of gifts, donations, grants and remittances. All these balances, i.e., balance of trade, balance of services and balance of unrequited transfers constitute balance of current account. It could be positive, negative or zero depending upon the values of these balances. It is worth noting that balance of payments on current account covers all receipts on account of earnings (as opposed to borrowings) and all the payments arising out of spending (as opposed to lending).

What is the position of India's Current Account Balance?

At present, India's has a negative Current Account Balance, i.e. receipts on account of export of goods and services and unilateral receipts (donations, grants transfers etc.) are less than payments on account of imports of goods and services and unilateral payments. In other words we can say that there is Current Account Deficit (CAD) in India's Balance of Payments (BOP) Accounts.

Is this a new development or has India always faced CAD?

Over the period of planning, India's balance of current account has generally remained unfavorable. This is because after Independence, it had to initially import heavy machines, technology and capital equipments etc. to carry out the programme of industrialization. As pace of development picked up, it had to have maintenance imports. Moreover, since it had mostly primary goods like tea, coffee, jute etc. to offer as exports, it generally had unfavourable balance on current account.

There were short spurt of times when India experienced a surplus in the balance of current account. For example, during Fifth Plan, India had a small surplus in the balance of current account. This relatively comfortable position was mainly due to (i) rapid increase in private remittances from oil exporting countries. A large number of Indian workers had migrated and worked there. They kept sending their net earnings to their families in India. (ii) Strong growth of exports (iii) increased domestic production and low imports of oil. From 1979-80 onwards, India started experiencing adverse balance of payments situation. This happened because continuous increase in oil prices led to huge trade deficits. However, since earnings from invisibles were substantial, the current account had positive balance.

The Sixth Plan was characterized by difficult balance of payments situation. This happened because earnings from invisibles started flattening out.During the Sixth Plan, the current account deficit was 1.4 per cent of GDP which increased to 2.4 per cent in the Seventh Plan. The large and sustained current account deficit in the BOP had to be financed by substantial inflow of capital in the form of loans from various sources, commercial borrowings and inflow of funds from NRIs. In early 1990-91, the already poor BOP position worsened because of Gulf War and further deterioration in invisible remittances. An immediate response to the BOP crisis was introduction of a new system of exchange rate management, liberalization of import licensing and tariff reductions. This has had a significant positive impact on the country's balance on current account.

There has been a significant improvement in of India's balance of payments positions since the initiation of economic reforms in 1991. Comparing the pre-crisis with the post crisis data we find that exports grew at an annual average of 7.6 percent during 1980-1992 and at an annual average of 10 per cent during 1992-2001. Similarly, imports grew at 13.7 percent per annum during 1992-2001 compared with just 8.5 per cent growth rate during 1980-92. Moreover, the CAD, as percentage of GDP declined from 1.9 per cent during

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pre-crisis period (1980-92) to around 1 per cent during post-crisis period (1992-2001) and during 2001-04 we even had surplus in the current account. This improvement in current account balance was made possible largely because of the dynamism in export performance, especially software services, sustained buoyancy in invisible receipts particularly private transfers comprising remittances and subdued non-oil import demand. Since 2003-04 trade deficit has widened because of higher outgo on import of petroleum, oil and lubricants.

What is the present position of CAD?

India at present is facing a large and an increasing CAD. The CAD at present (2012-13) at 5% of Gross Domestic Product (GDP) is higher than it was in 1991 (3% of GDP). It touched an all time high level of $33bn in the quarter ending December 2012, reaching a historical record level of 6.7% of GDP. It is needless to say that the soaring deficit is "worrying".

What are the causes of the present high level of CAD?

The global financial crisis, which set in 2008-09, has affected India's external sector. India's current account deficit has increased due to weak exports and increased imports.

The growth rate of exports has fallen from 37% in 2010-11 to 23.7% in 2011-12.There has been a significant decline in the rate of growth of exports of engineering goods, textiles, petroleum products, gems and jewellery, chemicals and iron ore. Growth in invisible receipts also decelerated mainly because of lower growth in exports of services, private transfers and decline in investment income.

The growth rate of imports has risen from 27% in 2010-11 to 31% in 2011-12. The increase in imports is largely on account of heavy gold and crude oil imports. The rise in gold imports is due to many factors. India is one of the largest consumers of gold in the world and it accounts for one third of total world gold consumption. Since domestic production of gold satisfies just 0.3% of domestic gold demand, the rest has to be met from imports. The worsening global situation has also led to a rise in purchase of gold as a safety metal and as an investment option. This has led to further rise in its price. Gold imports account for nearly 10% of India's total imports. Substantial increase in international gold price has contributed to sharp rise in the value of gold imported by India in recent years. Petroleum, Oil and Lubricants (POL) imports account for more than 30% of India's import bill. Due to sharp increase in POL prices also, India's import bill registered a high growth.

What are the consequences of consistent high level of CAD?

- India is a $1.8 trillion economy. Imports account for about 25% of its GDP. Inability to pay for imports can affect the credibility of the economy, as a very high level of CAD increases the risk of non-payment.
- Consistently high level of CAD means that India will have to arrange for foreign currencies to settle its import liabilities. This can affect the foreign exchange rate of the country. This, in turn, will put pressure on the rupee and weaken its value.
- India will have to arrange for loans and invite foreign investments in order to cover the widening current account gap.
- It may need to draw down its foreign exchange reserves.

What steps should be taken by India to reduce the deficit?

In order to reduce the yawning CAD, following measures may be taken:

- *Improve exports*: Exports have slowed down due to supply constraints and subdued exports demand. While not much can be done for improving demand for exports (which depends upon the financial conditions of the importing countries), at least steps should be taken to remove supply constraints and export-related regulatory bottlenecks.
- *Curb unnecessary imports*: There is also a case for curbing non-productive imports. The Government has already taken steps in this direction. For instance, in a bid to curb gold imports, the import duty on gold has been raised from 4% to 6%.
- *Increase awareness*: Public needs to be made aware that buying gold bonds is better than hoarding gold ornaments.
- *Improve oil production*: India needs to improve domestic energy production by enhancing R&D, exploring new oil fields and using renewable energy sources like wind.

The ultimate solution lies in improving the performance of the economy. We need to remove the structural and infrastructural constraints. Once the industrial production improves, exports will increase and the economy will come back on the high growth trajectory. There is also a need to check inflation as it is due to high inflationary trends in the economy that gold has become a favorite saving option pushing up its import considerably. ■

Legal decisions – Income-tax

1. **What would be the nature of corporate membership fee paid to the golf club, considering that the membership was for a limited period of five years – Revenue or Capital expenditure?**

   CIT v. Groz Beckert Asia Ltd. (2013) 351 ITR 196 (P&H)(FB)

   On this issue, the High Court observed that the aim and object of the expenditure would determine the character of the expenditure i.e., whether it is a capital expenditure or a revenue expenditure. The High Court further noted the rulings of the various courts, wherein it was observed that for an expenditure to be treated as capital in nature, it should bring into existence an asset or an advantage for the enduring benefit of a trade.

   In this case, the Court observed that the corporate membership of ₹ 6 lakh was obtained for running the business to earn profit and the membership was for a limited period of six years. It is, therefore, an expenditure incurred for the period of membership and is not long-lasting. The Court further observed that though payment of membership fee results in obtaining of club membership for a period beyond the year of payment but the benefit remains in the revenue field and not in the capital field. By such membership, a privilege to use facilities of a club alone are conferred on the assessee and that too for a limited period. Such expenses are incurred for running the business with a view to provide benefits to the assessee. Also, such membership does not bring into existence an asset or an advantage for the enduring benefit of the business.

   The High Court, therefore, held that by subscribing to the membership of a club for a limited period, no capital asset is created or comes into existence and consequently, the corporate membership fees cannot be treated as capital in nature.

2. **Can exemption under section 54F be denied solely on the ground that the new residential house is purchased by the assessee exclusively in the name of his wife?**

   CIT v. Kamal Wahal (2013) 351 ITR 4 (Delhi)

   The assessee sold a capital asset and invested the sale proceeds in purchase of a new house in the name of his wife. He claimed deduction under section 54F in respect of the new residential house purchased by him in the name of his wife. However, the same was denied by the Assessing Officer on the ground that, in order to avail the benefit under section 54F, the investment in the residential house should be made by the assessee in his own name.

   The Tribunal, however, accepted the assessee's contention observing that since section 54F is a beneficial provision enacted for encouraging investment in residential houses, the said provision has to be interpreted liberally.

   The Delhi High Court concurred with the Tribunal's view and observed that, for the purpose of section 54F, a new residential house need not necessarily be purchased by the assessee in his own name nor is it necessary that it should be purchased exclusively in his name. A similar view was upheld by this Court in *CIT v. Ravinder Kumar Arora (2012) 342 ITR 38*, where the new residential house was acquired in the joint names of the assessee and his wife and the Court had held that the assessee was entitled for 100% exemption under section 54F. In that case, it was further observed that section 54F does not require purchase of new residential house property in the name of the assessee himself. It only requires the assessee to purchase or construct a residential house.

   Further, in this case, the Delhi High Court observed that the assessee had not purchased the new house in the name of a stranger or somebody who is unconnected with him, but had purchased it in the name of his wife. The entire investment for purchase of new residential house had come out of the sale proceeds of the capital asset (of the assessee) and there was no contribution from his wife.

Hence, the Delhi High Court, having regard to the rule of purposive construction and the object of enactment of section 54F, held that the assessee is entitled to claim exemption under section 54F in respect of utilization of sale proceeds of capital asset for investment in residential house property in the name of his wife.

3. **Can power subsidy received by the assessee from the State Government, year after year, on the basis of actual power consumption be treated as a capital receipt?**

CIT v. Rassi Cement Ltd. (2013) 351 ITR 169 (A.P.)

In this case, the assessee received power subsidy from the State Government and treated it as a capital receipt. The Assessing Officer, however, denied the assessee's claim, contending that the power rebate given by the Electricity Department cannot be capitalized as the same is given as a rebate which is in the nature of revenue receipt.

The High Court observed the decision of the Supreme Court in *Sahney Steel & Press Works Ltd. v CIT (1997) 228 ITR 253*, where incentives (including power subsidy) granted year after year were treated as supplementary trade receipts. The power subsidy granted after commencement of production is based on actual power consumption and has nothing to do with the investment subsidy given for establishment of industries or expanding industries in the backward areas.

The power subsidy was given as a part of an incentive scheme after commencement of production, which is linked to production and therefore, has to be treated as a revenue receipt, since such assistance is given for the purpose of carrying on of the business of the assessee. The production incentive scheme is different from the scheme giving subsidy for setting up industries in the backward areas. This is, in fact, a basis of discrimination in deciding whether the subsidy has to be treated as a capital receipt or revenue receipt, i.e, the purpose for which the subsidy is given should determine the nature of the receipt.

Accordingly, the High Court held that the power subsidy received by the assessee from the State Government on the basis of actual power consumption has to be treated as a trading receipt and not as a capital receipt.

4. **Can remuneration paid to working partners as per the partnership deed be considered as unreasonable and excessive for attracting disallowance under section 40A(2)(a) even though the same is within the statutory limit prescribed under section 40(b)(v)?**

CIT v. Great City Manufacturing Co. (2013) 351 ITR 156 (All)

In this case, the Assessing Officer contended that the remuneration paid by the firm to its working partners was highly excessive and unreasonable, on the ground that the remuneration to partners (₹ 39.31 lakh) was many times more than the total payment of salary to all the employees (₹ 4.87 lakh). Therefore, he disallowed the excessive portion of the remuneration to partners by invoking the provisions of section 40A(2)(a).

On this issue, the High Court observed that section 40(b)(v) prescribes the limit of remuneration to working partners, and deduction is allowable up to such limit while computing the business income. If the remuneration paid is within the ceiling limit provided under section 40(b)(v), then, recourse to provisions of section 40A(2)(a) cannot be taken.

The Assessing Officer is only required to ensure that the remuneration is paid to the working partners mentioned in the partnership deed, the terms and conditions of the partnership deed provide for payment of remuneration to the working partners and the remuneration is within the limits prescribed under section 40(b)(v). If these conditions are complied with, then the Assessing Officer cannot disallow any part of the remuneration on the ground that it is excessive.

The Allahabad High Court, therefore, held that the question of disallowance of remuneration under section 40A(2)(a) does not arise in this case, since the Tribunal has found that all the three conditions mentioned above have been satisfied. Hence, the remuneration paid to working partners within the limits specified under section 40(b)(v) cannot be disallowed by invoking the provisions of section 40A(2)(a).

5. **Can reporting of income under a different head be considered as tantamount to furnishing of**

inaccurate particulars or suppression of facts to attract penalty under section 271(1)(c)?

CIT v. Amit Jain (2013) 351 ITR 74 (Delhi)

In this case, the assessee declared a particular income as short-term capital gains in his return. The Assessing Officer, on an interpretation of the relevant provisions and having regard to the nature of transactions, assessed such income as income from business. He further levied penalty under section 271(1)(c) on the ground that the assessee had furnished inaccurate particulars of his income.

The Commissioner (Appeals), however, cancelled the penalty. The Tribunal upheld the order of the Commissioner (Appeals), observing that the record reveals that the amount in question, which formed the basis of levy of penalty by the Assessing Officer, was honestly reported in the return. Therefore, merely because the Assessing Officer was of the opinion that the income fell under some other head cannot be reason enough to treat the particulars reported in the return as "inaccurate particulars" or as suppression of facts.

The High Court, after considering the above observations of the Tribunal and the decision of the Supreme Court in *CIT v. Reliance Petro Products Pvt. Ltd. (2010) 322 ITR 158*, held that mere reporting of income under a different head would not characterize the particulars reported as "inaccurate" to attract levy of penalty under section 271(1)(c).

6. **Can depreciation on leased vehicles be denied to the lessor on the grounds that the vehicles are registered in the name of the lessee and that the lessor is not the actual user of the vehicles?**

I.C.D.S. Ltd. v. CIT (2013) 350 ITR 527 (SC)

The assessee is a non-banking finance company engaged, *inter alia,* in the business of leasing and hire purchase. The assessee purchased vehicles directly from the manufacturers and as a part of its business, leased out these vehicles to its customers, after which the physical possession of the vehicles was with the lessee. Further, the lessees were registered as the owners of the vehicles in the certificate of registration issued under the Motor Vehicles Act, 1988. The assessee-lessor claimed depreciation on such vehicles.

The Assessing Officer disallowed the depreciation claim on the ground that the assessee's use of these vehicles was only by way of leasing out the vehicles to others and not as actual user of the vehicles in the business of running them on hire and secondly, the vehicles were registered in the name of the lessee and not the assessee-lessor. Therefore, according to the Assessing Officer, the assessee had merely financed the purchase of these assets and was neither the owner nor the user of these assets.

The High Court was also of the view that the assessee could not be treated as the owner of the vehicles, since the vehicles were not registered in the name of the assessee and the assessee had only financed the transaction. Therefore, the High Court held that the assessee was not entitled to claim depreciation.

The Supreme Court observed that section 32 imposes a twin requirement of "ownership" and "usage for business" as conditions for claim of depreciation thereunder. The Apex Court further observed that as far as usage of the asset is concerned, the section requires that the asset must be used in the course of business. It does not mandate actual usage by the assessee itself. In this case, the assessee did use the vehicles in the course of its leasing business. Hence, this requirement of section 32 has been fulfilled, notwithstanding the fact that the assessee was not the actual user of the vehicles.

The Supreme Court further noted that section 2(30) of the Motor Vehicle Act, 1988, is a deeming provision which creates a legal fiction of ownership in favour of the lessee only for that Act, not for the purpose of law in general. No inference could be drawn from the registration certificate as to ownership of the legal title of the vehicles, since registration in the name of the lessee during the period of lease is mandatory as per the Motor Vehicles Act, 1988. If the lessee was in fact the legal owner, he would have claimed depreciation on the vehicles which was not the case.

The Apex Court observed that as long as the assessee-lessor has a right to retain the legal title against the rest of the world, he would be the owner of the asset in the eyes of law. In this regard, the following provisions of the lease agreement are noteworthy –

- The assessee is the exclusive owner of the vehicle at all points of time;
- The assessee is empowered to repossess the vehicle, in case the lessee committed a default;
- At the end of the lease period, the lessee was obliged to return the vehicle to the assessee;
- The assessee had a right of inspection of the vehicle at all times.

It can be seen that the proof of ownership lies in the lease agreement itself, which clearly points in favour of the assessee.

The Supreme Court, therefore, held that assessee was entitled to claim depreciation in respect of vehicles leased out since it has satisfied both the requirements of section 32, namely, ownership of the vehicles and its usage in the course of business.

7. Can waiver of loan given to the assessee by the Government of India from Steel Development Fund (SDF) to meet the capital cost of asset be reduced to arrive at the actual cost as per section 43(1) for computing depreciation under section 32?

Steel Authority of India Ltd. v. CIT (2012) 348 ITR 150 (Delhi)

The assessee is a public sector undertaking engaged in the manufacture and sale, including export of iron and steel of various grades. It has several steel plants in India. The Government of India sanctioned huge loans to the assessee from the SDF to meet its requirements. On account of glut in the international steel market due to heavy production of steel in South East Asia and the meltdown in the USA, the price of steel fell rapidly and the assessee started incurring heavy losses. The assessee, therefore, approached the Government of India for waiver of loans granted from SDF. The Government of India, as a measure of providing relief to the steel industry in general and the assessee in particular, waived repayment of loans granted to the assessee from the SDF.

The assessee reduced the cost of the assets by the amount of the loans waived by the Government of India in its books of account and accordingly calculated depreciation. However, in the returns filed for the years under consideration, the assessee took a contrary stand and claimed depreciation on the assets without reducing the loans waived by the Government. The assessee took a plea that *Explanation 10* to section 43(1) does not consider the waiver of a loan as a subsidy or a grant or reimbursement of the cost.

The Assessing Officer, however, contended that depreciation ought to be allowed to the assessee in respect of assets purchased on the reduced cost, after reducing the loans waived by the Government, as per the provisions of section 43(1). The Commissioner (Appeals) and Tribunal upheld the view of the Assessing Officer.

The Delhi High Court observed that the case of the assessee may not fall under *Explanation 10* to section 43(1), since the *Explanation* covers only a case of subsidy, grant or reimbursement but not a case of waiver of loan. However, having regard to the facts of the case, the waiver of the loan would amount to the meeting of a portion of the cost of the assets under the main provision of section 43(1) which spells out the meaning of "actual cost". As per section 43(1), "actual cost" means the actual cost of the assets to the assessee, reduced by that portion of the cost thereof, if any, as has been met directly or indirectly by any other person or authority.

The intention of the parties, as reflected in the accounts of the assessee, appears to be that the loans have been granted towards a portion of the cost of the assets.

The waiver of the loan, in this case, is not a mere quantification of a subsidy granted generally for industrial growth. It was granted specifically to the assessee, who had reduced the amount waived from the cost of the assets in its books of account. This accounting treatment reflects the analogous understanding by the assessee regarding the purpose of the grant of loan. The High Court, therefore, held that, by applying the main provision of section 43(1), the amount of loan waived by the Government is to be reduced from the cost of assets to arrive at the "actual cost" for computing depreciation under section 32.

(Compiled by CA. Priya Subramanian, BoS)

Legal Decisions – Indirect Taxes

1. **In a case where the assessee has acted *bona fide,* can penalty be imposed for the delay in payment of service tax arising on account of confusion regarding tax liability and divergent views due to conflicting court decisions?**

Ankleshwar Taluka ONGC Land Loosers Travellers Co. OP. v. C.C.E., Surat-II 2013 (29) STR 352 (Guj.)

Facts: The appellant, a Co-operative Society, rendered rent-a-cab service to M/s. ONGC. The members of the society were essentially agriculturists who formed the society after they lost their land when ONGC plant was being set up. At the time, when the appellant started rendering the service to the ONGC, there was no service tax levy on rent-a-cab service. However, service tax was imposed on rent-a-cab service subsequently. A show cause notice was issued on the appellants proposing to recover service tax with applicable penalty and interest. The appellants paid the entire disputed amount and thereafter regularly paid the service tax. The issue under consideration before the High Court, therefore, was only in relation to the imposition of penalty.

The appellant contended that they did not pay service tax at the relevant point of time as it being a new levy; they were unaware of legal provisions. Also, there were divergent views of different Benches of Tribunal, which had added to the confusion, and the issue was debatable.

Further, it was pointed out by the appellant that since initially there was no condition relating to payment of service tax in the service contract with the ONGC-as there was no levy at that point of time - ONGC denied paying service tax when the same was subsequently imposed on the service rendered by them. However, with due negotiation and arbitration, it was decided that the disputed amount would first be paid by the appellant and the same would be reimbursed by ONGC. Thus, there had also been confusion regarding the liability of the appellant. However, such contention was not accepted by the Department.

Observations of the Court: The High Court made the following three important observations:

(i) The levy was comparatively new and therefore, both unawareness and confusion were quite possible particularly considering the strata to which the members of the appellant society belonged to. They were essentially agriculturists, who lost their lands when plant of ONGC was set up, and therefore, had created society and for many years they were providing rent-a-cab service to the ONGC.

(ii) There were divergent views of different benches of Tribunal, which may have added to such confusion.

(iii) The fact that the appellant had persuaded their right of reimbursement of payment of service tax with the ONGC by way of conciliation and arbitration cannot deprive them of the defence of bona fide belief of applicability of service tax.

The High Court opined that since the appellant was a society of persons, which was created in the interest of land losers - who had lost their lands with the ONGC setting up its plant in the area - and operating without any profit model, the submissions of the appellant ought to have been appreciated in light of overall circumstances. The High Court rejected the contention of the Revenue that there was no confusion and it was only on the ground of dispute with ONGC with regard to reimbursement of service tax that the said amount was not paid.

Decision: The High Court held that even if the appellants were aware of the levy of service tax and were not paying the amount on the ground of dispute with the ONGC, there could be no justification in levying the penalty in absence of any fraud, misrepresentation, collusion or wilful mis-statement or suppression. Moreover, when the entire issue for levying of the tax was debatable, that also would surely provide legitimate ground not to impose the penalty.

2. **Whether non-filing of additional documents despite several opportunities to the assessee to produce the same, could be a sufficient ground for passing a non-speaking order?**

DBOI Global Service Pvt. Ltd. v. UOI 2013 (29) S.T.R. 117 (Bom.)

Facts: In the instant case, the adjudicating authority had disallowed the refund claim filed by the assessee and called for certain additional documents, although similar refund claims filed by the assessee for the earlier periods had been allowed by the adjudicating authority without these additional documents. The assessee failed to furnish the additional documents despite being given several opportunities to produce the same. The adjudicating authority passed an order rejecting the refund claim but failed to record any reason as to why it differed with the earlier decisions.

The assessee pleaded that since the adjudicating authority has failed to state any reason for differing with the earlier decisions, its order must be quashed. Revenue contended that the adjudicating authority was justified in passing the non-speaking order because inspite of several opportunities given to produce additional documents, the assessee had failed to produce those documents.

Decision: The High Court held that if the assessee had failed to furnish additional information, it had been obligatory on the part of the adjudicating authority to record a finding as to why the documents furnished by the assessee were not sufficient to allow his claim and why additional documents were necessary, especially when on the basis of similar documents furnished by the assessee in the past, the claims had been allowed. Thus, deciding the petition in favour of the assessee, the High Court set aside the order of the adjudicating authority.

3. Can a decision pronounced in the open court in the presence of the advocate of the assessee, be deemed to be the service of the order to the assessee?

Nanumal Glass Works v. CCEx. Kanpur, 2012 (284) E.L.T. 15 (All.)

Facts: The CESTAT, while hearing an appeal filed by the assessee, gave an option to the assessee that if 25% of the penalty amount was paid within 30 days from the date of its order (viz. 22nd July, 2010), the penalty would be reduced to 25%. The counsel (advocate) of the assessee who appeared and argued the case before the Tribunal informed the local counsel of the assessee, but the local counsel could not inform the assessee about the option given by the Tribunal. Resultantly, the assessee deposited 25% penalty on 30th August, 2010 and was denied the benefit of the option as there had occasioned a delay of 9 days.

The assessee submitted that the order could not be said to be tendered to him on 22nd July, 2010 as it was **not received by the assessee** in person and that he had deposited the amount of 25% of penalty within 30 days from the date of communication of the order to him and there had been no delay. However, the Revenue contended that as the advocate of the assessee was present at the time of passing of the order, the order would be deemed to have been communicated to him on the same date (22nd July, 2010) and 30 days time would run from the same date.

Observations of the Court: The High Court noted that in terms of section 37C(a) of the Central Excise Act, 1944, containing the provisions relating to service of decisions, orders, summons etc., an order is deemed to be served on the person if it is tendered to the person for whom it is intended **or his authorized agent.** The High Court opined that the communication of the order to the authorised agent of a person, therefore, is sufficient communication. Thus, when the order was passed by the Tribunal on 22nd July, 2010 in presence of advocate of the assessee, the order would be deemed to be communicated to the authorized agent of the assessee (i.e. his advocate) on the same date and 30 days period would start from 22nd July, 2010.

Decision: The High Court held that when a decision is pronounced in the open court in the presence of the advocate of the assessee, who is the authorized agent of the assessee within the meaning of section 37C, the date of pronouncement of order would be deemed to be the date of service of order.

4. Whether a search warrant issued in the name of a company registered at a particular premises be valid, if the company has stopped its manufacturing activities many years back and leased out the said premises to some other manufacturing company?

MGM Metallisers Ltd. vs. Union of India 2012 TIOL 890 HC AHM CX

Facts: The petitioner, MGM Metallisers Ltd., had stopped manufacturing activities since long and had given its factory on lease to MGM Metallisers India Pvt. Ltd., a company which was later converted into a partnership firm. However, central excise registration of MGM Metallisers Ltd. was not cancelled. A search operation was carried out in the premises of the petitioner during which a good deal of documents, records and incriminating materials, pertaining to MGM Metallisers Ltd., MGM Metallisers India Pvt. Ltd. and another partnership firm - M/s. Frenylon Industries, were found.

The petitioner pleaded that since it had closed down its manufacturing activities many years back no authorisation for search could have been issued against such a non existing defunct entity and that there was no authorisation for search insofar as *MGM Metallisers India* or *M/s. Frenylon Industries* were concerned and that the documents were seized wholly illegally.

Observations of the Court: The High Court observed that premises of MGM Metallisers Ltd. were searched under proper authorization as even if such company had discontinued its manufacturing activities, there was nothing on record to suggest, that despite such so-called discontinuance, the registration of central excise was cancelled. Further, the authorisation was for search of the **registered premises** of M/s. MGM Metallisers Ltd. and it was the said premises which was searched by the Central Excise authorities. If during such search, any documents, materials, or other incriminating or innocuous materials were found from such premises, nothing prevented the Excise authorities from taking note of the same. Merely because MGM Metallisers India carried on its manufacturing activities from the same premises, would not be a ground to hold that entire search itself was invalid or without authorisation.

Decision: The High Court held that search warrant issued in the name of a company registered at a particular premises would be completely legal even if the company has stopped its manufacturing activities many years back and leased out the said premises to some other manufacturing company.

(Compiled by CA. Smita Mishra, BoS)

Accounting

Presentation of Foreign Currency Monetary Item Translation Difference Account (FCMITDA)

In the Revised Schedule VI format, no line item has been specified for the presentation of "Foreign Currency Monetary Item Translation Difference Account (FCMITDA)" (See 'NOTE' below). Therefore, the Council of the Institute at its 324th meeting held on March 24-26, 2013 at New Delhi, considered the issue regarding the presentation of the FCMITDA in the balance sheet.

The Council considered the definition of an asset given in the Framework on Preparation and Presentation of Financial Statements issued by ICAI which states as follows:

"An asset is a resource controlled by the enterprise as a result of past events from which future economic benefits are expected to flow to the enterprise."

Since the balance in FCMITDA represents foreign currency translation loss, it does not meet the above definition of 'asset' as it is neither a resource nor any future economic benefit would flow to the entity therefrom. Therefore, such balance cannot be reflected as an asset.

Accordingly, **the Council decided that debit or credit balance in FCMITDA should be shown on the "Equity and Liabilities" side of the balance sheet under the head 'Reserves and Surplus' as a separate line item.**

On account of the above, the 'Response' to Question 14 of Frequently Asked Question on AS 11, which required that such account should be shown as a separate line item in the Balance Sheet, in line with the treatment given to Deferred Tax Asset/Liability, would no longer be relevant.

NOTE: FCMITDA is opened (by virtue of para 46 and para 46A of AS 11 to the Companies (Accounting Standards) Rules, inserted by the Ministry of Corporate Affairs) for exchange differences arising on reporting of long-term foreign currency monetary items at rates different from those at which they were initially recorded during the period, or reported in previous financial statements, insofar as they relate to the acquisition of a non-depreciable capital asset.

(Source: www.icai.org)

(Contributed by CA. Shilpa Aggarwal, BoS)

CORRIGENDUM

CA Final Paper 5: Advanced Management Accounting (04-04-2013)

Study Material

CA Final Students may note that *in Jan'13 edition of the Study Material (Vol. I),*

In pages 14.23 and 14.25 of Chapter 14 (Program Evaluation and Review Technique) **– Illustration 10** has some printing errors. The errors have been rectified and updated Illustration10 has been hosted on the website.

In page 1.46 of Chapter 1 (Development in the Business Environment) **– Diagram 'Activity - Based Management Model'** has some printing errors. The errors have been rectified and updated diagram has been hosted on the website.

The above updates are available on the URL: **http://220.227.161.86/29519bos19159.pdf**

Revision Test Papers, May 2013

CA Final Students may note that *in Jan'13 print of the publication 'Revision Test Papers',*

In pages 32 and 33 **–** Solution to the **Illustration 4** has some printing errors. The errors have been rectified and updated version of 'Revision Test Papers' has been hosted on the website.

Students may refer to the URL: **http://220.227.161.86/29211rtpfinalmay2013_5.pdf**

Board of Studies, ICAI

The Institute of Chartered Accountants of India

[Set up by an Act of Parliament]

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NOTIFICATION **19th December, 2012**

No. 13-CA (EXAM)/M/2013: In pursuance of Regulation 22 of the Chartered Accountants Regulations, 1988, the Council of the Institute of Chartered Accountants of India is pleased to notify that the Intermediate (Integrated Professional Competence) and Final examinations will be held from 2.00 PM to 5.00 PM) (IST) on each day on the dates given below at the following centres provided that sufficient number of candidates offer themselves to appear from each centre.

Similarly, Post Qualification Course viz: Insurance and Risk Management (IRM) examination (which is open to the members of the Institute) will also be held on the dates given below at the following centres (centres in India only) in terms of provisions as contained in Schedule "G" of the Chartered Accountants Regulations, 1988, provided that sufficient number of candidates offer themselves to appear from each centre.

INTERMEDIATE (INTEGRATED PROFESSIONAL COMPETENCE) EXAMINATION

[As per syllabus contained in the scheme notified by the Council under Regulation 28 E (3) of the Chartered Accountants Regulations, 1988]

Group-I: 3rd, 5th, 7th & 9th May 2013
Group-II: 11th, 13th & 15th May 2013

FINAL EXAMINATION

[As per syllabus contained in the scheme notified by the Council under Regulation 31 (ii) of the Chartered Accountants Regulations, 1988.]

Group -I: 2nd, 4th, 6th & 8th May 2013
Group -II: 10th, 12th, 14th & 16th May 2013

INSURANCE AND RISK MANAGEMENT (IRM) EXAMINATION

[As per provisions contained in "Schedule G" of the Chartered Accountants Regulations, 1988]

Modules I to IV 10th, 12th, 14th & 16th May 2013

EXAMINATION CENTRES: (FOR ALL EXAMINATIONS)
CITIES IN INDIA

1	AGRA	48	GUWAHATI	95	PANIPAT
2	AHMEDABAD	49	GWALIOR	96	PANVEL
3	AHMEDNAGAR	50	HISAR	97	PATNA
4	AJMER	51	HUBLI	98	PATIALA
5	AKOLA	52	HYDERABAD	99	PIMPRI-CHINCHWAD
6	ALAPPUZHA	53	INDORE	100	PONDICHERRY
7	ALIGARH	54	JABALPUR	101	PUNE
8	ALLAHABAD	55	JAIPUR	102	RAIPUR
9	ALWAR	56	JALANDHAR	103	RAJAMAHENDRAVARAM
10	AMBALA	57	JALGAON	104	RAJKOT
11	AMRAVATI	58	JAMMU	105	RANCHI
12	AMRITSAR	59	JAMNAGAR	106	RATLAM
13	ANAND	60	JAMSHEDPUR	107	REWARI
14	ASANSOL	61	JIND	108	ROHTAK

15	AURANGABAD	62	JODHPUR	109	ROURKELA
16	BANGALORE	63	KAKINADA	110	SAHARANPUR
17	BAREILLY	64	KANPUR	111	SALEM
18	BATHINDA	65	KARNAL	112	SAMBALPUR
19	BEAWAR	66	KISHANGARH	113	SANGLI
20	BELGAUM	67	KOLLAM	114	SATARA
21	BELLARY	68	KOLHAPUR	115	SHIMLA
22	BERHAMPORE	69	KOLKATA	116	SIKAR
23	BHARAUCH	70	KOTA	117	SILIGURI
24	BHAVNAGAR	71	KOTTAYAM	118	SIRSA
25	BHILWARA	72	KOZHIKODE	119	SOLAPUR
26	BHIWANI	73	KUMBAKONAM	120	SONEPAT
27	BHOPAL	74	LATUR	121	SRI GANGANAGAR
28	BHUBANESWAR	75	LUCKNOW	122	SURAT
29	BHUJ	76	LUDHIANA	123	SURENDRANAGAR
30	BIKANER	77	MADURAI	124	THANE
31	BILASPUR	78	MANGALORE	125	THIRUVANANTHAPURAM
32	CHANDIGARH	79	MAPUSA (GOA)	126	THRISSUR
33	CHENNAI	80	MARGAO (GOA)	127	TINSUKIA
34	COIMBATORE	81	MATHURA	128	TIRUCHIRAPALLI
35	CUTTACK	82	MEERUT	129	TIRUPATI
36	DEHRADUN	83	MORADABAD	130	TIRUPUR
37	DELHI/NEW DELHI	84	MUMBAI	131	TUTICORIN
38	DHANBAD	85	MUZAFFARNAGAR	132	UDAIPUR
39	DURG	86	MYSORE	133	UDUPI
40	ERNAKULAM	87	NAGPUR	134	UJJAIN
41	ERODE	88	NANDED	135	VADODARA
42	FARIDABAD	89	NASHIK	136	VAPI
43	GANDHIDHAM	90	NAVSARI	137	VARANASI
44	GHAZIABAD	91	NELLORE	138	VELLORE
45	GORAKHPUR	92	NOIDA	139	VIJAYAWADA
46	GUNTUR	93	PALGHAT	140	VISAKHAPATNAM
47	GURGAON	94	PALI MARWAR	141	YAMUNA NAGAR

OVERSEAS CENTRES: FOR INTERMEDIATE (INTEGRATED PROFESSIONAL COMPETENCE) AND FINAL EXAMINATIONS ONLY

1) ABU DHABI	**2) DUBAI**	**3) KATHMANDU**	**4) MUSCAT**

Payment of fees for the examinations should be made by Demand Draft only. The Demand Draft may be of any Scheduled Bank and should be drawn in favour of **The Secretary, The Institute of Chartered Accountants of India, payable at New Delhi only.**

The Council reserves the right to withdraw any centre at any stage without assigning any reason.

Applications for admission to these examinations are required to be made either online at **http://icaiexam.icai.org free of cost {i.e. ₹ 500/- for Intermediate (Integrated Professional Competence) & Final candidates for the cost of application form shall not be charged if applications are filled in online}** or in the relevant prescribed form, copies of which may be obtained from the **Additional Secretary (Examinations), The Institute of Chartered Accountants of India,** 'ICAI BHAWAN', Indraprastha Marg, New Delhi-110 002 on payment of ₹ 500/- per application form in respect of Intermediate (Integrated Professional Competence) and Final Examination candidates. The cost of Examination application form for Insurance and Risk Management (IRM) examination is ₹ 100/- per application form. The forms shall also be made available in the Regional and Branch Offices of the Institute and can be obtained there from on cash payment on or from **6th February, 2013**.

Applications together with the prescribed fee by Demand Draft of any Scheduled Bank may be sent so as to reach the Additional Secretary (Examinations) at New Delhi not later than **27th February, 2013**. However, applications will also be received direct by Delhi Office after **27th February, 2013** and upto **6th March, 2013 with** late fee of **₹ 500/-**. Applications received after **6th March, 2013** shall not be entertained under any circumstances. Applications for the students' examinations only duly filled in will also be received by hand delivery at the office of Institute at New Delhi and at the Decentralised Offices of the Institute at Mumbai, Chennai, Kolkata, Kanpur, Delhi, Ahmedabad, Bangalore, Hyderabad, Jaipur and Pune upto **6th March, 2013**. Candidates residing in these cities are advised to take advantage of this facility.

However, application forms duly completed for the Post Qualification Course Examination i.e. Insurance and Risk Management (IRM) will be received **only** at the New Delhi office of the Institute.

The candidates who fill up the examination application form online at http://icaiexam.icai.org from 6th February, 2013 to 27th February, 2013 and remit the fee online by using either VISA or MASTER Credit/ Debit Card shall not be charged ₹500/- in case of Intermediate (Integrated Professional Competence) AND Final Examinations (i.e. cost of application form fee) in order to popularize filling-in of application form online. The candidates of Intermediate (Integrated Professional Competence) and Final Examinations can continue to fill in application forms online from 28th February, 2013 to 6th March, 2013 (during which period late fee of ₹ 500 will have to be paid by them as well).

The fees payable for the various examinations are as under:

INTERMEDIATE (INTEGRATED PROFESSIONAL COMPETENCE) EXAMINATION	
For Both the Groups and Unit – 9	₹ 1600/-
For one of the Groups and Unit 1 to 8	₹ 1000/-
Overseas Centres	US $ 350
Kathmandu (Nepal) Centre	INR 2250/-
FINAL EXAMINATION	
For Both the Groups	₹ 2250/-
For one of the Groups	₹ 1250/-
Overseas Centres	US $ 400
Kathmandu (Nepal) Centre	INR 3000/-
INSURANCE & RISK MANAGEMENT (IRM) EXAMINATION	₹ 1000/-

Candidates of Intermediate (Integrated Professional Competence) and Final Examinations opting for Dubai / Abu Dhabi / Muscat Centre are required to remit US$ 350 and US$ 400 respectively or its equivalent Indian Currency irrespective of whether a candidate appears in a group or in both the groups or in a unit .

Candidates of Intermediate (Integrated Professional Competence) and Final Examinations opting for Kathmandu centre are required to remit Indian ₹ 2250/- and Indian ₹ 3000/- respectively or its equivalent relevant foreign currency irrespective of whether a candidate appears in a group or in both the groups or in a unit.

OPTION TO ANSWER PAPERS IN HINDI:

Candidates of Intermediate (Integrated Professional Competence) and Final Examinations will be allowed to opt for Hindi medium for answering papers. Detailed information will be found printed in the notes for information and guidance of applicants attached to the relevant application form. However the medium of Examination will be only English in respect of Insurance and Risk Management (IRM) Examination.

(G. SOMASEKHAR)
ADDITIONAL SECRETARY (EXAMS)

ICAI Online e-Learning

For Intermediate (IPC) Course and Common Proficiency Course

http://StudentsLMS.icai.org

Introduction

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

Objective

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

Salient Features

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

Anytime/ Anywhere Learning

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

How to Access?

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

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

Requirements

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

Webcasts for Students

On ICAI WebTV

http://icaitv.com

Introduction

The Board of Studies of the Institute has great pleasure in announcing Webcasts for Students on ICAI TV, the URL given on the LHS.

Students Webcasts are broadly categorized into two categories—Subject Specific and Motivational/ Instructional.

Objective

Provide quality education and development facility anytime and anywhere in an affordable manner through a self learning/ development facility.

Salient Features

- Anytime/ Anywhere Online Learning
- Free Coaching
- Support Students in Small Mofussil Towns and Cities
- Support Poor Students with quality educational inputs
- Take learning and development to the doorsteps of students
- Provide a Self Learning/ Development facility

Webcasts Available

Students are advised to benefit from the following three webcasts of two hours duration each, links for which are available below:

- **Final Direct Tax Laws:** http://icaitv.com/?p=1861
- **Preparing for CA Exams:** http://icaitv.com/?p=1930

Links to the aforementioned webcasts are also available through the Students Learning Management System (LMS) at http://studentslms.icai.org under Announcements Section.

Webcasts Available

The Board of Studies would be organizing Subject Specific Webcasts for the benefit of Students taking the November 2013 Examinations from July 2013.

Director
Board of Studies

Secondment of Articled Assistant

CA Regulations, 1988 provide scope for Secondment of articled assistant facilitating an opportunity for gaining practical experience in multi-disciplinary work and variety of business situations. A Principal with the consent of his/her articled assistant, second to the other member/s with a view to provide articled assistant the opportunity of gaining practical experience in areas where the principal may not be in position to provide the same. Secondment can also be availed during Industrial Training.

Secondment provides opportunity to get exposure to the practical knowledge related to Accounting, Audit, Taxation and other subjects prescribed in CA course. Hence articled assistants are advised to opt for secondment with consent of their principals.

Such Secondment can be done under an eligible member whether in practice or in employment. The minimum period of secondment shall be four months and the maximum period shall be one year which may be served with more than one member. During the period of secondment, the articled assistant will receive stipend at the prescribed rates from the principal under whom he/she is seconded. A record of training imparted during secondment should be properly maintained by an articled assistant and the principal, on completion of period of secondment, such records of training should be forwarded to original principal for inclusion of particulars of training in the report to be submitted to the Council.

For Secondment, a statement in the form containing particulars of training needs to be filed with the Institute within 30 days from the date of commencement of training on secondment.

Detailed information and prescribed application form of secondment is available on ICAI website www.icai.org as well as may be obtained from concerned regional offices of ICAI.

Industrial Training

CA Regulations, 1988 under proviso 51 & 72 provides scope for Industrial Training facilitating articled assistants real life exposure in office workings at industry and service organizations in order to develop their professional acumen. Industrial Training is highly benefiting to articled assistants in terms of practical knowledge & learning. The period of Industrial Training may range between nine months to twelve months during last year of the prescribed period of Practical Training under CA Course.

An articled assistant who has passed Intermediate (Integrated Professional Competence) Examination/Intermediate (Professional Competence) Examination/Professional Education (Examination-II)/Intermediate Examination may serve as an Industrial Trainee in any of the financial, commercial, industrial undertakings under an eligible member of the Institute working with such organization. A list of registered organization permitted to impart Industrial Training is available at the ICAI website.

Eligible articled assistant completing second year of articled training are advised to pursue industrial training under consent of their Principal. It requires termination of current articled services on submission of Form 109 and registration in Industrial Training on submission of Form 104 under an eligible member serving with registered Industry/Organization/Department. Detailed information and prescribed application forms are available on ICAI website www.icai.org as well as may be obtained from concerned regional offices of ICAI.

The Institute of Chartered Accountants of India
[Set up by an Act of Parliament]

ANNOUNCEMENT

FOR THE ATTENTION OF THE STUDENTS NOTICE FOR ELECTION TO THE MANAGING COMIITEE OF WICASA

NOTICE is hereby given that the 48th Annual General Meeting of the Students of the Western India Chartered Accountants Student's Association (WICASA) will be held on Sunday, 9th June, 2013 at 06.00 p.m. at the J. S. Lodha Auditorium of Western India Regional Council of the Institute of Chartered Accountants of India, ICAI Bhawan, Cuffe Parade, Mumbai – 400 005 to transact the following business:

1. To note and adopt the financial statement of the Association for the financial year ended March 31, 2013.
2. To declare the names of twelve elected students of the Managing Committee of the Association for the year 2013-14. Elections for the said vacancies would be held from 10.00 am to 02.30 pm on Sunday, 9th June, 2013 at The Institute of Chartered Accountants of India, ICAI Bhawan, 27, Cuffe Parade, Colaba, Mumbai - 400 005.
3. To transact any other business with the permission of the Chair.

Place: Mumbai
Date: 6th April, 2013

CA. Mahesh Madkholkar
Chairman - WICASA

Note:

Every articled clerk who has been serving on or before 1st April 2013 shall be eligible to vote for the Election to the Student's Association Managing Committee. Students eligible to vote and having at least 12 months of unexpired period of article ship as on the date of the election shall be eligible to contest the Election. Such Students from western Region desirous of contesting the election to the Managing Committee of the Association are required to send the nomination form duly filled in and complete in all respects together with prescribed fees of ₹10/- to the Chairman, WICASA at the above address on or before 29th May, 2013 upto 5.00 pm. Nominations forms received incomplete on or before 29th May, 2013 and nomination forms received after schedule date and time will be considered as invalid. The last date for withdrawal of the nomination is **31st May, 2013** upto 5.00 pm. A student eligible to vote should complete the eligibility form and get it countersigned by his/her employer. Those students who are in possession of the Institute's exam admit card or Board of Studies Identity card need not attach separate photograph on the Eligibility Form. Ballot paper will not be issued to any student unless the eligibility form is complete in all respects and appropriate photographic identification is available.

Election will be held from 10.00 am to 02.30 pm on Sunday, 9th June, 2013 at ICAI Bhawan, 27, Cuffe Parade, Colaba, Mumbai – 400 005.

Nomination Forms and Eligibility Form for casting the vote are available at WIRC office which can be collected on request from 14th May, 2013 to 29th May, 2013 from 10.00 am to 05.30 pm. Copy of the financial statement of the WICASA for the financial year ended 31st March, 2013 will be available at WIRC office from 1st June, 2013 to 7th June, 2013 during working hrs i.e. 10.00 am to 05.30 pm.

ANNOUNCEMENT

General Management and Communication Skills

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

(i) GMCS-I (15 days) – during 1st year of articled training

(ii) GMCS-II (15 days) – after completion of 18 months of training but before completion of articled training

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

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

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

Director
Board of Studies

Hardship Comes With a Way Out!

This incident happened during the later part of 1800s, in Bengal when Sri Ishwarchandra Vidyasagar and his few friends were busy collecting donations to start Calcutta University.

One day Vidyasagar stopped at the door of the palace of Nawab of Ayodhya. Nawab was not exactly known to be a generous person and many people tried to dissuade Vidyasagar from taking this mission.Vidyasagar met Nawab and presented his cause. On hearing Vidyasagar's plea, Nawab got up, pulled one of his shoes and dropped in Vidyasagar's bag for donation. Vidyasagar did not say a word. He simply got up, thanked Nawab and left.

Next day Vidyasagar organised auction of Nawab's shoe in front of his palace. Lot of Nawab's knights, Jahagirdars, court members, who wanted to impress Nawab started bidding. By the mid afternoon, the shoe was sold for ₹ 1000.

Nawab, happy to hear that his shoe fetched ₹ 1000, matched the auction money. He added his own ₹ 1000 as donation.

When the destiny dropped a shoe in his basket, Vidyasagar could have walked out furious. He could have thrown the shoe on Nawab as revenge of insult. He could have got depressed and gone home and cried that nobody is willing to give him donation and given up his efforts to raise donation for the university. But he did nothing of that sort. He remained focused on the main goal. He rose above his personal feelings, ego, and insecurities and exploited the situation creatively. He rose above his insecurities and exploited that of others around him. He took that shoe and converted it to the biggest donation to University of Calcutta. Ishwarchandra Vidyasagar converted his on-face insult and resulting disappointment into a ₹ 2000 donation plus a pleased Nawab who could be of some assistance at some point later.Calcutta University became a reality. It became a center of education for fine arts, social studies, science and technology.

Throughout our life, we will come across situations that will bring disappointment, anger, frustration and depression. But most of the times, there will be a way we can use this situation to our advantage if we remain focused on our real objective, if we engage in introspection, and if we find a creative solution by thinking outside the box.

Next time when destiny hands over you a shoe when you were expecting treasures, take that as a challenge to your creativity, not as an insult to your ego. Next time you get a lemon, do not make lemonade, and try to convert it into a jackpot.

(Contributed by Editorial Support Team)

ANNOUNCEMENT

University of Madras-ICAI Joint Education Programme

The University of Madras (UNOM) & The Institute of Chartered Accountants of India (ICAI) entered into a Memorandum of Understanding on 2nd December, 2011 to offer Undergraduate & Postgraduate courses viz. B.B.A., B.Com, M.Com & M.B.A to Members & Students of the Institute wherein they would be given the exemptions from certain Papers. The Calendar year Admission under the Joint Education Programme in the above courses has been started from January 30th, 2013 to May 15, 2013.

For eligibility, course fee and exemption you can visit University of Madras website www.ideunom.ac.in and/or ICAI website www.icai.org

Director, Board of Studies

ANNOUNCEMENT

ICAI Four Weeks Residential Programme on Professional Skills Development at the Centre of Excellence (COE), Hyderabad

The Board of Studies is pleased to announce the 20th & 21st Batch of ICAI Four Weeks Residential Programme on Professional Skills Development from May 20,2013 to June 16,2013 at Centre of Excellence, Hyderabad. The programme offers an unique opportunity and would focus on development of communication skills, leadership skills, personal traits for effective functioning in business organization and profession. More emphasis is given on soft skills, developing personality trait and communication skills of the participants.

Only the male students who have passed Chartered Accountancy IPCC/ PCC/ PE- II examination and pursuing last year of article training or completed Articleship training are invited to join the course. Recently qualified Male Chartered Accountants are also welcome to join the course.

For online registration and further details visit the Board of Studies Announcements under the Students Icon on the Home Page of ICAI website www.icai.org or follow the link "http://220.227.161.86/29657bos180413main.pdf".

Director, Board of Studies

SAFA Student Exchange Programme - 27th National CA Students' Conference – Sri Lanka

I was given an opportunity by the Institute of Chartered Accountants of India to attend the 27th National CA Students' Conference in Sri Lanka and participate in the SAFA Student Exchange Programme. Six other students from different parts of India were also selected for the same.

The Conference was held at hotel Galadari in Colombo on April 3, 2013 and the theme was **"Facing tomorrow's challenges today"**. Eminent industry experts, business leaders, members of the profession, students of the Institute of Chartered Accountants of Sri Lanka and student delegates attended the conference from India and Pakistan. The President of ICASL, Mr. Sujeewa Rajapakse discussed the challenges and opportunities encompassing the chartered accountancy profession and what would be expected from the professionals. The Key Note Speaker Mr. Rohan Fernando talked at length about how challenges are in fact opportunities in disguise. The Students' Panel Discussion saw inputs from students of the three nations regarding some of the avenues that can be explored, the challenges that would be faced while doing so, and means of overcoming the same through the rudimentary keystone of change and adaptability. This was followed by an Experts' Panel Discussion wherein queries pertaining to key issues were addressed by the panelists, all stalwarts in their respective fields.

The Conference was only a glimpse of what was to follow. The following day, we visited the Institute of Chartered Accounts of Sri Lanka. It ensured fruitful interactions with the President and CEO, ICASL, who talked fondly of the state-of-the-art infrastructure and the conducive environment that the Institute offered to its students. This was followed by a visit to a reputed audit firm, where we interacted with one of the partners, who shed some light on their work conduct and policies, audit softwares used by the firm, and relevance of IFRS in global reporting.

The programme was nowhere near all work and no play and during the course of the next couple of days, we were shown around the beautiful beaches of Colombo, tasted authentic Sri Lankan cuisines and went hiking in Sigiriya, where the Lion Rock offered a panaromic view of the place with no concrete structure in sight except for a white statue of Lord Buddha standing tall amongst the green. We were housed in very well furnished sea-facing studio apartments and we dined at the finest hotels and restaurants of Colombo. The warm hospitality extended, and the fervor and energy levels portrayed by the Sri Lankans throughout the trip were commendable and something to learn from. The Students' Society left no stone unturned in making sure we had a very comfortable stay and their efforts paid off. Everything was very well conducted and managed and there was absolutely no scope for any glitch. The day ended with a farewell at the Grand Oriental Hotel, the oldest hotel of Colombo, overlooking the beautiful harbor.

In a nutshell, the entire programme was a huge success and it was time to bid adieu. These times spent with people from other nations sailing in the same boat as ours have left indelible imprints upon our minds.

(Contributed by Jagravi Shah, WRO 0384880 Final Student, Ahmedabad)

CORRIGENDUM

Final - Paper 1 : Financial Reporting 'Revision Test Paper'

Final students may note that in the Final Group I 'Revision Test Paper' of May, 2013, in Question 4(b) of Paper 1: Financial Reporting given at page 11 the residual value of the machineries should be read as '₹ 20,00,000' instead of '₹ 2,00,000'.

The updated Final Group I RTP has been hosted on the institute's website www.icai.org>>Students>>BoS Knowledge Portal>>RTP>>Final Course>>Group I Paper-1:Financial Reporting

CA. K. Raghu, Vice President, ICAI, addressing the seminar on Bank Branch Audit for CA Students in Bangalore organized by SICASA, Bangalore Branch. Seen in dais (L-R) CA. Allama Prabhu, Secretary, Bangalore Branch, CA. Ravindranath S N, Chairman, Bangalore Branch, CA. Shyam Ramadhyani and CA. Naina Gadia, Chairperson, SICASA, Bangalore Branch.

A group photo of the Indian delegation at the Institute of Chartered Accountants of Sri Lanka Conference at Colombo. Seen in picture (L-R) Sahil Agarwal, Jagravi Shah, Sumil Sethi, Sandhya Purohit, Akshat Sanghvi, Tanvi Jain, P. Abbirami

CA. K. Raghu, Vice President, ICAI inaugurating the Information Technology Training Centre in Bangalore Branch by cutting the Ribbon in the presence of CA. P.R. Suresh, Vice Chairman, SIRC.

CROSSWORD

April, 2013

Solution

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

RNI No. 66180/97

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Date of Publication: 26.04.2013

CROSSWORD

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38							39				
			40								

ACROSS

1. ____ Internet Solutions: Cloud Computing provider.
5. An Indian mobile network operator whose tagline is What an ______ Sirji!
8. An organization that uses surplus revenues to achieve its goals rather than distributing them as profit or dividends.
9. A conjunction used with either.
10. An identification number used by the Internal Revenue Services in the administration of tax laws.
11. The terminal date for .... sector undertakings to be extended by one year, for availing tax benefit under section 80-IA.
12. An overly intellectual, obsessive, or socially impaired person.
13. An optical disc storage format offering higher storage capacity than Compact Discs while having the same dimensions.
14. An egoistic person is generally bothered about I, _______ and mine questions.
16. .... donations to political parties and electoral trusts not to qualify for deduction under section 80GGB and 80GGC.
19. Brain of the computer.
21. All sums realized by way of penalties under the SEBI Act, 1992 shall be credited to ——— Fund of India.
26. A shipping company which is a joint venture between Japan and India.
27. If the marginal utility derived from the 6th unit of a commodity is worth ` 20 and the price paid is also ` 20, the consumer surplus is ________.
28. A mathematical constant that is the ratio of a circle's circumference to its diameter, and is approximately equal to 3.14159.
29. _______ means to slide against will.
30. ____ check is an auditing procedure based on selective and systematic sampling.
34. Margin of safety is sales above _________ point.
38. ___________ is a common name for any technology that allows interactions on a telephone and a computer to be integrated or coordinated.
39. T-_____ Fund: A large venture capital fund (over one billion dollars).
40. The document distributed at the annual meeting to shareholders of record who wish to vote their shares in person.

DOWN

1. A line of portable media player.
2. An economy that has minimal output of greenhouse gas emissions is called ____ carbon economy.
3. Cost of ________ loss is absorbed by good units.
4. ______ means left side of a ledger account and "Cr" is the right side of a ledger account.
5. An entry in an account.
6. ___________ costs are those costs that can be specifically and exclusively identified with a particular cost object.
7. When we have to reach at the _____ of a file in Microsoft Word, we press ctrl + end.
8. ______ is the present value of the expected future cash flows minus the cost.
13. A ________ is a private investigator.
15. ___________ working papers constitute the link between the auditor's report and the client's records.
16. An undergraduate
17. A trigonometric function of an angle.
18. A composite index of life expectancy, education and income used by the UN to rank countries.
20. Coca Cola and ________ are major players of cold drink market showing tendencies of an oligopolist market.
22. In statistics, _______ is a method for estimating the unknown parameters in a linear regression model.
23. The common term for the Nihon Keizai newspaper, Japan's leading financial newspaper.
24. _______ is an extension to the TLS protocol that indicates what hostname the client is attempting to connect to at the start of the handshaking process.
25. A computer key.
31. A nationalized bank in India.
32. An authentication or a stamp.
33. _________ fulfils a central role in mathematics as the additive identity of the integers, real numbers, and many other algebraic structures.
35. Under ___________ Act, any citizen may request information from a "public authority" which is required to reply expeditiously or within thirty days.
36. _______ National Product at factor cost is also known as National Income.
37. The Inspector may keep in his custody any Books or Papers of the Company for ——— months.

If undelivered, please return to:
The Institute of Chartered Accountants of India
ICAI Bhawan, Indraprastha Marg
New Delhi - 110 104