guwahati@icai

E-Newsletter of the Guwahati Branch of EIRC of ICAI
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Contents

Write to Editor

'Information is Power' and our ever-evolving profession needs more and more of that today than ever before. Do you have any relevant points to make, experiences to share, and views to spread among the CA fraternity? If yes, e-mail us at newsguwahati.icai@gmail.com.

Chairman's Message ...

Dear Colleagues and Student Friends,

hello!

"Good seasons start with good beginnings"

With new hopes and aspirations, I humbly take the baton of Guwahati Branch of EIRC of ICAI and greet you through my first message as the Chairman of the Best Branch of the Eastern India Regional Council of ICAI.

First of all, I would like to express my appreciation towards all the members who asserted their faith and confidence in me to stand as Chairman of the Branch. I am indeed grateful to all the members of the Branch for honouring me with this esteemed and coveted position. I, on behalf of all the members of the managing committee, promise you a year full of learning and enrichment.

Alan Cohen once pointed out *"Do not wait until the conditions are perfect to begin. Beginning makes the conditions perfect".*

Following his wise words, we decided to turn the chaotic month of March into something extraordinary. We got off to an eventful start this term. The month of March is always a little more hectic than usual, as there are time-bound assessments, advance tax duties, indirect tax payments and also the fraternity gearing up for Bank Branch Audits. This can be a drag in finding CA professionals in a cheerful mood. Yet, a few out-of-the-box programmes like the remarkable awareness programme with veteran political journalist Mr. Prabhu Chawla, the first-of-its-kind Women's Day Celebrations with leading ladies of the region, the humorous Holi Utsav 2014 with Comedy King Mr. Surendra Sharma and also a knowledge-filled seminar on Bank Audit with CA. Arijit Chakraborty, combined education with entertainment to bring plenty of smiles on the faces of our fellow members. I am sure that the smiles will get wider as we move forward with the support of all.

I am glad to put it to your knowledge that we have again planned a few more programmes to strengthen the command of our students and members over the various professional topics. It gives me immense pleasure to announce that our branch is going to organize the first ever International Study Tour to UAE from 26th April, which will make our learning transnational and we will benefit from the wisdom of professionals living beyond our national boundaries. Other than this, we have also taken the initiative to issue a Members' Telephone Directory covering members of the entire North Eastern States, to organise a Residential Programme at Kaziranga and a Certificate Course on Concurrent Audit at Guwahati in the month of June. Further, to bring a proactive approach to our professional moves, we will come up with various half-day and full-day seminars to keep our members updated and gain a better understanding of the various professional developments.

These will not remain as mere words on paper but will certainly be put into action as far as possible. I sincerely hope and believe, our year long journey, will be cherished and effective. I seek suggestions and participation from members of the Branch to come up with innovative ideas and take our branch to newer heights. During my tenure, I will make sure that I give the best of my attention towards the needs of all members and students.

"The first responsibility of a leader is to define reality. The last is to say thank you. In between, the leader is a servant"

Wishing everyone a very Happy Rongali Bihu and a very eventful New Financial Year 2014-15.

– CA. K P Sarda

Dear Professional Friends, Colleagues & my dear Students,

I guess it's gonna have to hurt,
I guess I'm gonna have to cry,
And let go of some things I've loved,
To get to the other side,
I guess it's gonna break me down,
Like falling when you try to fly,
It's sad, but sometimes moving on with the rest of your life,
Starts with goodbye.

Friends, it has indeed been an incredible journey. There was too much to do in too little a time. When I look back now, all I can say is I guess I tried my best. It was no doubt a happening year, first when we had attained the status of a large branch, formation of two new branches in the North East Region, having the privilege of receiving both the Chief Minister & Governor of the state as Chief Guests in two of our most important programs, regularly releasing issues of the monthly e-newsletter, never before media coverage in the local dailies, receiving the best branch awards both for members & students in the regional level, etc.

"The winds and the waves are always on the side of the ablest navigators"

But as I said, a lot more is still left to be done...

Passing on the baton to my able successor, all I can say for him is...

"All our dreams can come true if we have the courage to pursue them"

– CA. Kaberi Bhuyan
Immediate Past Chairperson

readers write

Dear Editor,

I am in receipt of the eleventh edition of 2013-14 of the Branch E newsletter "guwahati@icai". The sanctity with which the e newsletter is being published is commendable and more so, because of the quality content and visual treat which it brings to the desk each time.

The journal and newsletter culture is like a ceremony to our profession, where reading and writing are rituals which cannot be done away with and need to be repeated each time for a healthy and religious sustenance. It is a beautiful way to reinforce and keep this tradition alive in the changing times.

The professional content contribution by refined professionals like CA Manoj Nahata and CA. Vinod Kothari deserve special mention as myself as a reader look forward to these academic treats and relish every chunk of them. Congratulations to them for the lucid presentation.

Wishing the newsletter good health and glow in future too.

Thanks

With Best Wishes,
CA. Raginee Goyal,
Guwahati

Editor's Desk...

Dear Professional Colleagues,

March means a lot to us – pressure of meeting deadlines amplified by errant clients who turn up in the nick of time, the expectant wait for that one appointment letter which can make or mar our new year, the colours and exuberance of Holi, the hope of new beginnings in the fresh financial year and so on. At the end, we emerge pretty happy and satisfied, having met the pressures and the deadlines. The resonance of "Dhul" and "Pepa" are not now distinct in our ears with Bohag festivities knocking on our doors. This year is somewhat special with the pitch being further queered by the parliament elections, the largest democratic exercise in the entire world. Going by recent trends, we can brace ourselves for an exciting contest, with our countrymen expected to turn up in large numbers at the polling booths. Just make sure that you are one of them.

New notifications have been issued for the phased implementation of Companies Act, 2013 just as the T-20 World Cup matches are in progress at Dhaka. The excitement of the matches, coupled with the pressures of March, seem to have overshadowed the complicacies of MCA for now. The growing pile of TDS default and penalty notices on our tables are competing badly with the piling of runs and wickets at Dhaka. But catches win matches. So catch the opportunities arising out of the moment and come out winners.

The Guwahati Branch will continue to strive in its quest to upgrade the professional competence of its members, this time with an added flavor of entertainment and relaxation. Active participation of members will certainly encourage us in our endeavor. If beginning shows the day, our new chairman has begun with a bang and the year promises to be one full of activity and fun.

I sincerely thank you all for giving me the opportunity to act as the editor of this very popular E-Newsletter. I solicit your guidance and suggestions to improve further. Do respond with your feedbacks. And keep smiling.

– CA. Sharad Agarwalla

Congratulations...

CA. Mani Kuntal Bardoloi
Appointed as a Director of Assam Tea Corporation Limited, a state PSU.

CA. Harish Kumar Agarwala
Co-opted as member of Professional Development Committee, ICAI

Miss Divya Mittal
Secured 45th Rank all over India in the IPCC Examinations held in November' 2013

Voting for the lesser of two evils is still voting for evil

ARE THE AUDIT CONDUCTED BY THE SERVICE TAX DEPARTMENT OFFICIALS OR CAG LEGAL?

By: CA. MANOJ NAHATA*

Service Tax Department is nowadays conducting Audit on a regular basis based on certain criteria/ features etc. as applicable to assessee. More or less each and every assessee falls under audit net within a time period of two to five years. There are examples where audit notices are even issued in the very first year too.There are separate groups/ audit teams formed within the Service tax division/Commissionerate comprising of officers of the rank of Superintendent and Inspector. The cases under audit are selected either manually or by the assistance of computer. The Deputy Commissioner generally earmarks audit cases to be taken up by the respective audit group/team. In this process a notice is first issued to the assessee calling for certain details/ documents etc. and based on the same an audit program is chalked out. Thereafter a formal visit is paid by the service tax officers to the assessee's premises for detailed examination & verification of records etc. to conduct the service tax audit in the interest of revenue. If there is any discrepancy noticed then steps are taken for recovery of the tax short paid/ unpaid. This is the starting point of litigation where tax department always tends to rope in maximum revenue whereas assessee tries the opposite. Recently, the powers of service tax department officers to conduct such audit were challenged before the Allahabad High Court.

Summary of the Judgment:

The Honorable Allahabad High Court in case **of M/s A.C.L. Education Centre (P) Ltd. & Others V/s. Union Of IndiaThr. Secy. Deptt. of Revenue, New Delhi & Others [WP No. 11954/MB/2013]** held that as per Section 72A of the Finance Act, 1994 only a Chartered Accountant/ Cost Accountant appointed by Commissioner can conduct audit under Service Tax. Rule 5A of Service Tax Rules, 1994 authorize Departmental Personnel's to demand the documents just to verify the correctness of books of accounts and ultimately, the audit has to be conducted by an audit party headed by the CA/CMA deputed by the Commissioner.

Position of Law:

Under Service tax law, there is a concept of self-assessment and self-adjustment of Cenvat Credit. It means the assessee can make tax payments & file ST-3 return during the half year period based on its own calculations and the same is also accepted by the tax department.

The powers of department to call for further documents etc. are conferred under rule 5A. So let us first understand Rule 5A of the Service Tax Rules.

Rule 5A: Access to a registered premises

(1) An officer authorized by the Commissioner in this behalf shall have access to any premises registered under these rules for the purpose of carrying out any scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.

(2) Every assessee shall, on demand, make available to the officer authorized under sub-rule (1) or the audit party deputed by the Commissioner or the Comptroller and Auditor General of India, within a reasonable time not exceeding fifteen working days from the day when such demand is made, or such further period as may be allowed by such officer or the audit party, as the case may be,-

(i) the records as mentioned in sub-rule (2) of rule 5;

(ii) trial balance or its equivalent; and

(iii) the income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961 (43 of 1961), for the scrutiny of the officer or audit party, as the case may be.

Application of section 14AA to Service Tax:

On 01.01.2008, the Government of India through its Board issued instructions F.No.137/26/2007-CX4 in respect of amendment made by Notification dated 28.12.2007, by inserting Rule 5A(2) of the Service Tax Rules and clarified that with effect from 12.05.2007 vide Section 83 of the Finance Act, 2007, that Section 14-AA of the Central Excise Act is applicable to the Service Tax, to empower the Commissioner of Central Excise, to order for cost audit by a Cost Accountant to study the abnormal utilisation of CENVAT Credit.

Insertion of provision of Special Audit:

With effect from 28.05.2012, Section72-A has been inserted in the Finance Act, 1994, for the purpose of Special Audit under Service Tax in certain cases. This provides for getting the accounts of a service tax assessee audited by a chartered accountant or cost accountant nominated by the Commissioner.

Power of Government to make rules:

On perusal of the provisions of Section 94 of the Service Tax Act, it is evident that the Central Government has power to make Rules for carrying out provisions of Chapter V.

Brief facts of the case& Judgment thereon:

The Factual matrix of the cases are that the Central Excise Department on various dates has issued intimation under Rule5A(2), to assessee for making a reference to conduct an Audit under EA-2000. For the said purpose, the necessary documents were demanded from the assessee. The assessee objected and also challenged the vires of Rule 5A(2) of the Service Tax Rules, 1994 *interalia* on the ground that the provision of Rule 5(A)(2) are contrary to the provision of Section 72 of the Service Tax Act. Thus, the petitioner-assessee prayed for declaring the Sub Rule (2) of Rule 5-A of the Service Tax Rules, 1994, as inserted by Notification No.45/2007-ST to be *ultra vires*.

Second prayer is regarding quashing of the impugned intimation, whereby certain documents were required for conducting Central Excise Service Tax Audit under EA-2000.

Contention of the assessee:

It was contended that on perusal of the provisions of Section 94 of the Service Tax Act, it is evident that the Central Government has power to make Rules for carrying out provisions of Chapter V i.e. Rules can only be framed for the provisions which are noted in Chapter V of the Finance Act. Therefore, no rule can be framed by the Central Government in respect of any provision of the Act which is not specified in the Chapter V of the Finance Act,1994. There is no provision in the Finance Act, 1994 for framing of Rules in respect of the audit of the accounts of private person or Companies or Firms who are paying service tax by self assessment and therefore, the Rule which empowers service tax officials to carry out scrutiny, verification, checks and for making available information as mentioned in Sub Rule (2) of Rule 5-A by audit party is without any authority. Thus, it is *ultra vires*.

Further it was also stated that the impugned Rule is totally arbitrary and without specifying the period for conducting the special audit. Qualification and manners in which audit will be conducted has not been defined anywhere. There is no provision to provide the audit report to the petitioner-assessee. Audit Manual, 2011 is exclusively meant for the departmental use. But the petitioners-assessee was asked to fill up certain forms.

In order to buttress the argument several case laws were cited wherein it was decided that that statutory rules must be construed in harmony

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with the rule making power, in exercise of which, the statutory rule has been made. Further a judgment dated 26.09.2012 of the Calcutta High Court in Writ Petition No. 21053 (W) of 2011 in case of **SKP Securities Ltd. Infinity Infotech Parks Ltd. Versus Deputy Director (RA-IDT)** on the similar issue was cited, wherein it was held that CAG has no power to conduct service tax audit of private enterprises which are not funded by Government.

Contention of the revenue:

It was submitted that the Rule is not inconsonance to Section 72-A of the Finance Act, 1994.The purpose of Sub-Rule (2) of Rule 5A is to get the account audited by an Auditor deputed by the Commissioner. In case, it is an undertaking of Government of India, then Controller Auditor General of India was authorized to conduct the audit. The purpose of impugned notice is to collect the information from the assessee to assess the correct tax and if the Commissioner is satisfied, then he may appoint a Chartered Accountant for the purpose of audit. The audit will not be done by any officer or on his behalf. The audit will be performed by a qualified Chartered Accountant. So, the reference to the Audit Manual, 2011 for the Department is valid. Asking the petitioners-assessee to fill up certain forms is just to facilitate the audit, which has to be carried out as per law. It is also a submission of the learned Additional Solicitor General of India that after completing the audit, a copy of the report is always available to the petitioner-assessee.

Findings & Judgment:

It is clear that section 72A is applicable where the assessee is not maintaining the books of account properly to ascertain the liability of the service tax. To determine the correct tax, books will have to be examined and if need be, audited by a qualified Chartered Accountant.

Rule 5-A of the Service Tax Rules, 1994 is just to facilitate the above-mentioned provisions. Rule 5-A, sub-rule (2) states that every assessee shall, on demand, make available to the officer authorized or the audit party, records, trial balance and income-tax audit report, if any. So here, the officer will demand the documents just to facilitate the correctness of books of accounts and ultimately, the audit will be conducted by the Audit Party headed by the Chartered Accountant/Cost Accountant, as the case may be, deputed by the Commissioner.

It is the Commissioner on whose behalf the officer will collect the material and the Auditor will perform the audit. In any case, the final report duly signed by the Chartered Accountant will be submitted to the Commissioner. In case of Government Autonomous Body, the function of the audit has been assigned to the Comptroller of Auditor General of India. Thus, there is no inconsistency in Rule 5Aand Section 72-A of the Finance Act, 1994. The said provision is not arbitrary. The manner for conducting the audit is as per the accounting standard provided by the Institute of Chartered Accountant of India. The audit report will be made available to the assessee as per law.

Author's Comments:

As per the above ruling audit under Service Tax can be conducted only by an Audit Party through authorized person under Section 72A i.e. either a CA or a CMA. In other words, department is not authorized to conduct the audit. This will certainly give a big relief to the assessee. On the other hand professional opportunities for Chartered/Cost Accountants are also likely to be increased because instead of departmental officers now the audit will be conducted by professionals. But at the same time it must be kept in mind that under rule 5A(1) the officers still have got powers to access any premises registered under these rules for the purpose of carrying out any scrutiny, verification and checks as may be necessary to safeguard the interest of revenue. Thus the author apprehends that now the departmental officials instead of conducting audit will start doing scrutiny/verification/checks etc. resulting in more or less the earlier audit process only.

The powers of CAG to audit records of private entities have always been a disputed matter. Recently, this matter was again raised when Delhi Government ordered CAG audit of Electric Generation/Supply companies in Delhi. The matter reached the Delhi High Court also but a Division Bench of the Hon'ble Court allowed conducting the audit of receipts (revenue) part only by the CAG. More recently, the Andhra Pradesh High Court also granted stay on Audit by CAG of Private Company in case of **M/s Aditya Housing & Infrastructure Development Company Pvt Ltd [WP No.26799/21872 of 2013].**

**The author is a practicing chartered accountant at Guwahati and can be reached at: manoj_nahata2003@yahoo.co.in*

readers write

My Dear Nahata,

I have read your articles on Service Tax published in guwahati@icai, e-newsletter of the Guwahati branch of EIRC of ICAI, I enjoyed reading the articles and found that these were very well informative. I trust that these will be very helpful for the service tax assessees and serving tax practitioners as well as to the departmental officers.

I take this opportunity to congratulate you for the great efforts put in by you.

With best wishes,

Ninamani Phukan,
Superintendent (Adjudication)
Central Excise & Service Tax
Guwahati

Members' Update

Corporate Identification Number (CIN) to be mandatorily mentioned on letterheads etc. from 1st April, 2014

In the latest from the Ministry of Corporate Affairs, 183 new Sections of the Companies Act 2013 have been notified to take effect from April 1, 2014.

As per Section 12 of the Act notified from 1st April, 2014, every company is mandatorily required to mention its Corporate Identification Number (CIN) along with the name and address of registered office on letterheads, invoices, notices and on all official correspondence and publications. Additionally, contact details, email and website address, if any, must be incorporated in such documents mentioned from April 1, 2014.

In case of any failure to quote the CIN number, penalty of ₹ 1,000 per day shall be imposed on the defaulting company and on every officer in default for every day during which the default continues. However, maximum penalty imposable shall not exceed ₹ 100,000.

Obituary

Guwahati Branch of EIRC of ICAI deeply mourns the sad demise of CA. Atanu Datta Choudhury (Membership No. 057621) who left for his heavenly abode on 14th March, 2014. May the departed soul rest in peace.

SECTION 185 of the Companies Act, 2013 – An Analysis

By CS. Mamta Binani
Past Chairperson (Year 2010), EIRC of ICSI
Practising Company Secretary
mamtab@mamtabinani.com

At the outset, it is pertinent to note that out of the total 98 sections made applicable by the Ministry of Corporate Affairs from the 12th day of September 2013, section 185 is also one of it and since that day, the provisions relating to Loans to Directors etc. has been drawing a huge concern from the corporate sector because prima-facie it emits a sense of challenge to not only loans but also guarantees and securities within group companies. More so, even the private limited companies and subsidiary companies are no more in the exemption list which it seems has added to the already existing ordeal of transiting from the old law to the new regime.

In this write-up, section 185 of the Companies Act, 2013 has been delved upon and to make it comprehensive, the circular dated 14.02.2014 by the Ministry of Corporate Affairs, issued in the nature of clarification and some exemption has been incorporated.

Let us break the section into parts to understand it better:

<u>185(1): Save as otherwise provided in this Act, no company shall:</u>

- ✓ directly or indirectly
- ✓ advance any loan <u>(including any loan represented by a book debt)</u>

To:

a. any of its directors or

b. to any other person in whom the director is interested or

c. give any guarantee or

d. provide any security in connection with any loan taken by him or such other person

<u>Inputs:</u> The words '<u>save</u> as otherwise provided in <u>this</u> Act' is to be noticed. To elucidate, this would mean that if anywhere else, i.e. if any other section of the Companies Act, 2013 (and not that of Companies Act, 1956) allows giving of loans etc. to the persons covered in section 185 then that will be permitted. For the information of the readers, there are no such sections that permits the same in the Companies Act, 2013

The phrase 'including any loan represented by a book debt' is a very smart move by the law makers to ensure that the directors and/or any other person in whom the director is interested do not circumvent the law by juggling with the words. To elaborate this with an <u>example</u>: Say a Company manufactures air-conditioners. One of the director of the Company is setting up an hotel for which he will also need to buy air-conditioners. The director in the erstwhile situation (when section 185 was not applicable) could have taken a loan from the Company for buying the same. But in the present situation, since he is not able to take that loan, he asks the Company to give him 100 air-conditioners for a long credit period. If the credit period extended by the Company is as per the normal period and in the normal terms and conditions, as extended to its other buyers, then there is no problem but as soon as it is biased and tilted to give undue benefit to the director and/or other person in whom the director is interested, then such transaction will be considered to be loan.

<u>In the proviso to this sub-section, 2 exceptions have been provided:</u>

The first one is:

(a) the giving of any loan to a <u>managing or whole-time director</u>:

(i) as a part of the conditions of service extended by the company to <u>all</u> its employees; or

(ii) pursuant to any scheme approved by the members by a <u>special resolution</u>;

<u>Inputs:</u> The exception is extended to a particular class of directors, i.e. to the managing or whole-time directors only. And to be able to enjoy the exception, it further mentions that it should be part of the conditions of service extended by the Company to all its employees or it is as per scheme approved by the members by a special resolution. To elaborate this with a small <u>example</u>, the Companies pass a resolution under section 269 of the Companies Act, 1956 for appointment of Managing Director and it approves the terms and conditions of its appointment and if as a part of its terms, there is a loan which can be given to that director, then it falls under the exception given in section 185 of the Act.

The second one is:

(b) a company which in the <u>ordinary course of its business</u> provides:-

- ✓ loans; or
- ✓ gives guarantees; or
- ✓ securities for the due repayment of any loan and
- ✓ in respect of such loan an interest is charged at a rate <u>not less than the bank rate</u> declared by the Reserve Bank of India

<u>Inputs:</u> The second exception mentions that if a company in its ordinary course of business gives loans or provides guarantees or securities for due repayment of any loan and if that loan is provided at a rate of interest that is not below the bank rate, then that loan will be outside the purview of section 185. Let us understand this with the help of an <u>example</u>. There is an NBFC Company which is registered in the category of a loan NBFC. If this Company gives a loan and the rate of interest aspect is taken care of, then the said loan will be falling in the exception clause and hence section 185 will not be applicable.

Will it be applicable for all kinds of NBFC? Clearly not. If suppose this Company in question is a Investment NBFC. Then surely giving of loans for it will not classify in its ordinary course of business. Many a times, a question has been posed that what if the Company includes loans business in its main object clause and hence qualify under the phrase-'ordinary course of business'. This is also not going to help, unless the other special acts e.g. the Nidhi Benefit Companies etc. allows such activities and the Company has all proper registrations for being called so.

<u>Explanation has been provided in the section</u>:

For the purposes of this section, the expression "to any other person in whom director is interested" means—

a) Individual entity:

i. any director of the lending company; or

ii. any director of its holding company; or

iii. any partner of any such director; or

iv. relative of any such director;

<u>Inputs</u>: The word 'relative' has been defined under the new Act in section 2(77) and has also been notified. According to that definition, members of a HUF, husband and wife or the person as per the prescribed list would be falling under the term, relatives.

It is also important to understand the word, <u>'such'</u>. 'Such' would mean in reference to the director of the lending company and/ or in relation to the director of its holding company.

b) Firm:

i. any firm in which any such director is a partner; or

ii. any firm in which the relative of any such director is a partner;

Inputs: The firm may be a registered firm under the Indian Partnership Act, 1934 or may be a non-registered one.

c) Company:

i. any private company of which any such director is a director; or

ii. any private company of which any such director is a member;

Inputs: This clause is the most challenging clause. If e.g. ABC Private Limited having Mr. R as a Director decides to give loan to XYZ Private Limited also having Mr. R as its Director, then because of hitting point (c)(i) above, it will not be able to give loan to XYZ Private Limited (even if Mr. R is not a promoter director). If XYZ Private Limited is a subsidiary of a Limited Company then the situation will not be the same. In the said case then, the loan can be given.

Let us take another example: ABC Private Limited having Mr. R as a Director decides to give loan to XYZ Private Limited in which Mr. R is not a Director but a shareholder, then because of hitting point (c)(ii) above, it will not be able to give loan to XYZ Private Limited (even if Mr. R is holding a single share).

Another situation: ABC Private Limited and XYZ Private Limited doe snot have a single common director. In ABC Private Limited, Mr. R is a Director and in XYZ Private Limited, the wife of Mr. R is a Director. In such a situation, the loan can be given by ABC Private Limited to XYZ Private Limited. It is neither getting hit by point (c)(i) nor by point (c)(ii). One should not get confused between loan transactions taking place with an individual per-se and between entities. For example, one may think in the immediate example given here that section 185 does not permit giving loans to wife of such director. Then how is it that in the said example such loan is permissible. It is true that a company cannot give loan to the wife of such director, because wife falls under the definition of a relative. But in this example, loan is not being given to the wife but to the Company, ABC Private Limited in which the wife is a director.

Another situation: ABC Private Limited and XYZ Private Limited does not have any common directors. ABC Private Limited has Mr. M as a shareholder and even XYZ Private Limited has Mr. M as a shareholder. ABC Private Limited wants to give loan to XYZ Private Limited. Yes, it can.

d) any body corporate at a general meeting of which not less than 25% of the total voting power may be exercised or controlled by:

i. Any such director; or

ii. By 2 or more such directors, together; or

Inputs: ABC Limited wants to give loan to XYZ Limited. The loan will not be allowed to be given if the voting power in XYZ Limited is exercised or controlled by a common director between ABC Limited and XYZ Limited and which is not less than 25% of the total voting power. Here it could be one such director or by 2 or more such directors, put together. The definition of 'body corporate' should be understood.

e) any body corporate, the board of directors, managing director or manager, whereof is accustomed to act in accordance with the directions or instructions of the:

i. Board; or of

ii. Any director or directors of the lending company

Inputs: The Board of directors, managing director or manager, whereof is accustomed to act in accordance with the directions or instructions of the Board, or of any director or directors, of the lending company, in such cases, section 185 will be attracted. Just taking suggestions and views will not tantamount to accustomed to act. The onus to prove this will remain with the party who raises the allegation. This is quite a subjective issue. One should keep in mind that one of the duties of directors is to act with jurisprudence. Just because opinions are seeked and if the action is based on its opinion and stands the tests of justice, then in my opinion it should not be considered as 'accustomed to act'.

Section 185(2)

185(2): If contravention of section 185(1):

i. The giver and

ii. The receiver, both are punishable;

The company shall be punishable with:

a. fine (not less than Rs.5 lakhs but may extend to Rs.25 lakhs)

The director or the other person (receiver) shall be punishable with:

a. imprisonment which may extend to 6 months; or

b. with fine (not less than Rs.5 lakhs but may extend to Rs.25 lakhs) or with both

Clarification dated 14.02.2014

General Circular no.03/2014 (produced here-verbatim)

- ✓ This Ministry has received number of representations on the applicability of section 185 of the Companies Act, 2013 with reference to loans made, guarantee given or securities provided under section 372A of the Companies Act, 1956.
- ✓ The issue has been examined with reference to applicability of section 372A of the Companies Act, 1956 vis-à-vis section 185 of the Companies Act, 2013.
- ✓ Section 372A of the Companies Act, 1956 specifically exempts any loans made, any guarantee given or security provided or any investment made by a holding company to its wholly owned subsidiary.
- ✓ Whereas, section 185 of the Companies Act, 2013 prohibits guarantee given or any security provided by a holding company in respect of any loan taken by its subsidiary company except in the ordinary course of business.
- ✓ In order to maintain harmony with regard to applicability of section 372A of the Companies Act, 1956 till the same is repealed and section 185 of the Companies Act, 2013 is notified, it is clarified that any guarantee given or security provided by a holding company in respect of loans made by a bank or financial institution to its subsidiary company, exemption as provided in clause (d) of sub-section (8) of section 372A of the Companies Act, 1956 shall be applicable till section 186 of the Companies Act, 2013 is notified.
- ✓ This clarification will, however, be applicable to cases where loans so obtained are exclusively utilised by the subsidiary for its principal business activities.

----- end of circular -----

Inputs

On the clarificatory General Circular no.03/2014

- ✓ It is to noted that section 372A is not applicable to private limited companies
- ✓ There is no exemption provided to private limited companies
- ✓ The exemption has been provided only to guarantee given or security provided by a holding company (not for loans given by a holding company to its subsidiary company)
- ✓ The exemption with regard to guarantee or security given by a holding company to its subsidiary company is only available in respect of loans made by a bank or financial institution
- ✓ The other condition is that the loans obtained by the subsidiary company is exclusively utilised by the subsidiary company for its principal business activities
- ✓ There is a typo error (it seems) in the second para - should have been section 186 and not 185
- ✓ In my opinion, even earlier to this circular, the prohibition

Members' Section

was not relevant to holding-subsidiary if there were no common directors and other conditions given in section 185 getting satisfied

- ✓ The point on exercise of not less than 25% voting power was also with regard to directors not the company. It is worthwhile to mention here that in case of holding-subsidiary the exercise of voting is done by the company and not the directors
- ✓ The circular draws reference to that subsection of section 372A which mentions about wholly owned subsidiary. On a further reading of the circular, there is mention of holding company to its subsidiary company (not wholly owned subsidiary). One has to take a call on this. In my opinion it will be only for wholly owned subsidiary.

Example:

ABC Private Limited is a wholly owned subsidiary of XYZ Private Limited. The principal business activity of ABC Private Limited is manufacturing of cement. ABC Private Limited borrows money from State Bank of India. It seeks corporate guarantee from XYZ Private Limited. Mr. R is a director of ABC Private Limited and also a director of XYZ Private Limited. Prior to the clarification dated 14.02.2014, this would have attracted the provisions of section 185 because of common directorship.

Post the clarification dated 14.02.2014, the corporate guarantee can be extended by XYZ Private Limited to ABC Private Limited provided the loan amount is utilised solely for its principal business activity.

Another example:

There are 4 private limited companies, all of which are giving corporate guarantee to the 1 company. The 4 companies have directors in common. There is this 1 public limited company which is taking the corporate guarantee. There is no common director between the givers and the taker. In this case, the corporate guarantee can be given.

SECTION IS NOT APPLICABLE IF LOANS OR GUARANTEE OR SECURITY ARE GIVEN BEFORE 12th SEPTEMBER 2013

Section 185 is not applicable if loan is given or guarantee or security provide for the loan is taken before 12th September 2013. However if such loan was for a specific term and it is renewed after 12th September 2013, where the term is expired then section 185 will be applicable. In case of working loans or other loans which are repayable on demand and are subject to renewal, if is renewed after 12th September and company continues its corporate guarantee, section 185 will be applicable.

IF A COMAPNY LENDS THROUGH INTERMEDIARY TO THE PERSONS WHO ARE OTHERWISE RELATED WITH THE LENDING COMPANY.

Under sub-section (1) of section 185 a company does not advance a loan directly or indirectly.

Indirect is interpreted in case of Dr. Fredie Ardeshir Mehta v. Union of India [1991] 70 Comp. Cas. 210 (Bom.) as under:

"When section 295 refers to an indirect loan to a director, what it means is that the company shall not give a loan to a director through the agency of one or more intermediaries. The word 'indirectly' in section 295 cannot be read as converting what is not a loan into a loan."

For example if a company (A) borrow the fund from company (B) and lend the money to Company (C) and loan from (B) to (C) is covered by section 185. In this case section 185 also applicable in case of lending from company (A) to (C) because it also included directly or indirectly.

We have come to an end of this article. There are many more situations based on which analysis could be done. Just to mention, one should not confuse between section 185 and section 186. Section 185 is a directional section and section 186 is a quantum section. Section 186 is yet to be notified and hence for quantum and its procedure section 372A needs to be referred to. Since the quantum section 372A is not applicable to private limited companies, there is no restriction of quantum for private limited companies.

It is also to be noted that section 135, Schedule VII and Corporate Social Responsibility Rules, 2013 has been notified by the Ministry of Corporate Affairs on 27/02/2014 and will be effective from 01.04.2014.

It seems that all the rules, sections and schedules will be notified within March, 2014 and the entire Act will be up and running from the beginning of the new financial year.

Members' Update

Applicability of the Companies Act, 2013 to Auditor's Report to FY 2014-15 and Onwards*

The Ministry of Corporate Affairs, on 26th March 2014 notified a majority of the remaining sections of the Companies Act, 2013, including sections 139 to 148, relating to audits and auditors. The Act was stated to be effective from 1st April, 2014.

Accordingly, queries are being raised by a number of members as to whether any auditor's report of a company being signed on or after 01st April, 2014 would be in accordance with the requirements of section 143 of the Companies Act, 2013.

In this context, it may be noted that the Ministry of Corporate Affairs (MCA) has, on 04th April 2014, vide its General Circular No. 08/2014, clarified that the financial statements (and documents required to be attached thereto), auditor's report and Board's report in respect of financial years that commenced earlier than 01st April, 2014 shall be governed by the relevant provisions/Schedules/rules of the Companies Act 1956. This MCA Circular can be seen at URL http://www.mca.gov.in/Ministry/pdf/General_Circular_8_2014.pdf.

Therefore, it is clear from MCA's aforesaid General Circular that the auditor's report of a company pertaining to any financial year commencing on or before 31st march 2014, would be in accordance with the requirements of the Companies Act, 1956 even if that financial year ends after 01st April 2014. For example, where the financial year of a company is 01st January 2014 to 31st December 2014, the statutory auditor's report signed therefor would be in accordance with the requirements of the Companies Act, 1956.

As a corollary to MCA's General Circular, it appears that the provisions of the 2013 Act would apply only to the financial years commencing on or after 01st April 2014. Thus, for example, the statutory auditor's report signed in respect of the financial year of the company ended 31st March 2015would need to be issued in accordance with the provisions of the Companies Act, 2013.

**Issued by Auditing & Assurance Standards Board*

THE INTERIM BUDGET 2014-15 (VOTE ON ACCOUNT)

By CA. Sunil Sharma

The Finance Minister Sri P Chidambaram presented his 9th budget and first interim budget just before the country goes for general elections sometime in April-May 2014. This was the 13th Interim Budget in the history of independent India. As expected, the budget was packed with some surprises as well as good amount of financial jugglery to cover up deficiencies in fiscal governance.

The budget was presented in the backdrop of acute fiscal indiscipline and policy paralysis evident during the previous year. The rupee had dipped to record low against the USD as well as other currencies. The current account deficit continued to grow due to swelling imports. Inflation seemed well out of control. To add to the woes, industrial and infrastructural growth was sluggish.

Being an election budget, it was expected to be full of freebies and incentive schemes to woo the voters. Thankfully it was not so. The Fiscal Responsibility and Budget Management Act, 2003 (FRBM) required the Government to eliminate revenue deficit by F.Y.2010 (gradual reduction by 0.5% of GDP annually), progressive reduction of annual fiscal deficit to 3% of GDP and total reduction of debt to 9%of GDP (1% reduction annually). The RBI was supposed to stop purchasing government bonds by 2006.Although it did not happen as planned, steps are being taken in the right direction. There were also external pressure of adverse global economy, recession leading to low exports, currency devaluation and industrial slowdown. In these circumstances the FM tried to do a balancing act.

The budget document is more about the achievements of UPA in the last five years. Many of the projects and plans announced in earlier budgets are yet to see the light of the day. Though the Companies Act 2013 has seen the day light (with sunglasses on), the fate of important bills like Direct Tax Code (DTC) and Goods & Service Tax (GST) is still in the dark. Similarly Insurance Laws (amendment) Bill and Securities Laws (amendment) bill have got stuck up in the Parliament and I believe everyone knows the reasons why. Just before the budget the government woke up from its policy hiatus and by end of January 2014, 296 projects with an estimate project cost of Rs.6.60lakh crores were cleared. This Budget document speaks more about past achievements than the future.

Some of the key points of the interim budgets are:

- Gross Tax Revenue projected at Rs.13.79lakh crores; Non Tax Revenues seen at Rs.4.03lakh crores. Capital receipts at Rs.46.7lakh crores.
- Total disbursements Rs.17.7 lakh crores and Capital account expenses pegged at 42.9 lakh crores.
- Fiscal Deficit at 4.6% of GDP was lower than the budgeted 4.8% and target for 2014-15 has been pegged at 4.1% (5.29lakh crore).
- Revenue Deficit projected at 3% of GDP (i.e. 3.83 lakh crores) as against 3.3% for 2013-14.
- GDP growth has been projected at 6% in 2014-15 much higher than the actual, which hovers around 4.6%-5% now.
- Current Account Deficit (CAD) is projected at $45Billion in 2013-14 as against $88billion in 2012-13.
- The estimate of plan expenditure is Rs.5.55lakh crores and Non plan expenditure estimated at Rs.12.02lakh crores.
- Gross Market Borrowings for 2014-15 set at Rs 5.97 trillion and Net Debt being Rs.4.57 trillion.
- Subsidies for Food, Fertilizer and Fuel will require Rs.2.46 lakh crores.
- Allocation for Defense rose by 10%, needing Rs.2.24lakh crores extra, as compared to last budget. The implementation of principle of one rank one pension for the armed forces has been allocated Rs.500 crores.
- Fresh capital infusion in public sector banks to the tune of Rs.11,300 crores.
- Some of the Populist measures announced:
  - Interest subsidy on outstanding education loans sanctioned up to 31st March 2013. To cost Rs.2,600crores and will benefit 9 lakh borrowers with a rider that loan amount do not exceed Rs.10 lakh and family income does not exceed Rs.4.5lakh.
  - Interest Subvention on farm loans @ 2% and incentive of 3% for prompt payment, Rs.23,924 crores released.
  - Target for Agriculture credit tagged at Rs.8 lakh crores.
  - A sum of Rs.1,000 crores provided for NIRBHAYA FUND (to ensure the dignity and safety of women).
  - A sum of Rs1,000/- crores proposed to be transferred to National Skill Development trust.
  - One Record facility (demat account) for all financial assets like shares, bonds, units of mutual funds, Postal saving schemes, Insurance etc. This will eliminate the need of multiple KYC compliance.
- No Changes have been proposed in the Direct Taxes.
- Following changes in some indirect tax rates are proposed
  - The Excise Duty on all goods falling under Chapter 84 & 85 of the Schedule to the Central Excise Tariff Act is reduced from 12 percent to 10 percent for the period up to 30.06.2014. The rates can be reviewed at the time of regular Budget. White goods will be cheaper provided duty cut is passed on to the buyers.
  - To give relief to the Automobile Industry, which is registering unprecedented negative growth, the excise duty is reduced for the period up to 30.06.2014 as follows:
    Small Cars, Motorcycle, Scooters and Commercial Vehicles- from 12 % to 8%
    SUVs - from 30% to 24%
    Large and Mid-segment Cars - from 27/24% to 24/20%.
  - It is also proposed to make appropriate reductions in the excise duties on chassis and trailors - The rates can be reviewed at the time of regular Budget
  - To encourage domestic production of mobile handsets, the excise duties for all categories of mobile handsets is restructured. The rates will be 6% with CENVAT credit or 1 percent without CENVAT credit. The effect of this change has made handsets upto price band of Rs.1000 to Rs. 2,000 expensive by about Rs.34 toRs.65 as all components are not locally manufactured.
  - To encourage domestic production of soaps and oleo chemicals, the custom duty structure on non-edible grade industrial oils and its fractions, fatty acids and fatty alcohols is rationalized at 7.5 percent.
  - To encourage domestic production of specified road construction machinery, the exemption from CVD on similar imported machinery is withdrawn.
  - A concessional custom duty 5 percent on capital goods imported by the Bank Note Paper Mill India Private Limited is provided to encourage domestic production of security paper for printing currency notes.
  - The services provided by cord blood banks are exempted from Service Tax.

Finally good senses have prevailed and Rice is again an agriculture produce. The loading and un-loading, packing, storage and warehousing of rice is now exempted from Service Tax.

The excise cut for a period of about four months will bring some cheer to the sluggish automobiles, white goods and other industries as reduction in price will attract buying. The manufacturers have already started to cut prices to attract buyers. It is expected that the short term measures will give some fillip to sluggish economic growth.

Branch Activities

SEMINAR ON COMPANIES ACT, 2013

A Seminar on **"Companies Act 2013"** was organized by the Guwahati Branch of the Institute of Chartered Accountants of India on Saturday, 8th February, 2014 at the Institute Auditorium at Manik Nagar, Guwahati. The First Session was initiated by then CPE Committee Chairman CA. Vikash Jain and chaired by ROC Shillong Mr. G C Yadav where CA. Ganesh Balakrishnan from Hyderabad spoke on the Topic "Provisions relating to Accounts, Audit, Fraud Reporting, Private Placement of Shares & Other Provisions of the Companies Act 2013". CA Kaberi Bhuyan, the then Guwahati Branch Chairperson welcomed the delegates and briefed them about the functioning of the Branch.

The session concluded with a formal vote of thanks by Branch Secretary CA. Rakesh Agarwal.

The second technical session was Chaired by CA. Devajit Sharma from Guwahati who also addressed on the Topic "Critical Analysis of Sec. 185 of the Companies Act 2013", and CS. Mamta Binani from Kolkata deliberated on the topic "Appointment & Remuneration of Directors; Meetings; Corporate Social Responsibilities, etc. This Session was initiated by then Branch Vice Chairman CA K P Sarda and the formal vote of thanks was extended by CA. Dhiraj Kumar Jain, Chairman, EICASA Guwahati Branch.

Chartered Accountants from the region participated in this Seminar in good numbers and enthusiastically took part in the interactive sessions.

CPE PROGRAMME AT JORHAT

Jorhat CPE Chapter of EIRC of ICAI organised a 6 hrs CPE Seminar on Companies Act, 2013 on 16th Feb, 2014 at Lions Multiple Service Centre at Jorhat. In the First Technical Session eminent expert Dr. CA. Debashis Mitra, Past Chairman EIRC spoke on "Provisions relating to Accounts & Audit". The morning session was chaired by CA. Dilip Somani.

The post lunch session was initiated by CA. Vidhi Gupta and Chaired by CA. Dipak Bhattacharjee. In the session Branch Chairman of Dibrugarh Branch CA. Navin Jain was felicitated and he also addressed the house. Eminent Speaker CS. Anjan Kumar Roy, Past Chairman, EIRC of ICSI delivered his speech on "Formation and Management of Companies under the Companies Act, 2013". He narrated the provisions in detail and the session was also very interactive. Deputy Convenor CA. Sunil Atal offered the vote of Thanks.

The Seminar was attended by members and students of Jorhat, Golaghat, Dibrugarh, BGCPL and nearby areas.

AT THE TOP AGAIN!

The stars of the Guwahati Branch are once again shining brightly in the sky of the ICAI. Our branch yet again rose to the occasion and came out with flying colors bagging the Best Branch award for the year 2013-14 under Eastern India Regional Council, ICAI jointly with Siliguri Branch.

Guwahati Branch of EICASA has also been declared as the Best Students Branch for the year 2013-14 by EIRC, ICAI.

The then Chairperson of the Branch CA. Kaberi Bhuyan along with all other MC members personally went to receive the awards at Kolkata on 22nd February, 2014.

Congratulations to One & All!!!

NEW OFFICE BEARERS OF THE BRANCH

Guwahati branch of ICAI elected its new office bearers in a meeting of the Managing Committee held on 28th February 2014. CA K P Sarda was elected as the Chairman of the Branch for the year 2014-

2015. CA Vikash K Jain, CA Rakesh Agarwala & CA Mahabir Agarwala were elected Vice Chairman, Secretary & Treasurer respectively. CA Rohit Agarwal & CA Dhiraj Jain were appointed CPE Committee Chairman & Chairman of Students' Association respectively. CA Sharad Agarwalla was nominated as the Managing Committee Representative for the students' association.

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INVESTOR AWARENESS PROGRAMME

The Branch in association with "Brand New Day" organized a 3 Hour Investor Awareness Programme at Hotel Vishwaratna, Guwahati on Friday, the 7th day of March, 2014. The keynote speaker at the event was veteran political journalist Mr. Prabhu Chawla. The underlying objectivity of the seminar was to enrich the participants with right portfolio planning guidance and emerging investment opportunities under the various possible scenarios emerging out of the Lok Sabha elections in the country. Mr. Prabhu Chawla spoke about the "Economic scenario pre & post elections" while another renowned speaker Mr. Kaushik Chakraborty spoke on the topic "Impact of Election on markets/investments". The event began with the welcome address of the Branch Chairman CA. K P Sarda. More than 250 members attended the programme to make it a grand success.

WOMEN'S DAY CELEBRATION AT ICAI BHAWAN & 4 HOUR CPE SEMINAR ON SERVICE TAX

On 8th March, when the people around the globe were honoring women and celebrating their contributions, the Guwahati Branch did its bit to commemorate the day by organizing a 4 hour CPE Workshop on **"Service Tax"** keeping its focus mainly on the women members of the fraternity from 10 am onwards at the Auditorium, ICAI Bhawan, Maniknagar, Guwahati. The event was initiated by CPE Committee chairman CA. Rohit Agarwal. Thereafter as a part of the gesture towards the women's fraternity Branch Chairman CA. K P Sarda spoke on Women empowerement. The celebration of the Women's Day Programme began with the recognition of a few notable women achiever's like **Ms. Anubha Goyal**, Principal, Sarala

Birla Gyan Jyoti, Amingaon, Guwahati, **Ms. Dipannita Jaiswal**, Managing Director, DY-365 News Channel & **Ms. Nishita Goswami**, Leading Actress, Assamese Film Industry for their distinguished achievements. It was followed by a vibrant seminar on Service Tax wherein various regulatory changes in Service Tax Regime in the recent past were discussed under the able guidance of CA. Shivani Agarwall from Kolkata and CA. Raginee Goyal from Guwahati, who acted as the speakers for the event. The seminar was chaired by Immediate Past Chairperson CA. Kaberi Bhuyan and initiated by one of the talented female member of the Branch CA. Manali Gaggar.

Around 200 members and students attended the seminar. Being a seminar on women's day, only the lady members were present at the dais. The seminar concluded with the formal vote of thanks offered by CA. Priyanka Jain.

HOLI UTSAV 2014

With the colors of joy and expressing the happiness of being loved and to be loved through colors, the Guwahati Branch celebrated Holi Utsav 2014 with great pomp and joy at Hotel Vishwaratna from 6 pm onwards on 14th March, 2014. The event began in the presence of a few notable faces from the region like **Mr. P P Varma**, Advisor to the Chief Minister of Assam & **Mr. Shyam Mewara**, Principal Secretary, Food & Civil Supply. The celebration started with the lighting of the lamp and few "Holi Upadhis" were given to various known faces of the branch by Branch Chairman CA. K P Sarda & Past Chairman CA. O P Agarwalla. The convenor of the event was Past Chairman CA. Bikash Agarwalla.

The main attraction of the event was the presence of Indian Comedy King and Padmashree Sri Surendra Sharma who with his terrific comic sense attracted one and all present out there. The

comedy was followed by special Rajasthani flavor wherein few folk dancers performed on some amazing Rajasthani Lok Nritya Holi Songs and made everybody spellbound.

Around 300 participants including members and their families attended the event which concluded with mouth watering and delicious dinner arrangements.

SEMINAR ON BANK AUDIT

The Guwahati Branch of The Institute of Chartered Accountants of India organized a 3 Hour CPE Seminar on Bank Audit at the Auditorium, ICAI Bhawan, Maniknagar, Guwahati on Saturday, the 22nd March, 2014. The event began with the introductory remarks by CPE Committee Chairman of the Branch CA. Rohit Agarwal while the Branch Chairman CA. K P Sarda updated the members about the various activities of the Branch in the recent past & also about the forthcoming events.

The seminar aimed at focusing on the challenges arising from new regulatory changes in the Bank Branch Audit under the able guidance of Mr. Kamal Deep Prasad, DGM, Circle Credit Officer, SBI, LHO Guwahati and leading paper presenter from Kolkata CA. Arijit Chakraborty who were present as the speakers for the seminar. The seminar was chaired by Past Central Council Member CA. Pawan Kumar Sharma. The seminar was attended by a large number of Chartered Accountants along with the MC Members of the Branch. Branch Secretary CA. Rakesh Agarwal offered Vote of Thanks to conclude the seminar.

ORIENTATION PROGRAMME AT KOLKATA WITH HON'BLE PRESIDENT OF ICAI :

Branch Chairman CA. K P Sarda along with Secretary CA. Rakesh Agarwalla and immediate past chairperson CA. Kaberi Bhuyan attended the EIRC orientation programme at Vedic Village, Kolkata on 26th March, 2014. It was a great opportunity for the branch officials to interact with President and Vice-President of the Institute.

CA. K Raghu, President, ICAI

Chairmen of Branches of EIRC at the Orientation Pogramme

CA. Manoj Fadnis, Vice President, ICAI

Branch Chairman Mr. Sarda discussed at length with Hon'ble President CA. K Raghu and Vice president CA. Manoj Fadnis about the numerous difficulties faced by the branch and also updated them about the various initiatives undertaken by the branch for the betterment of its members. The response from them was a real positive one which encouraged us a lot.

TELECONFERENCING :

In addition to this, arrangements were also made for viewing of teleconferencing programme on the following dates –

Date/ Day	Topic	Faculty
06/02/2014	CPE Teleconference on Directors, Meetings, Independent Directors from the Companies & Overview of Search, Seizure & Survey provisions	CA. Abhishek Murali & Shri R. K. Gupta
08/02/2014	CPE Teleconference on Appeals before CIT (Appeals) & ITAT	CA. Tarun J. Ghia, CA. Ajay Wadhwa & CA. G. D. Agarwal
26/02/2014	CPE Teleconference on BITCOIN – emerging Crypto currency: Opportunity or Threat?	CA. V Murali
06/03/2014	CPE Teleconference on Practical issues in Foreign Contribution Regulation Act	CA. K. Kanagaraj Antonysamy
14/03/2014	CPE Teleconference on Bank Branch Audit	CA. V Murali
28/03/2014	CPE Teleconference on Preparation of Project Report & Documentation – Role of a Chartered Accountant.	CA. Vinay Mruthyunjaya

FORTHCOMING PROGRAMMES

- The innovative idea of first ever International Study Tour to Dubai & Abu Dhabi for members with family will unfold from Delhi on 26th April' 2014. The 5-day long tour is designed is such a way that it will give a thrilling and memorable experience of holidays with educational interaction with the members of Dubai Chapter.
- A Residential Programme at Kaziranga World Heritage Site for members with family is proposed to be organized from 4th June' 2014 to 6th June' 2014
- The most awaited 36 CPE Hour Certificate Course on Concurrent Audit is proposed to be held at ICAI Bhawan on the Weekends of the Month of June starting from 14th – 15th June and concluding on 28th – 29th June.

Take a Break !!

LUCK BY CHANCE

Life is so much about chances and routine decisions. Take up anything for that matter. Say, our work life. One can make so much from a chance meeting with a friend's friend or a sudden phone call from a far relative or from a chat with an acquaintance over a social medium. You never know who or what can change your life .But do we really endeavour to grab these little moments ? Well, in most cases we just miss out on them !

Ronald Heifetz, Professor at Harvard University's John F. Kennedy School of Government, likes to say that if you make one real decision in your life, that's more than most people. Taking a real risk? Well, that's just a rarity. So, Why does he say that ? That's because making real decisions and taking real risks requires freedom–freedom from the loyalties, expectations and fears that inevitably fog our risk-vs.-reward equation.

The recipe for a motivational success story is tasteless without one vital ingredient - an exciting turning point ! And a turning point is nothing but the consequence of making the most out of a chance. So , here I present before you, the five basic principles of exploring and exploiting chances :

PRINCIPLE 1 — ROOTS :

Dig in. *Am I acting with purpose and urgency in my life?*

Everyone has to start somewhere. Instead of kicking the dirt around, dig in and get your hands dirty. Every goal without a plan is just a wish. Start planning your goals at the root level.

"Arise, awake and stop not till the goal is reached." — Swami Vivekananda

PRINCIPLE 2 — BRAVERY :

Grow tall. *Am I taking smart risks?*

We make strong foundations to support ourselves. They empower us to take risks, try something different, and do something outside of the box. But growth comes from taking calculated, smart risks, always with your plan in mind.

"The biggest risk is not taking any risk. In a world that's changing really quickly, the only strategy that is guaranteed to fail is not taking risks. " —Mark Zuckerberg

PRINCIPLE 3 — LESSONS :

Don't fear mistakes. *Am I learning the right lessons from my mistakes?*

It's okay to make mistakes. In fact, many of the things worth doing in life are accomplished because we make mistakes; they're accomplished because we learn from those mistakes and take those lessons with us into the next chance.

"The successful man will profit from his mistakes and try again in a different way." — Dale Carnegie

PRINCIPLE 4 — CHALLENGES :

Be adaptable. *Am I improving upon every chance I have?*

Seasons change. Unexpected events arise. We can't control everything, but we can control how we react to the unforeseen. Adaptability ensues when we take our learned lessons and apply them to every chance we take.

"The measure of intelligence is the ability to change." —Albert Einstein

PRINCIPLE 5 — HOPE :

Prepare for tomorrow. *Am I making the most of my chances in life?*

Concentrate your resources on needs that might not be met without your untiring efforts. Making the most of your chances means working for today while preparing for the future. It's about creating lasting change, knowing you've spent your chances wisely.

"Take a chance! All life is a chance. The man who goes farthest is generally the one who is willing to do and dare." — Dale Carnegie

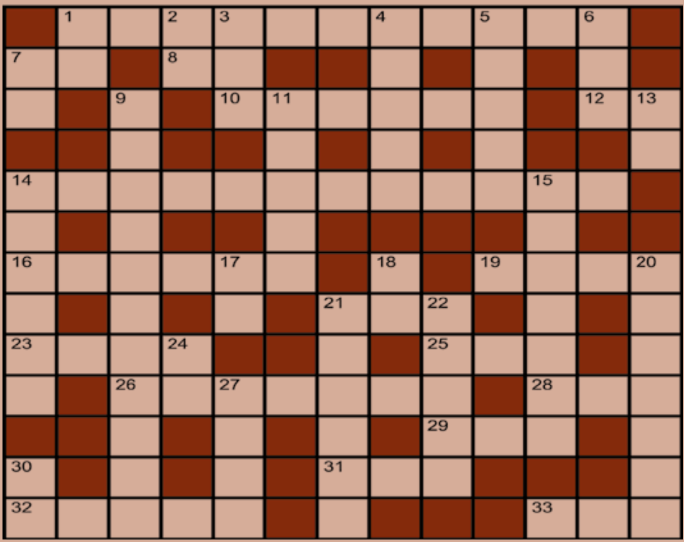
Life seldom gives a second chance. But for some , there was never a need for that . Take a look :

- Take the case of our most Romantic hero, Shahrukh Khan. "Most of my initial films were discards of other actors. Baazigar [1993] by Salman Khan and Darr [1993] by Aamir Khan. They rejected these to avoid being projected in a negative role. I did them all to avoid unemployment. The time was right — I became a star," he had once quoted. True that!
- The turning point in Sachin's career came when Mohammed Azharuddin asked him to open the innings for the first time in an ODI, on the morning of March 27, 1994, when India played against New Zealand. Sachin lapped up the opportunity thrown on him and hammered 82 – his second-highest score till then — off 49 balls). And rest, as they say, is history. Of the 452 ODIs Tendulkar played, he opened the innings in 340, scoring 15,310 (48.30) of the 18,426 runs (44.83) in that position – thanks to a far-sighted decision by Azharuddin.
- In his Book *"Turning Points",* Dr A P J Abdul Kalam describes the seven turning points of his life, the first being his chance meeting with Prof. M G K Menon, director of Tata Institute of Fundamental Research. At that time, Dr. Kalam held the post of a *Senior Scientific Assistant*at the Aeronautical Development Establishment (ADE) and Prof. Menon had asked for a ride in a hovercraft that he was a Chief Designer of. A week later, Dr Kalam got a call from the Indian Committee for Space Research Organisation (Now ISRO) for an interview. He sailed his way to the post of Rocket Engineer at the newly formed ISRO in 1962, where the greatest event in his life came about – leading India's first satellite launch vehicle programme as its project director.

So, build your dream and take up what comes your way because if you don't build your dream, someone else will hire you to help them build theirs. Take chances and excel in whatever you do. Your life is what you make it! Have a happy one.

– Compiled by CA. Anuj Bajaj

CROSSWORD # 12



QUICK CLUES

Across:

1 ICAI Vice President (11)
7 Chemical Element Tantalum (2)
8 EUROPA is tts Official Website (2)
10 'T' in an ATM (6)
12 14th Letter of Greek Alphabet (2)
14 A fundamental accounting assumption (12)
16 Rock fragments used to surface rural roads (6)
19 Audits over. Time to raise this! (4)
21 Data Interchange Format (3)
23 Toughened keratin at the end of an animal digit (4)
25 Sphere (3)
26 Bought by Gulab Singh from the British for Rs 75 lakhs (7)
28 Max number of 90-degree angles that a triangle can have (3)
29 Letter T in Hebrew (3)
31 Celestial dome (3)
32 Colour of the spice 'Kalonji' (5)
33 "Empowering Business, Protecting Investors" Tagline of ..... (3)

Down:

1 University Degree (2)
2 Land of seven (eight?) sisters (2)
3 There are ten ways in Cricket to get this! (3)
4 IFAC President Warren .... (5)
5 Cable-like bundle of axons (anatomy) (5)
6 Complete sunlit days in North Pole in a year (3)
7 ......be or not ...... be (2)
9 ISRO launched its Mars Orbiter Mission from here (11)
11 Outdo (5)
13 AMTRON is under this department (2)
14 Vibrating reed instrument used in traditional Bihu music (6)
15 Usually appears in the sky just after rain (7)
17 Unit of width in typography (2)
18 Theories, technologies etc. to transform data into meaningful information for business purposes (2)
20 African country whose President was conferred Indira Gandhi Peace Prize in 2013 (7)
21 The word Bihu is derived from this language (6)
22 Maximium recommended share of fee (%) from a single client (5)
24 Second most populous US city (2)
27 Muga, Pat and Eri are varieties of this (4)
30 The Big B (2)

SOLUTION CROSSWORD # 11

Congratulations to **CA. Mohammed Mandlaywala** for submitting correct solution to crossword # 11

Guwahati Branch Managing Committee for the Session 2013-16 and Office Bearers for the year 2013-14

Designation	Name	Contact No.	E-mail
Chairman	CA. K P Sarda	9864060803	kpsarda@gmail.com
Vice-Chairman	CA. Vikash Kumar Jain	9435043223	vikash196@gmail.com
Secretary	CA. Rakesh Agarwala	9864020068	rakeshagrl_ca@yahoo.com
Treasurer	CA. Mahabir Agarwala	9435198133	mahabir_agarwala@rediffmail.com
Member	CA. Rohit Agarwal	9435058514	aknc@rediffmail.com
Member	CA. Dhiraj Kumar Jain	9435013867	dhiraj@icai.org
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Immediate Past Chairperson	CA. Kaberi Bhuyan	9864095563	kaberibhuyan@sify.com

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चलते चलते.....